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STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Pickens County

Honorable Perry H. Gravely, Circuit Court Judge

ORIGINAL

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

BRANDON JERMAINE BENSON,

APPELLANT

APPELLATE CASE NO 2015-002483

RECORD ON APPEAL

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

STATE OF SOUTH CAROLINA)
v.) Case No. 13-GS-39-3256
BRANDON JERMAINE BENSON,)
Defendant)

TRANSCRIPT OF JURY TRIAL

The within Jury Trial in the above-captioned matter was held November 16th through November 18th, 2015, before The Honorable Perry H. Gravely in Courtroom 4 of the Pickens County Courthouse, in Pickens, South Carolina; attended by counsel as follows:

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Case No. 13-GS-39-3256

Jury Trial of November 16-18, 2015

Before The Honorable Perry H. Gravely

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JURY QUALIFICATION

1 Is any member of the jury panel aware of any
2 bias or prejudice towards either the State or
3 the Defendant in this case? If so, please
4 stand.

5 (NO RESPONSE)

6 THE COURT: All right. No
7 response.

8 Does any juror know of any reason
9 whatsoever that they would be unable to give
10 a fair and impartial trial to the State or
11 the Defendant in this matter? If so, please
12 stand.

13 (NO RESPONSE)

14 THE COURT: All right. Any other
15 questions from the State?

16 SOLICITOR ODOM: No, sir, Your
17 Honor.

18 THE COURT: Any other questions
19 from the Defense?

20 MR. DEJONG: None on behalf of Mr.
21 Benson, Your Honor.

22 THE COURT: All right.

23 All right. Ladies and gentlemen
24 at this time, the clerk will call -- when
25 your name is called or if your name is

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JURY QUALIFICATION

1 called, you are just to stand in place where
2 you are. And then both the State and the
3 defendant will have the opportunity to either
4 select or reject you for this case.

5 If you are selected then you will follow
6 the instructions of the bailiff. All right?

7 CLERK: Juror Number 4, Kenneth D.
8 Alverson.

9 (JUROR, WHITE MALE, BEFORE COUNSEL)

10 CLERK: What says the State?

11 SOLICITOR ODOM: Please present Mr.
12 Alverson.

13 CLERK: And the Defense?

14 MR. DEJONG: Please swear the
15 juror.

16 CLERK: If you would come forward
17 please sir, and have a seat in the jury box.

18 (JUROR NUMBER 4 SEATED)

19 CLERK: Juror Number 153, Susan F.
20 Williams.

21 (JUROR, BLACK FEMALE, BEFORE COUNSEL)

22 CLERK: What says the State?

23 SOLICITOR ODOM: (No response).

24 CLERK: What says the State?

25 SOLICITOR ODOM: Please strike the

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JURY QUALIFICATION

1 juror.

2 CLERK: If you would return to your
3 seat please ma'am.

4 (JUROR NUMBER 153 EXCUSED)

5 CLERK: Juror Number 23, Bethany C.
6 Boyd.

7 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

8 CLERK: What says the State?

9 SOLICITOR ODOM: Please present Ms.
10 Boyd.

11 CLERK: And the Defense?

12 MR. DEJONG: Please swear the
13 juror.

14 CLERK: If you would come forward
15 please ma'am, and have a seat in the jury
16 box.

17 (JUROR NUMBER 23 SEATED)

18 CLERK: Juror number 52, Joel R.
19 Ellison.

20 (JUROR, WHITE MALE, BEFORE COUNSEL)

21 CLERK: What says the State?

22 SOLICITOR ODOM: Please present Mr.
23 Ellison.

24 CLERK: And the Defense?

25 MR. DEJONG: Please swear the

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JURY QUALIFICATION

1 juror.

2 CLERK: If you would come forward
3 please sir, and have a seat in the jury box.

4 (JUROR NUMBER 52 SEATED)

5 CLERK: Juror number 75 Shelby A.
6 Hunter.

7 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

8 CLERK: What says the State?

9 SOLICITOR ODOM: Please present Ms.
10 Hunter.

11 CLERK: And the Defense?

12 MR. DEJONG: Please excuse this
13 juror from the trial of this case.

14 CLERK: If you would return to your
15 seat please ma'am.

16 (JUROR NUMBER 75 EXCUSED)

17 CLERK: Juror number 124, Brent T.
18 Reynolds.

19 (JUROR, WHITE MALE, BEFORE COUNSEL)

20 CLERK: What says the State?

21 SOLICITOR ODOM: Please present Mr.
22 Reynolds.

23 CLERK: And the Defense?

24 MR. DEJONG: Please swear the
25 juror.

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JURY QUALIFICATION

1 CLERK: If you would come forward
2 please sir, and have a seat in the jury box.

3 (JUROR NUMBER 124 SEATED)

4 CLERK: Juror number 27, Kimberly
5 A. Jepsen.

6 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

7 CLERK: What says the State?

8 SOLICITOR ODOM: Please present Ms.
9 Jepsen.

10 CLERK: And the Defense?

11 MR. DEJONG: Please excuse this
12 juror from the trial of this case.

13 CLERK: If you would return to your
14 seat please ma'am.

15 (JUROR NUMBER 27 EXCUSED)

16 CLERK: Juror number 111, Robert A.
17 Owens II.

18 (JUROR, WHITE MALE, BEFORE COUNSEL)

19 CLERK: What says the State?

20 SOLICITOR ODOM: Please present Mr.
21 Owens.

22 CLERK: And the Defense?

23 MR. DEJONG: Please swear the
24 juror.

25 CLERK: If you will come forward

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JURY QUALIFICATION

1 please sir, and have a seat in the jury box.

2 (JUROR NUMBER 111 SEATED)

3 CLERK: Juror number 93, Machelie
4 L. Merchoff.

5 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

6 CLERK: What says the State?

7 SOLICITOR ODOM: Please present Ms.
8 Merchoff.

9 THE COURT: And the Defense?

10 MR. DEJONG: Please excuse this
11 juror from the trial of this case.

12 CLERK: If you would return to your
13 seat please, ma'am.

14 (JUROR NUMBER 93 EXCUSED)

15 CLERK: Juror number 43, Brandon M.
16 Correia.

17 (JUROR, WHITE MALE, BEFORE COUNSEL)

18 CLERK: What says the State?

19 SOLICITOR ODOM: Please present Mr.
20 Correia.

21 CLERK: And the Defense?

22 MR. DEJONG: Please swear the
23 juror.

24 CLERK: If you would come forward
25 sir, and have a seat in the jury box.

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JURY QUALIFICATION

1 (JUROR NUMBER 43 SEATED)

2 CLERK: Juror number 40, Don T.

3 Coleman.

4 (JUROR, WHITE MALE, BEFORE COUNSEL)

5 CLERK: What says the State?

6 SOLICITOR ODOM: Please excuse Mr.

7 Coleman.

8 CLERK: If you would return to your

9 seat please sir.

10 (JUROR NUMBER 40 EXCUSED)

11 CLERK: Juror number 158, Michael

12 R. Young.

13 (JUROR, WHITE MALE, BEFORE COUNSEL)

14 CLERK: What says the State?

15 SOLICITOR ODOM: Please present Mr.

16 Young.

17 CLERK: And the Defense?

18 MR. DEJONG: Please excuse this

19 juror from the trial of this case.

20 CLERK: If you would return to your

21 seat please sir.

22 (JUROR NUMBER 158 EXCUSED)

23 CLERK: Juror number 59, Laura A.

24 Galloway.

25 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

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JURY QUALIFICATION

1 CLERK: What says the State?

2 SOLICITOR ODOM: Please present Ms.

3 Galloway.

4 CLERK: And the Defense?

5 MR. DEJONG: Please swear the

6 juror.

7 CLERK: If you would come forward
8 and have a seat in the jury box.

9 (JUROR NUMBER 59 SEATED)

10 CLERK: Juror number 3, Timothy G.

11 Alexander.

12 (JUROR, WHITE MALE, BEFORE COUNSEL)

13 CLERK: What says the State?

14 SOLICITOR ODOM: Please excuse Mr....

15 Alexander.

16 CLERK: If you would return to your
17 seat please sir.

18 (JUROR NUMBER 3 EXCUSED)

19 CLERK: Juror number 159, Wanda L.

20 Youngblood.

21 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

22 CLERK: What says the State?

23 SOLICITOR ODOM: Please present Ms.

24 Youngblood.

25 CLERK: And the Defense?

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JURY QUALIFICATION

1 MR. DEJONG: Please excuse this
2 juror from the trial of this case.

3 CLERK: If you would return to your
4 seat please ma'am.

5 (JUROR NUMBER 159 EXCUSED)

6 CLERK: Juror number 131, Gary A.
7 Sexton.

8 (JUROR, WHITE MALE, BEFORE COUNSEL)

9 CLERK: What says the State?

10 SOLICITOR ODOM: Please present Mr.
11 Sexton.

12 CLERK: And the Defense?

13 MR. DEJONG: Please excuse this
14 juror from the trial of this case.

15 CLERK: If you would return to your
16 seat please sir.

17 (JUROR NUMBER 131 EXCUSED)

18 CLERK: Juror number 96, Linda O.
19 Minner

20 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

21 CLERK: What says the State?

22 SOLICITOR ODOM: Please present Ms.
23 Minner.

24 CLERK: And the Defense?

25 MR. DEJONG: Please excuse this

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JURY QUALIFICATION

1 juror from the trial of this case.

2 CLERK: If you would return to your
3 seat please ma'am.

4 (JUROR NUMBER 96 EXCUSED)

5 CLERK: Juror number 102, Meghan A.
6 Mullins.

7 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

8 CLERK: What says the State?

9 SOLICITOR ODOM: Please present Ms.
10 Mullins.

11 MR. DEJONG: Number please, Mr.
12 Clerk?

13 CLERK: 102.

14 MR. DEJONG: Thank you, so much,
15 sir.

16 CLERK: Yes, sir.

17 MR. DEJONG: Please excuse this
18 juror from the trial of this case.

19 CLERK: If you would return to your
20 seat please ma'am.

21 (JUROR NUMBER 102 EXCUSED)

22 CLERK: Juror number 113, Billy J.
23 Pelfrey.

24 (JUROR, WHITE MALE, BEFORE COUNSEL)

25 CLERK: What says the State?

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JURY QUALIFICATION

1 SOLICITOR ODOM: Please present Mr.
2 Pelfrey.

3 CLERK: And the Defense?

4 MR. DEJONG: Please swear the
5 juror.

6 CLERK: If you would come forward
7 please sir, and have a seat in the jury box.

8 (JUROR NUMBER 113 SEATED)

9 CLERK: Juror number 146, Christine
10 L. Traylor.

11 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

12 CLERK: What say the State?

13 SOLICITOR ODOM: Please present Ms.
14 Traylor.

15 CLERK: And the Defense?

16 MR. DEJONG: Please excuse this
17 juror from the trial of this case.

18 CLERK: If you would return to your
19 seat please ma'am.

20 (JUROR NUMBER 146 EXCUSED)

21 CLERK: Juror number 71, Cathy D.
22 Hoxit.

23 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

24 CLERK: What says the State?

25 SOLICITOR ODOM: Please present Ms.

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JURY QUALIFICATION

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1 Hoxit.

2 CLERK: And the Defense?

3 MR. DEJONG: Please swear the
4 juror.

5 CLERK: If you would come forward
6 please ma'am, and have a seat in the jury
7 box.

8 (JUROR NUMBER 71 SEATED)

9 CLERK: Juror number 63, Cynthia J.
10 Gillespie.

11 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

12 CLERK: What says the State?

13 SOLICITOR ODOM: Please present Ms.
14 Gillespie.

15 CLERK: And the Defense?

16 MR. DEJONG: Please swear the
17 juror.

18 CLERK: If you would come forward
19 please ma'am and have a seat in the jury box.

20 (JUROR NUMBER 63 SEATED)

21 CLERK: Juror number 73, Gail S.
22 Huff.

23 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

24 CLERK: What says the State?

25 SOLICITOR ODOM: Please present Ms.

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JURY QUALIFICATION

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1 Huff.

2 CLERK: And the Defense?

3 MR. DEJONG: Please excuse this
4 juror from the trial of this case.

5 CLERK: If you would return to your
6 seat please ma'am.

7 (JUROR NUMER 73 EXCUSED)

8 THE COURT: Mr. DeJong, I have
9 that as ten.

10 MR. DEJONG: Yes, Your Honor.
11 Thank you.

12 CLERK: Juror number 22, David J.
13 Bossert.

14 (JUROR, WHITE MALE, BEFORE COUNSEL)

15 CLERK: What says the State?

16 SOLICITOR ODOM: Please present
17 this juror.

18 CLERK: And the Defense?

19 MR. DEJONG: May we approach, Your
20 Honor.

21 THE COURT: Yes.

22 (OFF RECORD BENCH CONFERENCE)

23 MR. DEJONG: Subject to our bench
24 conference, Your Honor ---

25 THE COURT: Yes, sir.

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JURY QUALIFICATION

1 MR. DEJONG: --- please swear the
2 juror.

3 THE COURT: Okay.

4 CLERK: Sir, if you would come
5 forward and have a seat in the jury box.

6 (JUROR NUMBER 22 SEATED)

7 CLERK: Juror number 66, Violet M.
8 Hall.

9 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

10 CLERK: What says the State?

11 SOLICITOR ODOM: Please present Ms.
12 Hall.

13 CLERK: And the Defense?

14 MR. DEJONG: Please swear the
15 juror.

16 CLERK: If you would come forward
17 and have a seat in the jury box.

18 (JUROR NUMBER 66 SEATED)

19 THE COURT: All right. So we will
20 go with two alternates. You have two and one
21 on each.

22 MR. DEJONG: Thank you, Your Honor.

23 CLERK: For the first alternate,
24 juror number 26, Kathalene E. Campbell.

25 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

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JURY QUALIFICATION

1 CLERK: What says the State?

2 SOLICITOR ODOM: Please present Ms.

3 Campbell.

4 CLERK: And the Defense?

5 MR. DEJONG: Please excuse this

6 juror from the trial of this case.

7 CLERK: If you would return to your

8 seat please ma'am.

9 (JUROR NUMBER 26 EXCUSED)

10 CLERK: Juror number 39, James C.

11 Clow.

12 (JUROR, WHITE MALE, BEFORE COUNSEL)

13 CLERK: What says the State?

14 SOLICITOR ODOM: Please present Mr.

15 Clow.

16 CLERK: And the Defense?

17 MR. DEJONG: Please swear the

18 juror.

19 CLERK: If you would come forward

20 sir, and have seat in the jury box.

21 (JUROR NUMBER 39 SEATED)

22 THE COURT: All right. Second

23 alternate.

24 CLERK: Juror number 129, Scott C.

25 Scholl.

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JURY QUALIFICATION

1 (JUROR, WHITE MALE, BEFORE COUNSEL)

2 CLERK: What says the State?

3 SOLICITOR ODOM: Please present Mr.

4 Scholl.

5 CLERK: And the Defense?

6 MR. DEJONG: Please excuse this

7 juror from the trial of this case.

8 CLERK: Okay. If you would return

9 to your seat, please. sir.

10 (JUROR NUMBER 129 EXCUSED)

11 CLERK: Juror Number 117, Lindsay

12 B. Porter.

13 (JUROR, WHITE FEMALE, BEFORE COUNSEL)

14 CLERK: What says the State?

15 SOLICITOR ODOM: Please excuse this

16 juror.

17 CLERK: If you would return to your

18 seat please ma'am.

19 (JUROR NUMBER 117 EXCUSED)

20 CLERK: Juror Number 19, Zachary K.

21 Blanton.

22 (JUROR, WHITE MALE, BEFORE COUNSEL)

23 CLERK: What says the State?

24 SOLICITOR ODOM: Please present

25 this juror.

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JURY QUALIFICATION

1 CLERK: And the Defense?

2 MR. DEJONG: Please swear the
3 juror.

4 CLERK: If you would come forward
5 sir, and have a seat in the jury box.

6 (JUROR NUMBER 19 SEATED)

7 THE COURT: All right. At the
8 present time, I'm going to ask that you go
9 back to your jury room and I'll bring you
10 back out in just a few minutes.

11 Don't begin discussing anything
12 about the case. Just sit tight for just a
13 minute and I'll bring you back out.

14 (JURY OUT @ 11:45 A.M.)

15 THE COURT: And the remaining
16 panel, if y'all want to step out into the
17 hallway. Do not go anywhere. We may need
18 to bring you back in here for further
19 instructions, too. So right now if you'll
20 just step out into the hallway.

21 (JURY PANEL OUT @ 11:45 A.M.)

22 THE COURT: All right. Other than
23 the issue with Mr. David Bossert, which I'll
24 let you put on the record, any other
25 objections to the selection process? From

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BATSON & PRETRIAL MOTIONS

1 the State?

2 SOLICITOR ODOM: (No response).

3 THE COURT: Any objection to the
4 selection process by the State?

5 SOLICITOR ODOM: I think I might.
6 I think I may have a *Batson* on gender, the
7 grounds of gender.

8 THE COURT: All right.

9 MR. DEJONG: I've got one of those,
10 Your Honor.

11 THE COURT: All right. So you
12 have yours first.

13 SOLICITOR ODOM: Thank you, Your
14 Honor. The defense used all ten of their
15 strikes -- if I'm counting right, eight of
16 those were females. And then on, I believe
17 the alternates, he struck females as well.

18 And some of them I can clearly see
19 the reason for striking, but there are
20 several of them that I would like an
21 explanation of why they were struck. This
22 case does deal with a CSC where the victim is
23 a female.

24 THE COURT: All right. Do you
25 have specific ones that you ---

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BATSON & PRETRIAL MOTIONS

1 SOLICITOR ODOM: Yes, sir. Well,
2 I guess I'll just go through all them and
3 I'll tell you.

4 THE COURT: All right.

5 SOLICITOR ODOM: The first one he
6 struck was number 75. And I don't know if
7 you want me to tell you why I think he struck
8 her or just ---

9 THE COURT: You need to ---

10 MR. DEJONG: You want to go one-by-
11 one, Your Honor?

12 THE COURT: I mean, I think that's
13 the only way we're going to be able to ---

14 SOLICITOR ODOM: Okay.

15 THE COURT: Seventy-five (75).

16 MR. DEJONG: (Affirmative nod), 75.
17 Your Honor, according to my notes during *voir*
18 *dire*, she indicated that she was molested
19 when she was very, very young. Realizing her
20 answers on the *voir dire*, I still think the
21 fact that she was molested when she was very,
22 very young could bleed over into this case.

23 THE COURT: And I guess from the
24 way -- I mean, you have -- I mean, that one
25 you obviously knew that that was the basis

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BATSON & PRETRIAL MOTIONS

1 for his strike.

2 SOLICITOR ODOM: Yeah.

3 THE COURT: I mean, if you have
4 some of them that you think are actually,
5 that you're challenging, let's do it that
6 way.

7 SOLICITOR ODOM: Okay, 158.

8 THE COURT: 158?

9 SOLICITOR ODOM: Oh, I'm sorry.
10 Juror Number 159.

11 THE COURT: All right. And that
12 would be Wanda Youngblood. All right. Mr.
13 DeJong?

14 MR. DEJONG: Your Honor, on that
15 one she was retired. She retired from
16 Michelin; that's not so much the issue.

17 She was divorced. I have no idea
18 what the reason for that divorce might have
19 been. I notice she did have a child. I'm
20 certainly not accusing her ex-husband of
21 having molested the child or that there was
22 anything along those lines but it certainly
23 did raise a red flag in my mind and,
24 therefore, I struck her.

25 THE COURT: All right. Any

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BATSON & PRETRIAL MOTIONS

1 response from the State?

2 SOLICITOR ODOM: I have -- if I may
3 have one moment.

4 THE COURT: I mean on that
5 particular one?

6 SOLICITOR ODOM: Okay.

7 THE COURT: Okay.

8 SOLICITOR ODOM: I'm not sure if
9 other members of the panel were struck
10 because if they had been retired or not.

11 I'm not really -- well, I just don't
12 know if that's -- when he said she was
13 married. She mentioned she had a child and
14 he said, 'I'm not making any allegations that
15 her husband might have did something to the
16 child.'

17 Like, I just don't know if that's
18 gender neutral. But I guess he could have
19 said the same thing as if the juror was a
20 man. So I'll move on.

21 THE COURT: All right. And I
22 mean, I find that is justified.

23 SOLICITOR ODOM: Number 131.

24 THE COURT: That's a male.

25 SOLICITOR ODOM: Uh-oh, I'm getting

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1 -- my numbers are running together. Number
2 96, the one after that?

3 MR. DEJONG: Ninety-six (96)?

4 SOLICITOR ODOM: Yes, sir.

5 THE COURT: That was Linda Minner.

6 MR. DEJONG: I'm sorry. Are you
7 ready for me, Your Honor?

8 THE COURT: Yes, sir.

9 MR. DEJONG: Juror Number 96, I
10 don't remember why but if memory serves me
11 when we were doing the jury qualification she
12 came forward with some issue. I don't know,
13 don't really remember what it was. I could
14 be wrong. I don't know. I don't have -- let
15 me see here, number ninety-six. I don't
16 really know if there was an issue on her or
17 not. I know the name was familiar to me. I
18 thought she had some issue during the
19 qualification itself.

20 THE COURT: Was she the large lady
21 that didn't even stand the second -- when I
22 asked the question, she couldn't stand.

23 SOLICITOR ODOM: She was the one
24 who said she could be exempt because of her
25 age but chose to say.

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1 THE COURT: Right. But she wasn't
2 able to stand when she did that.

3 SOLICITOR ODOM: Right.

4 MR. DEJONG: Your Honor ---

5 THE COURT: You know what? Since
6 both of y'all have *Batson* charges could we
7 seat a new jury with what's out there. This
8 is probably the first time in court history
9 that both parties have had a *Batson*
10 challenge. Sorry, I don't mean to make light
11 of that. Have you ever had that happen?

12 CLERK: Nope.

13 MR. DEJONG: No, sir. I'm sorry.

14 THE COURT: It's like both of you
15 don't want the jury. Okay.

16 SOLICITOR ODOM: You want me to
17 finish mine? Or are we going to go ahead and
18 do Mr. DeJong's?

19 THE COURT: Yes, you can do it.
20 All right. So you haven't come up with a
21 reason on Ms. Minner?

22 MR. DEJONG: Yes. That one, Your
23 Honor, had nothing to do with her sex. Just
24 my years of experience, when they're over
25 sixty-five and you want to quote, "do your

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1 civic duty", unquote. I think that was
2 pretty much a direct quote of what she shared
3 with Your Honor. It always concerns me that
4 there's a hidden agenda there someplace that
5 I don't know about. I mean, I'm glad people
6 want to do their civic duty. I just don't
7 know why they want to do their civic duty.
8 And that always concerns me, Your Honor. So,
9 therefore, I struck her. Not based on sex.

10 THE COURT: All right. Any
11 response to that?

12 SOLICITOR ODOM: No, sir, Your
13 Honor.

14 THE COURT: All right. You've met
15 your burden. Your next one?

16 SOLICITOR ODOM: Seventy-three
17 (73).

18 MR. DEJONG: Who?

19 SOLICITOR ODOM: Seventy-three
20 (73).

21 MR. DEJONG: Seventy-three (73)?

22 SOLICITOR ODOM: Yes, sir.

23 THE COURT: Gail Huff.

24 MR. DEJONG: Ms. Huff. Ms. Huff
25 did not indicate that she knows me. I know

1 Ms. Huff. I know Ms. Huff from a church that
2 my sister attends. I attended that church
3 some. The freedom of religion is a wonderful
4 thing in this country and I certainly adhere
5 to that, Your Honor. I also know the tenets
6 and beliefs of that particular church, which
7 are very dogmatic, which are very conserva-
8 tive: no makeup, no jewelry, certainly no
9 dancing, no playing cards. Again, not based
10 on sex but my knowledge of her background,
11 Your Honor.

12 THE COURT: Any response from the
13 State?

14 SOLICITOR ODOM: No, sir.

15 THE COURT: All right. Anything
16 further from the State?

17 SOLICITOR ODOM: I would just say
18 he did one of his strike or I believe two of
19 his strikes and the alternate. Nope, those
20 were me. Nothing further, Your Honor.

21 THE COURT: All right. Because
22 I find that -- I deny those as *Batson*
23 challenges from the State.

24 And now, from the Defense?

25 MR. DEJONG: Your Honor, my *Batson*

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1 Motion is to the only African-American who
2 was on the list that was pulled for this
3 particular jury selection. I don't know why
4 -- can't see anything on the limited informa-
5 tion we have. But certainly she was the only
6 African-American. I do not have her number.
7 But she was struck by the State, Your Honor.

8 THE COURT: Number 153, Susan
9 Williams.

10 CLERK: That is correct.

11 THE COURT: All right.

12 SOLICITOR ODOM: Your Honor ---

13 THE COURT: The State's position?

14 SOLICITOR ODOM: Thank you, Your
15 Honor. According to my records, Ms. Williams
16 has twenty-eight counts of financial
17 transaction card fraud; another fraud charge;
18 and petit larceny on her criminal history. I
19 have a copy of that downstairs if you'd like
20 to see it. I just have my short list of the
21 jury and it was noted on there that she had a
22 criminal history. If Your Honor will notice,
23 the other two jurors I struck also had ---

24 MR. DEJONG: I'm not raising any-
25 thing on the other people that you struck.

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1 THE COURT: No, that's all.

2 SOLICITOR ODOM: Oh, I ---

3 MR. DEJONG: I'm not ---

4 SOLICITOR ODOM: --- am just
5 telling you the history. That's why I struck
6 other. I struck other ones for history. So
7 it's a criminal history thing. It has
8 nothing to do with her race.

9 THE COURT: Well, do we know that
10 that -- I guess we need to make sure that is
11 -- that being a very common name, I think we
12 want to make sure that that is the proper
13 person.

14 SOLICITOR ODOM: Yes, sir. If she
15 didn't have that history, I would not have
16 struck her. So I'll get that.

17 THE COURT: If we can confirm that
18 is the right person then I ---

19 MR. DEJONG: I don't remember what
20 the maximum penalty is on that. I raise that
21 question as whether she would have been
22 qualified to begin with.

23 SOLICITOR ODOM: I'm not sure. I
24 don't have her date of birth.

25 MR. DEJONG: Mr. Clerk, do you have

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1 that information?

2 CLERK: It appears she's got four.

3 SOLICITOR ODOM: And I'm not sure
4 whether she was charged on those. It might
5 have been the six-month or it could have been
6 a year.

7 THE COURT: Do you have the
8 printout that has the information? I just
9 want to make sure we have the right birth
10 date and stuff like that.

11 SOLICITOR ODOM: I had my attorney
12 list. But as far as the criminal history,
13 Elizabeth has gone down to get it. So she's
14 grabbing it right now.

15 CLERK: I e-mailed Cheryl and she
16 will be sending it to me.

17 THE COURT: Just general financial
18 -- Mr. DeJong, general financial transaction
19 fraud is not more than one year.

20 MR. DEJONG: So it falls right on
21 the cusp, I guess. Doesn't it?

22 THE COURT: That's right. Unless
23 it exceeds five hundred dollars (\$500).

24 CLERK: She was born in 1956.

25 SOLICITOR ODOM: The date of birth

1 listed on the NCIC is [REDACTED].

2 THE COURT: All right. And that
3 is, according to the information the clerk
4 just gave me that 1956 was the date of birth
5 of this juror.

6 SOLICITOR ODOM: And it doesn't
7 show a disposition for the twenty-eight
8 counts of financial transaction card fraud.
9 But it says "less than five hundred (\$500) in
10 a six-month period."

11 THE COURT: Okay. So that --
12 yeah, that would be under the -- if she were
13 convicted. All right. Okay. And thank
14 y'all for getting that. I just wanted to make
15 sure we were sure of that. So anything else
16 from the defendant?

17 MR. DEJONG: No, Your Honor.

18 THE COURT: All right. I believe
19 that that is definitely a non-race reason for
20 the strikes. So I will deny the State's
21 motion for the Batson challenge.

22 I'm sorry. The Defense's motion for
23 Batson challenge.

24 I deny both the Batson challenges.

25 All right. You also wanted to put

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1 on the record regarding ---

2 MR. DEJONG: Juror Number 22 ---

3 THE COURT: David Bossert, which
4 was the eleventh person selected for the
5 jury. Yes.

6 MR. DEJONG: Yes, Your Honor.
7 Juror Number 22 was called. We had a bench
8 conference at which I asked Your Honor to
9 excuse him for cause based on the fact that
10 he has a nephew, one Elijah Chapman, I
11 believe, who works for the Easley Police
12 Department -- Pickens County Sheriff's.

13 Well, I gave Your Honor bad
14 information when we were at the bench, but it
15 was Pickens County Sheriff's Office/Easley,
16 but it would be the same thing because
17 certainly we have a lot of Pickens County
18 Sheriff's Officers testifying and a nephew.

19 Your Honor, I did challenge him for
20 cause, Your Honor. And Your Honor overruled
21 me on that. As a result, he was seated on
22 the jury.

23 THE COURT: And based on my
24 evaluation of that, I mean, he indicated,
25 one, he did not specifically -- he did not

1 stand up for any of the witnesses we gave.
2 His nephew is not a witness. And he
3 indicated he could be fair and impartial even
4 though his nephew was a -- had worked with
5 Pickens County Sheriff's Office.

6 I think without more than that, I
7 don't think the basis for cause. In the
8 bench conference -- you openly objected and I
9 also indicated that we would put it on the
10 record as soon as we had the jury out.

11 MR. DEJONG: Yes, sir.

12 THE COURT: Anything else?
13 Anything further on the selection process on
14 the jury? From the State?

15 SOLICITOR ODOM: No, sir, Your
16 Honor.

17 THE COURT: Anything from the
18 Defense?

19 MR. DEJONG: As to what, Your
20 Honor?

21 THE COURT: Are there any other
22 objections to the selection process?

23 MR. DEJONG: No, sir.

24 THE COURT: All right. I'm going
25 to bring this panel in first and let them go.

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OPENING STATEMENT BY THE STATE

1 very brief overview. With that being
2 said, we'll now go into opening statements.
3 You may proceed.

4 SOLICITOR ODOM: Thank you, Your
5 Honor.

6 OPENING STATEMENT

7 BY SOLICITOR ODOM:

8 September 27th of 2012, do any of
9 y'all remember or do y'all know what you were
10 doing back on that date? Chances are you're
11 not going to know what you were doing unless
12 it was something special, maybe a birthday,
13 your spouse's birthday, anniversary.
14 Chances are you're just not going to know
15 what happened over three years ago.

16 But let me tell you somebody who
17 does know what happened to them, that thinks
18 about that day all the time. That's the
19 victim in this case, Ms. Tasha Medlin, seated
20 on the front row in pink.

21 Let me tell you what we're going to
22 show you through witnesses and testimony,
23 what happened that day. September 27th, 2012,
24 Ms. Medlin and her husband get into an
25 argument. It's a heated argument and she

OPENING STATEMENT BY THE STATE

1 leaves the house. She'd been drinking, and
2 that's part of the basis for the argument.
3 She'd been drinking.

4 Now, they live down, the bottom end
5 of Liberty, right off of (Highway) 123 off
6 Ruhamah. It's Simms School Road -- Simms
7 Mill Road, excuse me.

8 So she leaves walking, goes up
9 Ruhamah. It's in the evening, daylight when
10 she leaves.

11 She gets to the Liberty Bell, goes up
12 the road that way. It's dark by this point.

13 She gets up about to the rock quarry,
14 and she's tired at this point. She had just
15 wanted to get out of the house.

16 Somebody pulls over in a vehicle,
17 asked her if she needs a ride. She gets in.
18 She accepted a ride.

19 Now, once she's in that car, she's in
20 the back passenger seat. There's an
21 individual to her left behind the driver.
22 That's Mr. Brandon Benson. There was the
23 driver in front and another gentleman in the
24 passenger's seat. There's three men in the
25 car and she asked for a ride home.

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OPENING STATEMENT BY THE STATE

1 They didn't give her a ride home
2 though. The front passenger climbs over the
3 back seat. They pin her down in the
4 backseat, hold her down by her shoulders and
5 her arms. The Defendant proceeds to pull
6 down her pants, pulled down her underwear and
7 raped her. She wants them to stop. She
8 asked them to stop.

9 They get a little bit up the road
10 and they stop the vehicle, push her out on
11 the side of the side of the road before you
12 get to the Plez U in Easley. So she does
13 what she can. She pulls up her pants, her
14 underwear and she runs to the first light she
15 sees, for any sign where people are, and
16 that's the apartments right there. She's
17 banging on the doors. What's she asking them
18 is for help. She's asking for help. She's
19 -- somebody, 'I've just been raped.'

20 The police respond. Officer Searcy,
21 you'll hear from him. He gets out, listens
22 to her, assess the situation and
23 unfortunately she's arrested for public
24 disorderly conduct. She goes to the jail.

25 She gets out the next morning. She

OPENING STATEMENT BY THE STATE

1 asked them to take her to the hospital,
2 again, saying she had been raped. At this
3 point she didn't smell or appear to be
4 intoxicated as much. The drinking had worn
5 off, but she asked to be taken to the
6 hospital. They don't. So she walks.

7 She goes to the hospital. The
8 sheriff's office responds. A report is made.
9 The investigation starts and then -- we'll
10 explain the rest of the investigation, what
11 happened after that.

12 But I want you to think about this.
13 After I get done Mr. DeJong will have his
14 opening and then we'll get started with
15 witnesses.

16 She asked them to take her home.

17 She asked them to stop.

18 She asked for help.

19 She's been asking for something for three
20 years. Now we'll be asking you at the end of
21 the trial after you've heard all the
22 evidence, to go back to the jury room,
23 deliberate. We'll ask for justice of guilty.

24 THE COURT: Mr. DeJong.

25 MR. DEJONG: Thank you, Your Honor.

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OPENING STATEMENT BY THE DEFENSE

1 May it please the Court, Madam Solicitor.

2 OPENING STATEMENT

3 BY MR. DEJONG:

4 The first thing I would ask of each
5 of you, as you sit in this jury box -- and I
6 know there are ten thousand places you would
7 rather be than sitting on a jury. But the
8 first thing I would ask you to do is not let
9 your mind slam shut because of the
10 allegations you have heard in this case. And
11 that's all they are at this point in time,
12 they're simply allegations. It would be very
13 easy to say 'okay', because they are not
14 pretty allegations. That is what they are,
15 simply allegations. So I ask you, don't let
16 your mind slam shut.

17 Do what you said you would do under
18 your oath. Do what His Honor has asked you
19 to do. Keep an open mind until the very end
20 of this case, until you've heard everything.

21 Now, a few moments ago, or a little
22 bit before lunch and y'all were selected to
23 serve on this jury, you were introduced to
24 Mr. Benson. Mr. Benson stood up and the
25 question was posed to you did anyone know

OPENING STATEMENT BY THE DEFENSE

1 him. Well, if I may, I would like to take a
2 moment to reintroduce Mr. Brandon Jermaine
3 Benson. Today I have the pleasure of
4 representing him. But by reintroducing him,
5 I also want to share with you that I have the
6 pleasure of representing the innocent Brandon
7 Jermaine Benson. And you might well say,
8 "innocent?" Yes, innocent, ladies and
9 gentlemen.

10 You could say, 'well, wasn't he
11 arrested for his offense?' Yes, indeed he
12 was.

13 But you see, ladies and gentlemen
14 we could actually take that arrest warrant
15 and tear it up for the purposes of what we
16 are here for today. Because the fact that he
17 was arrested, the fact an arrest warrant was
18 issued has absolutely nothing to do with this
19 case. It is not evidence in this case nor
20 should it be considered as evidence by you in
21 this case. So now we have torn up the arrest
22 warrant.

23 And the second question could very
24 well be, 'well, did not His Honor read an
25 indictment or tell us he had been indicted by

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OPENING STATEMENT BY THE DEFENSE

1 a Pickens County Grand Jury?' I believe he
2 did. But you see we could do the same thing
3 with that indictment that we could do with
4 the arrest warrant, and that is simply tear
5 it up. Because for purpose of what we are
6 here about today, that indictment is of no
7 effect. It is not evidence.

8 So there is one more very important
9 principal of law. And that principal goes
10 hand-in-hand with what we're talking about
11 tearing up the arrest warrant and tearing up
12 the indictment. That principal of law is
13 that every person in this country that is
14 charged with a criminal offense has a
15 substantial right known as the right of
16 presumption of innocence, a substantial
17 right. That is not mere theory. It is not
18 legal mumbo jumbo. It is not words that
19 quickly come out of a lawyer's mouth. It is
20 a substantial right.

21 Just take a quick glance over at
22 counsel table, look at Mr. Benson. You see
23 him sitting there in a white shirt and I
24 think a pair of black trousers. But
25 sometimes this presumption of innocence,

OPENING STATEMENT BY THE DEFENSE

1 ladies and gentlemen, we liken to a cloak of
2 righteousness. That is why I ask you to look
3 at him, because you can't see it. But under
4 the law from the very top of his head to the
5 very soles of his feet, Mr. Benson is cloaked
6 with this substantial right known as the
7 right of presumption of innocence. It is a
8 tremendously important right.

9 As part of that presumption of
10 innocence -- let me back up just a little bit
11 -- as part of that presumption of innocence,
12 Mr. Benson has nothing to come to prove to
13 you today, absolutely nothing, because he is
14 presumed to be innocent.

15 The burden of proof in this case,
16 ladies and gentlemen, lays solely at this
17 (indicating State's) table. That burden of
18 proof is the highest burden of proof we have
19 in our judicial system. And that burden of
20 proof is known as beyond a reasonable doubt.
21 Now, I'm not going to get into a lot with you
22 at this moment in time about "beyond a
23 reasonable doubt." We'll talk about that
24 more at the other end of this case.

25 I ask you to keep these principles

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OPENING STATEMENT BY THE DEFENSE

1 in mind as we go through this case because
2 they are so fundamentally important to every
3 citizen of this country, not just Brandon
4 Jermaine Benson today but every citizen of
5 this country.

6 Now, as important as those fundamental
7 rights are, the twelve of you, now fourteen
8 of you, are as fundamental to our jury system
9 as those rights are. How fundamental? Well,
10 ladies and gentlemen, in this case and this
11 moment in time in Pickens, South Carolina,
12 were it not for the twelve, now fourteen of
13 you, sitting in this jury box -- no
14 disrespect to His Honor, we wouldn't need
15 him. We would need a constable. We wouldn't
16 need detectives. We wouldn't need the
17 solicitor. Certainly wouldn't need a defense
18 lawyer. But in protection of those
19 fundamental rights, you are the cornerstone
20 of the system.

21 Some folks take issue with me but I
22 give the great late Winston Churchill credit
23 for this statement, that jury service is the
24 highest service you can provide for your
25 community in peacetime. I believe that is

OPENING STATEMENT BY THE DEFENSE

1 true. Jury service is the highest service
2 you can provide for your community, and that
3 is how important and fundamental our jury
4 system is.

5 At this point in time, ladies and
6 gentlemen, you have heard no facts in this
7 case, none whatsoever. As His Honor shared
8 with you, ladies and gentlemen, you are the
9 trier of the fact or facts in this case.
10 Nothing is a fact until the twelve of you
11 believe it to be a fact.

12 So, again, I would ask you to listen
13 to the evidence. I'm not going to talk about
14 what the allegations are at this point in
15 time, because I don't know what they are.
16 I'm going to sit down and we're going to
17 listen to it from the witnesses and the
18 evidence.

19 I am asking that when this is all
20 over that you go back to your jury room and
21 find Brandon Jermaine Benson not guilty.
22 Thank you so very much for your time and your
23 attention.

24 THE COURT: All right. Ms. Odom.
25 Call your first witness.

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OPENING STATEMENT BY THE DEFENSE

1

2

SOLICITOR ODOM: Thank you, Your Honor.

3

The State calls Tasha Medlin.

4

(WITNESS TAKES STAND)

5

6

TASHA NICOLE MEDLIN, having been duly
sworn to tell the truth, and nothing but the
truth, testified as follows:

7

8

DIRECT EXAMINATION

9

BY SOLICITOR ODOM:

10

11

Q. Ms. Medlin, can you hear me if I
stand right here?

12

A. Yes, ma'am.

13

14

Q. Okay. If anytime you can't hear me,
you just let me know, okay.

15

A. (Affirmative nod).

16

17

Q. All right. Ms. Medlin, can you tell
me where you live?

18

A. At the current moment?

19

Q. Yes, ma'am.

20

21

A. I live at [REDACTED] Orchard Drive,
Liberty.

22

Q. And tell me, are you married?

23

A. Yes, ma'am.

24

Q. How long have y'all been married?

25

A. Seven years.

TESTIMONY OF NATASHA MEDLIN - DIRECT EXAMINATION

1 Q. Do you have any children?

2 A. Two daughters.

3 Q. How old are they?

4 A. They're both six right now.

5 Q. Does one have a birthday coming up?

6 A. Yes, in less than three weeks.

7 Q. Now, Ms. Medlin, I'm just going to
8 jump right into the reason we're here. Can
9 you tell me, do you remember the date
10 September 27th, 2012?

11 A. Yes, ma'am.

12 Q. Tell me where you and your husband
13 were living on that date?

14 A. We were living at [REDACTED] Kevin Court in
15 Liberty.

16 Q. Can you tell me what county that's
17 in?

18 A. Pickens County.

19 Q. Now, tell me how you started your
20 morning that day?

21 A. Well, we would all -- my family:
22 me, my husband and my two daughters would get
23 up. He would go to work and I would take my
24 kids to Reece Mill Road, right up here in
25 Pickens to the Head Start. And on the way

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TESTIMONY OF NATASHA MEDLIN - DIRECT EXAMINATION

1 back home, I stopped and purchased liquor.

2 Q. And tell me, did you have a problem
3 drinking at that time?

4 A. At that time in my life,
5 (affirmative nod); yes, ma'am, I did.

6 Q. How much would you drink every day?

7 A. A bottle of liquor, a pint of liquor
8 a day.

9 Q. When did you start having a problem
10 with alcohol?

11 A. I would say after my second daughter
12 was born.

13 Q. Now, you just said a second ago how
14 both of your daughters are six years old. So
15 how far apart are they?

16 A. They're eleven months apart.

17 Q. So after your daughter was born,
18 what happened to cause you to start drinking?

19 A. I just felt alone like I just didn't
20 matter to nobody. I was a worthless mother.
21 I just -- (pause).

22 Q. Did you go to the doctor about it?

23 A. I did.

24 Q. Were you prescribed any medication
25 to help you out?

TESTIMONY OF NATASHA MEDLIN - DIRECT EXAMINATION

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

2 Q. And what were you prescribed?

3 A. Zoloft and Klonopin.

4 Q. So you -- did you further medicate
5 with alcohol?

6 A. Yes, ma'am.

7 Q. So tell me, on September 27th, do
8 you know about what time about your husband
9 got home from work?

10 A. About 6:15 to 6:30, between then.

11 Q. Tell me where he worked at the time?

12 A. At Harold's Tire in Liberty.

13 Q. Had you ever worked up at Harold's
14 Tire any?

15 A. I would go in, as I was pregnant,
16 and clean the office just to be around people
17 than at home by myself.

18 Q. So after Mr. Medlin gets home, tell
19 me about that.

20 A. He was upset that I was drinking.
21 And, of course, I had my kids. And it just,
22 it got heated and I told him I was leaving.
23 That I -- that he would probably be better
24 off without me.

25 Q. What time of day would you say you

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1 left?

2 A. It was about 7:00, 7:30 maybe.

3 Q. Did you take anything with you when
4 you left?

5 A. My bottle of liquor.

6 Q. Now, tell me what your direction,
7 what route you took when you left.

8 A. I went down my driveway.

9 I went left down Sims Mill to the end.

10 I took another left across the bridge
11 over 123 and I kept walking until I got to
12 the four-way.

13 I just kept walking.

14 I got to the Liberty Bell.

15 Then I took a right and went down and
16 started up 93.

17 Q. So when you left your house were you
18 just walking or did you have a destination in
19 mind?

20 A. My destination was go to the shop,
21 because I figured if I could make it there
22 that my father-in-law would be there and I
23 could, you know, get him to call my mom or --
24 (pause).

25 Q. Where's your family from? Does your

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1 mom live around here?

2 A. No, ma'am. My family is from North
3 Carolina.

4 Q. And that's where you're originally
5 from?

6 A. Yes, ma'am.

7 Q. Do you have any family down here?

8 A. No.

9 Q. Now, did you have a cellphone at the
10 time or anything on you?

11 A. It was a, like a -- I call them
12 Obamaphones. I don't know. It was ones that
13 the government gives you.

14 Q. Okay. So you had your phone. And
15 you're walking towards Harold's, Harold's
16 Tire?

17 A. (Affirmative nod).

18 Q. Now, tell me what happens when you
19 get -- you said towards the rock quarry.
20 Tell me what happens when you get up that
21 way.

22 A. There was a car stopped and they
23 asked me, you know, where I was going. And
24 I said I wanted to go home. I'd been walking
25 for a long time. They said to get in, they'd

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1 take me home.

2 Q. What type of car was it?

3 A. It was a white Crown Vic.

4 Q. Did you get in?

5 A. I did.

6 Q. How many people were in the car?

7 A. There was three men in the car.

8 Q. So after you get in, tell me about
9 that.

10 A. I got in and they asked me if I
11 smoked pot. And what was I doing out? And
12 I told them I just wanted to go home. And at
13 that time, the one in the passenger's seat,
14 the man in the passenger's seat crawled over
15 the back of the seat and pinned my arms to
16 the back of the seat. Then Mr. Benson pulled
17 my pants down and proceeded to rape me. And
18 I could just feel the car -- I was on my
19 back, so I guess I just felt the car moving.
20 I don't -- I just wanted them to stop.

21 Q. Now, when you first got in the car
22 ---

23 A. Yes ma'am.

24 Q. --- you were behind the passenger's
25 seat?

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1 A. Yes.

2 Q. Did you get a good look at anybody
3 in the vehicle?

4 A. It was dark. I mean, I really
5 couldn't see that well.

6 Q. Tell me what direction they were
7 headed.

8 A. They were headed toward Liberty on
9 93.

10 Q. When you got in the vehicle?

11 A. Yes.

12 Q. At what point did they turn around?

13 A. I'm not sure.

14 Q. Now, when the passenger climbed over
15 the seat and got in the back with you, was he
16 sitting in the middle or were you between
17 them?

18 A. No, he just came over and pushed me
19 down into the seat.

20 Q. I know this -- I know you don't want
21 to be talking about this. This is
22 uncomfortable for you, but I need to ask some
23 more detailed questions. Now, you said that
24 they pushed you down in the seat?

25 A. Yes, ma'am.

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1 Q. So where was your head pointed; was
2 it on the passenger's side or the driver's
3 side?

4 A. Toward the passenger's side.

5 Q. And tell me where the front
6 passenger put his hands on you?

7 A. He pushed me into the seat and then
8 his knees were on my, inside of my arms. And
9 he was putting his penis on my face. And
10 they were calling me a nightwalker and a
11 whore. And he -- they -- I just tried to
12 close my eyes and just not be there, I guess.

13 Q. And tell me -- you said that the
14 Defendant at that point had pulled your pants
15 and underwear down?

16 A. Yes, ma'am.

17 Q. Tell me -- you said he raped you.

18 A. (Affirmative nod).

19 Q. I just need you to make it clear for
20 the jury. Was he on top of you? Was he
21 beside you? Tell me where is position to you
22 was.

23 A. My legs were kind of bent sideways.
24 And I -- my hip was on the car, like this
25 part was flat and then my side was flipped

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1 over.

2 Q. Were your knees together facing the
3 front of the car or the back?

4 A. The front.

5 Q. And he penetrated while you were in
6 that position?

7 A. Yes, ma'am.

8 Q. Did you take your pants off did he
9 do it without your permission?

10 A. He did it without my permission.

11 Q. You said the passenger held the top
12 of your body down. Were you held down in any
13 other way?

14 A. No. Just my arms were pinned and I
15 couldn't move.

16 Q. And then did the defendant, did he
17 touch you in any other way? Did he hold you
18 down or anything?

19 A. My legs.

20 Q. So you stated that they were headed
21 to Liberty and at some point they turned
22 around.

23 A. (Affirmative nod).

24 Q. You also stated it was dark.

25 A. (Affirmative nod).

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1 Q. Tell me how you know that it was
2 this defendant?

3 A. When we were -- I guess we would
4 pass something that was like Ingle's maybe,
5 something that had lights. I could see
6 glimpses, you know, just glimpses.

7 Q. So you would see enough light to see
8 his face?

9 A. Yes, ma'am.

10 Q. Did you know him?

11 A. No, ma'am.

12 Q. Had you ever met him before?

13 A. No, ma'am.

14 Q. Did you know the other people in the
15 car?

16 A. No, ma'am.

17 Q. So at some point the assault is
18 over. Tell me what happens then?

19 A. The car comes to a stop. And I feel
20 my body kind of rock to a stop. And one of
21 them says "get this white B-I-T-C-H out of my
22 car." And they grabbed me and they drug me
23 out.

24 Q. Now, who drug you out of the car?

25 A. The one that had my arms pinned

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1 down.

2 Q. And then, did -- had they pulled
3 your pants up?

4 A. No. They were still around my
5 ankles.

6 (PHONE RINGING IN COURTROOM)

7 THE COURT: Please turn off your
8 phone. We'll just take a minute. I know
9 sometimes it's easy for us to forget. I've
10 done it on the bench, so let's just take a
11 minute.

12 (COURT STOOD AT EASE)

13 THE COURT: All right. I'm sorry.
14 Go ahead.

15 SOLICITOR ODOM: Thank you, Your
16 Honor.

17 DIRECT EXAMINATION

18 BY SOLICITOR ODOM:

19 Q. So you said they pulled you out of
20 the car?

21 A. Yes, ma'am.

22 Q. And where were you?

23 A. Right below Smith Grove Road, on 93.

24 Q. And what happened? What did you do
25 when you were outside the car?

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1 A. I jerked my pants up and I ran to
2 the first light I seen.

3 Q. And where was that?

4 A. In the Westgate Apartments.

5 Q. And when you got up there, what did
6 you do?

7 A. I started beating on peoples' doors,
8 telling them to call the cops for me. I had
9 lost my phone. I had my wallet and my phone
10 and a bottle of liquor in my front pockets.
11 And when they jerked me out, I didn't have
12 anything.

13 Q. Did you end up talking to an officer
14 that night?

15 A. I did. I finally beat on enough
16 doors and -- they were telling me to go away.
17 And this woman had her window open, and I
18 asked her to call my husband to tell him that
19 I had been raped and to call the police for
20 me, please. About that time I turned around
21 and there was a cop behind me. And he had
22 asked what happened. I felt ashamed and I
23 felt dirty and I felt like I was in the wrong
24 for this. And I -- I mean, he said that I
25 was intoxicated and that it was best for me

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1 to sleep it off in jail, I guess. So I got
2 arrested that night.

3 Q. Now, the next morning, did you get
4 out of jail?

5 A. Yes, ma'am. I signed myself out on
6 a personal recognizance, I think they call
7 it.

8 Q. And what did you do when you signed
9 yourself out?

10 A. I asked the man that was giving me
11 my earrings and stuff back if he could take
12 me to the hospital, that I needed a rape kit
13 done. And he told me that ---

14 MR. DEJONG: Objection to what he
15 said, Your Honor.

16 THE COURT: Sustained.

17 DIRECT EXAMINATION CONITNUED

18 BY SOLICITOR ODOM:

19 Q. Without telling me what he said, did
20 anyone give you a ride to the hospital?

21 A. No, ma'am.

22 Q. So what did you do?

23 A. I walked from the Easley Police
24 Department to Baptist Easley Hospital.

25 Q. So you walked yourself there?

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1 A. (Affirmative nod).

2 Q. When you got there, what did you do?

3 A. I went to the window and I told the
4 lady that I needed a rape kit done. And she
5 told me to go sit down ---

6 MR. DEJONG: Objection to what she
7 said, Your Honor.

8 THE COURT: Sustained.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR ODOM:

11 Q. Now, so you get to the hospital.

12 Were you examined?

13 A. I was.

14 Q. Tell me about the examination, what
15 they did.

16 A. It was humiliating. From the top of
17 my head to the bottom of my feet, they
18 examined every piece of me.

19 Q. And did you have -- so you were
20 completely undressed?

21 A. (Affirmative nod).

22 Q. And you said they examined every
23 piece of you.

24 A. (Affirmative nod).

25 Q. How -- what did they do?

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1 A. They took combs and brushed my hair.
2 I mean, just -- they probed and prodded every
3 part of my body.

4 Q. Did they take pictures of your body?

5 A. Yes, they did.

6 Q. Did you have to submit to a pelvic
7 exam?

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

9 Q. And tell me with your pelvic exam,
10 what was in your body?

11 A. I had had a tampon in and it was in
12 my cervix.

13 Q. And did they remove that tampon for
14 you?

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

16 Q. Okay. Tell me, did they do any
17 further examination of you at the hospital?

18 A. They said they successfully did the
19 rape kit.

20 MR. DEJONG: Objection, to what
21 they said, Your Honor.

22 THE COURT: Sustained.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICITOR ODOM:

25 Q. Don't tell me what any other person

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1 said, just what you say.

2 A. Yes, ma'am.

3 Q. But yes or no, did you speak to an
4 officer?

5 A. Yes.

6 Q. And what department was that officer
7 from?

8 A. Pickens County.

9 Q. So do you know what agency the
10 officer was from who had arrested you?

11 A. Easley.

12 Q. So you spoke with a Pickens County
13 officer at the hospital?

14 A. Yes, ma'am.

15 Q. After having the rape kit done and
16 being examined and then speaking with the
17 officer, did you leave the hospital at that
18 point?

19 A. No. I don't have my license, so I
20 called my husband and ---

21 Q. And don't tell me anything he said,
22 okay? Just what happened.

23 A. We were alleged done prior to that
24 night. I mean, we had had a heated argument
25 and it was done. So he told me that he

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1 wasn't going to come and get me. I called my
2 brother-in-law and he came and got me.

3 Q. And where did you go when you left
4 the hospital?

5 A. Back to [REDACTED] Kevin Circle. Back
6 home.

7 Q. And after the weekend was over, what
8 did you do?

9 A. I went and admitted myself into the
10 Phoenix Center in Greenville.

11 Q. And tell us what the Phoenix Center
12 is?

13 A. It is a recovery -- it's to help you
14 to recover or to detox. It's a detox
15 facility.

16 Q. So you were trying to get help for
17 any alcohol problem you may have?

18 A. Or even if I was addicted to the
19 medicine that the doctor had put -- I went
20 off everything, my medications and to mainly
21 detox away from alcohol.

22 SOLICITOR ODOM: I beg the Court's
23 indulgence for just a moment, -- (tenders
24 documents to be marked as exhibits)

25 (SO MARKED AS STATE'S EXHIBIT 1)

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1 (SO MARKED AS STATE'S EXHIBIT 2)

2 (SO MARKED AS STATE'S EXHIBIT 3)

3 (SO MARKED AS STATE'S EXHIBIT 4)

4 (SO MARKED AS STATE'S EXHIBIT 5)

5 (SO MARKED AS STATE'S EXHIBIT 6)

6 (SO MARKED AS STATE'S EXHIBIT 7)

7 (SO MARKED AS STATE'S EXHIBIT 8)

8 COURT REPORTER: State's 1 through
9 8 for identification.

10 THE COURT: You said 1 through 8?

11 COURT REPORTER: Yes, sir. 1
12 through 8.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR ODOM:

15 Q. All right. Ms. Medlin ---

16 THE COURT: Hold on.

17 MR. DEJONG: I'm sorry, Your Honor?

18 THE COURT: What is your position
19 on photos 1 through 8?

20 MR. DEJONG: Well, I had a position
21 on a couple, but I think she took them out.

22 THE COURT: All right.

23 MR. DEJONG: Just let me relook,
24 see what she marked here. (Upon review),
25 without objection, Your Honor.

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1 THE COURT: All right. State's
2 Exhibits 1 through 8 are in without
3 objection.

4 (SO ENTERED AS STATE'S EXHIBIT 1)

5 (SO ENTERED AS STATE'S EXHIBIT 2)

6 (SO ENTERED AS STATE'S EXHIBIT 3)

7 (SO ENTERED AS STATE'S EXHIBIT 4)

8 (SO ENTERED AS STATE'S EXHIBIT 5)

9 (SO ENTERED AS STATE'S EXHIBIT 6)

10 (SO ENTERED AS STATE'S EXHIBIT 7)

11 (SO ENTERED AS STATE'S EXHIBIT 8)

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR ODOM:

14 Q. All right. Ms. Medlin, you stated a
15 few minutes ago how when you went to the
16 hospital they took some pictures. So I'm
17 going to be showing you some various things
18 and entering them into evidence with the
19 Court. I'm going to hand you what's been
20 marked State's Exhibit 1 for identification
21 purposes. Tell me if you recognize those?

22 A. (Upon review), I do.

23 Q. You do recognize those?

24 A. (Affirmative nod).

25 Q. Okay. Tell me if that's a true and

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1 accurate representation of how you were at
2 the time of the -- when you were examined at
3 the hospital?

4 A. Yes, ma'am.

5 SOLICITOR ODOM: And Your Honor,
6 if I could just hand her 1 through 8, and
7 she ---

8 THE COURT: Yeah. And they're in
9 without objection.

10 SOLICITOR ODOM: Okay.

11 MR. DEJONG: Your Honor, I don't
12 mean to interrupt but I'd ask Madam Solicitor
13 to speak up a little bit. I can't hear her.
14 I've got this fan at my back here.

15 THE COURT: Okay.

16 SOLICITOR ODOM: I'll pep up a
17 little.

18 DIRECT EXAMINATION CONTINUED

19 BY SOLICITOR ODOM:

20 Q. Okay. Tasha, there's four pictures
21 on that sheet. Starting with the top right
22 picture, and after -- well, let me go ahead,
23 I'll put it on the screen. So you can see --
24 this is going to be State's Number 1. I'll
25 put it up so everybody can see it.

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1 SOLICITOR ODOM: If that's all
2 right, Judge?

3 THE COURT: Yes. I mean, they're
4 into evidence.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR ODOM:

7 Q. Okay. So this is State's Exhibit 1.
8 You said that these pictures are you. In
9 this picture, tell me which arm this is?

10 A. The right.

11 Q. And tell me -- you had some bruising
12 on your arm. Did you have that before the
13 incident?

14 A. No, ma'am.

15 Q. So when you got in that car, you did
16 not have those bruises?

17 A. No, ma'am.

18 Q. You have some bruises to your legs
19 in the other three pictures in the exhibit.
20 Can you tell me what that bruising was caused
21 form?

22 A. Maybe my legs being held down.

23 Q. Did you have those injuries before
24 you got in the car?

25 A. No, ma'am.

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1 Q. This is State's Exhibit 2. Tell the
2 jury about -- there's two pictures on this,
3 State's Exhibit 2. Tell me about this
4 picture.

5 A. I had a big knot on my head.

6 Q. Did you have that before you got in
7 the car?

8 A. No.

9 Q. State's Exhibit 3, there are four
10 pictures on this. Tell me, did you have the
11 bruising in these pictures before you got in
12 the car?

13 A. No, ma'am.

14 Q. Now, on these pictures, State's 4,
15 tell me what these pictures depict.

16 A. The bruises on my arm.

17 Q. Did you have these bruises before
18 you got in the car?

19 A. No, ma'am.

20 Q. State's Exhibit 5. I'm going to
21 show you what's been marked State's 7. In
22 the bottom left picture on State's 7, tell me
23 about that picture?

24 A. My lip is busted.

25 Q. And how did your lip get busted?

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1 A. From when I was getting smacked in
2 the face with a penis.

3 SOLICITOR ODOM: If I could have
4 just one moment, Your Honor.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR ODOM:

7 Q. All right. Ms. Medlin, just a few
8 more questions to tie up some loose ends. So
9 we went through September 27th and about the
10 next week or so. Like within a week or so of
11 the incident, did any detectives come and
12 speak with you?

13 A. Yes, ma'am.

14 Q. So there was a follow-up investiga-
15 tion that you were part of?

16 A. Yes, ma'am.

17 Q. Okay. And at any point in time,
18 even a year or so after, were you ever shown
19 a photo lineup?

20 A. Yes.

21 SOLICITOR ODOM: (Tenders document
22 to be marked as exhibit)

23 (SO MARKED AS STATE'S EXHIBIT 9)

24 COURT REPORTER: State's Exhibit
25 Number 9 for identification.

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1 DIRECT EXAMINATION CONTINUED

2 BY SOLICITOR ODOM:

3 Q. All right. Ms. Medlin, I'm going to
4 show you State's 9 for identification
5 purposes. Do you know what this is?

6 A. Yes. That's where I identified
7 Brandon Benson.

8 Q. So is this the lineup that was shown
9 to you?

10 A. Yes.

11 Q. By Detective Taylor?

12 A. Yes, ma'am.

13 Q. Now, how do you know that that's the
14 lineup that you saw?

15 A. Because he told me to circle the
16 number and then put my initials.

17 Q. And which one did you circle?

18 A. Number four.

19 SOLICITOR ODOM: Your Honor, the
20 State would move that this be entered into
21 evidence.

22 THE COURT: Any objection?

23 MR. DEJONG: No objection, Your
24 Honor.

25 THE COURT: All right. And this

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1 is Exhibit 9?

2 SOLICITOR ODOM: Yes, sir.

3 THE COURT: All right. State's
4 Exhibit 9 is in without objection.

5 (SO ENTERED AS STATE'S EXHIBIT 9)

6 DIRECT EXAMINATION CONTINUED

7 BY SOLICITOR ODOM:

8 Q. And that was a little after a year
9 after it happened?

10 A. It was.

11 Q. And tell us -- you say you didn't
12 know him from before. You had no idea who it
13 was?

14 A. No.

15 Q. Tell me how you knew that was him.

16 A. After seeing the lineup, I just
17 matched it with, with what I thought I seen
18 in the car that night.

19 Q. So you saw him?

20 A. (Affirmative nod).

21 Q. You saw his face and you saw him in
22 that car that night?

23 A. I believe so -- yes, ma'am.

24 Q. We touched on it a little bit before
25 when you said they removed a tampon from your

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1 cervix, that you had a tampon in at the time
2 of the assault; correct?

3 A. Uh-huh, (affirmative nod).

4 Q. And do you normally have sex with a
5 tampon in?

6 A. No, ma'am.

7 Q. During the incident, we've talked
8 about the force that was used upon you. But
9 did you say anything to them or to Mr. Benson
10 when he was doing that to you?

11 A. I just asked -- when I was being
12 pushed down into the seat, I really, I think
13 I was in shock. I didn't know what was
14 happening.

15 Q. Do you know if you told them
16 anything?

17 A. Just to let me out. Just let me out
18 of the car and I will walk home.

19 Q. We talked about various injuries you
20 had. The jury has seen various pictures.
21 Did you have any injuries to your feet?

22 A. I had blisters on my feet where I
23 had walked so long.

24 Q. And when you were at the hospital
25 and you spoke with the nurse, did you tell

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1 her you had been drinking the night before?

2 A. I did, but I didn't tell her to what
3 extent I was drinking.

4 Q. How much did you tell her you'd been
5 drinking?

6 A. Like four beers.

7 Q. About how much had you really drank?

8 A. That whole bottle of liquor.

9 Q. And, you know, why would you kind of
10 downplay how much you'd been drinking?

11 A. I was ashamed. I thought it was my
12 fault, that maybe that's why it happened.

13 Q. One other question, Ms. Medlin. Can
14 you point to the man who raped you? Point to
15 him in the courtroom and describe what he's
16 wearing?

17 A. Brandon Benson, (indicating
18 defendant). He's wearing a white shirt.

19 SOLICITOR ODOM: Your Honor, I
20 would ask that the record reflect she's
21 pointing to the Defendant.

22 THE COURT: So noted.

23 DIRECT EXAMINATION CONTINUED

24 BY SOLICIOR ODOM:

25 Q. Ms. Medlin, please answer any

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1 questions Ms. DeJong has for you.

2 MR. DEJONG: May it please the
3 Court?

4 CROSS-EXAMINATION

5 BY MR. DEJONG:

6 Q. So on September the 27th of 2012, Ms.
7 Medlin, what time did you start drinking?

8 A. I would say about 9:00, 9:30 that
9 morning.

10 Q. You drank all day?

11 A. Throughout the day, yes, sir.

12 Q. So when did you go by the liquor
13 store?

14 A. On my way from dropping my kids off
15 at school.

16 Q. In the morning?

17 A. Yes, sir.

18 Q. How did your kids get home in the
19 afternoon?

20 A. I picked them up.

21 Q. After you had been drinking all day?

22 A. Yes, sir.

23 Q. All right. Had you been doing any-
24 thing else, other than alcohol?

25 A. Not other than what was prescribed

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1 to me by my doctor.

2 Q. But you'd had a problem with drugs
3 in the past, as well; hadn't you?

4 A. When I was young, yes, sir.

5 Q. What kind?

6 A. (No verbal response).

7 Q. What drugs?

8 A. Pills.

9 Q. Pardon?

10 A. Pills.

11 Q. Meth?

12 A. No, sir.

13 Q. Crack?

14 A. No, sir.

15 Q. Okay. So your husband gets home
16 about 6:30 in the evening; correct?

17 A. Yes, sir.

18 Q. And then an argument starts between
19 you and your husband?

20 A. Yes, sir.

21 Q. Did that argument become physical?

22 A. No, sir.

23 Q. Law enforcement was called out, I
24 believe, were they not?

25 A. Yes, so my husband and my children

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1 could leave.

2 Q. Pardon me?

3 A. So my husband and children could
4 leave.

5 Q. Well, you had already left, hadn't
6 you?

7 A. I was in the process. And I think
8 he wanted to leave peacefully and ---

9 Q. Well, you had already made it known
10 at that point in time that you were leaving;
11 right?

12 A. I seen the sheriff deputy pull into
13 my driveway. Yes, I was. Yes, sir.

14 Q. And you left?

15 A. Yes, sir.

16 Q. Now, can you give us any kind of --
17 well, I believe you were at [REDACTED] Kevin Court
18 in Liberty at that point in time?

19 A. Yes, sir.

20 Q. Do you know where the police station
21 is in Liberty?

22 A. (No verbal response).

23 Q. What I'm trying to do is get a point
24 of reference here, where you were and what --
25 okay?

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1 A. Okay.

2 Q. So the old Liberty Middle School,
3 how far was Kevin Court from that?

4 A. It's a pretty good ways.

5 Q. Okay. Well, how far were you from
6 the Liberty Bell?

7 A. A pretty good ways.

8 Q. All right. So you started walking,
9 what, at 7:30?

10 A. At the latest, yes, sir.

11 Q. And you took your liquor with you;
12 right?

13 A. Yes, sir.

14 Q. And you continued to drink; right?

15 A. Throughout my walking, yes, sir.

16 Q. And I'm a little confused here.

17 When you say you were walking -- you say you
18 were walking on 93; right?

19 A. Yes, sir.

20 Q. And you got almost to the rock
21 quarry; is that in the vicinity of where
22 King's Asphalt is?

23 A. Yes, that's what I call the rock
24 quarry.

25 Q. Okay. So King's Asphalt.

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1. A. Uh-huh.

2. Q. So you were getting relatively close
3. to Easley at that point in time; right?

4. A. Yes, sir.

5. Q. And you were walking towards Easley;
6. right?

7. A. Yes, sir. Towards my husband's ---

8. Q. I'm sorry?

9. A. Toward my husband's place of work,
10. yes, sir.

11. Q. All right. And what time of the
12. night was this?

13. A. It was late. I'm not sure.

14. Q. Was it light; was it dark?

15. A. It was dark.

16. Q. How long had you been walking?

17. A. A long time.

18. Q. An hour, two hours?

19. A. I'm not sure.

20. Q. You can't be too sure because you
21. were intoxicated; weren't you?

22. A. Yes, sir.

23. Q. Okay. Now, you say that this --
24. you testified today it was a white Crown Vic;
25. right, that pulled up?

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1 A. Yes, sir.

2 Q. All right. Now, do you recall
3 having given a written statement to a Deputy
4 McKenzie on September the 28th of 2012, at
5 approximately 1:15. Do you remember that?

6 A. 1:15 in the morning?

7 Q. This says 1:15 p.m. Let me show you
8 what I'm talking about. Do you recognize
9 that?

10 A. (Upon review), I think that's the
11 one I wrote at the hospital.

12 Q. Pardon me?

13 A. Is that the statement I wrote at the
14 hospital?

15 Q. I don't know where it was taken,
16 ma'am. All I know is it purports to be your
17 statement. And that's what I'm asking, is
18 that your statement?

19 A. That is -- yes, it's my handwriting
20 and my signature; yes, sir.

21 Q. And review it if you need to, but
22 there's nothing in that statement about a
23 Crown Vic; is there?

24 A. I ---

25 Q. Well, please take a moment and read

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1 it, okay?

2 A. (Upon review), this says a long
3 white car.

4 Q. Yes, ma'am. But nothing about a
5 Crown Vic. You were told about a Crown Vic
6 by law enforcement; weren't you?

7 A. I know I said it looked like a
8 police car.

9 Q. In your statement?

10 A. No, I said a long white car..

11 Q. Okay. So in your statement you
12 don't say anything about a Crown Vic or it
13 looking like a police car; do you?

14 A. No, sir.

15 Q. Now, I'll give this back to you if
16 you need it. You say that there were three
17 people in that vehicle?

18 A. Yes, sir.

19 Q. All right. And you say that Mr.
20 Benson, some year or so after the fact, was
21 in the back seat?

22 A. Yes, sir.

23 Q. All right. Now, look at your
24 statement if you would, and if you have to,
25 do you not describe the person in the back

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1 seat as being tall and skinny?

2 A. (Upon review), yes, sir.

3 Q. All right. And the guy in the front
4 seat being a larger guy; right?

5 A. Yes, sir.

6 Q. Well, if you remember, since you
7 only got glimpses, Ms. Medlin, is Mr. Benson
8 about the same size now as you say he was
9 then?

10 A. He's a lot bigger now than ---

11 Q. Well, how old was this skinny guy in
12 there; do you remember?

13 A. No, sir.

14 Q. Huh?

15 A. No, sir.

16 Q. Okay. Well, how about the bigger
17 guy?

18 A. No, sir.

19 Q. Who was the third person in the car?
20 Well, let me ask you this. Were all the
21 individuals in the car the same race?

22 A. No, sir.

23 Q. Tell me the race of the other
24 individuals in the car?

25 A. The male driving was a white male.

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1 Q. Okay. How about the other two that
2 you are alleging were in the vehicle?

3 A. The driver was white. The one in
4 the passenger was a black man, the larger
5 man. And Mr. Benson who was in the back with
6 me was a black male, also.

7 Q. Okay. Now, I believe you said and
8 told -- do you remember talking to a
9 Detective Hendricks?

10 A. Yes, sir.

11 Q. Do you remember telling Detective
12 Hendricks that the last time you saw anything
13 was in Liberty?

14 A. I don't recall that, no, sir.

15 Q. Okay. Well, where do you say then,
16 then you were -- well, let's back up here
17 because I'm confused. You say when you got
18 in the car with these three individuals, you
19 drove back towards Liberty?

20 A. That's the way we were going, yes,
21 sir.

22 Q. Okay. So you were almost -- not too
23 far from Easley. Now, you're back -- turn
24 around and go back towards Liberty?

25 A. I'm not sure because by that time I

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1 was already pinned down in the back seat.

2 Q. Okay. All right. So you know if
3 you were in the area of Reliable? You know
4 where Reliable Sprinkler is?

5 A. Yes, sir, I do.

6 Q. Were you in that area?

7 A. I don't know because I could not see
8 out the windows.

9 Q. Okay. Well, you couldn't see out
10 the windows because it was dark; right?

11 A. Yes, sir.

12 Q. All right. Now, where were you then
13 in relationship to -- I guess -- well, you
14 said Smith Grove Road; right?

15 A. When I was dragged out of the car;
16 yes, sir.

17 Q. Well, Smith Grove Road is a pretty
18 long road; is it not? Smith Grove Road could
19 be -- you've got Reliable and you go almost
20 all ---

21 A. No, sir. I got pulled out on
22 Highway 93 below where Smith Grove comes out
23 at.

24 Q. Okay. Well, initially you told law
25 enforcement that when you had left Liberty

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1 you were in the area of 93 and Smith Grove
2 Road; right?

3 A. Yes, sir.

4 Q. Okay. Well, I'm trying to figure
5 which end of Smith Grove Road you were at.
6 More down towards Reliable or more up towards
7 Easley?

8 A. Toward Easley.

9 Q. Well, then you said, if I understood
10 you correctly, that you wanted a ride home;
11 correct?

12 A. Yes, sir.

13 Q. But then as I understood you, at
14 some point in your testimony, when you left
15 it was over between you and your husband;
16 right?

17 A. We had had a heated argument; yes,
18 sir.

19 Q. Well, correct me if I'm wrong. Did
20 you not say that it was over between you and
21 your husband?

22 A. In my mind.

23 Q. Pardon?

24 A. In my mind, yes.

25 Q. Okay. So it's over between you and

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1 your husband; but now you're asking for a
2 ride to go back to Liberty, to your husband?

3 A. Yes, sir.

4 Q. Who it was over with?

5 A. Yes, sir.

6 Q. Well, at that point in time,
7 throughout all of this, you had no place to
8 go, other than back to your husband; did you?

9 A. Correct.

10 Q. Fight or no fight, you had no place
11 to go; right?

12 A. Yes, sir.

13 Q. Okay. Now, so you go to Westgate?

14 A. Sir?

15 Q. Now, am I clear in you told law
16 enforcement you had never been to Westgate
17 before?

18 A. Yes.

19 Q. Pardon me?

20 A. Yes, sir.

21 Q. You're sure of that?

22 A. I don't have no reason to be in
23 there. No, sir.

24 Q. Okay. So you're at Westgate.
25 You're pounding on doors and raising

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1 hullabaloo; correct?

2 A. Yes, sir, I was.

3 Q. Did you know anybody at Westgate?

4 A. No, sir.

5 Q. But you asked somebody to call your
6 husband at that point in time; right?

7 A. Yes, sir. And I gave her my
8 husband's phone number through her screened
9 window.

10 Q. And that was the extent of what you
11 asked this person; right?

12 A. Yes, sir.

13 Q. Okay. You didn't ask this person to
14 call law enforcement; did you?

15 A. I'm pretty sure I did.

16 Q. But not sure?

17 A. I'm pretty positive that I told her
18 to call the law for me.

19 Q. All right. So the next thing that
20 happens Officer Felton from Easley Police
21 Department comes up; right?

22 A. Yes, I'm not sure of his name but
23 there was an officer there. Yes, sir.

24 Q. An Easley Police Department -- an
25 officer came out?

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1 A. Easley, yes, sir.

2 Q. All right. Now, where was your
3 bottle of liquor during all of this time?

4 A. I had done drank it.

5 Q. How big of a bottle was it?

6 A. It was a pint.

7 Q. A pint?

8 A. Yes, sir.

9 Q. Are you telling us then that you
10 only drank a pint between 9:30 in the morning
11 and whatever time on the evening of September
12 the 27th?

13 A. No, sir. I had -- that was -- that
14 was working on my second. The one I took
15 with me was my second one.

16 Q. Your second pint?

17 A. For that day, yes, sir.

18 Q. What kind of alcohol was it?

19 A. It was Wild Turkey 101.

20 Q. All right. Well, Officer --, whoever
21 the officer from Easley Police Department
22 gets out there; right?

23 A. Yes, sir.

24 Q. Where were you in Westgate when that
25 occurred?

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1 A. I was standing in front of the woman
2 with her window up and the screen. I was
3 standing there waiting on her to tell me my
4 husband was coming.

5 Q. Okay. Now, do you remember talking
6 to this officer?

7 A. Not really. Pieces of it.

8 Q. Do you remember him asking you if
9 you wanted to make a report to Pickens County
10 Sheriff's Office?

11 A. I don't remember that.

12 Q. All right. Do you remember saying
13 no, you did not?

14 A. No, sir, I don't.

15 Q. Do you remember telling this officer
16 that earlier in the evening you had been
17 drinking with these people at Westgate?

18 A. No, sir.

19 Q. No, sir, you didn't tell him or no,
20 sir, you don't remember?

21 A. No, sir, I did not tell him that.

22 Q. All right. And this was late-night
23 hours of September the 27th, early morning
24 hours of September the 28th. Just so we
25 understand; right?

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1 A. Yes, sir.

2 Q. Well, was it after midnight that the
3 police actually got to Westgate apartments?

4 A. I'm guessing, (affirmative nod). It
5 was really late.

6 Q. Okay. The -- and I don't mean to be
7 crude here, ma'am. But obviously I've got to
8 ask questions. When you went to the hospital
9 for this examination you told them you didn't
10 know the tampon was there; didn't you?

11 A. I had been on my period and I had
12 been spotting.

13 Q. But you told them you didn't know it
14 was there; didn't you?

15 A. I thought I had removed my tampon.

16 Q. I'm sorry?

17 A. I thought I had removed my tampon,
18 yes, sir.

19 Q. Now, on September 27th and September
20 the 28th were you taking Zoloft and Klonopin
21 as well?

22 A. Yes, sir.

23 Q. Do you recall how much you were
24 prescribed?

25 A. I was to take one Zoloft a day and

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1 then two Klonopin's a day.

2 Q. So at some point in time on
3 September the 27th you had poured two pints of
4 two liquor on top of Zoloft and Klonopin;
5 right?

6 A. Yes, sir.

7 Q. Now, if I understood you correctly
8 when Madam Solicitor was asking you
9 questions, you told her you had a cellphone;
10 right?

11 A. It didn't really have any minutes on
12 it. It was a government-issued phone.

13 Q. On the government-issued phones can
14 you not call 9-1-1 whether there are minutes
15 on it or not?

16 A. I'm not sure. I never tried to call
17 9-1-1 on the phone like that.

18 Q. You were more concerned getting in
19 touch with your husband; weren't you?

20 A. Yes, sir.

21 Q. So you say, Ms. Medlin, you were in
22 the backseat of this car and you were seated
23 behind the passenger's seat?

24 A. Yes, sir.

25 Q. Let me ask you this. How were you

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1 dressed that night?

2 A. I had a pair of blue jeans on, a tee
3 shirt and a loose jacket.

4 Q. Okay. So you're sitting behind the
5 passenger seat, your feet on the floor?

6 A. When I got in, yes, sir.

7 Q. Okay. And then you allege that
8 somebody came over the passenger seat; right?

9 A. Yes, sir.

10 Q. Are you still seated?

11 A. He grabbed my shoulders then
12 proceeded to push me down in the seat.

13 Q. Well, I understand what you're
14 saying. That's the part I'm trying to get
15 to. So you say whoever that was pushed you
16 down, was on top of you, with his knees on
17 your shoulders; right?

18 A. Yes, sir.

19 Q. So that person, his rear end would
20 have been basically in the same location as
21 your rear end; right?

22 A. No, his knees were on my shoulders.

23 Q. Yes, ma'am. I understand that. But
24 the point of that was he was facing you;
25 correct?

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1 A. I don't understand.

2 Q. Well, had he been laying down, he
3 would have been looking at you face to face;
4 correct?

5 A. He came over and pushed me into the
6 bottom of the chair -- the seat.

7 Q. Yes, ma'am. I got that part.

8 A. Into the seat.

9 Q. I got that part. But you say he had
10 his knees on your shoulders. So his rear end
11 was pointed away from you; right?

12 A. Toward the door, yes.

13 Q. Now. Now, your feet where are they
14 at? Still on the floor?

15 A. As he is pushing me down in the
16 seat, Mr. Benson was pushing my knees over.

17 Q. All right. But your feet were still
18 basically on the floor; right?

19 A. Yes, sir.

20 Q. Now, since some -- well, back up.
21 From Kings Asphalt, whichever direction you
22 went, you were still on 93 as far as you
23 know; right?

24 A. Yes, sir.

25 Q. There's not a lot of lights on

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1 Highway 93; is there?

2 A. There's a couple of businesses.

3 Q. I'm sorry?

4 A. There's a couple of businesses.

5 Q. Right. What businesses?

6 A. There's the bypass, there's Sea
7 Level. There's the place where the
8 rhinoceros is in front of it.

9 Q. Well, that's going on towards
10 Easley; is it not?

11 A. Yes, sir.

12 Q. I understood you to say you were
13 going back towards Liberty.

14 A. Yes, sir. And Ingle's is back
15 toward Liberty, that way. King's Asphalt is
16 down ---

17 Q. Excuse me. Let's go back from
18 King's Asphalt to Liberty. Not much light in
19 there, is it?

20 A. I don't recall through there.

21 Q. Okay. Now, at best all you could
22 get, as you say, were glimpses; right?

23 A. Yes, sir.

24 Q. Now, so what did you -- if you
25 recall, what time did you get to the Easley

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1 jail?

2 A. I don't recall what time it was at
3 the time.

4 Q. Well, what time were you released
5 from Easley jail?

6 A. I would say about 9:00 in the
7 morning.

8 Q. Did you sober up?

9 A. Yes, sir.

10 Q. All right. So on the morning of the
11 28th you say you weren't intoxicated anymore.
12 You were sober; right?

13 A. I guess I would have a hang-over as
14 you would call it.

15 Q. Yes, ma'am. Now, these bruises that
16 Madam Solicitor showed you pictures of, are
17 there any bruises on your shoulders?

18 A. No, sir.

19 Q. You had bruises on your legs; right?

20 A. Yes, sir.

21 Q. As I recall what you told Madam
22 Solicitor, you really didn't know how they
23 got there; right?

24 A. Throughout all that night, no, sir,
25 I don't know how they got there.

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1 Q. And you were pretty intoxicated,
2 weren't you?

3 A. Yes, sir.

4 Q. And you are walking on a road that
5 has no sidewalk?

6 A. Yes, sir.

7 Q. Basically walking either on the very
8 edge of the road or off of the road?

9 A. In the grass.

10 Q. Yes, ma'am. Certainly in your state
11 of intoxication you might have fallen down,
12 might you?

13 A. I did not fall down, sir.

14 Q. You remember that; right?

15 A. Yes, I do.

16 Q. I see. Okay. Well, this photo
17 lineup, we have pretty much agreed, I think
18 that there's not much light between King's
19 Asphalt going back towards Liberty; right?

20 A. Yes, sir.

21 Q. There's a little light maybe coming
22 into Easley. Were you at the Plez-U when you
23 say you got out of the car?

24 A. No, sir, before the Plez-U.

25 Q. Was that before SeaLevel, whatever

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1 that place is called?

2 A. When I was out of the -- when I got
3 pulled out of the car?

4 Q. Yes, ma'am?

5 A. It was below Smith Grove Road and
6 93.

7 Q. Okay. Do you know a Candice Hagood?

8 A. No, sir. I do not.

9 Q. Pardon me?

10 A. No, sir. I do not.

11 Q. Do you remember going prior to this
12 alleged incident, as you say it happened, do
13 you remember going to her house looking for
14 Brandon Benson?

15 A. No, sir. I do not.

16 Q. You knew Brandon Benson before
17 September the 27th; didn't you, Mrs. Medlin?

18 A. No, sir. I did not.

19 Q. Did your husband know of Mr. Benson,
20 to your knowledge?

21 A. No, sir. He did not.

22 Q. Well, let's go back to this
23 description a little bit. When you were
24 talking to -- not the Easley officer -- the
25 first Pickens County Officer, do you recall

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1 telling him that the front seat passenger was
2 a black male in his 30s, big and tall?

3 A. I don't recall saying an age, but he
4 was a larger black male. Yes, sir.

5 Q. Do you recall telling that officer
6 that the rear seat passenger was a black male
7 around twenty-one years of age, tall and
8 skinny?

9 A. I do not recall saying an age, sir.
10 And I did say he was tall and skinny. Yes,
11 sir.

12 Q. Do you recall telling him they were
13 both wearing do-rags?

14 A. I do. Yes, sir.

15 Q. Pardon?

16 A. Yes, sir. I do.

17 MR. DEJONG: One moment, please,
18 Your Honor.

19 CROSS-EXAMINATION CONTINUED

20 BY MR. DEJONG:

21 Q. Do you remember talking to Detective
22 Taylor?

23 A. Yes, sir. I do.

24 Q. And where were you when you talked
25 to Detective Taylor?

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1 A. I think him and Detective Hendricks
2 had come to my home.

3 Q. Did they talk to you any other
4 place?

5 A. Yes, they had came up to the Phoenix
6 Center. I believe it was that Monday.

7 Q. What is the Phoenix Center?

8 A. A detox place where I had went to
9 detox.

10 Q. Who came out there and showed you
11 the photo lineup?

12 A. Detective Taylor and Detective
13 Hendricks had a lineup when they came the
14 first time to my home.

15 Q. With a photo lineup?

16 A. For the white male; yes, sir.

17 Q. Did you pick anybody out of that?

18 A. I could not identify him, no, sir.

19 Q. How about the second male?

20 A. I could not identify him, sir.

21 Q. And that's the person you say would
22 have had his knees on your shoulder; right?

23 A. With his penis in my face. Yes,
24 sir.

25 Q. With what in your face?

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1 A. His penis.

2 Q. So certainly you would have ---

3 A. I had the bottom view.

4 Q. Pardon me?

5 A. I had the bottom view of his
6 genitals.

7 Q. Yes, ma'am. I understand that.

8 Were you ever shown a lineup of the second
9 person -- or the third person, if you will?

10 A. I was shown a lineup but I was not
11 able to identify the male in the passenger's
12 seat who climbed over.

13 Q. So the only person that you can
14 identify is Mr. Benson; right?

15 A. Yes, sir.

16 Q. How long after these allegations
17 arose was it that you were able to pick him
18 out of a lineup?

19 A. It was almost a year when Detective
20 Taylor had come to my home and showed me a
21 lineup. And I quickly identified Mr. Benson.
22 And I circled number four and put my
23 initials. Then he proceeded to tell me that
24 they had a DNA match.

25 Q. From Brandon Benson?

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1 A. I'm pretty sure, (affirmative nod);
2 because it came off the tampon.

3 Q. So they told you Brandon Benson
4 before you picked this person up out of the
5 lineup; correct?

6 A. No, sir. I had circled Mr. Benson
7 on the lineup before Detective Taylor had
8 even said anything.

9 Q. Do you know a Kendra or Keandra
10 Bowens?

11 A. No, sir. I do not.

12 Q. Also known as Nikki, Nikki Bowens?

13 A. No, sir.

14 Q. When you talked to the Easley Police
15 Department, do you recall telling them that
16 this supposedly happened nearer Liberty on
17 Highway 93?

18 A. I think I would have said that
19 because that's where I was picked up. So I
20 assumed, maybe.

21 Q. Are you saying King's Asphalt is
22 nearer Liberty, South Carolina?

23 A. Yes, sir. I mean -- I would say so,
24 (affirmative nod).

25 Q. Do you remember telling the Easley

TESTIMONY OF NATASHA MEDLIN - CROSS EXAMINATION

1 Police Department officer that you'd only had
2 a few beers that day?

3 A. I don't recall. But if I did it was
4 because I was ashamed, again.

5 Q. Well, basically that was a lie;
6 wasn't it?

7 A. It was, yes.

8 Q. Pardon me? It was a lie?

9 A. Yes.

10 Q. I may have asked you, and I
11 apologize if I did, but I want to be sure.
12 Do you remember telling the Easley Police
13 Department that you were riding around with
14 two guys, drinking beer, drank a bottle of
15 liquor, and you were hanging out at Westgate.
16 Do you remember that?

17 A. No, sir. I do not recall that.

18 Q. And that they just left you there?

19 A. No, sir. I do not remember that.

20 Q. All right.

21 MR. DEJONG: One moment, please,
22 Your Honor.

23 CROSS-EXAMINATION CONTINUED

24 BY MR. DEJONG:

25 Q. On September the 27th or September

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1 the 28th, had you been to Westgate?

2 A. No, sir. When I went asking for
3 help, yes, sir.

4 Q. Before you say that happened, had
5 you been to Westgate?

6 A. No, sir.

7 Q. Did I understand you to say that you
8 didn't have a driver's license on September
9 27th or 28th; correct?

10 A. Actually, I think I had a license
11 but I left walking because I didn't want a
12 DUI.

13 Q. Okay. But correct me if I'm wrong.
14 When Madam Solicitor was asking you
15 questions, did you not say you did not have
16 a driver's license?

17 A. I think I did, yes, sir.

18 Q. Okay. So, now which one is the
19 truth? You just didn't have one or they were
20 suspended or what was it?

21 A. I think I had just got them back
22 recently.

23 Q. But you're not sure of that?

24 A. The dates are running together, sir.
25 I'm not sure.

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TESTIMONY OF NATASHA MEDLIN - CROSS EXAMINATION

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1 Q. Yes, ma'am. A lot of things are
2 running together; aren't they?

3 A. (No verbal response).

4 Q. All right.

5 MR. DEJONG: Thank you, Ms. Medlin.

6 THE COURT: Any redirect?

7 SOLICITOR ODOM: Your Honor, I
8 might have some redirect, but I would like to
9 approach the Court, if we could have a
10 sidebar?

11 THE COURT: All right.

12 MR. DEJONG: Are you asking to
13 approach, Madam Solicitor?

14 SOLICITOR ODOM: Yes, sir.

15 MR. DEJONG: Okay.

16 THE COURT: Well, why don't we
17 take a break. Yeah. Y'all go ahead. I
18 need a stretch break.

19 Yeah, it's time for a break. Go
20 back to the jury room and this is the time
21 y'all need to select a foreperson. Let the
22 bailiff know who that foreperson is. And,
23 remember, you don't get paid more than the
24 rest of you.

25 But also, do not discuss the case

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1 in any way or do any independent research.
2 You're not to discuss anything that you've
3 heard up to this point.

4 At this time, retire to your jury
5 room.

6 (JURY OUT @ 3:41 P.M.)

7 THE COURT: Yes?

8 SOLICITOR ODOM: Your Honor,

9 through -- I feel like the jury is pretty
10 confused as to the positioning in the back
11 seat of the car, what the State says
12 happened, and when Mr. DeJong was questioning
13 the witness. I think they just became very
14 confused. And what I was wanting to do to
15 clear up that was to possibly have a couple
16 of people from my office here, out in front
17 and let the victim position everyone as to
18 what she said.

19 THE COURT: I'll take a diagram,
20 but I don't want to have a reconstruction
21 with people from your office.

22 SOLICITOR ODOM: Okay.

23 THE COURT: If you need to do a
24 diagram or something like that, possibly.

25 MR. DEJONG: I'm going to object to

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1 it completely, Your Honor. There was nothing
2 new that came out on cross-examination. She
3 covered that. I was just going over exactly
4 what she brought out on direct. That was not
5 new material that I brought out in cross-
6 examination.

7 I think she is only entitled to
8 redirect if I brought something new out on
9 cross-examination. I submit to Your Honor,
10 with all due respect, that was not new
11 information. She had gone into the position.
12 I had a right to cross-examine that. Now,
13 she may not like the way the cross-examining
14 went, but that doesn't give her the right, as
15 I understand the Rules, to now try to clear
16 that up. It was not new material.

17 THE COURT: Well, I think that's
18 appropriate redirect.

19 MR. DEJONG: I'm sorry, Your Honor.

20 THE COURT: I think that's
21 appropriate redirect.

22 MR. DEJONG: Okay.

23 THE COURT: And I've got -- y'all
24 approach.

25 (OFF RECORD BENCH CONFERENCE)

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1 MR. DEJONG: You're going to let
2 her redirect?

3 THE COURT: I will let her
4 redirect.

5 (BRIEF RECESS)

6 (DEFENDANT PRESENT)

7 THE COURT: Please be seated.
8 Have you got a question?

9 MR. DEJONG: Do I have a question?

10 THE COURT: Yeah.

11 MR. DEJONG: I do as a matter of
12 fact.

13 THE COURT: Okay. And that is
14 what?

15 MR. DEJONG: Not so much a
16 question, Your Honor. I just want to make
17 sure that we're very clear that the Solicitor
18 doing this redirect is over my objection.

19 THE COURT: All right. Let me
20 just review the redirect part.

21 (OFF RECORD BENCH CONFERENCE)

22 THE COURT: All right. I guess
23 prior to the break you objected to any
24 redirect, any further redirect. I think it's
25 appropriate for her and I'm going to overrule

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1 your objection.

2 Again, I'm not going to let you
3 recreate or anything like that. You won't
4 put any exhibits in. I think you can just do
5 redirect examination.

6 SOLICITOR ODOM: Yes, sir.

7 THE COURT: Anything else before
8 we bring the jury in?

9 SOLICITOR ODOM: No, sir.

10 MR. DEJONG: No, sir, not from the
11 Defendant.

12 THE COURT: All right. Bring the
13 jury in.

14 (JURY IN @ 3:56 P.M.)

15 THE COURT: All right. It's my
16 understanding Ms. Galloway you've been
17 selected the foreperson.

18 FOREPERSON: (Affirmative response).

19 THE COURT: Thank you for that.
20 All right. You may proceed with the re-
21 direct, Solicitor.

22 SOLICITOR ODOM: Thank you, Your
23 Honor.

24 THE COURT: Yes.

25 REDIRECT EXAMINATION

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TESTIMONY OF NATASHA MEDLIN - REDIRECT EXAMINATION

1 BY SOLICITOR ODOM:

2 Q. All right. Ms. Medlin, I want to
3 touch on a few things. During cross-
4 examination, Mr. DeJong had asked you about
5 positioning in the car, same as we went over
6 in direct. And what he'd asked you about
7 that other gentleman, the one holding your
8 shoulders down, where his rear end was. Tell
9 me -- the back seat of the car, you're in the
10 passenger's seat in the back seat; is that
11 correct?

12 A. Yes, ma'am.

13 Q. So the steering wheel would be over
14 there. You're behind the passenger; correct?

15 A. Yes.

16 Q. When the passenger comes in the back
17 seat, does he go to your right or left?

18 A. He pushes me down and his butt would
19 be against the back passenger door.

20 Q. So his back and his butt is touching
21 against the passenger door?

22 A. Yes. And my head is between his
23 legs and I'm laying with my head toward the
24 passenger side.

25 Q. So where is your face facing?

TESTIMONY OF NATASHA MEDLIN - REDIRECT EXAMINATION

1 A. Underneath his genitals.

2 Q. Okay. But can you kind of lean up
3 and have a view of the Defendant?

4 A. At times, (affirmative nod); yes, I
5 could.

6 Q. Okay. And so the Defendant, where's
7 his back at?

8 A. Toward the driver back window.

9 Q. So his back and rear end is towards
10 the backseat driver's door; is that correct?

11 A. Yes.

12 Q. Okay. Now, so your head's at the
13 other guy, the passenger. Now, Mr. DeJong
14 had asked at one point were your feet on the
15 ground or on the floorboard. Where were your
16 feet during the rape?

17 A. My legs were together, pushed to the
18 side.

19 Q. Okay. So they're kind of together
20 and bent over like?

21 A. (Affirmative nod).

22 Q. So where were your knees, were they
23 bent towards the back seat or towards the
24 front?

25 A. No, towards the front.

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TESTIMONY OF NATASHA MEDLIN - REDIRECT EXAMINATION

1 Q. Okay. So your left leg was up and
2 -- or was on top of your right; is that
3 correct?

4 A. Yes.

5 Q. Okay. So where would your feet have
6 been?

7 A. In between the back of the front
8 seat and where the floorboards for the back
9 seat are.

10 Q. All right. Mr. DeJong also asked
11 you several times about the route and
12 everything, same as we went over in direct.
13 Tell me where you got in the car at on 93?

14 A. Where the big piles of rock are for
15 King's Asphalt. I guess where they put the
16 crushed up stuff. It was right past there.
17 If you pass the big stuff and then where all
18 the big trucks are on this side, then there's
19 a fence around it and there's a curve. And
20 that is where I got picked up.

21 Q. Okay. When you got in the car, was
22 it headed back towards Ingles?

23 A. Back towards Liberty, Yes, ma'am,
24 towards Ingles.

25 Q. Okay. Did you know if the car went

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TESTIMONY OF ANNETTE SEARCY - DIRECT EXAMINATION

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1 as far as -- how far did you go?

2 MR. DEJONG: Your Honor, again I'm
3 going to object to all of this. This was
4 nothing new brought out on my cross-
5 examination.

6 THE COURT: Now, this is -- I
7 thought we were just -- yeah, we're going a
8 little bit further than what we discussed.

9 SOLICITOR ODOM: All right. Your
10 Honor, I can wrap it up.

11 REDIRECT EXAMINATION CONTINUED

12 BY SOLICITOR ODOM:

13 Q. All right, Ms. Medlin. Thank you.

14 THE COURT: You may step down.

15 (WITNESS STEPS DOWN)

16 THE COURT: Call your next
17 witness.

18 SOLICITOR ODOM: Thank you, Your
19 Honor. The State calls Annette Searcy.

20 (WITNESS TAKES STAND)

21 ANNETTE SEARCY, having been duly sworn
22 to tell the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR ODOM:

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TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 step down?

2 THE COURT: Yes, she can step
3 down.

4 (WITNESS STEPS DOWN)

5 SOLICITOR ODOM: The State calls
6 Kim Fogarty.

7 (WITNESS TAKES STAND)

8 KIM JONES-FOGARTY, having been duly
9 sworn to tell the truth, testified as
10 follows:

11 DIRECT EXAMINATION

12 BY SOLICITOR ODOM:

13 Q. All right. Ms. Fogarty, can you
14 tell me where you work?

15 A. I work at Baptist Easley Hospital.

16 Q. And what is your job there?

17 A. Currently, I am a case manager for
18 the emergency department.

19 Q. What was your job in September of
20 2012?

21 A. I was a SANE nurse in the emergency
22 department, a Sexual Assault Nurse Examiner.
23 I'm also still hold and held at that time a
24 job too in the emergency department as a
25 staff nurse.

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 Q. So you said at that time you were a
2 Sexual Assault Nurse Examiner?

3 A. Yes.

4 Q. Can you kind of let the jury know
5 what that is?

6 A. A Sexual Assault Nurse Examiner is
7 someone who's certified and specially trained
8 to collect forensic evidence in sexual
9 assault cases.

10 Q. Now, you said you're a nurse. Tell
11 me a little bit more about how you became a
12 nurse, your educational background?

13 A. I have a bachelor's degree in
14 nursing. I've been a nurse since 1994.

15 I have worked at Baptist Easley Hospital
16 in one capacity or another since 2001 and
17 I've worked in the emergency room for
18 approximately six years.

19 Q. Now, to become a SANE nurse, did you
20 have to have any more specialty training?

21 A. Yes. I had to take a course, a
22 three-day course, from a specially trained
23 sexual assault nurse examiner. Also had to
24 do a skills checkoff as far as multiple
25 pelvic exams to show expertise in that area.

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TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 Also had to attend some court cases and be
2 involved with law enforcement to kind of
3 learn about forensic collection and that sort
4 of thing.

5 Q. I hand you what's been marked as
6 State's ID Exhibit 11 for identification
7 purposes. Do you recognize what those
8 records are?

9 A. Yes, I do.

10 Q. Can you tell me what they are?

11 A. It's a Sexual Assault Nurse
12 Examiner's Report.

13 Q. Who completed that report?

14 A. I did.

15 Q. Just looking through it, does that
16 look to be like what you completed?

17 A. Yes.

18 SOLICITOR ODOM: Your Honor, at
19 this time, the State would move to have
20 State's 11 entered into evidence.

21 THE COURT: Mr. DeJong.

22 MR. DEJONG: No objection to that.
23 I'm not sure based on the Solicitor's
24 questioning if she's offering this witness as
25 an expert?

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1 SOLICITOR ODOM: I am not at this
2 point.

3 MR. DEJONG: Okay. All right.
4 That answers my question. Thank you.

5 THE COURT: So State's Exhibit 11
6 is in without objection.

7 (SO ENTERED AS STATE'S EXHIBIT 11)

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR ODOM:

10 Q. Okay. Ms. Fogarty, getting into --
11 back in September 28th, 2012, can you tell me
12 what patient you saw on September 28th, 2012;
13 that your report is in reference to?

14 A. Yes. Tasha N. Riddle.

15 Q. And did she have another last name
16 that she went by anywhere on the report?

17 A. I did notice that she signed "Tasha
18 Medlin."

19 Q. Okay. So tell me about when a
20 patient comes into the ER and they said that
21 they're a victim of a sexual assault, what is
22 the procedure to handle that?

23 A. The first thing that occurs
24 generally in triage, which is where a nurse
25 decides what order this patient needs to be

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 seen by the physician in. And then they are
2 placed in a room where they are medically
3 cleared by a physician.

4 Q. And what does medically cleared
5 mean?

6 A. Depending on any complaints that the
7 patient might have as far as injuries and
8 that sort of thing. Blood alcohol level or
9 whatever, because we can't do a kit if
10 somebody is over a certain level. And just
11 mainly, just clear, as far as any injuries,
12 get any sort of pain or anything under
13 control.

14 Q. So if the person is cleared, then
15 what happens next?

16 A. Then we go to a special area of the
17 emergency room where we do the forensic
18 collection.

19 Q. Okay. Now, did you treat Ms. Medlin
20 in this case?

21 A. I did.

22 Q. And tell me what happens when you go
23 into the room, an examination room with a
24 patient, a victim of sexual assault?

25 A. The first thing that happens is we

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 just talk. What happened, any injuries that
2 may have occurred, any areas of pain.

3 Q. And so in gathering information
4 about their symptoms and listening to them
5 speak about what happened, is that an
6 important process of treating them?

7 A. Yes.

8 Q. And why would that be important?

9 A. Because it helps to determine, for
10 example, if I need to swab a certain area or
11 if I need to take photographs of a certain
12 area.

13 Q. Okay. So after you speak with a
14 patient, what do you do next?

15 A. Examine any areas of pain.

16 Q. Would you do that with their clothes
17 on or their clothes off?

18 A. It depends on where they are. I
19 mean, if it's, you know, on their arm or
20 something here -- then, yes. But generally
21 there is a thing that comes out of the SLED
22 kit, that's what we call it. It's called a
23 debris sheet. We generally spread it out on
24 the floor, have the patient stand directly in
25 the center of that and remove their clothing

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TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 so that it falls directly down onto the
2 debris mat. And then we give them a hospital
3 gown.

4 Q. Okay. So you spread out like a
5 piece of -- it's not really paper?

6 A. It's kind of like paper but it's got
7 like a waterproofing backing on the other
8 side. It's like paper on one side and kind
9 of a plastic/waterproof on the other.

10 Q. And then the victim would stand on
11 top of that to undress?

12 A. Yes.

13 Q. So tell me what you do after they
14 undress?

15 A. Then we collect their clothing into
16 a specialized bag for that purpose, making a
17 note of what it is we took: a shirt, panties,
18 a bra, whatever we took. And then we fold
19 the debris sheet up inward so that nothing
20 falls out onto the floor and then store it
21 for the SLED kit.

22 Q. Tell me what you do with -- like,
23 how do you further examine the patient after
24 their clothes are off?

25 A. We then, you know, just visually

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 inspect what the person looks like. If I see
2 there's any bruising, I take pictures,
3 looking at every area of the body. You know,
4 we might uncover the arm at one point and
5 look at that whole arm. After that is then
6 just the plain visual inspection and we use a
7 UV light to look for any evidence that might
8 not be visible to the naked eye, such as ---

9 Q. Is that like a black light?

10 A. (Affirmative nod), like a black
11 light.

12 Q. I'm sorry, I cut you off. What such
13 evidence would that reveal?

14 A. Saliva, semen, that sort of thing.

15 Q. And then after you do that, what's
16 your procedure?

17 A. Generally, we also take samples from
18 like fingernail scrapings, pubic hair
19 combings and any swabs from any -- if I did
20 see something. Like if a person says 'they
21 bit me here' or whatever. If I see something
22 there, I'll swab that.

23 Q. Now, with Ms. Medlin, and you can
24 refer to your report if you need to, but with
25 Ms. Medlin what did you observe upon meeting

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 her? How would you characterize her
2 demeanor?

3 A. According to my notes she was
4 complaining of "my whole body is hurting, my
5 legs, my arms, my ribs are hurting on both
6 sides."

7 As far as her demeanor goes, (reading):
8 tearful, slightly disheveled, white female
9 with visible bruises to the right arm and a
10 knot in her left forehead, trembling,
11 anxious, quiet, answers questions readily
12 with good eye contact."

13 Q. I'm going to show you some pictures
14 and see if you can speak to them. All right.
15 Ms. Jones or -- Ms. Fogarty. I apologize.
16 This is State's Exhibit 6. So tell me -- or
17 first of all, do you know if you took these
18 pictures?

19 A. (Upon review), I believe I did take
20 those pictures.

21 Q. And tell me a little bit about the
22 procedure, why these pictures are taken of
23 her face and of the name?

24 A. For identification purposes.

25 Q. Okay.

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1 A. For later.

2 Q. Now, this is State's Exhibit 1
3 that's up now. All of these pictures are --
4 when you take a picture, is it documented in
5 your report?

6 A. It is.

7 Q. So every picture you take, you note
8 in your report where it was, if there's any
9 markings in the picture?

10 A. Yes. Not necessarily the identifi-
11 cation picture but pictures of any injuries.

12 Q. Okay. And is it your practice to
13 take a -- if you see any sort of bruise to
14 take a picture of that?

15 A. Yes.

16 Q. And do you see a ruler in this
17 picture.

18 A. Yes.

19 Q. Can you kind of talk about that a
20 little?

21 A. That's just a point of reference.
22 It's called an AFO ruler to show the size of
23 the bruising or whatever it is that I'm
24 taking a picture of, a laceration. In this
25 case bruising, a hematoma.

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 Q. Okay. And what -- do you know what
2 scale your ruler's at?

3 A. Honestly, I don't. I'll have to
4 look at the ruler to be able to tell you.

5 Q. Okay. So with Ms. Medlin, tell me,
6 describe to me her bruises, where they were
7 on her body.

8 A. According to my records, on her
9 right elbow she had a red and slightly raised
10 area on the posterior side or the back side
11 of her elbow.

12 On her right upper arm, she had a small
13 purple bruise that was just above her elbow.

14 On her left forearm, she had a large
15 hematoma, dark around the edges and light in
16 the center.

17 On her upper arm on the right side she
18 had a large patch of bruises in various
19 stages of healing.

20 Q. Can you show me on here where that
21 bruise would be? You said on the right arm?

22 A. Here, (indicating).

23 Q. Okay.

24 A. On her right interior knee, which is
25 the front side of her knee, she had a bruised

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 area that was tender to touch.

2 On her right lower leg on the front side,
3 she had faint bruising.

4 On her lower leg, on the left side on the
5 front, she had a large bruised area to her
6 knee cap that was slightly swollen and she
7 said it was painful.

8 She also had a large purple raised bruise
9 to her right hip.

10 Slight swelling with redness and pain to
11 her right forehead where she stated she was
12 hit by her assailant.

13 And then on her right interior thigh she
14 had a large purple bruise, to the outer part
15 of the right thigh.

16 Q. Okay. We've talked about ---

17 A. I'm sorry. That's not all.

18 Q. Oh, I apologize.

19 A. That's okay. I'm sorry. On number
20 eleven she had a large purple bruise to her
21 right buttock.

22 And then she also had a linear horizontal
23 purplish yellow bruise to her waistline,
24 lower back.

25 Q. So far we've discussed when y'all go

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TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 in the room, you speak with her.

2 A. (Affirmative nod).

3 Q. You observe and photograph any
4 visible injuries, that you do the black
5 light. What else do you do?

6 A. I mentioned the fingernail
7 scrapings.

8 Q. Did you do fingernail scrapings in
9 this case?

10 A. I did do fingernail scrapings on her
11 and I believe also did pubic hair combings on
12 her.

13 Q. Okay. And what's the purpose of
14 that?

15 A. Sometimes in a case like this, other
16 pubic hairs from other people may be there.
17 So we do that to collect it. And then that
18 way they can be used for identification
19 purposes.

20 Q. Do you collect anything else?

21 A. As I mentioned, if I see areas with
22 the black light or even sometimes if a person
23 just says, you know, 'they licked me here,
24 they kissed me there', I may do a swab there
25 to see if I can collect any DNA.

TESTIMONY OF KIM FOGARTY - DIRECT EXAMINATION

1 Q. Did you do a black light on Ms.
2 Medlin?

3 A. I did, yes.

4 Q. And did you find anything?

5 A. Not that I recall, not from my
6 records.

7 Q. Okay. Did you draw blood or take a
8 urine sample from her?

9 A. Yes.

10 Q. And did you test the urine sample
11 for any drugs?

12 A. Yes.

13 Q. Was she ---

14 A. I didn't. I sent it to our lab at
15 the hospital for that.

16 Q. Okay. Did she have any drugs in her
17 system?

18 A. I don't believe that the labs are in
19 this, and I don't know that without looking
20 at the lab report.

21 Q. All right. So what's the next step
22 in the process?

23 A. I'm sorry. I actually do think that
24 is part of this.

25 Q. All right?

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1 A. Let me back up and look at that.
2 Her urine drug screen was positive for
3 benzodiazepines, which were prescribed to
4 her.

5 Q. Okay. What kind of prescription
6 would ---

7 A. Nerve pills.

8 Q. Nerve pills?

9 A. (Affirmative nod), mainly Klonopin.

10 Q. Oh, I'm sorry. What other things
11 would a drug screen test for?

12 A. Marijuana, methamphetamine, cocaine,
13 opioids.

14 Q. So crack cocaine would be in there?
15 But she tested positive only for ---

16 A. Benzodiazepines.

17 Q. Thank you. All right. Ms. Fogarty,
18 after you do all of that and you take samples
19 from her, what comes next?

20 A. A pelvic exam.

21 Q. You need to explain to the jury what
22 all that entails.

23 A. Looking into the vaginal canal with
24 a lighted speculum and looking for any
25 visible tears. In this case, foreign

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1 objects, redness, bruising, that sort of
2 thing.

3 Q. And did you find anything?

4 A. I did find a tampon.

5 Q. Can you testify a little bit about
6 how far the tampon was in the vaginal canal,
7 if you remember?

8 A. I have documented that it was at the
9 posterior vaginal wall, which is toward the
10 back of the vaginal cavity, and there was a
11 tampon present.

12 Q. And what did the tampon look like?

13 A. It had a moderate amount of blood
14 and yellowish fluid.

15 Q. Did you ---

16 SOLICITOR ODOM: Just a second,
17 please?

18 (OFF RECORD DISCUSSION BETWEEN COUNSEL)

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR ODOM:

21 Q. All right. Ms. Fogarty, tell me
22 about rape kit, what all that entails.

23 MR. DEJONG: Your Honor, I object
24 to this being called a rape kit. This is no
25 more a rape kit than a man in the moon. I

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1 even don't like it being called a sexual
2 assault kit. This does not show whether a
3 rape has occurred or not. And I take
4 strenuous objection to it being called a rape
5 kit.

6 SOLICITOR ODOM: What would you
7 like for me to call it?

8 THE COURT: No, ma'am. What is
9 it? What do y'all ---

10 WITNESS: A rape kit. A SLED
11 kit.

12 THE COURT: All right. Let's
13 refer to it as a SLED kit.

14 MR. DEJONG: I can't hear her, Your
15 Honor. I'm ---

16 THE COURT: A SLED kit, okay?

17 SOLICITOR ODOM: Yes, sir. I'll
18 refer to it as a SLED kit.

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR ODOM:

21 Q. Tell me about a SLED kit?

22 A. It is a box that is labeled that is
23 a SLED kit, forensic -- I don't know exactly
24 what it says on it. It's white with red
25 writing on it. It has slides, envelopes,

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1 swabs, and -- to collect evidence with.

2 Q. Okay. Is a SLED kit standard
3 whenever a patient comes in making
4 allegations that she or he have been sexually
5 assaulted? Is it standard to do a SLED kit?

6 A. Yes.

7 Q. And have you, through your SANE
8 Nurse, or any other education, have you been
9 trained to collect a SLED kit?

10 A. Yes.

11 (OFF RECORD DISCUSSION BETWEEN COUNSEL)

12 (SO MARKED AS STATE'S EXHIBIT 12)

13 (SO MARKED AS STATE'S EXHIBIT 13)

14 COURT REPORTER: State's Exhibits
15 12 and 13 marked for identification.

16 DIRECT EXAMINATION CONTINUED

17 BY SOLICITOR ODOM:

18 Q. All right. Ms. Fogarty, I'm handing
19 you a white box. Can you tell me what it is
20 and explain that?

21 A. This is a SLED kit. This is what I
22 would have taken out from where we keep them
23 stored at the hospital to do this. When I
24 take it out, it's sealed all the way around.

25 Q. Okay. Can you kind of turn it

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1 around and show the jury where it's sealed?

2 A. Here and here, (displaying). And it
3 has to be opened.

4 Q. So what's in it when you take it off
5 the shelf to conduct a kit?

6 A. Envelopes that, you know, are
7 specifically labeled for certain areas like
8 vaginal swabs, vaginal smears. Oral swabs,
9 fingernail scrapings, the debris sheet, the
10 bag for the clothing, all that's inside here.

11 Q. Okay. Can you recognize that
12 particular SLED kit?

13 A. I do. I recognize my handwriting.

14 Q. Okay. Tell me your procedure. Tell
15 me your procedure as far as -- you said you
16 recognize your handwriting.

17 A. Yes.

18 Q. Why would your handwriting be on
19 there?

20 A. When I get ready to release it to
21 law enforcement, I label it with the victim's
22 name, the alleged victim's name, my name, the
23 hospital where it came from and the officer
24 that I turned it over to. And then we follow
25 a chain of custody on the back here.

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1 Q. And what's written on the chain?

2 A. That I turned this box over to J.T.
3 Albrecht at 6:45 p.m. on September 28th.

4 Q. So when you turned the kit over to
5 him, what was in it?

6 A. Whatever evidence I collected or
7 forensic evidence that I collected from --
8 not necessarily that was in the kit to begin
9 with, because if I didn't do, for example, an
10 oral swab, then that wouldn't be in there.

11 Q. Okay. Can you tell me what all you
12 collected?

13 A. (Reading): "Shirt, pants,
14 underwear, bra, belt and debris sheet, combed
15 pubic hairs, fingernail scrapings and vaginal
16 swab and vaginal smear, a gray top blood tube
17 and urine." Also, colposcope pictures.

18 Q. Did you say tampon? Or did you
19 collect that?

20 A. Yes, I did. I did collect a tampon.

21 Q. So you recognize that box as being
22 the box you gave law enforcement?

23 A. Yes.

24 Q. The only difference is the box is
25 currently empty; is that correct?

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1 A. That's correct. And the seals have
2 been broken.

3 SOLICITOR ODOM: Your Honor, the
4 State would move to have this introduced into
5 evidence as State's 12. Just an empty box.

6 MR. DEJONG: May I see that box one
7 more time, please?

8 SOLICITOR ODOM: (Tenders)

9 MR. DEJONG: (Upon review), without
10 objection, Your Honor.

11 THE COURT: All right. State's
12 Exhibit 12 is in without objection.

13 (SO ENTERED AS STATE'S EXHIBIT 12)

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR ODOM:

16 Q. All right. Ms. Fogarty, now I'm
17 going to give you what's been marked as
18 State's 13 for identification purposes only.
19 Can you look at that and tell me if you
20 recognize what it is?

21 A. It's hard to see through all these
22 layers, but it appears to be a soiled tampon
23 in a collection cup; with my initials and
24 time collected.

25 Q. Okay. Your initials are on that,

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1. okay?

2. A. Yes.

3. Q. So can you say with certainty that
4. that is the tampon you removed from Ms.
5. Medlin?

6. A. Yes.

7. Q. And when you bagged it up -- how did
8. you preserve that?

9. A. All of the evidence is sealed with
10. evidence tape that is very fragile. If it's
11. altered, tampered in any way, it breaks.

12. Q. Okay. I apologize, Ms. Fogarty.
13. I'm just wanting to make sure I hand you the
14. correct item. Tell me about the different
15. items of clothing you collected from her.
16. Can you break it down for me one by one?

17. A. A shirt. I don't have any
18. identifying -- it just says shirt, pants,
19. underwear, bra, belt.

20. Q. Okay. So you did collect her under-
21. wear?

22. A. Yes.

23. Q. (Reviewing items) ---

24. THE COURT: Ms. Odom, would you
25. like to take a quick break to ---

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1 SOLICITOR ODOM: No, sir. I'm just
2 trying -- in my effort to try to save time. I
3 think I have wasted it.

4 THE COURT: That's fine.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLICITOR ODOM:

7 Q. Ms. Fogarty, you stated you
8 collected her underwear. How would you bag
9 up her underwear?

10 A. They have to be dry before they can
11 be bagged.

12 Q. Okay.

13 A. So we had an air dryer that we
14 placed them in that's in the same room where
15 we do the exams. And then we wait until
16 last, basically, usually to put them into a
17 envelope and seal it.

18 Q. Oka. Now, tell me how you would --
19 tell me the difference between a vaginal swab
20 and a vaginal smear?

21 A. A vaginal swab is just basically
22 like a big Q-tip that you just take if you
23 see fluid and dab it with the Q-tip.

24 A smear is where you actually put it onto
25 a slide for examination under a microscope.

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1 And you collect it also with a swab, but
2 smear it onto a slide.

3 Q. So you'll have an actual Q-tip or
4 Q-tip-like object with a swab, and then
5 you'll have a separate piece of evidence
6 that's the slide?

7 A. Yes.

8 Q. When you took those samples, where
9 did you put them?

10 A. The slide also has to go -- the
11 swabs have to go in the dryer. The dryer is
12 specially labeled. For example, for oral
13 swabs, bite mark swabs, depending on what
14 kind of swab it is, the dryer has little
15 holes that the Q-tip stands up in it for it
16 to dry. And you put them there based on what
17 it is, where you got it from.

18 Q. Do you put it in the kit after that?

19 A. And then after it's dry, yes, you
20 put it in the kit.

21 Q. All right.

22 SOLICITOR ODOM: I'm almost done.

23 But, Your Honor, I do need a moment. I beg
24 the Court's indulgence for one second.

25 THE COURT: Okay. You want to

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1 take a break or just ---

2 SOLICITOR ODOM: This might be a
3 good time for a break. Then we can come back
4 and finish with her.

5 THE COURT: All right. Let's take
6 a quick break. I'll ask you to go back to
7 your jury room.

8 SOLICITOR ODOM: It should be very
9 brief.

10 THE COURT: All right. Yeah. Go
11 back to your room at this time. And we'll
12 bring you back in in just a few minutes.
13 Don't be talking about the case.

14 ----- (JURY OUT @ 4:50 P.M.) -----

15 THE COURT: I guess after this
16 witness, it's going to be a good time to
17 break for the day?

18 SOLICITOR ODOM: Okay. Yes, sir.

19 THE COURT: Unless you've got a
20 short one or something.

21 SOLICITOR ODOM: Yes, sir.

22 THE COURT: Ms. Fogarty, you don't
23 have to sit there. You just can't talk to
24 them about your testimony or anything.

25 (BRIEF RECESS)

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1 COURT REPORTER: State's Exhibit
2 14, marked for identification.

3 THE COURT: Anything else we need
4 to mark before we bring the jury in?

5 SOLICITOR ODOM: No, sir.

6 All right. Bring the jury in.

7 (JURY IN @ 5:00 P.M.)

8 THE COURT: All Right. You may
9 proceed.

10 SOLICITOR ODOM: Thank you, Your
11 Honor.

12 DIRECT EXAMINATION CONTINUED
13 BY SOLICITOR ODOM.

14 Q. All right. Ms. Jones, I'm going to
15 hand you what's been marked as State's
16 Exhibit 14 for identification purposes only.
17 Do you know what that is?

18 A. The underwear -- it's got underwear
19 inside of it.

20 Q. And when you collected that, did you
21 put it in a sealed package?

22 A. Yes, this package.

23 Q. You put it in that package?

24 A. After, you know, proper collection
25 technique where it dried in the dryer.

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1 SOLICITOR ODOM: Your Honor, at
2 this time, the State's going to move to have
3 Number 14 entered into evidence. She's
4 identified that it's what it is. That it's
5 the victim's underwear that she collected.
6 So we would move to have that entered into
7 evidence.

8 THE COURT: Any objection?

9 MR. DEJONG: I think it's a little
10 tricky, Your Honor. I don't mind it being
11 marked for ID, but beyond that I think we
12 have to have more of a foundation. She can
13 identify that that's what she took. But
14 beyond that, I think that there has to be a
15 greater foundation before it be introduced.

16 THE COURT: I mean, she's just
17 introducing the underwear as ---

18 SOLICITOR ODOM: I'm not
19 introducing any report about the underwear,
20 just the physical underwear themselves.

21 MR. DEJONG: Okay. Then without
22 objection.

23 THE COURT: All right. Exhibit 14
24 is in without objection.

25 (SO ENTERED AS STATE'S EXHIBIT 14)

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1 SOLICITOR ODOM: All right. Your
2 Honor, at this time the State's going to need
3 to move to have 13 introduced into evidence.
4 It is the tampon that the ---

5 MR. DEJONG: It is what?

6 SOLICITOR ODOM: The tampon.

7 MR. DEJONG: Without objection.

8 THE COURT: Okay. State's Exhibit
9 13 is in without objection as well.

10 (SO ENTERED AS STATE'S EXHIBIT 13)

11 SOLICITOR ODOM: Thank you.

12 (OFF RECORD DISCUSSION BETWEEN COUNSEL)

13 COURT REPORTER: State's Exhibit 15,
14 marked for identification.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR ODOM:

17 Q. All right. Ms. Jones, I'm going to
18 hand you one at a time a few different items
19 and ask if you know what they are. And if
20 you do, to identify them.

21 A. Okay.

22 MR. DEJONG: What is that?

23 SOLICITOR ODOM: This is going to
24 be swabs, the slides the scrapings, several
25 different items. She can't really see

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1 without opening the package. So I'm going to
2 open it and have her just look. And we're
3 not going to open up the swabs.

4 THE COURT: I'm going to have to
5 ask y'all just for a quick break here.

6 (JURY OUT @ 5:02 A.M.)

7 THE COURT: All right. The
8 problem is you are -- you are going to have
9 these individual pieces of evidence and
10 they're going back to. We need those in
11 self-contained as these are possibly
12 hazardous type stuff. We don't need -- they
13 need to -- we need them sealed when they go
14 back to the jury.

15 SOLICITOR ODOM: Right. They're --
16 I see what you're saying, Your Honor. Can we
17 just ---

18 THE COURT: Yeah. And if y'all
19 are going to have to put on gloves then
20 they're going to have to put on gloves.

21 SOLICITOR ODOM: We'll, they're
22 just -- they're in their own little packages.
23 But if she could just open it and then we can
24 reseal it or -- she just can't see that her
25 name's on here.

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1 THE COURT: If she's putting on
2 glove, then -- that bothers me a little bit.

3 SOLICITOR ODOM: Can we just open
4 it to have her do it and then we can tape it
5 back?

6 MR. DEJONG: May I make a
7 suggestion, Your Honor?

8 THE COURT: Yes.

9 MR. DEJONG: Open them. Put them
10 in a Ziploc. Mark them as coming out this
11 bag. Introduce the bag. Introduce each one
12 individual or introduce them collectively. I
13 don't care. I'm just not real sure what they
14 are.

15 THE COURT: What's in there, are
16 they in bags as well?

17 SOLICITOR ODOM: They are. But
18 some of the bags have been opened.

19 THE COURT: All right. We'll we
20 need some kind of -- that's what I'm worried
21 about. We can't -- if you want to look at
22 them separately, we need more than just, you
23 know, some -- to her with gloves on. Do you
24 have any Ziplocs?

25 SOLICITOR ODOM: And I agree with

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1 you. Have we got some in the office?

2 THE COURT: We may have some in
3 the back. I think I may have some in my
4 office.

5 SOLICITOR ODOM: We can get some.
6 If you'll just let -- well, I can't talk to
7 her. If she can just testify that that's
8 what in there.

9 THE COURT: If there are any items
10 that could be contaminated in that bag. I
11 mean, she's putting gloves as she is bringing
12 them out. Then, you know, they don't need to
13 be -- I don't feel like they need to be in
14 open air, quite frankly.

15 But I possibly may have some (Ziplocs).
16 I mean, there's no way to rearrange in that
17 bag so that everybody can see it?

18 SOLICITOR ODOM: Can I hand it to
19 her and she can ---

20 THE COURT: Yeah. Let's see if
21 she could rearrange -- do you have any
22 problem with that?

23 WITNESS: No.

24 MR. DEJONG: Let's see if she can
25 identify it.

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1 THE COURT: Right.

2 MR. DEJONG: If she can identify
3 it, that's what she took, I think it may be a
4 moot point, Your Honor.

5 WITNESS: Can I open the bag?

6 SOLICITOR ODOM: Don't open it.
7 Just squeeze it a little bit.

8 THE COURT: Can you move it. Even
9 if you open it, can you have it resealed?

10 WITNESS: I can't because it's
11 -- like this envelope up here is folded and
12 sealed shut, here.

13 THE COURT: What's in there?

14 SOLICITOR ODOM: It's the vaginal
15 swabs and smears.

16 WITNESS: Fingernail scrapings
17 and pubic hair combings.

18 MR. DEJONG: May I ask ---

19 THE COURT: Yes.

20 MR. DEJONG: Do you know that
21 that's what's in that bag?

22 WITNESS: Yes.

23 MR. DEJONG: Or are you assuming
24 that's what in the bag?

25 WITNESS: According to my report

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1 and the standard procedure, that's what I
2 would have put in this bag.

3 MR. DEJONG: Well, okay. Then why
4 can't we just ask her about her report, if
5 that corresponds to that bag?

6 THE COURT: Well, I mean, do you
7 need anything, those individual items in
8 there?

9 SOLICITOR ODOM: I'll be fine with
10 just entering the bag and her testifying as
11 to what's in there.

12 THE COURT: If she knows that's
13 what's in there -- I assume you're just
14 trying to get a chain of custody?

15 WITNESS: If I could actually
16 see it.

17 SOLICITOR ODOM: Yes, that's all
18 I'm trying to do.

19 THE COURT: I just don't want it
20 out.

21 WITNESS: If I could see. It's
22 marked on the outside of this big envelope
23 here.

24 THE COURT: Well, let's -- well,
25 okay. Wonder if we can -- let's do this.

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1 She opens it, identifies what's in there and
2 then we can tape it back.

3 MR. DEJONG: Hermetically seal it
4 in Funk & Wagnall's whatever, as Johnny
5 Carson used to say.

6 THE COURT: We can get some tape.
7 As I said, if there are broken seals in there
8 that could, ---

9 MR. DEJONG: My sole question is
10 there anything on this lady's report that
11 corresponds to what would be in the big bag?

12 WITNESS: Yes.

13 MR. DEJONG: All right. Then I
14 think that ---

15 THE COURT: You're saying we don't
16 have to open it.

17 MR. DEJONG: I think that is
18 simple.

19 THE COURT: I think your custody's
20 protected. And then I guess your, you know
21 -- and if we have to -- if another witness
22 needs or is going to have to get in that bag,
23 then you're just going to have to make
24 arrangements so that we can put them in some
25 kind of Ziploc bags for tomorrow.

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1 SOLICITOR ODOM: I understand.

2 THE COURT: Okay. I mean, you
3 understand where I'm coming from?

4 SOLICITOR ODOM: Yeah. And the
5 tape was what I was suggesting to start with,
6 so ---

7 THE COURT: All right. So we're
8 good before the jury comes back in?

9 MR. DEJONG: (Affirmative nod).

10 THE COURT: All right. Bring them
11 on. And I'm going to explain to the jury
12 what -- kind of just making sure that
13 everything is ---

14 MR. DEJONG: I would ask you not to
15 do that, Your Honor.

16 THE COURT: Point taken.

17 (JURY IN @ 5:10 P.M.)

18 THE COURT: All right. Thank you
19 for your patience. Again, some housekeeping
20 matters. Now we're ready to proceed.

21 DIRECT EXAMINATION CONTINUED

22 BY SOLICITOR ODOM:

23 Q. All right. Ms. Jones, I'm showing
24 you State's Exhibit 15.

25 MR. DEJONG: Fifteen?

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1 SOLICITOR ODOM: Yes, sir.

2 THE COURT: Okay. Go ahead.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR ODOM:

5 Q. Can you tell me what's in there?

6 A. According to my report and the
7 standard procedure that we follow for what I
8 would have sealed up in this envelope, there
9 should be combed pubic hairs, fingernail
10 scrapings, vaginal swab, vaginal smear,
11 blood, one gray-top tube of blood, and urine.

12 Q. Okay. And so all of those came from
13 the victim, that you collected and then you
14 put in the pouch?

15 A. Yes.

16 SOLICITOR ODOM: Your Honor, at
17 this time, I'm going to move to have those
18 items entered into evidence.

19 THE COURT: All right. Any
20 objection?

21 MR. DEJONG: No objection, Your
22 Honor.

23 THE COURT: All right. In without
24 objection.

25 (SO ENTERED AS STATE'S EXHIBIT 15)

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1 COURT REPORTER: State's Exhibit 15.

2 SOLICITOR ODOM: All right. Ms.

3 Fogarty, Please answer any questions the

4 Defense may have.

5 MR. DEJONG: May it please the

6 Court?

7 THE COURT: Yes.

8 CROSS-EXAMINATION

9 BY MR. DEJONG:

10 Q. And I'm sorry, ma'am. I did not
11 catch your name when you took to the witness
12 stand?

13 A. Kim Fogarty.

14 Q. ---Fogarty?

15 A. Yes.

16 Q. Thank you, ma'am. Ms. Fogarty, we
17 have heard this term SANE, Sexual Assault
18 Nursing Examination. Basically, that is a
19 potential evidence collecting type thing;
20 right?

21 A. Yes, sir.

22 Q. And to say "sexual assault" is a bit
23 of a misnomer; isn't it?

24 A. That is what has been alleged at the
25 time that we collect the evidence.

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1 Q. Yes, ma'am. But the exam itself and
2 the collection of evidence doesn't show
3 whether this was an assault or not; does it?

4 A. Not definitively.

5 Q. Pardon me?

6 A. Not definitively.

7 Q. It may show -- well, in this case
8 I think you used a black light, but nothing
9 showed up on the black light; right?

10 A. That's correct.

11 Q. All right. So even if, let's say,
12 there was spermatozoa present, that does not
13 necessarily mean it was put there because the
14 alleged victim was assaulted; does it?

15 A. That's correct.

16 Q. It could just as easily be
17 consensual sex, could it not?

18 A. Yes.

19 Q. So, again, to say that it's an
20 assault examination is a bit of a misnomer?

21 A. I guess so, yes.

22 Q. Kind of like a "rape kit", that's a
23 misnomer; isn't it?

24 A. Collecting evidence of an alleged
25 rape.

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TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 Q. You said collecting evidence, yes,
2 ma'am?

3 A. Yes.

4 Q. Potential evidence. You don't
5 analyze any of the evidence, do you?

6 A. No.

7 Q. You just collect it?

8 A. Yes.

9 Q. All right. So when you take
10 clothing, do you put each item in a separate
11 bag or do they all collectively go in the
12 same bag?

13 A. They go in the same bag.

14 Q. In this case, shirt, pants, panties
15 and bra?

16 A. Not the underwear.

17 Q. Not the underwear?

18 A. (Negative gesture). They go in a
19 separate bag.

20 Q. Okay. So a little bit about this
21 fingernail scraping. When we talk about
22 fingernail scraping, you scrape underneath
23 the fingernail; correct?

24 A. Yes, that's correct.

25 Q. For potential -- whether somebody

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 has been scratched or that type of thing;
2 right?

3 A. Correct.

4 Q. All right, I just want to make sure.
5 We're not scraping the outside of the nail?

6 A. No, sir.

7 Q. We're seeing if there's anything
8 underneath the fingernail?

9 A. Yes, sir.

10 Q. And in this case you did that;
11 right?

12 A. Yes.

13 Q. Okay. I noticed you said that this
14 person was extremely anxious. Can you ---

15 A. I don't know if I said extremely
16 anxious but she was anxious, yes. (Reading):
17 "Tearful, trembling, anxious, sobbing."

18 Q. Okay. Anxious?

19 A. Yes.

20 Q. Anxious because she was there -- do
21 you know? Do you know why she was anxious?

22 A. I don't know why she was anxious.
23 I just made an observation that she appeared
24 anxious.

25 Q. Okay. Now, let's talk a little bit

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 about these bruises. The pictures that Madam
2 Solicitor was showing you of the bruises, I
3 noticed when you were testifying to that,
4 that you said bruises in various stages of
5 healing; correct?

6 A. I believe that's correct, on one
7 area.

8 Q. Right. Which would indicate those
9 bruises could have been there for a while?

10 A. Potentially, in that one area.

11 Q. And perhaps prior to September the
12 27th the bruises were there; right?

13 A. I can't testify to that.

14 Q. That's the point I'm making. You
15 cannot say how those bruises got there;
16 correct?

17 A. Correct.

18 Q. You cannot say when the bruises got
19 there; correct?

20 A. Correct.

21 Q. And indeed you cannot say that these
22 bruises were there because of any kind of
23 sexual assault; can you?

24 A. That's correct.

25 Q. Now, when -- well, you personally

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 did the exam; right?

2 A. That's correct.

3 Q. When you found the tampon, did this
4 lady give any indication whatsoever about
5 that tampon? Surprise? She knew it was
6 there?

7 A. My note says "tampon present that
8 patient was unaware of."

9 Q. All right. Thank you, ma'am. Now,
10 the toxicology report said she had tested
11 positive for benzodiazepines. You say they
12 were prescribed. Did you see the
13 prescription?

14 A. I did not see the prescription.

15 Q. So that was based on self-reporting
16 of this particular individual?

17 A. Yes.

18 Q. And by the way, I note on your
19 report, Ms. Fogarty -- if I'm pronouncing
20 that correctly?

21 A. That's correct

22 Q. -- that the top part of the report
23 says Tasha Riddell (phonetic). Is that the
24 name she gave you?

25 A. That is the name that registration

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TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 put on her chart.

2 Q. Which would be name when she came
3 in; correct?

4 A. Or potentially what our identifica-
5 tion at that time said.

6 Q. Okay. And that's what was on this
7 picture of the wristband, Riddell, right?

8 A. Yes.

9 Q. Now, what time did this exam start,
10 basically?

11 A. I have 15:32. That's 3:32.

12 Q. Thank you, ma'am.

13 A. P.M.

14 Q. I have problems with that twenty-
15 four hour clock. Okay. So 3:32 in the
16 afternoon?

17 A. Yes, sir.

18 Q. Okay. And what time did it end?

19 A. At 4:25 p.m.

20 Q. Now, let's talk a little bit about
21 the vaginal exam. You found, as I understand
22 the bruising -- well, we looked at the
23 pictures, arms, knees, all of that. Did you
24 find any bruising in the pubic bone area?

25 A. No, sir.

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 Q. Pardon me?

2 A. No, sir.

3 Q. Did you find any tearing in the
4 vaginal area at all?

5 A. No, sir.

6 Q. Did you find any indication of
7 trauma to the vaginal area at all?

8 A. No, sir.

9 Q. Let's talk a little bit about the
10 dryers ---

11 A. I'm sorry. I didn't hear you.

12 Q. The dryers. I guess where you dry
13 the swabs the underwear, etcetera. Is this
14 like a big clothes tumble dryer?

15 A. No, sir. It's a plastic cube, I
16 would say about this big (indicating). And
17 it's ---

18 Q. And where does -- I'm sorry.

19 A. --- got different levels.

20 Q. Okay.

21 A. You know, there's a place for swabs
22 and there's a place for slides.

23 Q. And those tubes, are they always in
24 this area?

25 A. Yes.

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 Q. And how did you know -- Ms. Fogarty,
2 how are those tubes sanitized after each use?

3 A. They're cleaned with CaviCide or
4 CaviWipes is what we call them, by the same
5 nurse that completes the exam.

6 Q. Okay. So you would have cleaned
7 them after your exam?

8 A. Yes.

9 Q. How many nurses doing these
10 evaluations as evidence collection were at
11 Baptist Easley at that point in time? I'm
12 speaking of September 27th, 28th of 2012?

13 A. Do you mean that were actually
14 present during the exam or how many nurses
15 did we have?

16 Q. How many nurses did you have that
17 did this type of exam?

18 A. It would have to be a guess. But at
19 that time I would say ten, maybe eight.

20 Q. Yes, ma'am. And Nurse A might do an
21 exam and then Nurse B might do an exam and so
22 on and so on and then you might do an exam;
23 right?

24 A. That's correct.

25 Q. Okay. So every nurse that did an

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 exam would use the same dryers or these same
2 tubes; correct?

3 A. That's correct.

4 Q. What kind of area are these tubes
5 located in?

6 A. It's on the counter in the actual
7 exam room. And there's no tubes. I'm not
8 sure what you mean by that. There's just --
9 the dryer is just -- the tubes come from the
10 collection kit as you open it.

11 Q. I'm sorry.

12 A. That's okay.

13 Q. I thought you referred to them
14 basically as a tube that you put ---

15 A. No, shelves.

16 Q. Shelves.

17 A. There's little shelves in there
18 where you put the swabs, little slots.

19 Q. All right. And how long does it
20 take these to dry out?

21 A. The dryer -- or the swabs?

22 Q. Well, let's start with panties. How
23 long does it take them to dry?

24 A. Varying times, depending on how damp
25 they are?

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TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 Q. Fifteen minutes; an hour?

2 A. I'd say more like an hour.

3 Q. More like an hour. How about the
4 swabs?

5 A. About the same.

6 Q. All right. And this area we're
7 talking about is not behind locked doors; is
8 it?

9 A. Yes, it is.

10 Q. Who all has access to go behind
11 those locked doors?

12 A. During the time of the exam?

13 Q. Not during the time of the exam,
14 while all of this stuff is drying out?

15 A. It never leaves the sight of the
16 SANE Nurse.

17 Q. So if it takes an hour you stay
18 there with it for hour?

19 A. Exactly, yes.

20 Q. Now, as far as the cleaning part
21 goes, you would have cleaned this area after
22 you were finished; right?

23 A. That's correct.

24 Q. But other than assumption, you would
25 have no way of knowing whether the nurse that

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 used it last had cleaned the area?

2 A. Other than that's our policy.

3 Q. Yes, ma'am. Policies aren't always
4 kept though, are they?

5 A. (No verbal response).

6 Q. Right?

7 A. True.

8 Q. And then once you gather all this
9 stuff -- what's been marked as State's
10 Exhibit Number 12, this is just the box
11 everything comes in; right?

12 A. And that we put back in to turn over
13 to law enforcement.

14 Q. Well, some of it?

15 A. Right. Yeah, not all of it.

16 Q. So these various bags that have been
17 introduced, would they have gone back into
18 this box?

19 A. Yes.

20 Q. Okay. The underwear, I think you've
21 indicated did not?

22 A. No. It went back in that box.

23 Q. This box?

24 A. Yes.

25 Q. So the underwear, the fingernail

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TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 cuttings, vaginal swabs, vaginal smear, all
2 of that went back into what has been marked
3 State's Exhibit Number 12?

4 A. Yes.

5 Q. I'll let you look at them again if
6 you need to, Ms. Fogarty, but these pictures
7 that Madam Solicitor was showing you, did you
8 find any bruises in this particular shoulder
9 area?

10 A. I didn't document any.

11 Q. Okay. How about on top?

12 A. No, sir.

13 Q. On the back?

14 A. No, sir.

15 MR. DEJONG: One moment, please,
16 Your Honor.

17 THE COURT: Yes, sir.

18 MR. DEJONG: Thank you, Ms. Fogarty.

19 THE COURT: Any redirect?

20 SOLICITOR ODOM: No, sir.

21 THE COURT: All right. Thank you.
22 You may step down.

23 (WITNESS STEPS DOWN)

24 THE COURT: All right. Ladies and
25 gentlemen this is, I think, a good time for

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 us to break for the day.

2 I will ask you to be back in your
3 room at 9:00 in the morning. Okay? Be back
4 at 9:00 in the morning. All right. We'll
5 start at 9:00.

6 Again, no -- three things I'm going
7 to tell you:

8 Do not talk about the case among
9 yourselves or anybody. Family members,
10 they're going to ask you what you did today
11 and tell me about the case. And you need to
12 tell them, 'I'm sorry. The Judge told me
13 that I can't talk to you about the case.' So
14 make sure you do that.

15 Also, don't do any independent
16 research. Don't Google anything. Don't do
17 any investigation whatsoever about this case.

18 If you do see any media about it,
19 please do not pay any attention to that in
20 any way.

21 If you are contacted, again, get any
22 information you can about whoever contacted
23 you and give that to the bailiff.

24 Other than that, I will see everybody
25 back at 9:00 in the morning. Thank you.

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 (JURY OUT @ 5:30 P.M.)

2 THE COURT: Make sure you've got
3 all the exhibits.

4 COURT REPORTER: Yes, sir, we do.

5 THE COURT: All right. Anything
6 else from the State before we break?

7 SOLICITOR ODOM: Nothing that can't
8 wait. I can bring it up tomorrow.

9 THE COURT: All right. Anything
10 else from the Defense?

11 MR. DEJONG: Not at this point in
12 time.

13 THE COURT: All right. We'll see
14 y'all -- try to be here a little bit early so
15 we can be ready to go at 9:00.

16 (COURT IN RECESS)

17 (TRANSCRIPT CONTINUED NEXT PAGE)

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2

NOVEMBER 17, 2015

9:00 A.M.

3

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(DEFENDANT PRESENT)

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6

THE COURT: All right. Are we
ready? Are we ready for the jury?

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SOLICITOR ODOM: Oh, Your Honor, I
don't know if you want to -- if I could just
let you know a few things that may come up
during the day just for your own knowledge.
Later in the day, I will be having a SLED
analyst testify. And his report, I'll be
attempting to enter that into evidence. And
it does mention CODIS on there. If I could
pass this up?

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THE COURT: What is it?

SOLICITOR ODOM: It mentions CODIS
and I anticipate that being a problem.

THE COURT: Well, just talk to him
about it first. And then if y'all have an
issue then.

SOLICITOR ODOM: Okay. I'm sure
that he'll ---

THE COURT: I mean, isn't there
any way you can -- if there's something

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 objectionable in there, ---

2 SOLICITOR ODOM: I don't think it's
3 objectionable, but just ---

4 THE COURT: I mean, it just has
5 the word CODIS?

6 SOLICITOR ODOM: Right

7 THE COURT: I mean, CODIS itself,
8 I'm not sure anybody on that jury is going to
9 know what that is.

10 SOLICITOR ODOM: I don't think they
11 will either.

12 MR. DEJONG: I don't think CODIS
13 itself necessary. It talks about a cold hit
14 for DNA is entered into the CODIS system.

15 SOLICITOR ODOM: Right. And I just
16 wanted to -- I case that's an issue later,
17 that ---

18 THE COURT: I'm sure it will be,
19 but I guess we'll have to ---

20 SOLICITOR ODOM: Yeah.

21 MR. DEJONG: As long as we don't
22 drop the ball on the "cold hit", which I
23 thought we had already agreed to.

24 THE COURT: Right. And it just
25 has ---

TESTIMONY OF KIM FOGARTY - CROSS EXAMINATION

1 SOLICITOR ODOM: It just mentions
2 it. And also the internal chain, I'm going
3 to have the analyst testify as to that. And
4 I think that's going to be an issue with the
5 Defense.

6 And then one more thing. We're
7 getting video redacted right now. And so
8 perhaps during lunch we can play it in case
9 there's any portions that Mr. DeJong wanted
10 redacted that's not.

11 THE COURT: Okay. All right. So
12 are we ready for the jury?

13 SOLICITOR ODOM: Yes, sir.

14 THE COURT: Ready for the jury?

15 MR. DEJONG: Ready for the Defense,
16 Your Honor.

17 THE COURT: Bring the jury in.

18 (JURY IN @ 9:06 A.M.)

19 THE COURT: Good morning, ladies
20 and gentlemen. I hope everybody had a
21 pleasant evening. And we will now continue
22 with the trial in the case and its case in
23 chief by the State.

24 You may proceed, Ms. Odom.

25 SOLICITOR ODOM: Thank you, Your

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TESTIMONY OF ROBERT MEDLIN - DIRECT EXAMINATION

1 Honor. The State calls Robert Medlin.

2 (WITNESS TAKES STAND)

3 ROBERT MEDLIN, having been duly sworn to
4 tell the truth, and nothing but the truth,
5 testified as follows:

6 DIRECT EXAMINATION

7 BY SOLICITOR ODOM:

8 Q. Mr. Medlin, how are you related to
9 Tasha?

10 A. She's my wife.

11 Q. And how long have y'all been
12 married?

13 A. We've been married for seven years,
14 been together for eight or nine. Let's go
15 with nine.

16 Q. And just jumping right into it, tell
17 me how many kids y'all have?

18 A. We have two beautiful little girls.

19 Q. And did Ms. Medlin change any after
20 the second baby was born?

21 A. Yeah. Yes, ma'am. She was going
22 through what I believe the doctor called was
23 post-traumatic stress syndrome.

24 Q. So tell me about how you viewed her.
25 What changes you viewed in her?

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TESTIMONY OF ROBERT MEDLIN - DIRECT EXAMINATION

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1 A. She just always felt like she was
2 alone even though I was working for ten hours
3 and coming straight home... You know, even
4 though she was there with the girls, she just
5 felt like she didn't have no family around
6 here, because all her family lives in North
7 Carolina. And that just kind of took a toll
8 on her, you know.

9 Q. All right. So tell me about her
10 drinking. When did that start?

11 A. It started shortly after the second
12 child was born. She was about maybe two
13 years old when she started drinking.

14 Q. What did you think about it?

15 A. I didn't like it too much at all.
16 It just wasn't something that I was brought
17 up around or, you know, was part about it. I
18 don't agree with that.

19 Q. And did y'all talk about it?

20 A. Yes, ma'am. We did.

21 Q. Did y'all argue about it?

22 A. It come to an argument, yes, ma'am.
23 I begged her to get help for herself, which,
24 you know, you can't make someone get help
25 until they're ready, until they want it for

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TESTIMONY OF ROBERT MEDLIN - DIRECT EXAMINATION

1 themselves.

2 Q. Is it something that y'all had
3 fought about many times before September 27th?

4 A. I wouldn't say fought, but we fussed
5 about it, yes, ma'am.

6 Q. Fussed about it?

7 A. Yes, ma'am.

8 Q. So you say you wanted her to get
9 help?

10 A. Yes, ma'am. I love my wife. I
11 wanted her to get help so we could continue
12 on our life together.

13 Q. Tell me about September 27th, 2012
14 when you got home that night or that evening,
15 whenever you got home?

16 A. When I came home, she was drunk. My
17 kids were there. She was raising cane and I
18 had asked her to please calm down and, you
19 know, just stay there at the house, you know.
20 I even told her that I would take the kids
21 and leave for a little while until she
22 sobered up, which everything is fine when she
23 is sober. But things didn't happen that way.
24 So I took the keys from every vehicle we had
25 in the yard to keep her from driving at all.

TESTIMONY OF ROBERT MEDLIN - DIRECT EXAMINATION

1 And, you know, I didn't want her to hurt
2 herself or somebody. So I tried to ground
3 her there so she couldn't leave.

4 Q. But was she going anyway?

5 A. Not until I had called the officer
6 out to the house.

7 Q. And why did you do that?

8 A. Just for the kids' sake and for my
9 sake and for her sake, too. You know, I
10 mean, so the officer could have a -- at this
11 point in time we had argued so much to where
12 we finally decided that this was not going to
13 work. I was not going to have this and she
14 wasn't going to have it around my kids. They
15 didn't have to come up that way and I wasn't
16 going to have that. So I called the officer
17 out to the house just to make sure things
18 didn't get physical when I started packing
19 their clothes and taking my kids home to my
20 dad's house.

21 Q. So you were leaving?

22 A. Yes, ma'am.

23 Q. Tell me before you left if you had
24 an opportunity to see your wife's body?

25 A. Oh, yeah.

TESTIMONY OF ROBERT MEDLIN - DIRECT EXAMINATION

1 Q. And tell me about that. Explain it
2 to me.

3 A. Well, she had on her night clothes
4 when I got there, which is not unusual when
5 we're around the house. Even my girls put on
6 their pajamas to lay around in the house in.
7 She proceeded to get dressed and I was
8 standing there, pleading my case with her.
9 'Please don't leave', you know. 'Just stay
10 here and sober up and I'll go', you know. Or
11 either we can just calm down and everything
12 will be okay. You know, just sleep it off,
13 whatever. So she was changing then and I
14 seen her body, you know.

15 Q. Were there any bruises on it?

16 A. No, ma'am, there was not.

17 Q. You were in the courtroom yesterday.
18 Did you see the pictures I kept putting up?

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

20 Q. The bruises on your wife's arms,
21 were they there when you left that night?

22 A. No, ma'am.

23 Q. The bruises on her legs?

24 A. No, ma'am. She didn't have any
25 bruises when she left the house at all.

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 No bruises.

2 Q. Tell me. When you left where she
3 was?

4 A. Well, when I left -- to be honest,
5 she was on the porch and when the officer
6 pulled up, she disappeared. I don't know
7 where she went after that. And she left on
8 foot, she was walking.

9 Q. Please answer any questions from the
10 Defense.

11 A. Yes, ma'am.

12 MR. DEJONG: May it please the
13 Court.

14 CROSS-EXAMINATION

15 BY MR. DEJONG:

16 Q. What time did you get home, Mr.
17 Medlin?

18 A. I got home approximately, somewhere
19 between 6:20, 6:30 like I always do.

20 Q. All right. And when you got home;
21 she was drunk?

22 A. Yep.

23 Q. Very drunk?

24 A. I don't know your definition of very
25 drunk, but she was intoxicated. Yes, sir.

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TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 Q. Was speech slurred?

2 A. Not so much, no.

3 Q. Pardon me?

4 A. Not so much, no.

5 Q. Well, not so much. That says it was
6 somewhat slurred then; correct?

7 A. No, sir.

8 Q. Okay.

9 A. It don't.

10 Q. All right. And what time did you
11 leave for work that morning?

12 A. I left around -- let's see. I'd say
13 around 7:30 or so.

14 Q. Okay. How long had this drinking
15 problem been going on?

16 A. At this point in time about a year
17 or so.

18 Q. Okay. And at one point in time I
19 think you talked to Officer Hendricks; did
20 you not? Do you remember that?

21 A. I'm sure I have. I'm not sure who
22 he is.

23 Q. And at that point in time, you also
24 suspected she was doing drugs; didn't you?

25 A. I knew she was -- I had suspected

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 her of abusing her prescription drugs which
2 the doctor had prescribed her; yes, sir.

3 Q. And also you thought she may be
4 having an affair at that point in time;
5 didn't you?

6 A. No, sir, not really.

7 Q. Well, you mentioned somebody by the
8 name of Eric who lives outside of Liberty;
9 you remember that?

10 A. Yes, sir.

11 Q. Who is Eric?

12 A. I have no idea.

13 Q. Okay. You remember telling Officer
14 Hendricks he was a drug dealer?

15 A. I do.

16 Q. Okay. Well, was he a drug dealer to
17 your knowledge?

18 A. As far as I knew. I have no clue
19 who this guy is, so how would I know?

20 Q. How old were your children at this
21 point in time?

22 A. Let's see, this was in 2012. They
23 would have been about two and three.

24 Q. Two and three?

25 A. Uh-huh.

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 Q. They were in school, however, right?

2 A. Yes, sir. They were in Head Start.

3 Q. Okay. And you and/or your wife took
4 them and picked them up; right?

5 A. Yes, sir. I would take them in the
6 morning.

7 Q. To your knowledge, did your wife
8 have a driver's license at this point?

9 A. She did.

10 Q. Okay. Now, once she disappeared --
11 well, let me ask you this. When you called
12 law enforcement, what law enforcement did you
13 call?

14 A. I'm sorry. I don't understand the
15 question.

16 Q. Well, which law enforcement agency:
17 Pickens County, Liberty City, Central City,
18 Clemson City. Who did you call?

19 A. To come out to the house?

20 Q. Yes, sir?

21 A. I called Pickens County.

22 Q. Okay. And did an officer come out
23 there?

24 A. Yes, sir, he did.

25 Q. Do you know who the officer was?

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 A. I do not recall, no, sir.

2 Q. Okay. And do you know what time the
3 officer would have gotten out there?

4 A. If my memory serves me correctly, it
5 should have been around 8:30, maybe 9:00, I
6 think.

7 Q. It could have been earlier or could
8 have been later?

9 A. It couldn't have been no later than
10 that, no, sir.

11 Q. Okay.

12 A. Because I remember going to my dad's
13 house and being there.

14 Q. Where does your dad live, by the
15 way?

16 A. My dad?

17 Q. Yeah?

18 A. He lives in Dacusville.

19 Q. Not in Easley?

20 A. No, sir.

21 Q. Okay. His business in Easley.

22 A. Yes, sir. We have a business in
23 Easley.

24 Q. And what are the hours of his
25 business if you know?

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 A. The hours of our business is 8:00 to
2 6:00. And then on Wednesdays and Saturdays
3 it's 8:00 to 1:00 at Harold's Tire.

4 Q. 8:00 in the morning until 6:00 in
5 the evening?

6 A. Yes, sir.

7 Q. So by 8:00 at night the business
8 would have been long closed; correct?

9 A. Right.

10 Q. Okay. Now ---

11 A. But my dad's there for many hours.

12 Q. Okay. But the business would have
13 been closed?

14 A. Sure.

15 Q. So she left, she, being your wife,
16 Ms. Medlin, she left around 8:00 at night?

17 A. This was three years ago, sir. I'm
18 not for sure what time she left, to be honest
19 with you.

20 Q. I understood you to say a moment ago
21 8:00 or 9:00; right?

22 A. I think so.

23 Q. Okay. I want to ask you. Have you
24 lived in this area for a long time?

25 A. I've lived here all my life, sir.

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 Born and raised in Pickens County.

2 Q. From [REDACTED] Kevin Court in Liberty to
3 the rock quarry at King's Asphalt on 93, you
4 have any idea how far that would be?

5 A. From where now?

6 Q. From [REDACTED] Kevin Court. I believe
7 that was your address?

8 A. And it was, yes, sir.

9 Q. To King's Asphalt or what has been
10 referred to as a rock quarry. Do you know
11 how far that is?

12 A. It's about a five or ten minute
13 drive.

14 Q. Do you know how many miles it would
15 be?

16 A. I'm not for sure how many miles that
17 would be. But I mean, that's a pretty good
18 little hump, yes, sir. Walking would take
19 you a few hours.

20 Q. A few hours?

21 A. Yeah.

22 Q. Okay. All right.

23 A. In my shoes.

24 Q. All right. I understand. I
25 understand.

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 A. I appreciate that.

2 Q. Now, what happened after she left
3 the house on -- I guess that was still the
4 27th. That would have been 8:00 or 9:00 on
5 the 27th; right?

6 A. Sure.

7 Q. Okay. Now, what happened after
8 that, you don't know; do you?

9 A. All I can tell you is my side of it.

10 Q. Yes, sir?

11 A. I went to my dad's; yes, sir.

12 Q. All right. So if there had been any
13 falling down by her and getting bruised by
14 falling down, you wouldn't know that; would
15 you?

16 A. No, sir.

17 Q. And when she left or before she
18 left, to your knowledge was it pretty clear
19 between the two of you that everything was
20 over?

21 A. I'm pretty sure I made that clear;
22 yes, sir.

23 Q. So once she left, she really had no
24 place to go; did she?

25 A. Not here in South Carolina, no.

TESTIMONY OF ROBERT MEDLIN - CROSS EXAMINATION

1 Q. All right.

2 A. She knew she could count on my dad,
3 though, to get her where she needed to be.

4 Q. Okay. She would have had no place
5 to live; would she?

6 A. She would have been -- with her
7 mother, yes, sir.

8 Q. That's in North Carolina.

9 A. Which my dad would have took her,
10 yes, sir.

11 Q. Did you receive a call from somebody
12 on either the late-night hours or the early-
13 morning hours of -- the late-night hours of
14 September the 27th or the early-morning hours
15 of September the 28th?

16 A. Yes, sir.

17 Q. All right. As a result of that
18 what, if anything, did you do?

19 A. I started calling around. I didn't
20 answer the phone. I didn't know it had rang.
21 That phone call come in, if I'm not mistaken,
22 right about 2:35 or somewhere right around
23 there. I was asleep with my kids. I didn't
24 get it until the next morning.

25 Q. So you never -- never talked to

TESTIMONY OF ROBERT MEDLIN - REDIRECT EXAMINATION

1 anybody?

2 A. I did. Once I found out that phone
3 call come, I called around trying to figure
4 out where my wife -- well, I called that
5 number. I called each police station I could
6 think of, hospitals. I started panicking.

7 Q. Even though you say the marriage was
8 over?

9 A. Oh, yes, sir. Could I elaborate on
10 that for a second? The marriage wasn't
11 completely over. I was hoping that she would
12 see from that, that she needed to get help.

13 Q. Thank you, sir.

14 MR. DEJONG: No further questions.

15 A. Thank you, sir.

16 SOLICITOR ODOM: Briefly.

17 REDIRECT EXAMINATION

18 BY SOLICITOR ODOM:

19 Q. How late would your dad work at the
20 business?

21 A. My dad stays there until -- I mean,
22 he's there. I mean, is it okay if I tell how
23 long my dad is there, because I don't know if
24 he would like that, -- but he's normally
25 there until 10:00, 11:00 at night.

TESTIMONY OF ROBERT MEDLIN - REDIRECT EXAMINATION

1 Q. Okay.

2 A. My mama bowls and she stays at the
3 bowling alley until it closes, which is close
4 to 12:00 when they quit bowling and all.
5 She's a league secretary. Therefore, my dad
6 stays at the shop doing business until then.

7 Q. All right. Thank you.

8 A. Thank you, ma'am.

9 THE COURT: You can step down,
10 thank you.

11 WITNESS: Thank you, sir.

12 (WITNESS STEPS DOWN)

13 SOLICITOR ODOM: The State calls
14 Officer Felton.

15 (WITNESS TAKES STAND)

16 BOB FELTON, having been duly sworn to
17 tell the truth, and nothing but the truth,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY SOLICITOR ODOM:

21 Q. Where do you work?

22 A. Easley Police Department.

23 Q. How long have you been working
24 there?

25 A. A little over eleven years.

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TESTIMONY OF BOB FELTON - DIRECT EXAMINATION

1 Q. Were you on shift the night of
2 September 27th, morning of September 28th,
3 2012?

4 A. Yes, I was.

5 Q. Tell me about, before we get into
6 the specifics, the apartments at Westgate.
7 Have you been out there before?

8 A. Yes, I have.

9 Q. Have you been out there a lot?

10 A. Yes, I have.

11 Q. Tell me the different types of calls
12 you receive when you respond to the
13 apartments?

14 A. I have various kinda of calls there
15 from intoxicated people, fights, arguments,
16 domestic violence, child custody, drugs; you
17 can say a wide variety of calls out there.

18 Q. Do you get called out there in the
19 middle of the night, early morning?

20 A. Basically twenty-four hours a day we
21 get called out there.

22 Q. Okay. And so did you respond
23 September 27th?

24 A. Yes, I did.

25 Q. And tell me what time you went out

TESTIMONY OF BOB FELTON - DIRECT EXAMINATION

1 there?

2 A. I was dispatched at 2:00 a.m. I
3 arrived at 2:00 a.m. I was real close to
4 there.

5 Q. Okay. And what was the call about?

6 A. An intoxicated person causing a
7 disturbance.

8 Q. When you got out there, did you
9 speak with Ms. Medlin?

10 A. Yes. I located the subject in the
11 courtyard area. And she was being loud,
12 boisterous. That's when I had approached
13 her.

14 Q. Were there other people out and
15 about when you got out there?

16 A. If I recall, there was one person at
17 a door right around the area that was out
18 there. I'm not sure who it was or what
19 apartment it was.

20 Q. Okay. But it wasn't like a big
21 party going on or anything?

22 A. No, ma'am.

23 Q. All right. So tell me a little bit
24 more about her demeanor. You said she's
25 loud?

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TESTIMONY OF BOB FELTON - DIRECT EXAMINATION

1 A. She was loud. From what I recall,
2 she was upset, just -- her appearance. I
3 tried to speak with her. Her speech was very
4 slurred. She was unsteady on her feet.
5 I questioned her about what was going on.

6 Q. And what did she say?

7 A. She told me that she was there
8 trying to get a ride home. That she was
9 riding around with a white guy and black that
10 had picked her up in Liberty, and that they
11 attempted to rape her. I asked her where it
12 happened -- just to get jurisdiction. And
13 she told me 93 towards Liberty. So I offered
14 to call a county deputy out because that
15 would be their jurisdiction. And she told me
16 she did not want to file a report, so I did
17 not call County to come out. She was visibly
18 highly intoxicated with her speech, her un-
19 steadiness.

20 Q. Did she seem to be kind of getting
21 flustered or frustrated when she was talking
22 to you?

23 A. It was just the intoxication.
24 Whether you can say flustered or not. I
25 think, you know, the fear was, you know, in

TESTIMONY OF BOB FELTON - DIRECT EXAMINATION

1 her state refusing any further assistance
2 that I was offering her.

3 Q. So she basically said just forget
4 about it?

5 A. Yeah.

6 Q. And at that point as an officer,
7 what's your options when someone says 'leave
8 me alone'?

9 A. Her safety at that point, and due to
10 her level of intoxication, I placed her under
11 arrest for the public intoxication.

12 And when I asked her how much she had to
13 drink she said she had a few beers when the
14 sun was still up. I told her it had been
15 dark for hours. She then told she -- the two
16 guys were riding around and drinking beers.
17 She said she drank a bottle of liquor and
18 they were hanging out at Westgate and they
19 just dropped her off there.

20 Q. Now, do you remember if when you
21 were talking to her if your questions were
22 kind of leading? Like would you say 'is this
23 what happened?'

24 A. No. I asked direct questions about
25 it. I don't lead or anything like that.

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TESTIMONY OF BOB FELTON - CROSS EXAMINATION

1 I asked, you know, what happened, 'how
2 much you been drinking'; to build my case up
3 for if it's going to go up for an arrest I
4 have all my probable cause for the arrest.

5 Q. Okay. And did you end up arresting
6 her?

7 A. Yes, I did. I arrested her for the
8 public drunk. And she was taken into custody
9 and transported to the police department
10 where she was booked and processed.

11 Q. Okay. Please answer any questions
12 from the Defense?

13 A. Okay.

14 MR. DEJONG: Are you finished?

15 SOLICITOR ODOM: Yes, sir.

16 MR. DEJONG: Oh, thank you, ma'am.
17 May it please the Court?

18 THE COURT: Yes, sir.

19 CROSS-EXAMINATION

20 BY MR. DEJONG:

21 Q. So what time of the day or night did
22 you get out there if you recall, Officer
23 Felton?

24 A. I was dispatched at 2:00 a.m. and
25 arrived at 2:00 a.m.

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TESTIMONY OF BOB FELTON - CROSS EXAMINATION

1 Q. And what time did you finally leave
2 Westgate?

3 A. My time on my report is 2:15 a.m.

4 Q. Okay. And the call came in as an
5 intoxicated person?

6 A. Correct.

7 Q. How long have you been a police
8 officer?

9 A. Coming up on twenty years.

10 Q. Pardon me?

11 A. Coming up on twenty years.

12 Q. A long time?

13 A. Yes, sir.

14 Q. All right. Over the course of those
15 years you have had an opportunity to work
16 with intoxicated people; right?

17 A. Yes, sir.

18 Q. And I believe your answering Madam
19 Solicitor's question you said she was highly
20 intoxicated?

21 A. Yes.

22 Q. Unsteady on her feet?

23 A. Correct.

24 Q. By unsteady on her feet to the point
25 of you feared for her safety of falling down

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TESTIMONY OF BOB FELTON - CROSS EXAMINATION

1 and hurting herself?

2 A. Correct.

3 Q. All right. Did you maintain a
4 visual observation of her when you went out
5 there as far as any injuries or anything?

6 A. I do not recall.

7 Q. Okay. And so you offered to call
8 Pickens County for her?

9 A. Yes, I did.

10 Q. And she said, 'no, I don't want
11 that'?

12 A. Yes.

13 Q. Okay. And then she later on said
14 that she and two guys had been riding around
15 in a car, drinking beer and she drank a
16 bottle of liquor?

17 A. Correct.

18 Q. No doubt in your mind about that?

19 A. No, sir.

20 Q. And that's what you put in your
21 report; correct?

22 A. Correct.

23 Q. And when did you do your report?

24 A. It says I started the report about
25 2:26 a.m.

TESTIMONY OF DAVID MCKENZIE - DIRECT EXAMINATION

1 Q. On September the 28th?

2 A. Yes, sir.

3 Q. Okay. All right. You've been
4 through the academy; right?

5 A. Yes, sir.

6 Q. And part of your training at the
7 academy is to write reports; correct?

8 A. Correct.

9 Q. And to write them accurately so you
10 can refresh your memory if you have to?

11 A. Yes, sir.

12 Q. Is this report accurate?

13 A. To the best of my knowledge, yes,
14 sir, it is.

15 Q. Thank you, sir.

16 MR. DEJONG: No further questions.

17 SOLICITOR ODOM: Nothing further.

18 THE COURT: All right. Thank you.

19 WITNESS: Thank you, Your Honor.

20 (WITNESS STEPS DOWN)

21 THE COURT: All right. Call your
22 next witness.

23 SOLICITOR ODOM: Thank you, Your
24 Honor. The State calls David McKenzie.

25 (WITNESS TAKES STAND)

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TESTIMONY OF DAVID MCKENZIE - DIRECT EXAMINATION

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1 DAVID MCKENZIE, having been duly sworn
2 to tell the truth, and nothing but the truth,
3 testified as follows:

4 DIRECT EXAMINATION

5 BY SOLICITOR ODOM:

6 Q. All right. Mr. McKenzie, where do
7 you work?

8 A. Pickens County Sheriff's Office.

9 Q. How long you been working there?

10 A. A little over nine years.

11 Q. What do you do now?

12 A. I'm a detective.

13 Q. And what were you doing in September
14 2012?

15 A. Uniformed road patrol.

16 Q. Tell the jury about what all that
17 involves on the road?

18 A. Uniformed patrol, we answer 9-1-1
19 calls, nonemergency calls, basically first
20 responders taking calls for service.

21 Q. All right. And were you working
22 September 28th, 2012?

23 A. I was.

24 Q. Did you have an opportunity to
25 respond to the Easley Baptist Hospital?

TESTIMONY OF DAVID MCKENZIE - DIRECT EXAMINATION

1 A. I did.

2 Q. Tell me what that call was about?

3 A. I received a call in reference to a
4 possible sexual assault that had occurred.
5 That was the initial call.

6 Q. When you got there, who did you
7 speak with?

8 A. Initially, getting there I spoke
9 with Ms. Riddle from Rape Crisis. She
10 advised me that ---

11 MR. DEJONG: Objection to what she
12 advised, Your Honor.

13 THE COURT: Sustained.

14 DIRECT EXAMINATION CONTINUED

15 BY SOLICITOR ODOM:

16 Q. You spoke with -- is it Riddle or
17 Godfrey?

18 A. Godfrey, I'm sorry. Renee Godfrey.

19 Q. So you made contact with someone?

20 A. Correct.

21 Q. And then did you have an opportunity
22 to speak with the victim?

23 A. I did.

24 Q. And what did Ms. Medlin tell you?

25 MR. DEJONG: Objection to what she

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TESTIMONY OF DAVID MCKENZIE - DIRECT EXAMINATION

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1 said, Your Honor.

2 SOLICITOR ODOM: She's in the
3 courtroom. Has testified.

4 MR. DEJONG: She's in the
5 courtroom. She's already testified. It's
6 one of two of things. It's either bolstering
7 or hearsay or both.

8 THE COURT: Sustained.

9 DIRECT EXAMINATION CONTINUED

10 BY SOLICITOR ODOM:

11 Q. How did she appear to you?

12 A. Nothing that stood out to me. I
13 observed some physical injuries on her.

14 Q. Was she upset?

15 A. I don't recall.

16 Q. Did you take pictures of her?

17 A. I did.

18 Q. What did you do after that? Did you
19 do anything else with your investigation or
20 with the call?

21 A. When I arrived at the hospital I
22 spoke with Life Crises, then I went and spoke
23 with the victim. And then she provided me
24 with her statement of the incident. And then
25 I took a written statement from her at that

TESTIMONY OF DAVID MCKENZIE - DIRECT EXAMINATION

1 time. Getting her written statement and the
2 injuries I observed, I went ahead and took
3 photographs of those injuries. Then I
4 submitted an incident report and forwarded my
5 case to the investigation division.

6 Q. And that's standard protocol?

7 A. It is.

8 Q. So the road deputy responds, takes
9 the initial report, and then it's forwarded
10 to investigations?

11 A. Correct.

12 Q. Tell me about at that time how it
13 was set up with -- since -- what day was this
14 on, of the week?

15 A. The 28th.

16 Q. Was it a Thursday or Friday, do you
17 remember?

18 A. A Thursday or Friday, I believe.

19 Q. Okay. So would that have went just
20 to investigations or like a weekend person,
21 tell me about that?

22 A. Generally, on the weekend they have
23 an on-call detective who works the case. And
24 that would have -- if that went into the
25 weekend, the on-call detective would have

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TESTIMONY OF DAVID MCKENZIE - CROSS EXAMINATION

1 followed up on it.

2 Q. Okay. But at that point, after you
3 spoke with the victim and took your pictures,
4 you forwarded it on to investigations did you
5 have anything else to do with it?

6 A. No, I did not.

7 Q. All right. Thank you.

8 CROSS-EXAMINATION

9 BY MR. DEJONG:

10 Q. And basically all you did is you
11 responded to the hospital?

12 A. Correct.

13 Q. You weren't involved in any alleged
14 evidence collection or anything else?

15 A. With the exception of the pictures
16 and her statement.

17 Q. Right. What were the pictures of,
18 do you recall?

19 A. If I recall after looking at
20 pictures she had one underneath her lip, a
21 couple on her shoulders area.

22 Q. Let me show you some pictures that
23 have been introduced. Well, let me ask you
24 this while I'm looking through this. At what
25 time did you get to the hospital?

TESTIMONY OF DAVID MCKENZIE - CROSS EXAMINATION

1 A. 12:33.

2 Q. 12:30 in the afternoon?

3 A. Correct.

4 Q. Was she intoxicated at that point in
5 time?

6 A. She was not.

7 Q. Okay. And let me show you what's
8 been marked, I believe, State's Exhibits 1
9 through 8. Can you pick out the pictures out
10 of there that you took?

11 A. (Upon review), these would be the
12 photos that I took.

13 Q. All right. Let me borrow those for
14 just a second?

15 A. Yes -- (tenders photographs).

16 Q. So what you have picked out of the
17 stack was what has been marked -- what you
18 picked out of the stack was State's Exhibits
19 7 and 8; correct?

20 A. Correct.

21 Q. The ones you pulled. All right.
22 And it appears to be the picture to the inner
23 arm of the right arm; is that correct?

24 A. Correct.

25 Q. And some, I guess something with her

TESTIMONY OF DAVID MCKENZIE - CROSS EXAMINATION

1 lip?

2 A. That's correct.

3 Q. Now, when those injuries got there,
4 you don't know; do you?

5 A. No, I do not.

6 Q. And how they got there you don't
7 know; do you?

8 A. I do not.

9 Q. You just took pictures because
10 that's what you saw when you got to the
11 hospital?

12 A. And what she claimed.

13 Q. Well, that's what you took pictures
14 of. That's what you saw; right?

15 A. Correct.

16 Q. All right. But beyond that, you
17 don't know anything about the circumstances
18 surrounding how they got there?

19 A. No, I do not.

20 Q. Do you know, Mr. McKenzie, how long
21 she had been at the hospital before you
22 arrived?

23 A. I don't know exact time. I was told
24 that she had just arrived.

25 Q. Just arrived?

TESTIMONY OF DAVID MCKENZIE - CROSS EXAMINATION

1 A. That was what I recall.

2 Q. All right. Are you familiar with
3 where the Easley Police Department is?

4 A. I am.

5 Q. How far is the Easley Department
6 from what we call Baptist Easley Hospital?

7 A. Maybe a couple of miles if that,
8 pretty close.

9 Q. Not very far at all?

10 A. No, it's not.

11 Q. Wouldn't take all that long to walk;
12 would it?

13 A. No.

14 Q. Do you recall what the weather was
15 like on September the 28th of 2012?

16 A. I do not.

17 Q. We're not sure of what day of the
18 week it was; is that correct?

19 A. I'm not sure, exactly sure. It's a
20 Thursday or Friday, if I remember correctly.

21 Q. So Thursday would not have been a
22 weekend; right?

23 A. Correct. If it would have went to
24 an on-call detective, it would have been a
25 Friday when I took the initial report. The

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TESTIMONY OF BRIAN GIBSON - DIRECT EXAMINATION

1 incident, I believe would have happened
2 on a Thursday.

3 Q. I notice on your report that you
4 have the complainant's name as Tasha Riddle.
5 Is that the name she gave you?

6 A. She give me Tasha Medlin. And in
7 our computer system we have people's name
8 who's already in there. And it may have been
9 Riddle and then I put in the Medlin.

10 Q. All right, sir. Thank you.

11 MR. DEJONG: Nothing further.

12 SOLICITOR ODOM: Nothing further.

13 THE COURT: All right. Thank you.

14 (WITNESS STEPS DOWN)

15 MR. DEJONG: No objection to him
16 being excused, Your Honor.

17 THE COURT: He may be excused.

18 SOLICITOR ODOM: The State calls
19 Brian Gibson.

20 (WITNESS TAKES STAND)

21 BRIAN GIBSON, having been duly sworn to
22 tell the truth, and nothing but the truth,
23 testified as follows:

24 DIRECT EXAMINATION

25 BY SOLICITOR ODOM:

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TESTIMONY OF SAMUEL STEWART - DIRECT EXAMINATION

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THE COURT: All right. You may
step down. Any objection to him being
released?

MR. DEJONG: None whatsoever, Your
Honor.

WITNESS: Thank you, Your Honor.

(WITNESS STEPS DOWN)

SOLICITOR ODOM: All right. Your
Honor, at this time the State is going to
call Samuel Stewart.

(WITNESS TAKES STAND)

SAMUEL STEWART, having been duly sworn
to tell the truth, and nothing but the truth,
testified as follows:

DIRECT EXAMINATION

BY SOLICITOR ODOM:

Q. All right. Mr. Stewart, where do
you work?

A. I work for the South Carolina Law
Enforcement Division commonly known as SLED.

Q. How long have you worked there?

A. Approximately three and a half
years.

Q. Before you started working at --

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TESTIMONY OF SAMUEL STEWART - DIRECT EXAMINATION

1 well, tell me, what do you do at SLED?

2 A. I am a forensic scientists assigned
3 to the DNA casework department.

4 Q. So tell me about your educational
5 background, your training?

6 A. I received my Bachelor's in Science
7 and Biology from Francis Marion University.

8 I also received in-house SLED training
9 under other court-qualified analysts for over
10 a year and a half. I had to successfully
11 complete a written exam, a oral exam, a
12 competency and a mock trial before deemed
13 competent as a DNA analyst.

14 Q. So can you tell me if, like within
15 the scientific community the study of DNA
16 science, is that generally accepted and
17 recognized?

18 A. Yes, it is generally accepted as a
19 practice.

20 Q. And do you want to explain a little
21 bit or anything further about that?

22 A. Not a problem. First, DNA stands
23 for deoxyribonucleic acid. It is the genetic
24 material that is found in every person and
25 responsible for certain traits, such as our

TESTIMONY OF SAMUEL STEWART - DIRECT EXAMINATION

1 eye and our hair color. DNA contains density
2 known as chromosomes, which are found in
3 every cell in any human body, excluding red
4 blood cells. We receive half of our
5 chromosomes from our mother and the other
6 half from our father.

7 As DNA analysts we target certain
8 locations on those chromosomes known as STRs,
9 which stands for short tandem repeat. And we
10 look at sixteen different STR locations that
11 are found on those various chromosomes within
12 your body to develop what is known as a DNA
13 profile, which we use to identify a person
14 from another person, excluding identical
15 twins.

16 Q. Okay. Have you ever testified
17 before?

18 A. Yes, I have.

19 Q. How many times have you testified in
20 General Sessions?

21 A. Eight times.

22 SOLICITOR ODOM: Your Honor, at
23 this time the State would offer the witness
24 as an expert in the field of DNA Analysis and
25 comparison analysis of DNA.

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1 MR. DEJONG: No voir dire, Your
2 Honor.

3 THE COURT: All right. Any
4 objection?

5 MR. DEJONG: No, sir.

6 THE COURT: All right. He's
7 qualified in that area.

8 DIRECT EXAMINATION CONTINUED

9 BY SOLICITOR ODOM:

10 Q. All right. Can you kind of give me
11 a general rundown of when evidence is brought
12 into SLED, what the procedure is and what
13 happens when, say, a SLED kit is brought down
14 to SLED?

15 A. No problem. Usually, evidence is
16 brought in by the submitting agency, usually
17 an officer. And it is brought in through our
18 evidence control department. Our evidence
19 control department houses all the evidence
20 that is in-house. And they also log it to
21 different storage areas for that certain
22 department to come and complete some analysis
23 on that piece of evidence.

24 Once it's there, a notification is sent
25 to the department, letting them know that the

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1 evidence is ready for analysis.

2 The evidence is then picked up by an
3 analyst or a technician and delivered to that
4 analyst if the technician is the one picking
5 up the evidence. The evidence is worked in-
6 house by the analyst that is assigned to the
7 case.

8 Once that analysis is complete on that
9 item or those items, it is given back to our
10 evidence control department for the
11 submitting agency to come back and retrieve
12 the evidence.

13 Q. Basically, it comes in. It's
14 divvied out, and then it's stored back for
15 the agency to come back and get it?

16 A. That is correct. We also give it a
17 unique SLED ID number -- well, lab number and
18 ID number for each piece of evidence that
19 comes in through the door.

20 Q. So everything that comes in with a
21 case has the case number and then each thing
22 has an ID number?

23 A. That is correct.

24 Q. Are any of the items that y'all get
25 ever removed from your building? Like do

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1 y'all send it to somebody else to test?

2 A. No, we do not. Our testing is done
3 in-house.

4 Q. Can you tell me in reference to this
5 case what the SLED lab number is?

6 A. The SLED lab number for this case is
7 L12-12284.

8 Q. And did you perform analysis in this
9 case?

10 A. Yes, I did.

11 Q. Tell me -- I want to go ahead and go
12 through -- when the evidence came in, can you
13 tell me how it got to you? Who it went
14 through to get to you?

15 A. Not a problem. The evidence was
16 received by evidence control, a technician,
17 Ms. Amy Stephens. And then it was placed on
18 a DNA intake shelf, letting us know that the
19 evidence was there ready for analysis.

20 Q. Now, is this the -- are you talking
21 about the SLED kit or the buccal swab?

22 A. I'm talking about the kit.

23 Q. Okay. I'm sorry. Go ahead.

24 A. The kit was taken into custody by
25 another technician who works in our evidence

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1 control department, Ms. Courtney Smith.

2 It is important to note that it has to go
3 from a person to person or a location to a
4 person. It can never go from a location to a
5 location. So that's why the technician had
6 to take it into her custody.

7 She took it into her custody and gave it
8 to our forensic technician, Ms. Ashley Bell.
9 She was the one who performed the serology
10 testing in this case.

11 Then once she was done with completing
12 the serology testing -- and serology testing
13 is the testing for bodily fluid such as
14 blood, semen, or saliva. All right.

15 Once she completed that, it was taken
16 back to our evidence control department and
17 placed back on a DNA shelf. That gave me a
18 notification to let me know that the work
19 that Ms. Ashley Bell had completed was now
20 ready for me to take further to DNA
21 processing.

22 Once it was there, I took the evidence in
23 my custody and did the DNA analysis on it.

24 Q. Okay. All right. Can you tell me
25 about a buccal swab?

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1 A. The buccal swab was taken into
2 custody by another evidence control
3 department technician and then placed on the
4 DNA intake shelf. That gave me the
5 notification to let me know it was ready.

6 A DNA intake person -- no, excuse me. An
7 evidence control person -- excuse me -- took
8 it into their custody and gave it directly to
9 me to perform DNA analysis on.

10 Q. Okay. So let's talk about when you
11 get a buccal swab, you know, what do you do
12 with it then when you receive that buccal
13 swab. How do you go about testing it?
14 What's the procedure?

15 A. We have four main steps when we're
16 doing DNA analysis:

17 First is extraction, which we just take a
18 small cutting from that item, whether it be a
19 buccal swab.

20 Then we put it into a solution to
21 incubate.

22 Then we use an instrument to extract the
23 DNA from that swab into a clean buffer that
24 will help stabilize the DNA and help it to be
25 stored at room temperature or in a

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1 refrigerated container.

2 Then I quantify that sample to see how
3 much DNA I actually have. Once I quantify,
4 then I will amp that sample -- amping is
5 known as our PCR process, which stands for
6 polymerase chain reaction. And that's just a
7 fancy way of saying we're making more copies
8 of the DNA. This enables us to be able to
9 develop a full DNA profile.

10 Then we have next separation, which we
11 have the complete DNA profile developed
12 during that process.

13 Q. All right. When you get a buccal
14 swab, tell me how you receive it? I'm going
15 to hand you State's 17, (tendering). Do you
16 know what that is?

17 A. (Upon review), yes, I do. This is
18 our item, SLED item six. This is the buccal
19 swab from Brandon Benson.

20 Q. Thank you. So when you got that,
21 was it sealed?

22 A. Yes, it was, in a security sealed
23 pouch. And you will also see our unique SLED
24 lab number and ID number.

25 Q. Did you open the pouch?

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1 A. Yes, I did.

2 Q. So that's when you took the swabs
3 out and tested them.

4 A. (Affirmative nod).

5 Q. Now, when you're done with it, what
6 do you with the buccal swab?

7 A. Yes. I put the swab back inside the
8 container that it came in, this nice coin
9 envelope, and then back into the heat-sealed
10 pouch. I also have my initials and date
11 where I actually cut into the heat-sealed
12 pouch; also when I actually sealed it back
13 up.

14 Q. So when did you cut into it and when
15 did you seal it back up?

16 A. The date here is November 13th, 2013.
17 And then I put it back in here on January
18 16th, 2014.

19 Q. So were you able to identify -- you
20 were able to identify DNA from the swab?

21 A. Yes. I was able to develop a DNA
22 profile from this swab.

23 Q. Now, what's your next step?

24 A. Next step will be processing the CSC
25 kit.

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1 Q. Okay. Now, tell me about that.
2 What items did you get from the kit and what
3 did you test?

4 A. The items that were in the kit were
5 a smear from the vaginal area, vaginal swabs;
6 fingernail scrapings from the left hand and
7 the right hand. There was also pubic hair
8 combings and debris collection. And this is
9 all from Ms. Tasha Riddle.

10 Ms. Ashley Bell went through the kit!
11 She performed serology testing and also she
12 cut the fingernail scrapings for me. Then
13 she forwarded those items to me to be
14 processed for DNA.

15 The items I processed for DNA were the
16 vaginal swabs, the left and right-hand
17 fingernail scrapings. Those were the items
18 that were in the kit.

19 Q. Okay. So you also had pieces of her
20 underwear and a tampon?

21 A. Yes, those items came additional to
22 the kit as well.

23 Q. Okay. Now, when you say they came
24 additional from the kit, what do you mean?

25 A. Well, those items aren't actually

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1 housed in the kit. Those are items that the
2 SANE Nurse would have taken. And she's sent
3 them with the kit, but they aren't actually
4 in the kit. There are certain items that are
5 in the kit, such as vaginal swabs, rectal
6 swabs, scrapings for the fingernails. Those
7 items are actually in the kit and contained
8 in there.

9 But additional items can be tested if
10 they deem it necessary, which was the case
11 with the underwear and the tampon.

12 Q. Okay. You keep saying kit and I
13 just want to be clear. All the items y'all
14 got were in the box that is the -- but is
15 there -- like there's a kit in there and then
16 tampon would have also been in the box?

17 A. That is correct. It's just not
18 normal to -- well, it's not standard, I
19 should say. But it can come additional if
20 it's necessary for testing.

21 Q. Okay. So when you say the tampon
22 wasn't in the kit, you're not saying it
23 wasn't in the box. It just wasn't in a
24 smaller package within the box?

25 A. That is correct.

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1 Q. That makes sense. All right. So
2 tell me about the items you tested from the
3 box?

4 A. Semen was identified on items 1.2
5 and 4.2.

6 Item 1.2 was the vaginal swabs.

7 Item 4.2 was a cutting from the
8 underwear.

9 The DNA profile developed from the semen
10 on items 1.2 and 4.2 match the DNA profile of
11 Brandon Benson.

12 The probability of randomly selecting an
13 unrelated individual having a DNA profile
14 matching these items is approximately 1 in
15 3.2 quadrillion.

16 Q. Quadrillion?

17 A. That is correct.

18 Q. So how many -- do you know how many
19 people there are on earth?

20 A. Approximately seven billion.

21 Q. And a quadrillion's more than ---

22 A. Yes. It's quite higher than the
23 world's population.

24 Q. Okay. So his DNA was found on
25 vaginal swabs and her panties?

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1 A. That is correct.

2 Q. And we keep saying DNA, but you said
3 it was semen?

4 A. Well, yes, the DNA developed from
5 the semen. We were able to identify semen on
6 those items.

7 Q. Can you talk to me about the
8 difference between semen and a sperm
9 fraction?

10 A. No problem. A sperm fraction, when
11 we have a item of evidence that we feel that
12 may have the possible presence of semen, what
13 we try to do -- during my testing, I try to
14 separate the overwhelming amount of female
15 DNA from the potential male DNA that may be
16 there.

17 So what we do is we do an extraction
18 that's known as differential extraction.
19 That separates the overwhelming female DNA
20 from the potential male DNA that may be
21 there. Because if we leave it together, the
22 DNA from the female will mask any kind of
23 potential male DNA that is there. And
24 because we expect her DNA to be on items that
25 belong to her, such as the cutting from the

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1 underwear or her vaginal swabs that's taken
2 from her body, this is why we perform this
3 type of extraction.

4 Q. Can you tell me about the other
5 items tested?

6 A. Yes, ma'am.

7 Q. You found his DNA in her underwear
8 and on the vaginal swabs.

9 A. Right.

10 Q. What about the tampon?

11 A. Once again, with the tampon there
12 was a possible presence of semen there. So I
13 also did a differential extraction with that.
14 So there's a sperm fraction and a non-sperm
15 fraction for that item as well.

16 The DNA profile developed from the sperm
17 fraction of item five is from an unidentified
18 female individual.

19 There was no DNA profile was developed
20 from the nonsperm fraction of item five.

21 Q. So basically, a woman's DNA was on
22 it?

23 A. That is correct.

24 Q. All right. So it's your expert
25 testimony to a reasonable degree of

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1 scientific certainty that the Defendant's
2 known DNA sample was identical to or
3 consistent with the evidence that you got
4 off the underwear and the swabs?

5 A. Yes. That is correct.

6 SOLICITOR ODOM: Can you please
7 mark this?

8 COURT REPORTER: State's Exhibit
9 16, marked for identification.

10 DIRECT EXAMINATION CONTINUED

11 BY SOLICITOR ODOM:

12 Q. I'm going to show you what's been
13 marked as State's Exhibit 16 for ID. Do you
14 recognize what that is?

15 A. (Upon review), this is my report for
16 the case, for this case.

17 Q. So after you do all your findings
18 and your tests you document that in a written
19 report?

20 A. That is correct.

21 Q. Is that a true and accurate copy of
22 your report?

23 A. Yes, it is.

24 Q. Your Honor, at this time the State
25 would move to have State's Exhibit 16 into

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1 evidence.

2 MR. DEJONG: Without objection,
3 Your Honor.

4 THE COURT: All right. Admitted
5 without objection.

6 (SO ENTERED AS STATE'S EXHIBIT 16)

7 DIRECT EXAMINATION CONTINUED

8 BY SOLICITOR ODOM:

9 Q. All right. If you would please
10 answer any questions Mr. DeJong has for you.

11 MR. DEJONG: Thank you, Madam
12 Solicitor. May it please the Court?

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. DEJONG:

16 Q. I note -- Mr. Stewart, right?

17 A. That is correct.

18 Q. I'm sorry. Names elude me
19 sometimes.

20 MR. DEJONG: Have we marked this?

21 COURT REPORTER: Actually he has
22 the one that's marked.

23 MR. DEJONG: Oh, okay.

24 CROSS-EXAMINATION CONTINUED

25 BY MR. ODOM:

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1 Q. I note what has been marked State's
2 Exhibit Number 16 has a DNA analysis which
3 would appear to be a date of November the 12th
4 of 2015; is that correct?

5 A. That is correct.

6 Q. Okay. Then there is another report,
7 which was dated some time earlier than that;
8 right? More specifically, January 16th of
9 2014; correct?

10 A. That is correct.

11 Q. And, of course, we all talk about
12 DNA, DNA, but actually somewhere between
13 January the 14th and whatever date that is,
14 November the 12th, I think, of 2015, certain
15 issues were raised about the statistical or
16 mathematical formulation of how you came up
17 with this one in three-point-two quadrillion;
18 right?

19 A. There was an update to the database
20 that we used to generate the stats; that is
21 correct.

22 Q. And the reason for that was it was
23 determined that some of that was inaccurate;
24 right?

25 A. There may have been some miscues in

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1 the database. But the database now has
2 already been updated, has already been
3 validated by the FBI, also in-house as well.
4 So any kind of miscues that may have been in
5 the database have been already been
6 corrected. And they were very miniscule.

7 And I also want to state that the
8 changes in that database did not affect
9 anything about as far as matches or
10 inclusions or exclusions. It only effected
11 the number that pertaining to that statistic.

12 Q. So the FBI updated all of this?

13 A. The FBI did update it as well. We
14 did it in-house.

15 Q. Well, the FBI lab up there, they've
16 had their own problems with DNA over the
17 years; haven't they?

18 A. I couldn't be sure about everything
19 that they may have done.

20 Q. All right. Well, let's talk a
21 little bit about this report.

22 Q. So you say that you developed
23 certain, for want of a better term, DNA from
24 the vaginal swab and the underwear cutting;
25 right?

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1 A. That is correct.

2 Q. And that came back, as you would
3 say, to Brandon Benson, 1 in 3.2 quadrillion?

4 A. Yes, sir. That's correct.

5 Q. Now, let's talk a little bit about
6 this DNA profile from the sperm faction
7 [sic]. So there was some DNA development
8 from that sperm faction? [sic]

9 A. Which item, sir?

10 Q. Pardon me?

11 A. Which item number?

12 Q. Item number 5 and 1.3.1. Item
13 1.3.1, just for the record, is left
14 fingernail scrapings and Item 5 was the
15 tampon.

16 A. That is correct. I did not do a
17 sperm fraction on the fingernail scrapings.
18 I just processed those as a regular
19 extraction. But I did do Item 5 as a
20 differential; that is correct.

21 Q. Well, on Item 5 when you did the
22 extraction there was evidence that there was
23 sperm present; correct?

24 A. There was -- when we were doing the
25 serology testing, there was a possible

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1 presence of semen on that item; that is
2 correct.

3 Q. All right. And that's when you
4 developed the DNA that did not come back to
5 Brandon Benson; correct?

6 A. That is correct.

7 Q. He was excluded on that particular
8 semen or sperm; right?

9 A. His DNA was not in the sperm
10 fraction of that item.

11 Q. All right. Which would certainly
12 indicate that somebody else's sperm was
13 there; right?

14 A. No, that's not the case. No, sir.

15 Q. But you didn't do a profile on it,
16 did you?

17 A. No, sir. I just was unable to
18 develop a DNA profile from that fraction.

19 Q. All right. But you're saying you
20 identified it as sperm but it's not sperm?

21 A. When we do a possible presence of
22 semen test on an item, it is a presumptive
23 test.

24 We're testing for a certain item that's
25 found in semen known as P-30. There's a P-30

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1 enzyme. That enzyme is found in semen, but
2 semen is made up of two different components.
3 The sperm cells that we actually get the
4 genetic material from and the seminal fluid
5 that the sperms are contained in. The P-30
6 enzyme that we do test for is found in the
7 seminal fluid but there is no genetic
8 material within the seminal fluid. So there
9 is the possibility that there may have been
10 semen there at the time, but there was no
11 male genetic material there for me to develop
12 a DNA profile from.

13 Q. Well, you developed enough that
14 certainly you said it wasn't Brandon Benson;
15 right?

16 A. I did say it was an unidentified
17 female individual.

18 Q. And that Brandon Benson was
19 excluded?

20 A. I wasn't able to develop the male
21 DNA profile from that item.

22 Q. Well, let's talk about Item 1.3.2.1,
23 right fingernail scrapings. Now, so that I'm
24 sure this is debris that comes from under
25 fingernails; right?

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1 A. That is correct.

2 Q. And you tested that; right?

3 A. That is correct.

4 Q. And how did that come back?

5 A. A DNA profile developed from Item
6 1.3.2.1 is a mixture of at least two
7 individuals. Brandon Benson is excluded as a
8 possible contributor to the mixture.

9 Q. So what you did identify from the
10 fingernail scraping was two individuals;
11 right?

12 A. That is correct. When we have a
13 mixture, that means that we have more than
14 one person contributing that DNA to an item.

15 Q. All right. So at least in these
16 fingernail scrapings, in this particular case
17 there was DNA developed from two other people
18 under those fingernail scrapings?

19 A. That is correct.

20 Q. And Brandon Benson wasn't one of
21 them?

22 A. That is correct.

23 Q. Now, I think you say that when you
24 look at these -- what do you call them?
25 Loci?

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1 A. We do look at loci, yes, sir.

2 Q. Okay. You look at six, right?

3 A. We look at fifteen different plus a
4 gender marker, which makes sixteen
5 altogether.

6 Q. Fifteen. I stand corrected? How
7 many loci are there?

8 A. Fifteen and the gender marker. The
9 loci, the ones that we use for DNA profile.

10 Q. I know that's what you use for the
11 DNA profile. But there are many more loci
12 that you don't look at?

13 A. Oh, that is correct; yes, sir.

14 Q. And how many are there that you
15 don't look at?

16 A. There could be thousands.

17 Q. Now, when you do this, do you have
18 the panties and the vaginal swabs and buccal
19 swab, are you working on all of those at the
20 same time?

21 A. No, sir. As our standard procedure
22 in SLED, we work with the evidence first.
23 Then we clean our area, UV our area, maybe
24 even come back at a different time and then
25 we'll process the standard. This is to not

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1 to have any cross-contamination between our
2 evidence and our known standards.

3 Q. And certainly contamination is
4 possible; isn't it?

5 A. It is possible. We take high
6 degrees to make sure that that does not
7 happen. We make sure, like I said to UV. We
8 make sure to spray our areas down with the
9 DNA sprays that destroys any DNA once we've
10 completed or even before we start any type of
11 analysis. We also change gloves multiple
12 times during our analyses as well. So we do
13 go to great lengths to try to prevent any
14 kind of contamination.

15 Q. Well, that's what you do in the lab;
16 right?

17 A. That is correct.

18 Q. What happens to all of this stuff
19 before it gets to the lab, you don't know; do
20 you?

21 A. No, sir. I do not.

22 Q. Okay. And cross-contamination can
23 occur at just about any point in the process;
24 can it not?

25 A. It is possible.

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1 Q. Right. And when we talk about
2 cross-examination [sic], we can talk about
3 one item coming directly in contact with
4 another; correct?

5 A. That is one way for contamination
6 to occur.

7 Q. You can also have contamination
8 actually through the air, can you not?

9 A. It's not highly likely, but I guess
10 it is possible.

11 Q. All right. So, again, how all this
12 stuff was handled before it gets to SLED
13 could have some bearing on the results; could
14 it not?

15 A. That is possible.

16 MR. DEJONG: One moment, please,
17 Your Honor.

18 CROSS-EXAMINATION CONTINUED

19 BY MR. DEJONG:

20 Q. The semen that you were identified
21 that you said belonged to Mr. Benson, via
22 DNA? That was not a clear question. Let me
23 start all over on that.

24 You say that you found Mr. Benson's DNA
25 on the panty cuttings and the vaginal swab;

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1 correct?

2 A. That is correct.

3 Q. Now, how that semen got there, you
4 don't know; do you?

5 A. No, I do not.

6 Q. That could be consensual sex it
7 could be nonconsensual sex; couldn't it?

8 A. Yes. I couldn't say either way.

9 Q. Right. All you can say is you found
10 it?

11 A. That is correct..

12 Q. I'm still a little confused. I'm
13 sorry, Mr. Stewart. Okay. You talk about a
14 short tandem repeat, that's the test you
15 actually use, I gather; is that correct?

16 A. Yes. Those are the locations.
17 That's pretty much the name for the locations
18 that we use to develop a DNA profile.

19 Q. Where I got a little lost when you
20 were talking about this polymer something or
21 other?

22 A. PCR, which stands for polymerase
23 chain reaction. That's the actual process of
24 us making the copies of the DNA.

25 Q. Did you make any copies of the DNA

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1 on the fingernail scrapings?

2 A. Yes, sir, I did.

3 Q. But you didn't run that against
4 anybody else's DNA; correct?

5 A. Well, I reported it in my report:
6 Items 1.3.1 and 1.3.2.1.

7 Q. Okay. Well -- I'm sorry, sir. I
8 didn't mean to cut you off.

9 A. No, I didn't want to read from my
10 report.

11 Q. Okay. And that report was sent back
12 to Pickens County law enforcement; correct?

13 A. Yes, sir.

14 Q. On this particular case, to your
15 knowledge, was any other request done for
16 DNA?

17 A. No, not to my knowledge. There were
18 no other requests for DNA.

19 Q. Now, this polymer thing you talk
20 about. Could that have been done on the
21 sperm that you found as well?

22 A. Yeah. PCR was done on all the
23 samples that I tested for DNA to make
24 multiple copies.

25 Q. Okay. So that we are clear. You

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1 developed DNA from the sperm; right?

2 A. For items 1.2 and 4.2?

3 Q. Uh, I'm going to have to look -- I'm
4 sorry. Items 5 and item 1.3.1?

5 A. There was a possible presence of
6 semen on Item 5. I did perform PCR STR
7 testing on that and developed a DNA profile
8 from it. That DNA came back from an un-
9 identified female individual, from that sperm
10 fraction of Item 5.

11 Q. That's where I get a little confused
12 when you start using the word "profile." You
13 developed DNA, right?

14 A. That is correct.

15 Q. But then you didn't match that DNA
16 to anybody?

17 A. I did not have a profile to match it
18 to.

19 Q. Okay. And that's where I was
20 getting confused, okay? So you had no known
21 to test it against; right?

22 A. Right.

23 Q. Or "testing" probably wouldn't be a
24 good word. But no known specimen, if you
25 will, to run that DNA from those items

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1 against? That wasn't very coherent
2 either. Sorry.

3 A. The only standard I had for this
4 case was the standard from Brandon Benson.
5 I did not have any other standards.

6 Q. Right. And when that buccal swab
7 comes to you with reference to this case, you
8 know whose DNA you are looking for; don't
9 you?

10 A. I'm not looking for anyone's DNA.
11 I'm just trying to develop a DNA profile from
12 those items.

13 Q. Well, what you've got in that
14 envelope with you up there -- if I may borrow
15 that for just a second, please, sir is --
16 what has been marked State's Exhibit 17, is
17 that the buccal swab?

18 A. Yes, sir, it is. Item 6.

19 Q. And when that comes to you, is the
20 name Brandon Jermaine Benson on it?

21 A. Yes, it is.

22 Q. Thank you, sir.

23 MR. DEJONG: No further questions.

24 SOLICITOR ODOM: Briefly, Your
25 Honor.

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REDIRECT EXAMINATION

BY SOLICITOR ODOM:

Q. Okay. A couple of things that came up in cross that I didn't really -- that I didn't get into. The dates on the reports, you're talking about how the database was updated?

A. That is correct.

Q. That wasn't specifically for this case, was it?

A. No. All cases that were done prior to the update was sent out a new report to each submitting agency that the report prior to. It was sent out letting them know whether or not the statistic had changed for that case.

Q. Can you tell me if the statistic changed for this case?

A. It did not.

Q. But the date on your report that reflects the new date, tell me what that is. What the new date y'all sent the report out?

A. November 12th, 2015.

Q. And that's just coincidental that it is so close to our trial?

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1 A. It is.

2 Q. Okay. When you're testing the
3 buccal swab, do you have the panties open,
4 out right beside them?

5 A. No, we do not. That is not our
6 operating procedure.

7 Q. Did you have the vaginal swab right
8 beside the buccal swab?

9 A. No, I did not.

10 Q. Is there a difference between DNA
11 from sperm and DNA from the saliva in your
12 mouth?

13 A. No. The DNA that is in your body,
14 it can come from blood, skin -- or semen in
15 this case -- will be the same DNA profile.

16 Q. What was found on the swab and the
17 panties came from the semen, the DNA came
18 from the semen?

19 A. That is correct.

20 Q. And then he kept on about the sperm
21 fraction on the tampon. So the DNA comes
22 from bodily fluids; is that correct?

23 A. That is correct.

24 Q. So any moisture a woman may have in
25 her vagina, is that a bodily fluid?

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1 A. Yes, it is.

2 Q. So if moisture that a woman has in
3 her vagina, if it gets on a tampon, is that
4 going to be DNA? Is DNA going to coming from
5 that moisture, potentially?

6 A. Well, that would mostly come from --
7 yes, it can -- but the skin cells too that
8 are within her. So an item that came from
9 her, you would expect to see a profile from
10 that female individual.

11 Q. So seminal fluid, can you explain to
12 me the difference seminal fluid and semen and
13 sperm?

14 A. No problem. Seminal fluid and sperm
15 cells, those are the two components that make
16 up semen. We have the seminal fluid that
17 helps transport the sperm cells. And -- so
18 those are the two components of semen.

19 Q. And is DNA -- where did you say DNA
20 is?

21 A. DNA is contained in the actual sperm
22 cells, not in the seminal fluid.

23 Q. Okay. So what you found on the
24 tampon -- tell me what you found on the
25 tampon?

TESTIMONY OF SAMUEL STEWART - REDIRECT EXAMINATION

1 A. I found a sperm fraction on Item 5,
2 which was the tampon. It's from an
3 unidentified female individual.

4 No DNA was developed on the non-sperm
5 fraction of Item 5, which is also the tampon.

6 Q. Okay. So the male DNA you found on
7 that tampon was non-sperm fraction. Is that
8 correct? The male DNA -- or the DNA on the
9 tampon is non-sperm?

10 A. The non-sperm is supposed to be the
11 female DNA.

12 The sperm fraction is supposed to be the
13 potential male.

14 But in this case, I was only able to
15 develop a DNA profile from that sperm
16 fraction and it was from an unidentified
17 female individual.

18 Q. Did you have Ms. Medlin -- did you
19 have a DNA known sample from her?

20 A. No, I did not.

21 Q. But you would expect her DNA to be
22 on her tampon?

23 A. I would expect that.

24 Q. All right. And the fingernails --
25 Mr. DeJong spoke to you about the finger-

TESTIMONY OF SAMUEL STEWART - REDIRECT EXAMINATION

1 nails, how you got DNA from under the
2 fingernails. Tell me again about that.

3 A. No problem. Item 1.3.1 that one was
4 is the left-hand fingernail scrapings. The
5 DNA profile from that was from an
6 unidentified female individual.

7 The DNA profile developed from item
8 1.3.2.1, which are the right-hand fingernail
9 scrapings, is a mixture of at least two
10 individuals. Brandon Benson is excluded as a
11 possible contributor.

12 Q. So you don't know if it's female or
13 male, the two individuals for the 1.3.2.1?

14 A. It appears to be from a female, but
15 it is a mixture. So there could be male DNA
16 there. It just may not show. I can't tell.

17 Q. And so if you just scratch somebody,
18 is that DNA going to be underneath your
19 nails?

20 A. Yes, it can be. That's possible.

21 Q. Or if you're being handcuffed by
22 somebody and your nails scratch their hand,
23 could DNA be under there?

24 A. That is possible.

25 Q. Thank you.

TESTIMONY OF SAMUEL STEWART - REDIRECT EXAMINATION

1 THE COURT: All right. Before you
2 step down.

3 Ladies and gentlemen I need to give
4 you an additional charge for when someone is
5 qualified as an expert. Mr. Stewart was
6 qualified as an expert in DNA analysis.

7 Normally a person cannot give any
8 opinion testimony. When a person testifies
9 they are testifying to what they saw, heard
10 or sensed or smelled or something of that
11 nature. However, there is an exception when
12 someone is qualified as an expert. Because
13 of their education and experience, they're
14 permitted to give their opinion in certain
15 areas if the court qualifies them this way.

16 This witness was qualified as an expert
17 in DNA analysis to give his testimony in that
18 area.

19 That does not mean that you must accept
20 the opinion, but it is evidence for you to
21 use in any way you see fit and give it the
22 weight and credibility that you think is
23 appropriate during your deliberation.

24 Thank you. You may step down, Mr.
25 Stewart.

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1 (WITNESS STEPS DOWN)

2 MR. DEJONG: No objection to him
3 being excused, Your Honor.

4 THE COURT: All right. Call your
5 next witness.

6 SOLICITOR ODOM: Your Honor, my
7 next witness is going to be Detective Taylor.
8 This may be a long testimony. I don't know
9 if we could start before lunch and then maybe
10 break and finish after lunch.

11 THE COURT: Let's see how far we
12 can get before lunch.

13 SOLICITOR ODOM: Okay. All right.
14 The State would call Art Taylor.

15 (WITNESS TAKES STAND)

16 ART TAYLOR, having been duly sworn to
17 tell the truth, and nothing but the truth,
18 testified as follows:

19 DIRECT EXAMINATION

20 BY SOLICITOR ODOM:

21 Q. All right. Investigator, tell me
22 where you work?

23 A. I work at the Pickens County
24 Sheriff's Office.

25 Q. How long you been working up there?

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1 A. I been there for twenty years now.

2 Q. How long have you been in
3 investigations?

4 A. For a little over six years.

5 Q. So tell me what you did before you
6 got into investigations?

7 A. I was a road unit for about six
8 years prior to that. Then for another six
9 years I was a school resource officer.

10 Q. Okay. So when you moved into
11 investigations tell me what year that was?

12 A. 2010? 2009, I'm sorry. 2009.

13 Q. And tell me what your job duties
14 include?

15 A. I follow-up on cases that's been
16 transferred to us from road patrol that
17 consists of burglaries, larcenies, homicides,
18 CSC's, etcetera.

19 Q. When you say CSC, what does that
20 stand for?

21 A. Criminal sexual conduct.

22 Q. What kind of training have you had
23 even from the very beginning?

24 A. I've had basic training. I've also
25 had homicide training. I have had investiga-

TESTIMONY OF ART TAYLOR - DIRECT EXAMINATION

1 tive training, interview training and so
2 forth.

3 Q. And did you have an opportunity to
4 get involved with this case?

5 A. I did.

6 Q. Tell me how that started out. When
7 did you receive the case?

8 A. The case came in over the weekend.
9 I was not the first one to start on it. The
10 weekend detective would have started the case
11 then. I think I became involved in it on --
12 it's going to be October the 1st, around that
13 area.

14 Q. So can you tell me why a weekend
15 detective would get it?

16 A. At the time our weekend detective
17 would work Saturday and Sunday on first
18 shift. And this report would have come in on
19 Friday afternoon and so it would not have
20 gotten to us until Saturday morning. And the
21 weekend detective would have started the case
22 then. He would have followed up on that
23 through Saturday/Sunday. And then I would be
24 assigned the case on Monday.

25 Q. And is that just if, you know, if

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1 there's anything, any investigation that
2 needs to be done right away, that's what the
3 weekend detective does?

4 A. Correct.

5 Q. Okay. So tell me about when you got
6 involved?

7 A. I got involved with on that Monday
8 morning. At the time, I'd found out that the
9 victim was at the Phoenix Center, I believe
10 it was.

11 Q. And what is that?

12 A. I call it a rehab center. And I was
13 able to -- myself and Detective Hendricks was
14 able to go and talk to Ms. Tasha at the rehab
15 center.

16 Q. And why did Detective Hendricks go
17 with?

18 A. Because he's the one that started
19 it. He was the weekend detective.

20 Q. He was on the weekend shift and then
21 he switched back to day shift?

22 A. Right.

23 Q. Do y'all typically take another
24 person with you?

25 A. When it's a female, we like to have

TESTIMONY OF ART TAYLOR - DIRECT EXAMINATION

1 at least two.

2 Q. All right. And so y'all went and
3 met with her?

4 A. We did.

5 Q. Do you remember her demeanor?

6 A. Yeah. I mean, she was still upset,
7 still shaken. She was still crying during
8 this time.

9 I went ahead and confronted her because,
10 you know, go ahead and get the copy of the
11 report from Easley PD from the arrest, when
12 she was arrested. Confronted her about
13 questions of that nature, what was said in
14 the report.

15 She denied any allegations of drinking
16 with two people at Westgate apartments. Said
17 she only went there for help, help only.

18 I also talked to her -- to go ahead and
19 tell me what took place at the end to see if
20 her story was matching up from that initial
21 contact with law enforcement. That's
22 something we always try to do to see if
23 there's any lies in the stories, make sure
24 they're a credible witness.

25 Q. Okay. Just to see if she's being

TESTIMONY OF ART TAYLOR - DIRECT EXAMINATION

1 consistent?

2 A. Correct.

3 Q. And she went over the same story
4 she'd given Detective -- not Detective --
5 Deputy McKenzie at the time.

6 Also, she brought up to the point about
7 the walking. She had blisters on her feet.
8 At that time she took socks off of her feet
9 and she did show me blisters on both of her
10 feet from where she had walked that couple of
11 nights before.

12 Q. Tell me a little bit more about
13 those blisters. Were they big? Were they
14 ---

15 A. She had a blister on her left toe
16 and also on her big right toe, a good-sized
17 blister on her big right toe.

18 Q. All right. What did you do next?

19 A. From there we went to Westgate
20 apartments because she had identified -- she
21 didn't identify. She had told us about a
22 white car, possibly a Crown Vic that was the
23 suspect's vehicle. We went to Westgate
24 apartments, trying to find anyone that was
25 driving a white Crown Vic.

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1 Q. And why did you go to Westgate?

2 A. Because that's where -- the area she
3 was dropped off in and that's where she was
4 last seen and arrested by Easley PD.

5 Q. Okay. So you're thinking they
6 dropped her off in that area, so it's a good
7 place to start?

8 A. Correct. It's a good place to start
9 but it's a hard place to get any information
10 from. People weren't wanting to talk too
11 much in that general area.

12 I was able to talk with an individual who
13 give me the name of Corey Fowler, who had a
14 vehicle similar to what I was looking for.
15 Then another individual give the name of
16 "Blow", of an individual that hangs out with
17 Mr. Fowler.

18 I was able to find out Blow was a Joey
19 Ligon (phonetic), I believe Layton (phonetic)
20 and that he worked at Columbia Farms.

21 Q. What is Columbia Farms?

22 A. Columbia Farms is a place in
23 Greenville where they kill chickens and --
24 (pause).

25 MR. DEJONG: I'm sorry, Your Honor.

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1 Could we get Mr. Taylor a little closer to
2 the microphone? He keeps fading on me.

3 WITNESS: I'm sorry.

4 THE COURT: Okay. Go ahead.

5 DIRECT EXAMINATION CONTINUED

6 BY SOLIITOR ODOM:

7 Q. So they told you the Columbia Farms.
8 And that's a place in Greenville that kills
9 chickens?

10 A. Yes.

11 Q. It's a chicken plant?

12 A. It's a chicken plant, yes.

13 Q. All right. What did you do after
14 that?

15 A. Okay. I was able to track down the
16 car, a white Crown Vic at Mr. Fowler's
17 residence in Liberty.

18 I did take a photo of the car and I did
19 show it to the victim. She identified it and
20 said it was the car, that she believed that
21 was the car.

22 At the time during that investigation, I
23 was advised by supervisors that I did not
24 have enough information to obtain a search
25 warrant on that car. So I had to go away

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1 from the car and I approached Mr. Fowler, who
2 was currently incarcerated at the sheriff's
3 office.

4 Q. Now, how long had he been
5 incarcerated?

6 A. Just like a day or so.

7 Q. So he wasn't incarcerated on the
8 date this happened?

9 A. No, he was not.

10 Q. Okay.

11 A. Okay. I went to interview Mr.
12 Fowler and, right off the bat, Mr. Fowler
13 lawyered-up and refused to talk with me.

14 Q. Okay. So you weren't able to search
15 the car?

16 A. Correct.

17 Q. But if you did, what would you have
18 been looking for?

19 A. I would have been looking for any
20 type of DNA evidence, hair samples, anything
21 that was in the back seat of the vehicle.

22 Q. Okay. So then you went and spoke to
23 Corey, who did not give you information?

24 A. Correct.

25 Q. What did you do after that?

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1 A. I then was able to locate Joey Ligon
2 who was at Columbia Farms. He did agree to
3 speak with me. And I spoke with him on a
4 Saturday. Myself and Detective Hendricks
5 came in because he told us that was the day,
6 'I will talk now.' Went in, spoke with him.
7 He denied any allegations on this, says he
8 was never in the vehicle. Would not give us
9 anything, but did give me Mr. Benson's name.

10 Q. And after this point, did you show
11 the victim any photo lineups?

12 A. I did. I showed the victim a photo
13 lineup of Mr. Fowler and Mr. Ligon, which she
14 could not pick out.

15 Q. And so at that point in 2012, what
16 did you do next in your case?

17 A. We had nothing else to follow up on.
18 I was given Mr. Benson's name. I tried
19 following up on it, could not locate him at
20 the time. So it went cold.

21 Q. Okay. So did you start -- were you
22 able to pick back up your investigation at
23 another time?

24 A. I was. I was contacted by SLED of
25 Mr. Benson's DNA.

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1 Q. Okay. And did you locate him to
2 speak with him?

3 A. I was able to speak with him. I
4 believe it was on the 25th of October, 2013.

5 Q. Okay. Is Mr. Benson in the court-
6 room?

7 A. He is. He's with Mr. DeJong.

8 SOLICITOR ODOM: Your Honor, if the
9 record could reflect he's pointed to the
10 Defendant.

11 THE COURT: Yes, so reflected.

12 SOLICITOR ODOM: Thank you.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR ODOM:

15 Q. Now, before we get into his state-
16 ment, I just want to cover one thing. Do you
17 know whereabouts this crime occurred?

18 A. The general area, yes, ma'am.

19 Q. Is that area in Pickens County?

20 A. It is.

21 Q. Tell me about -- you were speaking
22 with Mr. Benson. What were the circumstances
23 surrounding that?

24 A. Mr. Benson was brought in. I was
25 able to talk with him. Matter of fact, he

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1 was advised of his *Miranda* Rights, which he
2 did sign a waiver and agreed to speak with
3 me.

4 Q. Now, talking about the *Miranda*.
5 Explain to me standard procedure whenever you
6 speak to someone if they're in custody?

7 A. We advise them of their *Miranda*
8 rights. I've got a copy of it right here. I
9 can read to you what I read to them if that's
10 okay?

11 Q. Sure. Absolutely?

12 A. (Reading): "Before we ask you any
13 questions you must understand your rights.

14 You have the right to remain silent.
15 Anything you say can be used against you in
16 court.

17 You have the right to talk to a lawyer
18 for advice before we ask you any questions
19 and have him or her with you during
20 questioning.

21 If you have no money to pay a lawyer's
22 fee, the court will appoint one to represent
23 you without cost if you wish.

24 If you decide to answer any questions
25 without a lawyer present, you will still have

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1 *the right to stop answering at any time.*

2 *You also have the right to stop answering*
3 *at any time until you talk to a lawyer."*

4 And I also -- I will go a little further
5 in that and I will ask their highest
6 completion of education, just to confirm that
7 they can read and write and understand. His
8 highest level of education was the eleventh
9 grade.

10 Q. Okay. So did he tell you he could
11 read and write?

12 A. He did.

13 Q. And do you also do that to kind of
14 get a feel for if somebody's understanding
15 you when they're speaking to you?

16 A. Correct.

17 Q. Okay. So did he -- you read
18 straight from your form?

19 A. I did.

20 Q. And can I see your form?

21 A. (Tenders).

22 Q. (Upon review), okay.

23 SOLICITOR ODOM: Can we have this
24 marked?

25 COURT REPORTER: State's Exhibit

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1 18, for identification.

2 SOLICITOR ODOM: Thank you.

3 DIRECT EXAMINATION CONTINUED

4 BY SOLICITOR ODOM:

5 Q. I'm going to hand that back to you.

6 So that's the form you read from word for
7 word?

8 A. Yes, ma'am.

9 Q. And he understood?

10 A. Yes, he did.

11 Q. And he signed it.

12 SOLICITOR ODOM: Your Honor, I move
13 to have 18 into evidence.

14 MR. DEJONG: No objection, Your
15 Honor.

16 THE COURT: All right. State's
17 Exhibit 18 in without objection.

18 (SO ENTERED AS STATE'S EXHIBIT 18)

19 DIRECT EXAMINATION CONTINUED

20 BY SOLICITOR ODOM:

21 Q. So what kind of room were y'all in?

22 A. I guess it's a room, like, probably
23 eight-by-eight room. It has a little table
24 inside of it with two chairs on one side and
25 two chairs on the other side.

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1 Q. And was the interview videotaped?

2 A. Yes, it is.

3 Q. So when he ---

4 SOLICITOR ODOM: Your Honor, if we
5 could approach?

6 THE COURT: Yes.

7 (OFF RECORD BENCH CONFERENCE)

8 THE COURT: All right. Ladies and
9 gentlemen, it looks like before -- we're
10 going to have to take a lengthier break than
11 we usually need. So we're going to have an
12 elementary school lunch. It's 11:30. I know
13 this is a little bit early for everybody but
14 we're going to take a break here. If we come
15 back at 1:00, does that work for everybody?

16 JURY: (Unanimous affirmative
17 response).

18 THE COURT: All right. I'm going
19 to ask you to -- we will be taking a break
20 here.

21 Now, again, I'm going to give you my
22 little instructions:

23 Do not talk about the case amongst your-
24 selves or to anyone else.

25 Don't do any independent research. You

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1 are only supposed to make decisions on the
2 evidence you receive here in the courtroom.

3 Other than that, enjoy your elementary
4 school lunch. Thank you.

5 (JURY OUT @ 11:30 A.M.)

6 THE COURT: All right. I will
7 remind the witness that he is in the
8 testimony "bubble", as I call it. You cannot
9 talk about any testimony with anyone.

10 WITNESS: Yes, sir.

11 All right. Anything else before
12 we break for our elementary school lunch?

13 MR. DEJONG: Not from the Defense,
14 Your Honor.

15 (LUNCH RECESS)

16 (DEFENDANT PRESENT)

17 THE COURT: What are your plans
18 beyond this witness? How many more witnesses
19 do you have?

20 SOLICITOR ODOM: This is my last
21 witness.

22 THE COURT: I'm just trying to
23 figure out. You know, I mean do we need to
24 start getting like a charge together for this
25 afternoon?

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1 MR. DEJONG: Well, I would rather
2 it not be this afternoon, but I would say
3 it's possible.

4 THE COURT: How long do you think
5 you'll ---

6 SOLICITOR ODOM: The video is about
7 thirty-five more minutes and then I'll
8 probably go fifteen, twenty more minutes with
9 it after the end.

10 MR. DEJONG: And at this point in
11 time, Your Honor, I plan on putting up a
12 defense. That is not cast in stone.

13 THE COURT: Okay. All right.
14 Yeah. I understand. Well, I mean, you know,
15 I don't like to go to the jury after 4:00,
16 especially on a case of this magnitude.

17 MR. DEJONG: I think we'll run in
18 that magic area.

19 (OFF RECORD DISCUSSION)

20 THE COURT: All right. We're
21 going to bring in the jury. Is the State
22 ready?

23 SOLICITOR ODOM: Yes, sir.

24 THE COURT: Is the defense ready?

25 MR. DEJONG: Ready for the defense,

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1 Your Honor.

2 THE COURT: All right. Bring them
3 in.

4 BAILIFF: Yes, sir.

5 (JURY IN @ 1:10 A.M.)

6 THE COURT: Good afternoon. I
7 hope everybody had a good lunch. And now the
8 State will proceed with this witness. You
9 may proceed.

10 SOLICITOR ODOM: Thank you, Your
11 Honor.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR ODOM:

14 Q. All right. Investigator Taylor, We
15 got into it a little bit before lunch, but
16 tell me again, did you take a statement from
17 Mr. Benson?

18 A. I did a video statement.

19 SOLICITOR ODOM: If we could mark this.

20 COURT REPORTER: State's Exhibit 19,
21 for identification.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR ODOM:

24 Q. I'm going to hand you what's been
25 marked as State's 19 for identification

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1 purposes. Do you know what that is?

2 A. Yes, that's a copy of the video
3 interview.

4 Q. And how do you know that that's what
5 it is?

6 A. Because that's my handwriting on the
7 CD.

8 Q. And you were there when the video
9 was made and you watched the video?

10 A. Correct.

11 SOLICITOR ODOM: Your Honor, at
12 this time, the State would move to have this
13 admitted into evidence.

14 MR. DEJONG: Subject to my previous
15 objection.

16 THE COURT: Subject to the
17 previous objections you have made. Yes, sir.

18 SOLICITOR ODOM: And Your Honor ---

19 THE COURT: And this is Exhibit --
20 which?

21 SOLICITOR ODOM: It's 19.

22 THE COURT: It's marked 19?
23 State's Exhibit 19.

24 SOLICITOR ODOM: Yes, sir.

25 THE COURT: All right. It's in

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1 evidence over objection.

2 (SO ENTERED AS STATE'S EXHIBIT 19)

3 SOLICITOR ODOM: And if it's all
4 right, I'd like to go ahead and publish it to
5 the jury.

6 THE COURT: Okay. And y'all --
7 based on the -- I mean, y'all reviewed it,
8 subject to your objection.

9 MR. DEJONG: I'm sorry? I can't
10 hear you.

11 THE COURT: I said y'all reviewed
12 the video?

13 MR. DEJONG: Yes, sir.

14 THE COURT: Okay.

15 DIRECT EXAMINATION CONTINUED

16 BY SOLICITOR ODOM:

17 Q. (Video, State's Exhibit 19, played
18 before jury). All right. Investigator
19 Taylor, ---

20 A. Yes, ma'am.

21 Q. --- we've just played the tape of
22 your interview with the defendant. I want to
23 go through a few more things with you. Okay.
24 In the interview you showed Mr. Benson a
25 picture?

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1 A. I did.

2 Q. Where did you get that picture?

3 A. Lieutenant Byers, he got it from
4 DMV, Department of Motor Vehicles website.

5 Q. So it's from driver's license?

6 A. Driver's license, yes, ma'am. I'm
7 looking. I thought I had a copy of it in
8 here -- (upon reviewing file), yes.

9 SOLICITOR ODOM: (Tenders document
10 to be marked as exhibit).

11 COURT REPORTER: State's Exhibit
12 20, for identification.

13 DIRECT EXAMINATION CONTINUED

14 BY SOLICITOR ODOM:

15 Q. Okay. So when you showed the
16 Defendant a copy of her driver's license
17 picture, what did he say?

18 I know we just listened to the video but
19 some of it was hard to hear.

20 A. That he did not know her, who she
21 was or anything of that nature.

22 Q. Is that the copy you showed him?

23 A. It is.

24 Q. And it hasn't been changed since
25 then?

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1 A. No, it hasn't.

2 SOLICITOR ODOM: Okay. At this
3 time, Your Honor, the State would move to
4 have State's 20 into evidence.

5 MR. DEJONG: Without objection,
6 Your Honor.

7 THE COURT: This is 20, Exhibit
8 20, State's Exhibit 20 in without objection.

9 (SO ENTERED AS STATE'S EXHIBIT 20)

10 SOLICITOR ODOM: Thank you, Your
11 Honor.

12 DIRECT EXAMINATION CONTINUED

13 BY SOLICITOR ODOM:

14 Q. What name is on that?

15 A. The name is Tasha Nicole Riddle.

16 Q. All right. Did you tell him her
17 name or ---

18 A. I did not. I just asked him if he'd
19 had -- a white female ---

20 Q. That you showed him?

21 A. --- and then I showed him the
22 picture.

23 Q. Okay.

24 A. Because he -- prior with him coming
25 in there, all he kept saying was he's never

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1 been to Easley. He stays in Greenville.

2 Q. So he even denied being in Pickens
3 County September 2012?

4 A. Correct. At the beginning.

5 Q. So as you -- after you showed him
6 the picture, how did his story change?

7 A. He still denied knowing her, said he
8 never had any sexual contact with her of any
9 nature until I brought up the fact of DNA.

10 Q. And then what did he say?

11 A. And then that's when he started
12 changing his story saying he's had consensual
13 sex with her.

14 Q. Okay. So he went from saying he
15 didn't know her ---

16 A. To having consensual sex with her at
17 Westgate apartments.

18 Q. So he said -- at first he said
19 consensual sex at the apartments.

20 A. (Affirmative nod), for crack.

21 Q. Then how did his story evolve?

22 A. Then his story started changing more
23 because -- you know, like I said in the
24 video, I did not believe his story.

25 Then he started putting himself in a

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1 vehicle with her and another individual.

2 Then he started blaming the sexual contact
3 with the other individual not him.

4 Q. Did he admit to having sex in the
5 vehicle with her?

6 A. Finally, down the road he did admit
7 to having sex. Let me see. Hang on. I've
8 got it in my notes right here.

9 (Upon review of notes), he stated that he
10 was riding in the back seat of the vehicle
11 with the victim while Cory Fowler drove. And
12 so he said Cory Fowler drove -- and had
13 sexual intercourse with the victim.

14 Q. And then?

15 A. In the car he did not admit up to
16 it. He just said at Westgate.

17 Q. Okay. And though the jury could
18 plainly see, describe to them his emotional
19 state throughout the interview.

20 A. His emotional state you could see
21 when he would try to cry, he would not cry.
22 There was no tears ever, not that he produced
23 any type of tears at all while he's yelling
24 and screaming. Even he gets to grunting,
25 like he's grunting trying to make tears and

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1 he never did.

2 Q. Okay. And when the interview
3 started, was he pretty laid back?

4 A. Pretty well. You can see. He puts
5 his feet up in a chair and everything. He
6 was pretty well laid back.

7 Q. You know, at one point he says
8 Robert, the name Robert. Tell me about that.

9 A. He brings up his name. I'd have to
10 just go over that again because I didn't ---

11 Q. Okay. That's fine. So at the
12 beginning he said he did not know ---

13 MR. DEJONG: Your Honor, asked and
14 answered, Your Honor.

15 SOLICITOR ODOM: I'm going -- I'm
16 continuing on. I'm just getting a wide
17 spectrum of the beginning to the end.

18 MR. DEJONG: And, Your Honor, I'm
19 going to object to this. We've had the wide
20 spectrum from the beginning to the end, that
21 was up there on the screen.

22 SOLICITOR ODOM: I think I'm
23 entitled to let him talk about particular ---

24 THE COURT: As long as it's not
25 opinion.

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1 SOLICITOR ODOM: Yes, sir.

2 DIRECT EXAMINATION CONTINUED

3 BY SOLICITOR ODOM:

4 Q. Let's talk about something else.
5 After the interview, what did you do with
6 your investigation? What did you do after
7 that?

8 A. After the interview, I still -- I
9 did the photo lineup. I had a photo lineup
10 made of Mr. Benson.

11 Q. Okay.

12 A. I took it to the victim to see if
13 she could identify him, because all along she
14 had told me she would be able to identify him
15 personally. So I took her a photo lineup and
16 she did identify Mr. Benson as being the one
17 that assaulted her.

18 Q. All right.

19 SOLICITOR ODOM: I just have one
20 moment, Your Honor.

21 THE COURT: Yes, ma'am.

22 DIRECT EXAMINATION CONTINUED

23 BY SOLICITOR ODOM:

24 Q. All right. Investigator Taylor, I
25 think that's all I have. Please answer any

TESTIMONY OF ART TAYLOR - CROSS EXAMINATION

1 questions from the Defense.

2 MR. DEJONG: May it please the
3 Court.

4 CROSS-EXAMINATION

5 BY MR. DEJONG:

6 Q. What is the date that you took that
7 statement?

8 A. That statement was conducted on
9 10/25/of 2013.

10 Q. All right. So that was roughly
11 thirteen months ---

12 A. Thirteen months. Yes, sir.

13 Q. --- after the alleged offense?

14 A. Correct.

15 Q. And you would have to agree, Mr.
16 Taylor, it is not always easy to remember
17 what we did thirteen months ago, wouldn't
18 you?

19 A. That's correct.

20 Q. So sometimes it takes a while before
21 we can recall what happened thirteen months
22 ago, right?

23 A. Yes, sir.

24 Q. All right. Now, you get involved in
25 this case on what date?

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1 A. It was on Monday. I think the
2 report was filed on the 28th. I believe it's
3 around the 1st, October the 1st.

4 Q. Okay. How many days does October
5 have in it? I don't know.

6 A. October? Thirty-one. Correct?

7 Q. All right. So the 28th the report
8 came in -- 29th, 30th, 31st, 1st -- four days
9 later, three or four days later?

10 A. Three or four days. Yes, sir.

11 Q. Okay: So now you've made initial
12 contact with the alleged victim in Liberty;
13 correct?

14 A. Correct. Now, was that the victim?

15 Q. Yes?

16 A. No, I didn't make contact with her.
17 I made contact with her at the Phoenix
18 Center.

19 Q. Oh, okay. So you never made contact
20 with her in Liberty?

21 A. I have been to her house in Liberty
22 but my first/initial contact was at the
23 Phoenix Center.

24 Q. Okay. Okay. So you did not see her
25 in Liberty initially. You went to the

TESTIMONY OF ART TAYLOR - CROSS EXAMINATION

1 Phoenix Center to see her?

2 A. Correct.

3 Q. And that's in Greenville. Right?

4 A. Yes, sir.

5 Q. All right. Now, did you work road
6 patrol for a while in Pickens County?

7 A. I did. For approximately six years.

8 Q. Fairly familiar with Pickens County?

9 A. I am.

10 Q. Fairly familiar with (Highway) 93,
11 between Easley and Liberty?

12 A. Yes, sir.

13 Q. Are you familiar with where King's
14 Asphalt is?

15 A. Yes, sir.

16 Q. And at some point you did go out to
17 [REDACTED] Kevin Drive or Kevin Street?

18 A. I did.

19 Q. Do you know, Mr. Taylor, how far it
20 is from [REDACTED] Kevin Street to King's Asphalt?

21 A. It's approximately five to six
22 miles, something of that nature.

23 Q. A pretty far piece to walk?

24 A. It is.

25 Q. All right. Well, while we're at

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1 let's talk about a little bit. That is
2 fairly, I guess for want of a better term, a
3 fairly rural area; is it not?

4 A. Parts of it is, except for Liberty
5 City and -- then rest is. Yes, sir.

6 Q. Right. Once you get out of Liberty
7 City headed towards Easley on 93, that's
8 pretty rural?

9 A. It is.

10 Q. Pretty dark?

11 A. It is.

12 Q. Not much light on there is it?

13 A. No, sir.

14 Q. Now, you talked about a little bit,
15 I guess when you went to -- well, okay. So
16 you first saw her at ---

17 A. The Phoenix ---

18 Q. --- the Phoenix Center. I wanted to
19 call it Charter.

20 A. It's the Phoenix Center.

21 Q. And what date did you see her there?

22 A. That day is -- I believe that was on
23 the 1st.

24 Q. I'm sorry?

25 A. The 1st, October 1st.

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1 Q. Okay.

2 A. (Upon review of report), that's
3 correct. On October 1st at 2:00 in the
4 afternoon.

5 Q. When did you see her on Kevin Drive
6 or whatever it is in Liberty?

7 A. Kevin Drive. I went to her house on
8 the 10th, October 10th.

9 Q. October 10th. So that would have
10 been twelve or thirteen days after the
11 alleged incident?

12 A. Correct.

13 Q. All right. I'm getting at -- when
14 did you supposedly see these blisters on her
15 feet?

16 A. That was on the 1st.

17 Q. All right. Now, were you aware that
18 she had walked from Easley Police Department
19 to the hospital?

20 A. Yeah. She told us that.

21 Q. Okay. So where and when or how
22 those blisters got on her feet, you don't
23 know.

24 A. Correct.

25 Q. And you would have to agree with me,

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1 it's not as far from Kevin Street and Liberty
2 at King's Asphalt as it is from Easley Police
3 Department to the hospital, but that's still
4 a pretty far piece isn't it?

5 A. Correct.

6 Q. All right.

7 A. But yes, sir, I can tell you that
8 the blisters had not popped yet. They were
9 pretty fresh.

10 Q. Well, what we're talking about here
11 is less than right at a twenty-four hour
12 period, maybe give or take a few hours?

13 A. Correct.

14 Q. So the fact that they had or had not
15 popped certainly not days had passed by, had
16 they?

17 A. Correct.

18 Q. Or at least not days between -- she
19 allegedly walked from Kevin Street to King's
20 Asphalt and when she walked from Easley
21 Police Department to the hospital?

22 A. No, sir.

23 Q. Okay. A fairly close period of
24 time. So when did you talk to Corey Fowler?

25 A. I believe -- let me look. I don't

TESTIMONY OF ART TAYLOR - CROSS EXAMINATION

1 want to misquote that. (Upon review of
2 notes), on the 10th also. That was on the 10th
3 also.

4 Q. The 10th of October?

5 A. Yes, sir.

6 Q. And that was at Pickens County Law
7 Enforcement Center?

8 A. Yes, sir.

9 Q. All right. So between the 1st and
10 the 10th, 1st of October and the 10th of
11 October, there was certainly -- your
12 investigation had revealed some possible
13 involvement by Corey Fowler; correct?

14 A. The vehicle, that's what lead me to
15 Corey Fowler.

16 Q. Right. So you talked to Corey
17 Fowler on the 10th. As I understand it, you
18 say he won't talk to you?

19 A. Correct. He invoked his rights and
20 said he did not want to talk.

21 Q. And then you just forget Corey
22 Fowler.

23 A. I did not forget Corey Fowler, but I
24 had to cease my talking with Corey Fowler.

25 Q. Well, I understand you had to cease,

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1 but what further investigation did you do?

2 A. That's when we started going to
3 Westgate Apartments.

4 Q. Pardon me?

5 A. That's when we went to the Westgate
6 Apartments and started back from scratch
7 again.

8 Q. All right. Well, let's talk about
9 the Crown Vic a little bit. So you find a
10 Crown Vic; right?

11 A. Yes.

12 Q. Where do you find that Crown Vic?

13 A. It was at Corey Fowler's house.

14 Q. All right.

15 A. I don't remember the exact address
16 but it's in Liberty.

17 Q. Was that in Pickens or Greenville?

18 A. It's in Pickens County.

19 Q. All right. Now, you took -- I
20 believe you said you took some pictures of
21 that vehicle?

22 A. I did.

23 Q. Apparently, you didn't preserve
24 those pictures?

25 A. I did not.

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1 Q. Okay. So you didn't consider that a
2 part of your investigation?

3 A. It was part of my investigation
4 until I was advised that I had no more -- did
5 not have enough for a search warrant where I
6 could continue with the vehicle.

7 Q. Well, let's talk about that. You
8 were advised that you didn't have enough for
9 a search warrant. Do supervisors issue
10 search warrants?

11 A. No, but they have a role in advising
12 us which route to go.

13 Q. Well, the point of that is, did you
14 ever go to a judge to see whether or not you
15 had sufficient ---

16 A. No, I did not.

17 Q. It is a judge that would make that
18 determination?

19 A. Correct.

20 Q. Would not he or she?

21 A. Correct.

22 Q. And, yet, you did not do that?

23 A. No, I did not.

24 Q. And then Blow, is that also Joey
25 Ligon or Layton?

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1 A. Ligon, yes, sir.

2 Q. "Blow" being his street name;
3 correct?

4 A. Correct.

5 Q. And now you talked to Blow and he
6 just denies any involvement; right?

7 A. Yes, sir.

8 Q. And then you just kind of let that
9 one slide?

10 A. Yes.

11 Q. Knowing that there were two other
12 individuals, according to the victim, who
13 were allegedly in that car?

14 A. Okay. I did not let it slide. Let
15 me correct myself on that.

16 I did photo lineups on those individuals
17 and took them to the victim, who she could
18 not pick out of the photo lineup. So I did
19 not ignore them.

20 Q. Okay. But as far as when she can't
21 pick them out of the photo lineup, that was
22 pretty much the end of your investigation?

23 A. For that time, yes.

24 Q. Right. Well, for that time?

25 A. (Affirmative nod)

TESTIMONY OF ART TAYLOR - CROSS EXAMINATION

1 Q. When did you pick up any further
2 investigation?

3 A. I started trying to find Mr. Ligon
4 again after I spoke with Mr. Benson.

5 Q. When was that?

6 A. It was thirteen months later, which
7 was the 25th, after the 25th.

8 Q. Well, I am curious. You find Corey
9 Fowler. You find this white Crown Vic and
10 certainly you then took that white Crown Vic,
11 that picture, to the alleged victim; correct?

12 A. Correct.

13 Q. And now she says that is the car?

14 A. Correct.

15 Q. And she says that is the car where
16 all these allegations took place?

17 A. That's right.

18 Q. Okay. Either before the video
19 started or during the video, did you ever ask
20 Mr. Benson if he knew Tasha Riddle?

21 A. I don't recall saying her name.

22 Q. Pardon me?

23 A. I don't recall saying her name, not
24 him.

25 Q. But you might have?

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1 A. I could have.

2 Q. All right. And that might not have
3 been on the video; is that correct?

4 A. Correct.

5 Q. So certainly you then had some
6 conversation with Mr. Benson before you ever
7 got in the interview and started the inter-
8 view?

9 A. It was in the doorway of the inter-
10 view room.

11 Q. Okay. All right. Well, did you
12 ever get a description from the alleged
13 victim of these individuals?

14 A. I did.

15 Q. And what was that description?

16 A. One was a, (reading): "black male,
17 back driver's seat, tall, skinny, looked to
18 be twenty to twenty-two."

19 "Black male front seat, twenty-nine to
20 thirty, tank top, long shorts."

21 "White male driver, white hat blue or
22 black bill, blonde hair, cut short."

23 Q. That was the extent of the
24 description you got?

25 A. Correct.

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1 Q. All right. How did is Joey Ligon,
2 Blow?

3 A. According to his DMV picture, he is
4 -- I'd have to pull it up because it's not
5 showing on here.

6 Q. Well, you talked to him. Do you
7 have a recollection?

8 A. Yeah. He's tall and skinny.

9 Q. Tall and skinny?

10 A. Yes, sir.

11 Q. Would he be taller and skinnier than
12 Mr. Benson?

13 A. He's about 5'9"/160. Mr. Benson is
14 heavier than Mr. Ligon.

15 Q. I'm sorry?

16 A. He's heavier than Mr. Ligon.

17 Q. Mr. Benson is heavier than Mr.
18 Ligon?

19 A. Yes, he is.

20 Q. So Mr. Ligon, Blow, would fit a
21 description of tall and skinny?

22 A. 5'9" isn't that tall.

23 Q. How old?

24 A. Thirty-three.

25 Q. Pardon me?

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1 A. Thirty-three.

2 Q. Okay. Do you know how old Mr.
3 Benson -- now are we talking about Blow or
4 are we talking about Mr. Benson?

5 A. Blow Ligon.

6 Q. Okay. How old was Mr. Benson at
7 this point in time, if you know?

8 A. Born in '84, so ---

9 Q. Pardon me?

10 A. He was born in '84.

11 Q. I'm not good with math.

12 A. I'm not either. That's the reason I
13 said his date of birth.

14 Q. All right. Mid-thirties?

15 A. No, late twenties.

16 Q. Not twenty-one?

17 A. No, late twenties, around twenty-
18 eight, twenty-nine, if I am not mistaken.

19 Q. Now, as far as the DMV picture one
20 of your cohorts got, do you know when that
21 picture was taken?

22 A. It says issued in 2010.

23 Q. Okay.

24 MR. DEJONG: One moment please,
25 Your Honor.

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1 CROSS-EXAMINATION CONTINUED

2 BY MR. DEJONG:

3 Q. But as far as what she may have
4 looked like in 2012, you don't know if she
5 looked like that or not; do you?

6 A. That is pretty well the way she
7 looked when I interviewed her.

8 Q. Okay. All right. Heavier, lighter?

9 A. It's about the same.

10 Q. Hair color?

11 A. Yep.

12 Q. Okay. And that is the picture you
13 showed to Mr. Benson?

14 A. That's the picture.

15 Q. You didn't have a full-body picture
16 or anything to show him?

17 A. No, sir. I did not.

18 Q. All right. That wasn't exactly like
19 a photo lineup was it?

20 A. No, it wasn't.

21 Q. Okay. Now, let's back up a little
22 bit. So the day you did this interview,
23 which was October '13 twenty-something,
24 whatever.

25 A. 2013. The 25th.

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1 Q. The 25th of 2013. Is that the day
2 that Mr. Benson was arrested?

3 A. Correct.

4 Q. All right. So his arrest and this
5 statement both came approximately thirteen
6 months after the fact of this alleged
7 incident?

8 A. That's correct.

9 Q. Now, I gather he was arrested in
10 Greenville County; is that correct?

11 A. I think that's where our warrant
12 guys found him at, (affirmative nod).

13 Q. All right. And at some point during
14 this interview, without getting into any
15 great detail, you started sharing with Mr.
16 Benson about jail time; didn't you?

17 A. I did.

18 Q. Okay. And at that point in time,
19 Mr. Benson then, he changed his story?

20 A. Which time did he change -- because
21 he changed his story three or four different
22 times.

23 Q. At first he said he didn't know her?

24 A. Correct.

25 Q. Then he said he wasn't in the car

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1 with her?

2 A. Correct.

3 Q. Then he said he was in the car?

4 A. Correct.

5 Q. Then he said they had sex?

6 A. Correct. And then he also said that
7 Mr. Ligon wasn't with them.

8 Then later on in the video he says that
9 Blow and Corey left with her and he wasn't
10 with them.

11 Q. Correct.

12 A. So several times in there. I'd have
13 to go back and see the video again so I could
14 tell when that was done.

15 Q. The last part was not necessarily a
16 change in the story; correct?

17 A. Which part?

18 Q. About Blow and Corey when he came
19 in, was it?

20 A. Yeah. Because if you listen to it
21 now he starts out at the beginning say Blow
22 and Corey.

23 And then he changed it saying him and
24 Corey.

25 And then he changed it again at the end

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1 saying it was Blow and Corey.

2 Q. He said that was after he got back
3 to Westgate?

4 A. After he gets -- (affirmative nod).

5 Q. So that was not necessarily that he
6 said Blow was with him. He said it was him,
7 Corey ---

8 A. Corey and the victim.

9 Q. --- and the alleged victim?

10 A. Correct.

11 Q. Not Joey?

12 A. Correct.

13 Q. And he goes back to Westgate and he
14 says Corey and Joey left ---

15 A. Left with her.

16 Q. All right. Now, the DNA report, you
17 got that back some time I gather in January
18 of 2014?

19 A. I don't know the exact date.

20 Q. Well, I raise that because the
21 initial report, I think it came out from Mr.
22 Stewart that the initial report was done in
23 January of 2014. Well, do you know when it
24 came back?

25 A. Which report are you referring to

TESTIMONY OF ART TAYLOR - CROSS EXAMINATION

1 because I have ---

2 Q. The report after the buccal swab of
3 Mr. Benson was taken to SLED, a report was
4 generated in January of 2014?

5 A. I have one here that's dated in
6 October the 19th.

7 Q. Of what year?

8 A. 2013.

9 Q. All right.

10 A. And I do have the one for January
11 the 16th of 2014.

12 Q. Thank you.

13 MR. DEJONG: One moment, please,
14 Your Honor.

15 CROSS-EXAMINATION CONTINUED

16 BY MR. DEJONG:

17 Q. Well, suffice it to say the one that
18 was introduced was introduced as, for want of
19 a better term, a revised report; right? And
20 that one was dated November the 12th of 2015?

21 A. I'm not sure when that was.

22 Q. Well, do you get these reports back
23 from SLED?

24 A. I've got two, yeah.

25 Q. Pardon me?

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1 A. I've got two right here.

2 Q. Right. And one's dated January 14th
3 of 2014?

4 A. January the 16th of 2014.

5 Q. Right.

6 A. And one's October 19th of 2013.

7 Q. Well, did you get those reports?

8 A. Yes, sir. I have them right here.

9 Q. Did you look at them?

10 A. Yes.

11 Q. It didn't bother you that there was
12 unknown DNA in here?

13 A. Yes, it bothers me.

14 Q. Pardon me?

15 A. Yes, it bothers me.

16 Q. Did you anything further trying to
17 find those people of un-identifying DNA?

18 A. No, I haven't.

19 Q. When you took the photo lineup to
20 the alleged victim, did you take Fowler and
21 Blow at the same time?

22 A. No, I did not. I took those not
23 long after the incident was reported.

24 Q. Okay. And then you show the alleged
25 victim, what has been introduced as State's

TESTIMONY OF ART TAYLOR - CROSS EXAMINATION

1 Exhibit 9; is that correct?

2 A. Yes, sir.

3 Q. And that was done in -- I gather
4 that date on there, October the 25th of 2013?

5 A. That's correct.

6 Q. Again, thirteen something months
7 after the alleged offense occurred?

8 A. Thirteen months. Yes, sir.

9 Q. Okay. Now, did you share with the
10 alleged victim at that point in time there
11 was some information as to Mr. Benson's DNA?

12 A. Afterwards, yes, I did.

13 Q. Are you sure it was afterwards?

14 A. Yes, I'm positive it was afterwards.

15 Q. And you've been a police officer now
16 for how long?

17 A. Twenty years.

18 Q. All right. You stay abreast of
19 things; right?

20 A. I try my best.

21 Q. All right. Well, isn't there
22 certain material at this point in time saying
23 this is not the preferred method of
24 conducting a photo lineup?

25 A. We don't have one in our policy book

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1 on that.

2 Q. I didn't ask you that. I asked if
3 that ---

4 A. I'm just telling you what I know.

5 Q. You stay abreast of things; right?

6 A. I try.

7 Q. The preferred method would be to
8 show one photo at a time; correct?

9 A. We do not.

10 Q. Okay. So even if that were the
11 preferred method, you don't do the preferred
12 method; right?

13 A. I have not been told to do that that
14 way.

15 Q. Okay.

16 MR. DEJONG: One moment, Your
17 Honor.

18 CROSS-EXAMINATION CONTINUED

19 BY MR. ODOM:

20 Q. Of course, when you talked to Joey
21 and he denied it, you took that pretty much
22 at face value; right?

23 A. Correct.

24 Q. But you have no ability, I suspect
25 as a human being, to know who is telling the

TESTIMONY OF ART TAYLOR - REDIRECT EXAMINATION

1 truth and who isn't telling the truth;
2 do you?

3 A. Correct.

4 Q. Then it turned out Mr. Benson
5 ultimately did not deny having sex with her;
6 did he?

7 A. No, he did not.

8 Q. He simply said it was consensual
9 sex?

10 A. He did.

11 Q. Thank you, Mr. Taylor.

12 REDIRECT EXAMINATION

13 BY SOLICITOR ODOM:

14 Q. The thing about you not getting the
15 search warrant for that Crown Vic, I want to
16 ask this question. If your boss tells you
17 don't do something; you're not going to do
18 it?

19 A. Correct.

20 Q. All right.

21 SOLICITOR ODOM: Nothing further.

22 THE COURT: All right. You may
23 step down.

24 (WITNESS STEPS DOWN)

25 THE COURT: Ms. Odom?

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1 THE COURT: No, that's fine.

2 MR. DEJONG: I would much prefer
3 to come back and argue and charge in the
4 morning.

5 THE COURT: Well, as soon after
6 the Wilkins ceremony that Mr. Richardson has
7 got us set up for in here.

8 (OFF RECORD DISCUSSION)

9 THE COURT: All right. Let's
10 bring the jury in.

11 BAILIFF: Yes, sir.

12 THE COURT: Bring them in.

13 (JURY IN @ 2:56 P.M.)

14 THE COURT: All right. Ladies and
15 gentlemen, as indicated before, the State has
16 rested their case and now it's the Defendant
17 may proceed.

18 SOLICITOR ODOM: Thank you, Your
19 Honor. May it please the Court. The Defense
20 call Ms. Candice Hagood to the stand. Come
21 around and be sworn, please, Ms. Hagood.

22 (WITNESS TAKES STAND)

23 CANDICE HAGOOD, having been duly sworn
24 to tell the truth and nothing but the truth,
25 testified as follows:

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1 DIRECT EXAMINATION

2 BY MR. DEJONG:

3 Q. Okay. Stay a little bit close to
4 that microphone, Ms. Hagood so we can all
5 hear you.

6 A. Candice Shemika Hagood.

7 Q. Wonderful. Stay right there. Do
8 you know Brandon Benson?

9 A. Yes, I do.

10 Q. How do you know Mr. Benson?

11 A. Mr. Benson and I have been together
12 -- well, will be eleven years December 21st,
13 2013.

14 Q. Do you have any children?

15 A. Yes.

16 Q. How many?

17 A. Three.

18 Q. Are they with Mr. Benson?

19 A. Yes.

20 Q. Right now?

21 A. (No verbal response).

22 Q. Now, I want to take -- well, let me
23 ask you this. Do you know a Robbie Medlin?

24 A. Yes.

25 Q. How long have you known Mr. Medlin?

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1 A. Nine years.

2 Q. To your knowledge, did Mr. Benson
3 know Mr. Medlin?

4 A. Yes.

5 Q. Had he ever been to your home?

6 A. Yes.

7 Q. On how many occasions?

8 A. Once or twice.

9 Q. Okay. Was that before September the
10 27th of 2012?

11 A. Yes.

12 Q. How about Tasha Medlin, do you know
13 Tasha Medlin?

14 A. Yes.

15 Q. Had she ever been to your home?

16 A. Yes.

17 Q. Was that before September the 27th,
18 2012?

19 A. Yes.

20 Q. Let's back up a little bit. Where
21 did you live, Ms. Hagood?

22 A. I stayed Easley Housing Authority,
23 which is formerly known as Westgate, in
24 apartment E-105.

25 Q. All right, ma'am. And who all lived

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1 there with you?

2 A. Brandon Benson, myself and my
3 daughter Lataria (phonetic) J. Benson.

4 Q. And that was in September of 2012?

5 A. Yes, sir.

6 Q. Prior to September the 27th of 2012,
7 how long did you live at Westgate?

8 A. Three and a half years.

9 Q. Okay. Did Mr. Benson live there
10 with you during that three and a half years?

11 A. Yes, sir.

12 Q. When you lived there at Westgate
13 before September the 27th of 2012, did you
14 ever see Ms. Tasha Medlin?

15 A. Before September 27th?

16 Q. Right.

17 A. Yes, sir.

18 Q. Okay. And where did you see her?

19 A. She was at my residence. She came
20 to my residence.

21 Q. Okay. And was she looking for you?

22 A. No.

23 Q. Was she looking for your children?

24 A. No.

25 Q. Was she looking for someone?

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1 A. Yes.

2 Q. And don't tell us what she said, but
3 did you and she have a conversation?

4 A. Yes.

5 Q. Okay. And as a result of that
6 conversation what, if anything, did you do,
7 Ms. Hagood?

8 A. I asked her to leave my residence.

9 Q. Pardon me?

10 A. I asked her to leave my residence.

11 Q. All right. And that was before
12 September the 27th, 2012?

13 A. Yes, sir.

14 Q. Okay. Now, let's go to September
15 the 27th/28th of 2012. Do you remember that
16 date?

17 A. Yes, sir.

18 Q. Sometime in the nighttime hours, did
19 your husband -- did Mr. Benson return to
20 Westgate?

21 A. Yes, sir.

22 Q. All right. Were you able to see the
23 vehicle he was in?

24 A. Yes, sir.

25 Q. Okay. Where were you when he came

TESTIMONY OF CANDICE HAGOOD - DIRECT EXAMINATION

1 home?

2 A. I was on my front porch of my
3 residence.

4 Q. And any particular reason you were
5 on your front porch?

6 A. Yes, sir.

7 Q. And what was that reason?

8 A. He wasn't in the home.

9 Q. I'm sorry?

10 A. Hummmmm--- he wasn't in the home.

11 Q. Okay. Is that why you were waiting
12 for him?

13 A. Yes, sir.

14 Q. You were ready for bear; weren't
15 you?

16 A. Hummmmm -- (affirmative nod).

17 Q. When he got home did he come walking
18 or in a vehicle?

19 A. He came in a vehicle.

20 Q. Were you able to see the vehicle?

21 A. Yes, sir. I did.

22 Q. Do you know a Corey Fowler?

23 A. Yes, sir, I do.

24 Q. Okay. On the nighttime of September
25 the 27th or early-morning hours of September

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1 the 28th, did you see Corey Fowler?

2 A. Yes, sir, I did.

3 Q. And where did you see Mr. Fowler?

4 A. He was behind the driver's seat of
5 his vehicle.

6 Q. Okay. Who was driving?

7 A. He was driving.

8 Q. He was driving?

9 A. Corey Fowler was driving.

10 Q. All right. Did you -- well, once
11 Mr. Benson got out, were there any other
12 occupants in the vehicle?

13 A. No, sir.

14 Q. Okay. So just Corey and Mr. Benson
15 was the only people that you saw at that
16 point in time?

17 A. Yes, sir.

18 Q. Okay. Tasha Medlin, you say, came
19 to your house prior to September the 27th of
20 2012. Is she in the courtroom today?

21 A. Yes, sir.

22 Q. Can you point her out, please, sir?

23 A. Tasha Medlin, behind -- (indicat-
24 ing), the "victim."

25 MR. DEJONG: All right. Let the

TESTIMONY OF CANDICE HAGOOD - CROSS EXAMINATION

1 record reflect the witness has indicated the
2 alleged victim in this case.

3 DIRECT EXAMINATION CONTINUED

4 BY MR. DEJONG:

5 Q. Do you know why she came to the
6 house before September the 27th?

7 A. Yes, sir.

8 Q. And why?

9 A. Because of a transaction.

10 Q. Okay. A transaction between who?

11 A. Her and Brandon.

12 Q. All right. Thank you, Ms. Hagood.

13 MR. DEJONG: The witness is with
14 you, Madam Solicitor.

15 SOLICITOR ODOM: Thank you.

16 CROSS-EXAMINATION

17 BY SOLICITOR ODOM:

18 Q. So you said that you and the
19 Defendant had been together how long?

20 A. It would have been eleven years
21 December 21st, 2013.

22 Q. Why are you saying would have been?
23 No, tell me, are y'all still together?

24 A. No.

25 Q. So when did y'all break up?

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1 A. We broke up as of, pretty much,
2 November of last year.

3 Q. Why did y'all break up?

4 A. Things wasn't right and, on top of
5 that, he has -- he had an addiction.

6 Q. Okay. Well, how many kids y'all got
7 together?

8 A. Three.

9 Q. That had to be pretty hard ending
10 that relationship. Was it hard?

11 A. It was.

12 Q. But you're still -- you've got his
13 back on this?

14 A. Uh-huh, (affirmative nod).

15 Q. And why is that?

16 A. That's because he is the father of
17 my kids. And then on top of that, I know
18 some things that the Court don't know about
19 ---

20 Q. Okay. Things you just said?

21 A. Yeah.

22 Q. Okay. So it's -- correct me if I'm
23 wrong, but isn't it true that you didn't
24 learn about these allegations until the
25 Defendant was arrested?

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1 A. Yes, that's true.

2 Q. Okay. So you didn't know that
3 anybody was saying that he raped anybody
4 until October 2013?

5 A. That's true.

6 Q. Okay. Well, tell me, how do you
7 remember September 27th so clearly?

8 A. September 27th so clearly, because we
9 was having a heated argument that day about a
10 situation about ---

11 Q. About what situation?

12 A. A situation about me being told that
13 she will -- well, the victim, Ms. Medlin, and
14 Brandon were having an affair.

15 Q. Uh-huh. And how did you find that
16 out?

17 A. Multiple people told me. Multiple
18 people. See, I ain't no clue, did not know
19 who Ms. Medlin was until after the fact that
20 she had left my house the day that I asked
21 her to leave my residence, coming out there
22 looking for Corey.

23 Q. But you -- if he's having an affair,
24 where's he doing it at?

25 A. I have no clue.

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1 Q. You stay at the home in Westgate?

2 A. Uh-huh, (affirmative nod).

3 Q. And how many kids you said stay with
4 you?

5 A. At the time it was me and my
6 daughter Lataria Benson.

7 Q. Okay. But you've got two other
8 kids?

9 A. Uh-huh, (affirmative nod).

10 Q. But they weren't in the home?

11 A. Uh-uh, (negative gesture).

12 Q. Okay. All right. So how do you --
13 I'm just trying to get it straight since this
14 is the first I'm hearing from you. You know,
15 I haven't heard your testimony before.

16 MR. DEJONG: Your Honor, could I
17 get Madam Solicitor to move?

18 SOLICITOR ODOM: Oh, I am sorry.
19 It's my second time. Is this all right, Mr.
20 DeJong?

21 MR. DEJONG: Yes, ma'am.

22 SOLICITOR ODOM: Okay. I get into
23 it and kind of forget about other things.

24 CROSS-EXAMINATION CONTINUED

25 BY SOLICITOR ODOM:

TESTIMONY OF CANDICE HAGOOD - CROSS EXAMINATION

1 Q. Okay. So this is the first I'm
2 hearing from you so I'm trying to get it
3 straight in my head. So you're saying that
4 you knew they were having an affair in
5 September; right?

6 A. I knew about it.

7 Q. Well, did you not go and confront
8 her?

9 A. NO.

10 Q. And why not?

11 A. Because it's -- I mean, it's not my
12 place, like in the way of a sensitive matter
13 like -- you can't just go by what you hear
14 really. You got to get the proof. And I
15 really didn't have proof either. So, no, I
16 did not confront her.

17 Q. But how do you -- like you're say
18 you know it was this day, September 27th, but
19 did you write it down like in a diary? Like,
20 'I had a fight on September 27th and me and my
21 boyfriend argued.' Like, how do you know
22 it's that day?

23 A. That day because I know that's the
24 day that Brandon left.

25 Q. Where did he go?

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1 A. He had left like around about 11:30.
2 Between, I'm going to say about 11:00, 11:30
3 that night.

4 Q. Okay. So he left. And when did he
5 come back?

6 A. When I seen Brandon back home, it
7 was around about 3:30 or 4:00.

8 Q. Okay. So he didn't move out or
9 anything?

10 A. No.

11 Q. So you just forgave him and y'all
12 went on your way, kind of?

13 A. No, it wasn't no forgiving over-
14 night.

15 Q. Okay. Now, in the statement he
16 keeps saying he don't even stay in Pickens
17 County. What does that mean? Where was he
18 living?

19 A. He was staying with me. He was
20 staying with me, yes.

21 Q. Okay. So when he got arrested was
22 he living with you?

23 A. Yes.

24 Q. At Westgate?

25 A. No. We was in Greenville County at

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1 that time.

2 Q. Okay. When did y'all move?

3 A. We moved -- I had my son January
4 21st, 2013. I moved to Greenville around --
5 between February 1st, February 10th of 2013.

6 Q. So y'all had a baby boy in January
7 2013?

8 A. Uh-huh, (affirmative nod).

9 Q. So you were pregnant in September?

10 A. Uh-huh, (affirmative nod).

11 COURT REPORTER: Is that a "yes"?

12 WITNESS: Oh, "yes." I'm sorry.

13 CROSS-EXAMINATION CONTINUED

14 BY SOLICITOR ODOM:

15 Q. So how far along were you? Born in
16 January -- so you were showing and every-
17 thing. Did you have any complications with
18 your pregnancy?

19 A. No.

20 Q. Okay. Everything went pretty
21 smooth?

22 A. Yes.

23 Q. So you're telling us all this today,
24 but why didn't you tell law enforcement?

25 A. Tell law enforcement what?

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1 Q. Well, what you said. You said you
2 had information that you thought everybody
3 should know,--for the Court today, but why
4 didn't you ---

5 A. Well, all the information that I do
6 have on this is that the fact that it was
7 told that Mr. Robbie -- was it Riddle, was
8 that his name? Robert or Robbie Riddle nor
9 Tasha Riddle did not know Brandon, and they
10 do know Brandon.

11 Q. But why? I mean, two years ago he
12 comes in and gives this statement but why
13 didn't you tell law enforcement then. Don't
14 you think that would have, could have changed
15 things if you came forward and gave a
16 statement?

17 A. It could have possibly, yeah, but I
18 -- (pause).

19 Q. Okay. So you said a transaction out
20 of the house. You're talking about drugs;
21 right?

22 A. No, ma'am. The transaction did not
23 go around, go down around my residence or in
24 my residence. And that's why I asked her to
25 leave my residence.

TESTIMONY OF CANDICE HAGOOD - CROSS EXAMINATION

1 Q. So what are you talking about with a
2 transaction?

3 A. It was told that a transaction --
4 from her mouth, that she had a transaction
5 with Brandon Benson. And I told her to leave
6 my residence because that transaction did not
7 go down around my residence or in my
8 residence.

9 Q. And ma'am, can you just look at me,
10 so I can ---

11 A. No, I was just saying.

12 Q. Okay. Well, you're saying
13 transaction but tell me, are you talking
14 about -- you're saying that she wants to see
15 your boyfriend. Are you saying she's trying
16 to buy drugs ---

17 A. It was a drug transaction.

18 Q. Oh, okay. So she come over there --
19 you're saying she come over there to buy
20 drugs and you told her to leave?

21 A. No. She said there was a
22 transaction that took place beforehand. And
23 she came looking for Brandon because she said
24 that she gave him some money to get her
25 something ---

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1 Q. Uh-huh?

2 A. --- pills.

3 Q. Okay.

4 A. And she said that she has not
5 received any money or pills from Brandon.
6 And I told her I do not know anything about
7 that transaction. I do not know nothing of
8 that transaction. And it did not go down
9 around my place of residence or in my
10 residence and 'please leave my residence.'

11 Q. Okay. So now that's the only time
12 you've ever seen her?

13 A. Uh-huh.

14 COURT REPORTER: Is that a yes?

15 WITNESS: "Yes." I mean,
16 I'm sorry. Yes.

17 CROSS EXAMINATION CONTINUED

18 BY SOLICITOR ODOM:

19 Q. Now, how are you sure it's her since
20 that was three years ago and you're just
21 saying this now?

22 A. Because when I was -- when I see her
23 out in the hallway when we started ---

24 Q. Uh-huh?

25 A. --- that's her.

TESTIMONY OF CANDICE HAGOOD - CROSS EXAMINATION

1 Q. So, some lady come to your door for
2 -- how long was she there before you told her
3 to hit the road?

4 A. It was like maybe ten -- not even
5 ten minutes, probably about five or seven
6 minutes.

7 Q. So y'all talked for seven minutes?

8 A. Well, it wasn't no talking. She
9 asked me where was Brandon. I told her
10 Brandon was not there at the time.

11 And that she -- proceeded to tell me
12 about what the transaction was. And I said
13 'look, the transaction do not go down here.
14 I don't know where he's at and I do not know
15 where' her money was or what she asked for
16 was at. I told her I would need for her to
17 leave my residence.

18 Q. That sounds like it might have took
19 under a minute. She let you know what was
20 going on. You let her know to leave?

21 A. Uh-huh, (affirmative nod).

22 Q. Okay. So you see a lady three years
23 ago for less than a minute and you're able to
24 pick her out and say, 'yeah, she's the one at
25 the house?'

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1 A. Uh-huh. I mean, yes.

2 Q. So if you see a -- like you've been
3 in here the whole time?

4 A. Yes.

5 Q. You've seen the members of the jury.
6 You think you can -- if I mixed them up and
7 just they're out in public you would know who
8 they were?

9 MR. DEJONG: Your Honor, I'm going
10 to object. That calls for speculation on the
11 part of the witness. I realize it's cross-
12 examination, but I don't think she can ask
13 for speculation.

14 THE COURT: I think it's
15 appropriate.

16 CROSS-EXAMINATION CONTINUED

17 BY SOLICITOR ODOM:

18 Q. Could you?

19 A. I'm sorry. Could you say that
20 again?

21 Q. Sure. These fourteen people over
22 here. If you just go to Ingles and
23 everybody's in the grocery store, are you
24 going to be able to pick them out? You've
25 been here for a day and a half now, been

TESTIMONY OF CANDICE HAGOOD - CROSS EXAMINATION

1 looking this way. You think you're going to
2 be able to pick them out?

3 A. It depends on if I had a conversa-
4 tion with them or not or ---

5 Q. Okay. So if you had maybe a minute
6 conversation with one of them, three years
7 from now, you think that you can pick them
8 out?

9 A. Oh, yeah.

10 Q. Don't you think it's convenient that
11 you're coming forward now, now that your
12 boyfriend's on trial, that you're just now
13 coming up with this? Is that convenient?

14 A. Ma'am, he's not my boyfriend.

15 Q. Yes or no. Is that convenient that
16 you're just now saying this?

17 A. Yes, it's convenient.

18 Q. Okay. Do you love him? Yes or no.

19 A. Yes.

20 Q And have you loved him for over
21 eleven years now?

22 A. Yes.

23 Q. And you say he's the father of all
24 three of your kids?

25 A. Yes.

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TESTIMONY OF CANDICE HAGOOD - CROSS EXAMINATION

1 Q. And let me ask you this. He's
2 saying on this video that him and the victim
3 had sex back at the apartments at Westgate?

4 A. Yes.

5 Q. So did they have sex in your bed?

6 A. That, I do not know. Now, that
7 part, I do not know. If they did have it, I
8 didn't know nothing about it.

9 Q. Well, you said you were home that
10 night?

11 A. Not that night. No, they didn't do
12 that that night, no. Not at my house.

13 Q. Well, how do you know that?

14 A. Because I was at my house.

15 Q. Well, how do you know you're at your
16 house on September 27th, three years ago?

17 A. Because me and Brandon had a heated
18 argument that night.

19 Q. How many arguments have y'all had in
20 eleven years?

21 A. We've had a lot.

22 Q. Well, tell me about one ten years
23 ago. You remember that one?

24 A. Yes, I do.

25 Q. Well, tell me about one in January

TESTIMONY OF CANDICE HAGOOD - REDIRECT EXAMINATION

1 of this year. You remember that one?

2 A. January this year, we didn't have an
3 argument in January of this year.

4 Q. You weren't a victim on any case?

5 A. That wasn't January of this year.

6 Q. When was that?

7 A. It was December of last year.

8 SOLICITOR ODOM: Mr. DeJong?

9 MR. DEJONG: One question.

10 REDIRECT EXAMINATION

11 BY MR. DEJONG:

12 Q. Madam Solicitor as you why you
13 didn't go to the cops and tell them this.

14 Did the cops ever come and talk to you?

15 A. No, sir.

16 Q. Not the first one?

17 A. No, sir.

18 Q. Thank you, ma'am.

19 THE COURT: All right. You may
20 step down.

21 (WITNESS STEPS DOWN)

22 SOLICITOR ODOM: Defense would call
23 Mr. Brandon Benson to the stand. Come around
24 and be sworn, please, Mr. Benson.

25 (WITNESS TAKES STAND)

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TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 (WITNESS TAKES STAND)

2 BRANDON BENSON, having been duly sworn to
3 tell the truth, and nothing but the truth,
4 testified as follows:

5 DIRECT EXAMINATION

6 BY MR. DEJONG:

7 Q. Mr. Benson, stay up to that micro-
8 phone if you will, please, so we can all hear
9 you?

10 A. Yes, sir.

11 Q. On September the 27th or 28th of 2012
12 did you force Tasha Medlin to have sex with
13 you?

14 A. No, sir, not any form or fashion.

15 Q. Did you have sex with her?

16 A. Yes, sir.

17 Q. All right. How old are you, Mr.
18 Benson?

19 A. I am now thirty-one.

20 Q. Okay. How old were you at the time?

21 A. I was twenty-seven.

22 Q. Twenty-seven?

23 A. Yes, sir.

24 Q. All right, sir. In September of
25 2012 were you working anyplace?

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 A. No, sir, I sure wasn't.

2 Q. Okay. Do you know Corey Fowler?

3 A. Yes, sir. We went to elementary
4 school together, grew up together.

5 Q. How about Joey Ligon or Ligon, known
6 as "Blow"; do you know him?

7 A. Have been knowing him for like
8 three, four, almost four years at the time.

9 Q. At the time of 2012?

10 A. Yeah, at the time. I ain't seen him
11 no more since.

12 Q. Now, on September the 27th or the
13 28th, did you see Corey Fowler?

14 A. Yeah.

15 Q. Okay. What day was it ---

16 A. The 28th.

17 Q. --- the 27th or the 28th?

18 A. The 27th. I've got to say yeah
19 because. Yeah, -- the 27th.

20 Q. Where did you see him?

21 A. I saw him in Westgate at the time.

22 Q. Did he ever come to your home on the
23 27th?

24 A. Yeah.

25 Q. Did he come more than once?

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TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 A. He came that once that night. Him
2 and Ms. Medlin came.

3 Q. All right. Let's stop there for
4 just a minute. Before September the 27th of
5 2012, did you know Tasha Medlin?

6 A. Yes.

7 Q. How long had you known her?

8 A. Been knowing her for a long time,
9 for as long as I ---

10 Q. I'm sorry?

11 A. For as long as I knew Robbie.

12 Q. Oakly. So you knew Robbie as well?

13 A. Yeah.

14 Q. How did you know Robbie?

15 A. I knew Robbie before he even got
16 with Tasha. I been knowing Robbie since
17 Central, South Carolina.

18 Q. I'm sorry?

19 A. Since Central, South Carolina.

20 Q. Okay. So how long have you known
21 Robbie then?

22 A. I'd say I was a teenager when I met
23 him in school. I'd say almost fifteen years.

24 Q. I'm sorry?

25 A. I say almost fifteen years.

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 Q. Okay. All right.

2 A. Not fifteen years but close to it.

3 Q. All right. Did Tasha ever come out
4 to Westgate to see you?

5 A. She came out there several times by
6 herself.

7 Q. Okay. What, if anything, did you do
8 when she came to see you?

9 A. To keep it honest ---

10 Q. I'm sorry?

11 A. To keep it honest she came a few
12 times without her husband to buy illegal
13 things from me.

14 Q. Okay. Did you sell it to her?

15 A. Yes, sir, I did.

16 Q. And what illegal things did you sell
17 her?

18 A. I sold her crack cocaine, pills; the
19 same thing I sold to her husband, pills.

20 Q. Well, let's do a little side trip
21 here. Do you have a prior criminal record,
22 Mr. Benson?

23 A. Yes, sir, I do.

24 Q. In 2004, I believe, were you
25 convicted for possession of cocaine?

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TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 A. Yes, sir, I was. Spartanburg
2 County.

3 Q. Okay. And in 2000 and I believe
4 '10, were you convicted of grand larceny?

5 A. Yes, sir. And I'm still on
6 probation for it. It's postponed because of
7 this trial, what's going on now.

8 Q. Okay. In August of this year, were
9 you convicted of criminal domestic violence
10 high and aggravated nature?

11 A. Yes, sir. I sure was.

12 Q. All right, sir. On those particular
13 offenses, did you have a trial or did you
14 plead guilty?

15 A. I pled up because I was guilty of
16 them.

17 Q. All right, sir. Now, let's get back
18 to September 27th of 2012. You said you saw
19 Corey Fowler that night?

20 A. Yes, sir.

21 Q. And where did you see him?

22 A. Westgate apartments.

23 Q. Okay. Where in Westgate apartments?

24 A. I was in my apartment.

25 Q. Is that where he came?

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 A. That's where he came.

2 Q. And when he came to your apartment,
3 was anyone with him?

4 A. Yes.

5 Q. And who was with him?

6 A. Tasha.

7 Q. Okay. At some point in time ---

8 A. I didn't know it was Tasha at the
9 time. I knew her as "Nikki."

10 Q. Okay. Well, speaking of that, did
11 Detective Taylor ever ask you if you knew
12 Tasha Riddle?

13 A. Just right there, right there and he
14 said you don't know Tasha so you don't know a
15 Tasha? At that point in time, I didn't know
16 her as Tasha. I knew her as Nikki. He state
17 as her middle name is Nicole. And Robbie
18 told me herself her name is Nikki.

19 Q. Okay. We'll come back to that,
20 okay? So on September the 27th of 2012, did
21 you leave your apartment there at Westgate?

22 A. Yes, I did. I crept out.

23 Q. I'm sorry.

24 A. I crept out the house that night, to
25 be honest.

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 Q. Who did you leave with?

2 A. Corey Fowler and Tasha.

3 Q. Was anyone else in the car?

4 A. It was just me, Tasha and Corey.

5 I went out the back door of my apartment. It
6 started in Westgate apartments in the car.
7 That's why I said 'yes, in Westgate.'

8 Q. Okay. Now, what kind of car was
9 Corey driving?

10 A. It was a white Crown Vic.

11 Q. Okay. Was that the car you left in?

12 A. That's the car I left in.

13 Q. When you left Westgate where did you
14 go, Mr. Benson?

15 A. Took a left out of Westgate, the
16 second entrance towards the office. And we
17 made that right, crossed over Highway 93 past
18 the Plez U, headed towards Reliable. We made
19 it up to the other side of Reliable. Go out,
20 make your left beside Reliable. Before you
21 hit 123, you make a right. And there's a
22 little dark alley road right there. Keep in
23 mind, keep in mind, I never got in the front
24 seat. Me and Tasha was in the back seat
25 together.

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 Q. Okay. When you were in the back
2 seat did you ever have force her to have sex
3 with you?

4 A. Never forced her in no form or
5 fashion.

6 Q. When you were on your way to
7 Reliable, did you give her anything?

8 A. I gave her Corey and her both
9 something. But Corey took first initial,
10 getting high first, so -- (pause).

11 Q. Okay. What did you give them?

12 A. I gave Corey a rock about the size
13 of my pinky.

14 Q. And what did you give Tasha?

15 A. I told him and Tasha to split it,
16 really. Really, they split some dope.

17 Q. Okay. Was that dope you gave them?

18 A. Yeah.

19 Q. All right. And were you to get
20 anything in exchange for giving them that
21 dope?

22 A. Sex.

23 Q. And what were you to get in
24 exchange?

25 A. Sex.

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TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 Q. Even though you were living with Ms.
2 Hagood at the time?

3 A. Yes, sir.

4 Q. Did you step out on her?

5 A. Yes, sir.

6 Q. More than one occasion?

7 A. More than one occasion, (affirmative
8 nod).

9 Q. All right. When you went to this
10 little side road by Reliable, what happened
11 there?

12 A. Pulled over to the side of the road.
13 I got out. Keep in mind I'm in the back seat
14 on the passenger's side. So I get out, walk
15 around the car.

16 She's behind Corey. She swung the back
17 door open. She put her hands down in the
18 seat. Before she put her hands down in the
19 seat, she pulled her pants down no farther
20 than the knees.

21 I pulled mine no farther down than my
22 knees.

23 It was a quick "wham bam, thank you,
24 ma'am." Boom, got right back in the car.

25 I hop in the driver's seat because Corey

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 say it's his time or what not. They attempt
2 to do what they do. They back there fumbling
3 around. The same position we were in. Corey
4 can't enter her. She complain about that.

5 So I hop in the driver's seat, tell him
6 to get in the car because I'm paranoid at the
7 time. I'm trying to get, I'm trying to get
8 home. So they in the back seat. And this --
9 while they in the back seat, I drive back no
10 farther than the stop sign to the road ---

11 Q. The stop sign where?

12 A. The same road that we pulled over
13 on.

14 Q. Okay. How far was that from
15 Reliable?

16 A. I'd say, from Reliable?

17 Q. Yeah.

18 A. It's right across the street from
19 Reliable. So I say from Reliable, I say
20 about a football field if you including down
21 the road from the stop sign, across the
22 street from Reliable. I'd say about a
23 football field and thirty yards.

24 Q. Did you have a driver's license?

25 A. I didn't have no driver's license.

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TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 That's another thing. So I stop at the stop
2 sign in the midst of while she's giving him
3 oral sex and tell him to get in the front
4 seat of his car and drive. And that's when I
5 proceeded to get in the front seat of the
6 car. And I go back home to Westgate.

7 Q. And then do what?

8 A. Then I go back home to Westgate.

9 Q. Did you drive to Westgate?

10 A. No, I did not drive to Westgate,
11 although I stated I drove to Westgate. I'm
12 in the heat of the moment at the time of the
13 interview with the Detective.

14 Q. When you were driving, were your
15 headed back in the direction of Westgate?

16 a. Well, yeah. Right back in the
17 direction of Westgate.

18 Q. And when you got to the stop sign
19 then, you and Corey switched as drivers?

20 A. We switched drivers.

21 Q. Was Joey/Blow ever in the car with
22 you at all?

23 A. Joey, himself, when he came and got
24 me until when we left and came back, Joey was
25 never in the car at all.

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 Q. All right. Well, let me ask you.
2 Let's back up to when you're on the side of
3 the road there, close to Reliable. Did you
4 force Ms. Medlin to have sex?

5 A. I did not force her at all.

6 Q. Okay. At any time did you force her
7 to have sex?

8 A. No, that's not in my nature.

9 Q. Okay. So when you get back to
10 Westgate, do you have anybody waiting for you
11 when you get back there?

12 A. Of course.

13 Q. And who was waiting for you?

14 A. The one-and-only Candice Shameka
15 Hagood.

16 Q. Was she a happy camper?

17 A. No, sir. She sure wasn't.

18 Q. Did she know that you'd left, to
19 your knowledge?

20 A. Of course. After you done been with
21 somebody ten years, they know. They know
22 that person that they lay beside them every
23 night and I left, I crept out the house. So
24 I expected that when I got back anyway. So
25 when I got back in she was on the front

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 porch. And things wasn't too pretty when I
2 got back.

3 Q. Did you tell her you were leaving?

4 A. No. I didn't tell her nothing. I
5 just told her to hold on. She just assumed I
6 was going to the back door, really.

7 Q. Okay. And then you left from the
8 back door?

9 A. I left from the back door. Got in a
10 white vehicle. I done been knowing them, I
11 hop in the car with her and Corey; did what
12 we did and come right back.

13 Q. All right. So you got out of the
14 car when you got to Westgate?

15 A. Jumped out the car right there in
16 her face.

17 Q. Okay. And who was driving at that
18 point in time?

19 A. Corey Fowler.

20 Q. Was Tasha in the car at that point
21 in time?

22 A. Tasha was in the car.

23 Q. Do you know where they went after
24 that?

25 A. I don't know where they went after

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 the fact.

2 Q. Okay. Do you know how long they may
3 have been together?

4 A. I have no idea. I'm assuming -- I'm
5 assuming ---

6 Q. Don't assume. Just do you know?

7 A. Okay. Well, no, I don't know. I
8 really don't.

9 Q. Okay. Did you and/or Corey ever
10 pick Tasha up on Highway 93 on the 27th or the
11 28th of September?

12 A. I never picked Tasha up with Corey
13 nowhere.

14 Q. Okay.

15 A. But Tasha and Corey came to my
16 house. I never picked them up nowhere.

17 Q. All right. How long have you and
18 Ms. Hagood been together?

19 A. If we was still be together right
20 now, it would be like eleven years.

21 Q. And do y'all have any children
22 together?

23 A. Yes. We have three beautiful kids
24 together.

25 Q. All right. In September of 2012,

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TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 was Ms. Hagood pregnant?

2 A. Yes, sir. She was pregnant with my
3 son.

4 Q. Is that the second or third child?

5 A. That'd be my second child. See, my
6 third child's really -- she really didn't
7 have her but she's my oldest daughter. And
8 due to the fact we been together, she calls
9 her mom.

10 Q. Okay.

11 A. So that's my oldest child.

12 Q. All right.

13 MR. DEJONG: One moment, please,
14 Your Honor.

15 DIRECT EXAMINATION CONTINUED

16 BY MR. DEJONG:

17 Q. Before 9/27 did you have sex with
18 Tasha?

19 A. Yes.

20 Q. Where?

21 A. Harold -- I guess. I don't know
22 where Harold lives but I know that Harold's
23 house behind Plez U. I guess it's his
24 granddaddy or something. We call him Mr.
25 Harold. We all go there to get high, have

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 fun, party, stay out all night sometime.

2 Q. Did Tasha go there with you to get
3 high?

4 A. Tasha, well, she didn't go there
5 with me but she was there. She did go to
6 Westgate a few times with him, with Harold in
7 the car. That's how I even found out really
8 she was doing hard drugs, really.

9 Q. And you say you know Harold as well?

10 A. Yeah. I know Harold real well.

11 Q. Do you know Harold's relationship to
12 either Tasha or Robbie?

13 A. I think Harold's kin to Robbie, I
14 think, if I'm not mistaken.

15 Q. Okay. All right. So you were
16 arrested on October the 25th of 2013?

17 A. I don't really recall. It was in
18 October though.

19 Q. Okay. You were arrested some
20 thirteen to fourteen months after these
21 allegations were ---

22 A. (Affirmative nod), after the fact.

23 Q. Right. Okay. And initially when
24 you were picked up and arrested, for want of
25 a better term, did you know why?

TESTIMONY OF DEFENDANT - DIRECT EXAMINATION

1 A. I did not know why until I got to
2 Pickens County.

3 Q. Okay. And initially did you tell
4 Taylor the truth?

5 A. Eventually, yes.

6 Q. I said at first did you tell him ---

7 A. At first, no.

8 Q. Why not?

9 A. Because I didn't know what was going
10 on. Because I was upset when I really found
11 out what it was. And I didn't find out until
12 I got to Pickens County. And then when they
13 told me what it was, I'm like 'Man, no. I
14 don't know what you talking about. Because I
15 know I ain't never raped nobody a day in my
16 life.' So, yeah, I'm denying it. I'm
17 denying the fact.

18 It'd have been different if he'd asked me
19 have I had sex with a certain person, a
20 certain someone, you know, yeah. But I ain't
21 -- when I raped somebody, like I'm some type
22 of animal, (negative gesture).

23 Q. All right. And so finally you said,
24 yeah, you had sex with her?

25 A. Yeah. I'm not denying the fact of

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 having sex with her, but we had sex.

2 Q. Well, what was the-- what was going
3 through your mind? Were you calm? Were you
4 scared? What was going on?

5 A. I was upset and scared at the same
6 time because I didn't want to bring up the
7 issue about the time situation. But that's
8 the first thing that really got threw in my
9 face.

10 Q. First time what?

11 A. That was really -- forty years got
12 threwed up in my face.

13 Q. Okay.

14 A. Like that's when I knew it really
15 wasn't no game, nothing to be playing with
16 so, 'yeah, let me tell you the truth.'

17 Q. Okay. All right. Because there was
18 certainly talk about jail time; right?

19 A. Yeah.

20 Q. All right. And that's when you came
21 around?

22 A. (Affirmative nod).

23 Q. You still have to answer out loud.

24 A. That's when I came around and told
25 them the truth. I told them what it was.

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TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Q. Okay.

2 MR. DEJONG: The witness is with
3 you, Madam Solicitor.

4 SOLICITOR ODOM: Thank you.

5 CROSS-EXAMINATION

6 BY SOLICITOR ODOM:

7 Q. Okay. Mr. Benson, I've got a bunch
8 of questions for you so you just bear with
9 me. Maybe I ought to stay over here. And
10 I'm going to kind of be all over the place.
11 Okay. How many kids do you have?

12 A. In all?

13 Q. In all?

14 A. Six -- one gone.

15 Q. So you've got three with your girl-
16 friend?

17 A. Yeah. I got three with my
18 girlfriend. One a baby mama in New Jersey
19 and another one that's in Easley.

20 Q. Okay. So you had your first couple
21 of kids before you met your girlfriend; is
22 that right?

23 A. (Affirmative nod).

24 Q. Okay. Let's get that straight.

25 MR. DEJONG: Excuse me. Mr.

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TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Benson, you need to answer out loud. Madam
2 Court Reporter has got to get what your
3 response is.

4 WITNESS: I'm sorry.

5 CROSS-EXAMINATION CONTINUED

6 BY SOLICITOR ODOM:

7 Q. Now, you said that you knew Mr.
8 Medlin since Central. What did you mean when
9 you say Central?

10 A. Since Central, since he was dating a
11 friend of mine named Kimberly Head.

12 Q. Okay. So you met him through a
13 friend?

14 A. Yeah. Kimberly Head.

15 Q. Okay. And so when was that?

16 A. That was years -- like I was -- like
17 I was fresh out of my -- I think I was about
18 to be out of my teens. I was in my teens;
19 something about nineteen, about nineteen
20 years old.

21 Q. So did you know then that he worked
22 at Harold's, that that was his ---

23 A. I don't know where he was working at
24 then. But we didn't, we didn't really go
25 into Easley like that. Everything went down

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TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 in Central.

2 Q. Now, ---

3 A. But I knew him. But when I moved to
4 Easley and came across him again, yeah, we
5 clicked right back up like we never lost a
6 step. The only difference was we wasn't
7 doing hard drugs like we were doing in
8 Central at the time.

9 Q. Well, what were y'all doing in
10 Easley?

11 A. In Easley, it was pills and
12 marijuana.

13 Q. Okay. And her too?

14 A. She was on pills, crack, whatever
15 else. I don't know what else she was on.
16 I just know -- I know I sold crack to her
17 before.

18 Q. Okay. But he knew about it?

19 A. When Robbie used to come see me,
20 man, it was always, it always man, 'don't let
21 her know.' When she came, it always 'don't
22 let him know.' It was a vice versa thing.

23 Q. Now, did you go into Harold's Tire?

24 A. I done been to Harold's Tire before,
25 plenty of times. He knew -- I knew him since

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TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 he even -- he even know my grandma and her
2 family. He put tires on the car for the
3 family.

4 Q. Okay. So you knew he worked there
5 and you've been in Harold's Tire a bunch?

6 A. Plenty of times. I used to just
7 walk to the job sometimes, just to walk to
8 the job and see what's up, if he might need
9 any pills or anything.

10 Q. Okay. All right. So you said that
11 you and Tasha had been, like fooling around
12 for a while. Y'all had been having sex for a
13 while.

14 A. (No verbal response).

15 Q. How long? Like, what's the time
16 period, like years?

17 A. I can't really say how long because
18 that's the reason me and Candice ain't
19 together now is because I was a dog.

20 Q. Uh-huh. So but was it years or
21 months?

22 A. I don't know. On and off. On and
23 off, just -- when it came around, it came
24 around. But I know -- I don't forget who I
25 had sex with. I mean, I'm not that much --

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 I'm not that much out there. I know who I
2 had sex with and who I haven't had sex with.

3 Q. Okay. So were you just like seeing
4 Ms. Medlin on the side and like she was your
5 girlfriend?

6 A. She was never no girlfriend. I
7 never considered her that.

8 Q. Okay. So when y'all saw each other,
9 y'all would just have sex and that was it?

10 A. It just happened. All I could just
11 say ---

12 Q. What?

13 A. All I could say it was more like a
14 drug thing, really. It just happened. It
15 just wound up happening.

16 Q. Okay. Well, how many times do you
17 think it happened?

18 A. Probably about three or more times.

19 Q. Okay. So three times over maybe a
20 few months, if that?

21 A. I don't know. Like I said, I don't
22 talk to a lot of females but I know she was
23 one of them.

24 Q. Okay. So during the time that
25 you're fooling around with Ms. Medlin, you

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 were fooling around with other girls too?

2 A. I done fooled around with a lot of
3 females.

4 Q. Was that just because your girl-
5 friend was pregnant and there was nothing
6 happening there?

7 A. No.

8 Q. That's just how it went down?

9 A. (No verbal response).

10 Q. Well, tell me -- okay. You said
11 that that night in September when you snuck
12 out to go with Corey and the victim, you said
13 that y'all just went down the road and did
14 your thing and come back?

15 A. Exactly.

16 Q. So how long would you say you were
17 gone?

18 A. I'd say ten minutes at tops, really.
19 It wasn't nothing special about it.

20 Q. All right. And how did you know
21 that Corey was even out there. Like, how did
22 you know to go out there and get in the car
23 with them in?

24 A. I just told you he came and knocked
25 on my door and got me.

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1 Q. Okay. Did he wake up your girl-
2 friend?

3 A. I crept out of bed. So, therefore,
4 he didn't wake her up.

5 Q. Now, tell me what time of night it
6 was; do you know?

7 A. It was late.

8 Q. It was dark?

9 A. It was late.

10 Q. And y'all were in the bed?

11 A. Yeah. We was in the bed.

12 Q. Well, what was going on ---

13 A. I wasn't asleep but she was.

14 Q. What was going on around the
15 apartments? Because I think it was a
16 Thursday night. So were people out and about
17 at the apartments or it was kind of quiet out
18 there?

19 A. That's Westgate. That's a drug-
20 infested area.

21 Q. So were people out and about milling
22 around or ---

23 A. I mean the normal crowd always out.

24 Q. Okay. So there were some people out
25 there?

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 A. I'm not saying they was out running
2 around but I'm saying they always out. If
3 you was out there like I was, you know what
4 door to go knock on or who to go talk to.
5 But I was in the house at that point in time
6 when they came up to my door and got me.

7 Q. So when you went to get in the car
8 you saw a couple of people?

9 A. I didn't see nobody. It was just
10 me, her and Corey.

11 Q. Okay. So there was nobody out
12 there? I'm not trying to trip you up. I'm
13 just trying to ---

14 A. Well, it didn't matter if you was.
15 I'm just saying it was me, her and Corey.

16 Q. Okay. So you weren't worried about
17 people seeing you or anything?

18 A. Why would I? Why would I?

19 Q. Because you're ---

20 A. I'm hanging out at Westgate. What
21 they going to go over there and tell my baby
22 mama?

23 Q. Well, you weren't worried about
24 getting caught cheating on her?

25 A. It was too late to think about that

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 at that point in time.

2 Q. Before you -- okay. Okay. So how
3 long you been knowing Corey?

4 A. I been knowing Corey since kinder-
5 garten, all my life.

6 Q. So does he stay in Westgate?

7 A. Corey was staying in Liberty at his
8 grandma's house.

9 Q. Okay. But he'd come up there to see
10 you?

11 A. He would come to Westgate to stay
12 sometimes because his mother and his father
13 stay down there.

14 Q. Okay. His mama and daddy ---

15 A. His mama and daddy stayed out there.

16 Q. Okay. So you been knowing him for a
17 long time. We're y'all friends at the time?

18 A. Well, just got back friends, yeah.
19 We just got back friends. But to keep it
20 honest here, he always going to be a part of
21 me because we had a relationship since
22 younger days, since we was kids.

23 Q. Okay. Okay. Now, you said that you
24 gave Corey and the victim a little crack, a
25 little piece of crack rock and they split it?

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 So

2 A. Yeah. He was supposed to split it
3 with her. Both of them took turns trying to
4 hit the pipe.

5 Q. So they were smoking it?

6 A. They was taking turns trying to hit
7 the pipe.

8 Q. Okay. So when you got out at
9 Westgate, when, you know, you went out with
10 Corey and Ms. Medlin, and then you say you
11 come back, like how -- were you and Ms.
12 Medlin on good terms at that point?

13 A. Yes. She wasn't screaming nothing
14 about no rape or none of that. She stayed in
15 the car with Corey and they went and did
16 whatever they did. Whatever they went and
17 did, I do not know. I took myself in the
18 house and proceeded to have my argument.

19 Q. Okay. All right. Into the
20 interview -- so you go in and you're talking
21 to Investigator Taylor and at first you're
22 saying ---

23 A. Yeah, I lied at first.

24 Q. Why did you do that?

25 A. Because I was upset. Plus I was

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1 scared, and I was timid (sic). I didn't know
2 what to think when they telling me rape
3 charge. I know I ain't never raped nobody.

4 Q. Yeah?

5 A. And I got kids at home to worry
6 about. Come on what they -- how they going
7 to look at their daddy when I done raped
8 somebody. I ain't never raped nobody a day
9 in my life.

10 Q. So you're not admitting to none of
11 this?

12 A. I didn't know what to reply with.

13 Q. Okay.

14 A. Because he done, why he asked me
15 first do I know Tasha? I didn't know her as
16 Tasha. I know her as ---

17 Q. Well, on the video he doesn't say
18 that?

19 A. It's not on the video. That's
20 another complaint. It's not on the video.
21 It's just the ---

22 Q. Now, looking at the video, it looks
23 like you're brought in that side door. Is
24 that where you were brought in?

25 A. Yeah. He never mentioned to y'all

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 that he asked me first before we even hit the
2 video do I know a Tasha. At least three
3 times.

4 Q. So at what point -- did he come out
5 in the parking lot and ask you?

6 A. He asked me that before we even got
7 in. Then he asked me that when we was in
8 there. That's what I'm complaining about
9 now. The whole DVD is not there.

10 Q. So you're saying he came out -- I'm
11 just trying to get it straight. He came out
12 in the parking lot and asked you some
13 questions. Then he came back in and like
14 went a different direction?

15 A. What you mean went a different
16 direction?

17 Q. Well, when y'all come in on the
18 video, you come in from one way and he comes
19 in from the other.

20 A. On, no. He's no further than that
21 doorway right there, come right on in. I
22 come right on in and sit down. He left back
23 out and I'm in there with this sheriff and
24 he's taking the cuffs off me. He's gone no
25 longer than -- not even thirty seconds. He

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1 right back in there.

2 Q. Okay. So when y'all come in, y'all
3 both came in from the parking lot?

4 A. Yeah, because he brought me in
5 there. Detective dropped me off in the
6 parking lot and he brought me in.

7 Q. Okay. Now, you're saying that --
8 oh, he shows you this picture -- let me show
9 it to you. I'm going to hand you or show you
10 State's Exhibit 20. Is that the picture he
11 showed you?

12 A. Yeah. He shows me a picture of
13 Tasha.

14 Q. So you didn't remember her? When he
15 says ---

16 A. When he show -- that's why I said
17 part of the movie is missing. When he shows
18 me Tasha, I say, 'oh, Nikki, yeah.' I know
19 her as Nikki. I did not know her as Tasha.

20 Q. Let's see. So he shows you a
21 picture ---

22 A. At first he did not show me no
23 picture until after the fact we were in
24 there. I'm talking about before we entered
25 in there, he asked me do I know a Tasha.

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Yeah, I still denied it. I still denied it
2 until the fact of forty years is thrown in my
3 face.

4 Q. But he's showing you this picture.
5 Why did you deny it? If you didn't rape her
6 -- like why -- when he shows you this
7 picture, why didn't you say, 'oh, yeah, I've
8 had sex with her'?

9 A. I never deny the fact of having sex
10 with her.

11 Q. You say on the video ---

12 A. I say I never raped her.

13 Q. No. He says, did you have
14 consensual sex with her. And you say ---

15 A. I had consensual sex with her. I
16 never raped her. I never admitted to raping
17 anything.

18 Q. But he asked you did you have sex
19 with her. And you said no.

20 A. He didn't say did I have sex. He
21 say 'so you done raped Tasha.' I never raped
22 no one.

23 Q. Well, okay. Say he shows you the
24 picture and asked did you rape her. And you
25 just say no. And you're saying, "no, no, no,

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1/ no."

2 A. If he showed me the picture and then
3 said did I rape her, the answer is still
4 going to be no because I didn't rape no one.

5 Q. But why didn't you pep up then and
6 say but I had sex with her?

7 A. I did tell him I had sex with her.

8 Q. But why did you wait until he told
9 your DNA was in her to say you had sex with
10 her?

11 A. (No verbal response).

12 Q. Why -- I'm just trying to figure out
13 why the delay was there?

14 A. Because before anything about any
15 DNA was forty years mentioned. Things got
16 serious, yo. I didn't want to be involved in
17 nothing. Let's keep in mind that when I got
18 back to Westgate and everybody kept mention-
19 ing this and mentioning that about what's
20 going on. And I'm already knowing the fact I
21 done had sex with this girl several times
22 before. And they like they talking about the
23 incident here. I know we had sex but when
24 they saying what Blow did and what Corey and
25 them did, I know I wasn't in the car with no

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Blow or Corey at the same time. It was just
2 me, her and Corey in the car. And didn't no
3 rape take place.

4 Q. Okay. In the interview -- you're
5 quick to throw Corey under the bus; isn't
6 that right?

7 A. How did I throw Corey under the bus?

8 Q. You're quick to say Corey did this,
9 Corey -- you're deflecting the blame off on
10 Corey; isn't that right?

11 A. Because after the fact, when she
12 says she's ready to go home, that's what I
13 expected Corey to do, take her home.

14 Q. But Corey's supposed to be your
15 friend. Why are you trying to pin this on
16 him?

17 A. Because I don't know what they did
18 after the fact. She stayed in the car with
19 Corey. I didn't pin nothing on no one. I
20 didn't try to pin nothing on no one.

21 Q. But you been knowing Corey how long?

22 A. Since we were kids.

23 Q. But yet when push comes to shove
24 you're going to throw him under the bus?

25 A. (No verbal response).

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1 Q. Yes or no?

2 A. I threw him under the bus? How did
3 I throw him under the bus?

4 Q. Did you implicate him?

5 A. I don't understand what you're
6 saying?

7 Q. On the video that we watched a few
8 minutes ago, did you say Corey did this?

9 A. I never said Corey -- I said Corey
10 and Blow -- I said it must have been Corey
11 and Blow doing this because I was never with
12 them. How else was I supposed to say it?

13 Q. Now, on the interview Detective
14 Taylor is also asking you about Ms. Medlin;
15 isn't that right? Y'all talked about her a
16 good bit?

17 A. (No verbal response)

18 Q. Isn't that right? Y'all talked
19 about her?

20 A. Yeah. Yeah.

21 Q. Now, at one point in the interview
22 you said, "I didn't say anything because I
23 didn't want to get her in trouble with her
24 old man"; isn't that right?

25 A. That's true. I didn't want to get

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 her in trouble with her old man because keep
2 in mind she said in the car I better not tell
3 Robbie. And I replied the same way, 'you
4 better not say nothing to Candice.'

5 Q. Why didn't you want to get her in
6 trouble?

7 A. Well, she -- we were both in a
8 relationship with someone.

9 Q. But you just said a second ago when
10 you crept out of the house that you didn't
11 care about getting caught?

12 A. I mean, come on. Common sense,
13 common sense would tell you I don't want to
14 be caught by the girl that I'm with, where I
15 got to go back and stay at.

16 Q. So you weren't worried about getting
17 caught when you got into the car?

18 A. Yeah. Of course, I was worried
19 about getting caught. That's why we got out
20 of Westgate.

21 Q. Well, if you so were worried, why
22 didn't you just not get in the car and go
23 back into your girlfriend?

24 A. Because I was, I was going to go
25 cheat.

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1 Q. And so did you care about Tasha?

2 A. No.

3 Q. You didn't care about her?

4 A. It was just an affair, one-night-
5 stand thing. We'd creep out with each other,
6 come back. The other one creep out come back

7 ---

8 Q. But on the videos ---

9 A. The same where she didn't care about
10 me. We just -- we have sex and go on about
11 our business.

12 Q. Well, on the video you said 'well, I
13 didn't want to say anything because I didn't
14 want to get her in trouble.' Is that right?

15 A. I didn't want to get in trouble ---

16 Q. You didn't want to get her in
17 trouble.

18 A. We are out cheating.

19 Q. So but you don't care about her but
20 you don't want to get her in trouble; is that
21 right?

22 A. We're out cheating.

23 Q. Answer the question?

24 A. That's my friend right there.

25 Robbie's my friend -- or he was my friend.

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Q. No. I ask the questions. Answer my
2 question.

3 A. What's the question?

4 Q. You didn't care about her but you
5 didn't want to get her ---

6 A. I'm supposed to care about her. I
7 don't care about -- no ---

8 Q. Mr. Benson. I'm the one to ask the
9 questions here. Do not go off on your own
10 tangent. My question is, you didn't care
11 about her but yet you didn't want her to get
12 in trouble with her husband; is that right?

13 A. I didn't want to get in trouble with
14 Candice.

15 Q. So you did not want her to get in
16 trouble with her husband, yes or no?

17 A. Exactly, (affirmative nod). The
18 same way she didn't want to get in trouble.

19 Q. Can you just say yes or no?

20 A. Yeah. I didn't care.

21 Q. Okay. So tell me. When you were
22 having sex with her, what position were y'all
23 in?

24 A. Doggie style position.

25 Q. But y'all weren't in the car?

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1 A. We was both standing outside the car
2 with the back door open, behind the driver's
3 side of the car.

4 Q. How long did it take you from the
5 time you put your penis inside her for you to
6 ejaculate?

7 A. No longer than about a minute or
8 two. It wasn't that special.

9 Q. Now, tell me. Did it feel good?

10 A. At the moment.

11 Q. Well, how else did -- did you feel a
12 tampon up in her?

13 A. There was no tampon.

14 Q. How did you know that?

15 A. I didn't feel one.

16 Q. You didn't feel one? You didn't
17 feel ---

18 A. I didn't feel one. It wasn't no
19 force took on none of that. I didn't feel
20 one.

21 Q. So I want to show you State's 13.
22 This is the tampon that they removed from
23 her. You don't think that was up in her?
24 Maybe you just didn't feel it in her.

25 A. I know it wasn't in her.

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Q. Well, are you sure about that? It
2 just took a minute? That tampon wasn't in
3 her?

4 A. Yeah. I just took a minute or two.
5 It was nothing.

6 Q. Is it possible that maybe you just
7 didn't feel the tampon in her?

8 A. I didn't feel no tampon at all. How
9 I supposed to feel a tampon? I didn't feel
10 no tampon at all.

11 Q. So you didn't -- you say just didn't
12 feel it. Okay. So you said you got her
13 first and then Corey was going to get it?

14 A. Corey and her was in the back seat
15 together.

16 Q. And when y'all got there you and her
17 were in the back seat and he was driving; is
18 that right?

19 A. Yeah. And then when I got done, I
20 hopped in the front seat of the car like I
21 said and I drove back to ---

22 Q. Now, you said ---

23 A. I drove back.

24 Q. Now, wait just a second. Don't
25 elaborate.

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1 MR. DEJONG: Your Honor, I'm going
2 to -- she's asking a question and now she's
3 interrupting him. He has a right.

4 SOLICITOR ODOM: No, I'm asking a
5 yes or no question.

6 THE COURT: And he has the right
7 to explain it.

8 CROSS-EXAMINATION CONTINUED

9 BY SOLICITOR ODOM:

10 Q. My question is when you got finished
11 with her, did Corey try to have sex with her?
12 Yes or no?

13 A. Corey got in the back seat with her.
14 And I got in the driver's seat. And I drove
15 back no further than the stop sign of the
16 same road that pulled over the side of.
17 While I'm driving, she's giving Corey oral
18 sex. Not to mention that he attempted to
19 have sex with her before we pulling off. And
20 she tells him that's okay because he has
21 trouble entering.

22 Q. Now, that's where I was trying to
23 get at. You said that Corey tried to have
24 sex with her on the side of the road. Yes or
25 no?

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 A. He attempted. He has trouble

2 entering. I state that for the third time.

3 Q. Now, was that the plan when you got
4 in the car for both of y'all to have sex with
5 her?

6 A. She already knew that was the plan.

7 Q. No, I'm not asking what she knew.

8 A. Yes. That was the plan.

9 Q. So where did you ejaculate?

10 A. Outside. We was standing outside of
11 the car. She had her hands planted on the
12 seat. She pulled her pants down. Before
13 planting her hands down on the seat, she
14 pulled her pants down no farther than her
15 knees. I pulled mine down no farther than my
16 knees.

17 Q. Uh-huh?

18 A. And we had sex.

19 Q. Did you ejaculate inside of her body
20 or outside of it?

21 A. I know I didn't pull out.

22 Q. Okay. What did Corey seem to think
23 about that?

24 A. Corey said 'oh, you done, man, my
25 turn.'

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Q. So he didn't care that you had just
2 finished inside of her?

3 A. She didn't care nor did he care.

4 Q. Are you nervous up here today?

5 A. No, I'm not nervous at all.

6 Q. You're not nervous?

7 A. No. I just want the truth to come
8 out. The truth is what I'm giving you.

9 Q. Well, did you want the truth to come
10 out when you talked to Investigator Taylor?

11 A. Yeah. I wanted the truth to come
12 out, but it wasn't going to come out the way
13 he was coming at me.

14 Q. With the way he was coming at you?

15 A. Yeah.

16 Q. Well, we all watched the video.
17 Correct me if I'm wrong, but he didn't get
18 in your face did he?

19 A. All the video ain't there. Y'all
20 didn't see what happened before we entered --
21 before we even entered the room. Y'all saw
22 what he wanted y'all to see.

23 Q. So he was real mean to you before
24 you came in?

25 A. Why wouldn't he be?

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 Q. So he was in the parking lot real
2 mean to you?

3 A. Saying whatever he wanted to say.

4 THE COURT: I'm going to ask that
5 both sides do not react in any way to any of
6 the testimony. This side or this side,
7 please. All right. You may proceed.

8 CROSS-EXAMINATION CONTINUED

9 BY SOLICITOR ODOM:

10 Q. Okay. So you were kind of rattled
11 when you walked into the interview room?

12 A. I was scared.

13 Q. But yet you put your feet up, all
14 relaxed when you got in there?

15 A. After I had told the truth, yeah I
16 put my feet up. When I'm telling the truth,
17 'I'm like if y'all going to give me time for
18 something I didn't do, man, I'm going with my
19 head up, period.' I don't ---

20 Q. You put your feet up before you
21 admitted to anything; isn't that right?

22 A. (No verbal response).

23 Q. You put your feet up before
24 Detective Taylor said your DNA was found
25 inside her; isn't that right?

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1 A. Not that I recall. Me -- if I'm not
2 mistaken. Me putting my feet up, what this
3 got to do with this thing?

4 Q. Well, you said you were so nervous
5 in there, but then you put your feet up.
6 That kind of makes it look like ---

7 A. I wasn't nervous, I was jittery. I
8 was just coming down off a high if you want
9 the truth.

10 Q. Okay. So were you scared of
11 Investigator Taylor?

12 A. Yeah, he intimidated me. You know,
13 everything he told me. Y'all don't know half
14 of what he even told me. Y'all saw what he
15 wanted y'all to see.

16 Q. So with him testifying today on the
17 stand and the nice guy we saw on the video,
18 that's not him at all?

19 A. No.

20 Q. All right. Were you nervous when
21 you crept out of your house to have sex with
22 the victim?

23 A. That's why we not together. No, but
24 I wasn't nervous. That's why we're not
25 together now because I'm doing doggish things

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 like that, creeping out the house.

2 Q. So you're not nervous when you had
3 sex, nervous in the interview but you're not
4 nervous here. And you said before that you
5 were nervous because you were facing time?

6 A. Yeah. Because that's the first
7 thing he said, 'we're going to give you forty
8 years.'

9 Q. Well, aren't you still facing time?

10 A. The truth comes out now.

11 Q. Why couldn't the truth came out
12 then? Why couldn't you told the truth then?

13 A. She may have could have told the
14 truth then.

15 Q. You've changed your story so many
16 times. When are you telling the truth?

17 A. I told the truth. I stopped him
18 before he left the room, towards the
19 interview. I told him the truth. I told him
20 what it was.

21 Q. So you changed your story three or
22 four times in the interview. At first you
23 said you didn't have sex with anybody -- oh,
24 no, first you say you don't even come to
25 Pickens County; is that right?

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1 A. Yes. That's because at the point in
2 time I had been staying in Greenville for
3 over a year.

4 Q. But then when he asked you, 'well
5 this happened in 2012.' And you say 'I
6 wasn't in Pickens County then.' Was that the
7 truth or not?

8 A. It's kind of hard to remember after
9 being gone for so long from Pickens County.

10 Q. Well, when did you move to
11 Greenville?

12 A. And they arrest me a year and some
13 change after this incident.

14 Q. When did you move to Greenville?

15 A. I can't even recall when we moved to
16 Greenville. I think it was -- about --
17 around November.

18 Q. Okay. So maybe right after, right
19 after this happened, a couple months later
20 then you moved to Greenville?

21 A. I guess so. I got arrested for it.
22 It's really got me lost now. Like, what's
23 your point?

24 Q. When did you move to Greenville?
25 The November after the rape happened?

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1 A. I never raped no one. You keep
2 saying rape like I raped someone.

3 Q. When did you move to Greenville?

4 A. I don't know. I moved like in
5 November ---

6 Q. Of 2012?

7 A. It happened after this incident. I
8 know before -- after my son -- before my son
9 was born, I moved.

10 Q. Okay. So November 2012? Isn't that
11 a big event, you moving?

12 A. Not really. Because right after we
13 moved, I got locked up for child support time
14 because -- I got out right after my son was
15 born.

16 Q. So moving's not a big thing?

17 A. It really wasn't no big thing. We
18 move all the time. We had done moved three
19 or four times before then.

20 Q. How long does it take you to move?

21 A. It don't take long at all. When I
22 move something, I'm moving.

23 Q. So a day?

24 A. I don't know.

25 Q. So you don't remember when you moved

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 and that took a whole day. But you remember
2 having sex with her this specific ---

3 A. I remember when I have sex with
4 certain people. I'm not having it like that.
5 I remember when I have sex with certain
6 people, you know!

7 Q. But you couldn't -- when you saw her
8 picture you didn't know it was her?

9 A. When I saw her picture, I denied at
10 first because he's talking about a rape.
11 Yeah, of course, I'm going to deny a rape
12 when I know I didn't rape no one.

13 Q. Okay. So you remember this time you
14 had sex with her. What about the other
15 times?

16 A. The other times, yes, I remember.
17 Any specific date, no, but I remember where.

18 Q. But you remember that this date
19 happened September 27th. Do you think you got
20 it mixed up?

21 A. Huh?

22 Q. Do you think you got your dates
23 mixed up?

24 A. No, I didn't get my dates mixed up.

25 Q. Well, tell me about the other times

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1 y'all had sex?

2 A. We had sex, I guess it was at his
3 granddaddy's house or something like, or
4 whatever Harold is to him.

5 Q. Uh-huh.

6 A. I'd say prior to that, about three
7 months before that, before this incident.

8 Q. Okay. And you said several other
9 times. When else did you have sex with her?

10 A. It was like -- back then, before
11 that it was -- it really wasn't that often.

12 Q. So what dates was that on?

13 A. I don't have any specific date.

14 Q. Well, you knew this specific date of
15 this time.

16 A. Why wouldn't I? I mean, this is
17 what we're in court for.

18 Q. Well, why would you? How do you
19 even remember it was September 27th? Why
20 couldn't ---

21 A. That's what y'all said. I know we
22 had sex that night. I remember. I remember
23 -- the reason why I remember this specific
24 time was I was fresh home from prison. I had
25 just came home from prison.

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1 Q. Uh-huh.

2 A. I was a few months home from prison,
3 really.

4 Q. So when did you get out of prison?

5 A. I got out of prison in August.

6 Q. So you got out in August but your
7 girlfriend's six months pregnant?

8 A. No, no, no, I had got out that
9 following year. That following year. That
10 following year. My fault. Excuse me.

11 Q. You got out the next year or the
12 year before?

13 A. Say what?

14 Q. Well, you say you got out the year
15 before or the year after?

16 A. What has this got to do with my
17 case?

18 Q. I'm asking you a question. Can you
19 please answer it?

20 A. I don't know when. That's really
21 the answer to your question. I don't know
22 when.

23 Q. Don't you think that's a pretty big
24 event, getting out of prison?

25 A. No. I didn't know me getting out of

TESTIMONY OF DEFENDANT - CROSS EXAMINATION

1 prison would be such a big event for anyone.
2 I don't really have too much to look forward
3 to but my kids.

4 SOLICITOR ODOM: I've got nothing
5 further.

6 MR. DEJONG: Nothing on redirect,
7 Your Honor. Step down, Mr. Benson.

8 (WITNESS STEPS DOWN)

9 MR. DEJONG: The Defense rests,
10 Your Honor.

11 THE COURT: All right. We're
12 going to take a short break. I want you to
13 go back to your jury room. Don't discuss the
14 case. We'll bring you back out in just a
15 minute.

16 (JURY OUT @ 4:00 P.M.)

17 THE COURT: All right. Are you
18 going to have a rebuttal? You don't have to
19 let me know right now.

20 SOLICITOR ODOM: Okay.

21 (BRIEF RECESS)

22 (DEFENDANT PRESENT)

23 THE COURT: All right. What's the
24 State going to do?

25 SOLICITOR ODOM: Your Honor, we are

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1 presented at this point. And we just have
2 several stages left. We have closing
3 arguments by the attorneys. Then I will
4 charge you on the law. And once we have
5 determined that all of the law is properly
6 charged, then you'll begin deliberation.

7 It's 11:00 now. What we've done,
8 just to let y'all know, we have made
9 arrangements so that lunch will be delivered
10 so that when y'all begin deliberations you'll
11 also have lunch available.

12 Now, the closing arguments -- again,
13 I remind you, as I told you earlier --
14 closing argument, this is not evidence. The
15 evidence is what you actually heard from the
16 witness stand and the actual exhibits. But I
17 would ask that you pay close attention at
18 this point and -- Mr. DeJong, you may
19 proceed.

20 MR. DEJONG: Thank you, Your Honor.
21 May it please the Court? Madam Solicitor.

CLOSING STATEMENT

22
23 BY MR. DEJONG:

24 Madam Forelady, ladies and gentlemen
25 of the jury, on September the 27th of 2012,

1 Tasha Riddle, Tasha Medlin, whichever name,
2 gets up and takes her two very young children
3 to Head Start.

4 Shortly after that or some time
5 after that, Tasha Medlin starts drinking
6 liquor. I believe she drank a pint of
7 liquor, vodka as I recall the testimony,
8 which was not enough. She had to go back to
9 the liquor store and buy more vodka.

10 Sometime in the process of the day,
11 not only was she drinking vodka, she took
12 Klonopin and Zoloft, the mixing of those with
13 alcohol.

14 Later in the afternoon after she has
15 been drinking, she gets into her car goes to
16 Head Start, picks up her two very small
17 children.

18 She returns home with the children
19 and continues to drink. To the extent that
20 when her husband came home she is intoxicat-
21 ed, drunk. A fight ensues between -- I'm not
22 suggesting a physical fight. There's no
23 evidence of that. So a very large argument
24 ensues between Ms. Medlin and her husband.
25 To the extent that law enforcement, the

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1 husband is calling law enforcement to come
2 out there.

3 Before law enforcement gets there,
4 Ms. Medlin leaves. And that's where things
5 get a little strange. Ms. Medlin is drunk.
6 Husband thinks she is going to see Eric, who
7 husband believes is a drug dealer.

8 And backing up momentarily on the
9 Klonopin or Zoloft, we don't know how many
10 she took that day or the quantity, if you
11 will, in the terms of milligrams. Keep in
12 mind, this woman is an addict. She has pill
13 problems.

14 She leaves the house, as I recall
15 the testimony, 7:30 or 8:00 in the evening.
16 Now, husband thinks she has gone to Eric's
17 house possibly, who he considers to be a drug
18 dealer.

19 Now, Ms. Medlin says that she, in
20 this drunken state, is going to walk from [REDACTED]
21 Kevin Court in Liberty to, I gather, her
22 father-in-law's business in Easley. Again,
23 keeping in mind this was 7:30 or 8:00
24 according to the husband's testimony. I
25 don't exactly recall her testimony.

1 Now, as a result of the fight, ladies
2 and gentlemen, both the husband and Ms.
3 Medlin testified at that point in time, the
4 marriage -- both of their testimony as I
5 recall, the marriage was over.

6 Ms. Medlin, I would suggest to you
7 she ended up at Westgate. She would indicate
8 to you that she has never been to Westgate.

9 However, certainly you heard testimony from
10 the Defense that she was no stranger to
11 Westgate, nor, indeed, was she a stranger to
12 Brandon Benson.

13 I think, ladies and gentlemen, part
14 of the story she gave law enforcement was
15 probably accurate. That is that she rode in
16 a large white car, which she later identified
17 as a Crown Vic, the only picture that was
18 ever shown to her by law enforcement.

19 The distance between [REDACTED] Kevin Court
20 and King's Asphalt, as I recall I think
21 Officer Taylor testified five to six miles,
22 something like that. Her having left at 7:30
23 to 8:00 -- that would be a long walk under
24 any circumstances. And a much longer walk if
25 you're drunk. So I submit, ladies and

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1 gentlemen, she did not walk that distance.

2 Somehow she ended up at Westgate,
3 which was characterized by Mr. Benson, I
4 forget the exact words, something to do with
5 the drugs -- I think it was drug-infested. I
6 don't remember his exact words. And I would
7 submit to you Ms. Medlin knew that. She knew
8 drugs were available at Westgate apartments
9 in Easley.

10 So now the night is wearing on.
11 Actually, we're probably past midnight,
12 between September the 27th and September the
13 28th. She is still at Westgate. She is drunk
14 to the extent that somebody calls Easley
15 Police Department to come out there to see
16 what in the world is going on.

17 Officer Felton says he gets out
18 there. He finds her. She is loud, she is
19 boisterous, she is drunk. He may not have
20 used the word "drunk." But what she was, she
21 was unsteady on her feet. Her speech was
22 slurred and I submit to you was drunk;
23 alcohol, drugs, some combination. Don't
24 know.

25 Now, Officer Felton, she made some

1 mention of attempted rape, as I recall the
2 words, to Officer Felton with the Easley
3 Police Department. Officer Felton says,
4 'well, where have you been telling me this
5 happened.' She said somewhere on 93, which
6 would have been outside, I gather, would have
7 been outside the city limits of the City of
8 Easley.

9 Now, he offers to call Pickens
10 County, an officer. Did she want Pickens
11 County to come out there? No, she does not.
12 She declines. Says, 'I don't want them.'

13 She continues to talk to Officer
14 Felton and says, 'I was riding around with
15 two guys', who were drinking with her. 'We
16 were in a car.' I don't think she identified
17 the car to Officer Felton, but nonetheless,
18 that's what she said. That's what she said
19 the night she was drunk when supposedly this
20 happened.

21 Officer Felton takes her to the
22 Easley jail for public disorderly conduct.

23 Now, I would like to digress for just
24 a moment. Looking at Ms. Medlin's story, she
25 said she was walking down 93, got picked up

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1 by this car, that there were three people.
2 Interestingly enough, ultimately she said she
3 could only identify one. Hopefully, I will
4 come back to that.

5 She says she was riding in this
6 vehicle. Not really clear who was in the
7 back seat, who was in the front seat. And,
8 again, you take the testimony as you've
9 heard it. Someone came over the front seat,
10 someone came out of the passenger's seat in
11 the front to the back seat. And her
12 testimony is that pinned her shoulders.

13 I would ask you, ladies and
14 gentlemen, -- she was asked more than once
15 her positioning in the back seat of that car.
16 Yes, it was a Crown Vic. That is a large
17 car, I will concede. In the back seat
18 someone pinning her shoulders. And, again
19 hopefully, we'll discuss it.

20 There was a lot of talk about bruises
21 on her body. She had no bruises on her
22 shoulders and no bruises on the top of her
23 shoulders.

24 Now, she says -- the Solicitor had
25 initially asked her about the position of the

1 body. I asked if her feet are on the floor,
2 as I recall the testimony. I don't think
3 that particularly ever changed. She said, I
4 think, she may have twisted around in the
5 seat. But in that position, ladies and
6 gentlemen, she says that someone had sex with
7 her. Now, let's pause right there.

8 There is no doubt at this point in
9 time that Brandon Benson had sex with Tasha
10 Medlin, none whatsoever. He was on the
11 witness stand. He admitted it. He admitted
12 it to Officer Taylor. We saw the video.
13 Yes, he did have some glitches in there where
14 things weren't exactly accurate. But he came
15 around and said, 'well, this is what
16 happened.' And that's what he told you on
17 the witness stand.

18 So now she says -- and here's the
19 part that I can't get in my mind from the
20 testimony, maybe you can. She was going
21 towards Easley, according to her testimony.
22 Now, somehow when she says she got picked up,
23 she's going back to Liberty. And, indeed, at
24 one point in time tells one of the officers,
25 I believe it was Officer Taylor, the last

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1 thing she remembers seeing was Liberty.

2 There's nothing else there.

3 Also, remember this, if you will.

4 During the course of that, two or three
5 witnesses were asked about the lighting on 93
6 between King's Asphalt and Liberty. I think
7 everyone agreed that lighting on 93 between
8 King's Asphalt and Liberty, either way you
9 go, that is a very dark, rural road.

10 Yet she said she caught glimpses.
11 And we'll come back to these glimpses later
12 on. At that point in time, she only said she
13 caught glimpses of these people, according to
14 her, who were doing these things to her.

15 Now, she's in jail. She left her
16 home on [REDACTED] Kevin Court in Liberty on the
17 27th. Her marriage was over. When she left
18 [REDACTED] Kevin Court in Liberty, South Carolina on
19 the 27th, she had no place to go. She was
20 basically homeless at that point in time,
21 drunk. Now she ends up in the Easley jail.

22 Come the morning of the 28th things
23 start clicking. She's sobering up. 'What do
24 I do now? How do I get back home? I'm
25 homeless. I have no place to go. Let's call

1 rape.'

2 Does Easley take her to the hospital?

3 No, they don't. She walks to Easley

4 Hospital. Now, let's talk -- let me stop

5 there a moment. Officer Taylor said he saw

6 blisters on her feet. Well, I would submit

7 to you those blisters could have well come

8 when she was walking from Easley Police

9 Department to -- I can't remember the name --

10 Baptist Easley Hospital or Easley Baptist

11 Hospital, one of the two -- while she was

12 walking. And they were not popped. If you

13 had blisters on your feet and you had walked

14 from [REDACTED] Kevin Court to King's Asphalt, if

15 you had blisters, I would submit to you they

16 would have popped before she ever got to

17 King's Asphalt.

18 So she is in a quandary, she, being

19 Ms. Medlin, is in a quandary at this point in

20 time. 'What do I do now? I have no place to

21 go. I have no family here. I am basically

22 homeless. I'll call rape.'

23 So she goes to the Easley Hospital

24 and they do this SLED kit, in which they

25 collect evidence, potential evidence. They

1 get a vaginal swab and they get a vaginal
2 smear, they take her panties and her pants
3 and all of that.

4 So we get through to that. Now.
5 Now we're in a little better position to go
6 home. So husband is called and he comes to
7 get her.

8 While we are talking about that
9 examination, evaluation, numerous pictures
10 are introduced by the State showing bruises.
11 Husband testified, 'oh, she didn't have any
12 bruises.' She testified, 'oh, I didn't have
13 any bruises.' Remember what the nurse said
14 that did the examination? She saw bruises on
15 her in various degrees of healing. Not fresh
16 bruises. "Various degrees of healing." I
17 think that was what she said. If not, it's
18 very, very close. And she's a nurse. So if
19 these bruises were in various degrees of
20 healing, they have been there for longer than
21 this timeframe that we are talking about.

22 Based on her testimony, her being
23 Ms. Medlin, those bruises would have come
24 somewhere in the late night of the 27th or
25 early morning hours of the 28th. I believe

1 she was at Baptist Easley Hospital around
2 3:30 in the afternoon. I would submit to you,
3 ladies and gentlemen, in that period of time,
4 twelve hours, maybe even fourteen hours,
5 bruises would not be in various degrees of
6 healing. They would be fresh bruises.

7 So now she is there. And, also
8 remember when she was talking to Officer
9 Felton, Easley Department -- I'm digressing
10 here for a moment -- what did she tell
11 Officer Felton she had to drink? Four beers.
12 I believe Nurse Fogarty who conducted the
13 exam, Nurse Fogarty who testified that that's
14 what she was told also. I would say that was
15 a lie. According to Felton, a police officer
16 of many years, her speech was slurred,
17 unsteady on her feet. And that unsteady on
18 her feet -- if you want to say those bruises
19 were fresh -- if she was unsteady on her
20 feet, falling down would not have been a hard
21 thing to do. And bruises on your knees or
22 any other portion of your body.

23 Now, at this point in time she can't,
24 said she can't identify anyone that may have
25 been in that vehicle. Well, I believe we

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CLOSING ARGUMENT BY DEFENSE

1 have established that she had been to
2 Westgate. She knew Brandon Benson. She knew
3 Brandon Benson to the point that she had
4 given him money for pills, but she never got
5 her pills. She went looking for her pills.
6 So she doesn't name Brandon Benson.

7 Now, whether or not she was at that
8 point in time in sincere about pushing this
9 rape issue, I don't know. I think she did
10 this because that was to get back in good
11 graces with her husband, get back to her
12 kids.

13 So she doesn't name anybody. A
14 very, I would say, nebulous -- perhaps vague
15 would be a better word -- identification of
16 these people who supposedly did this to her.
17 And I believe ladies and gentlemen at that
18 point in time, she thought it was over. She
19 called rape and she thought it was over, that
20 nothing else was going to happen.

21 She forgot one thing. She forgot
22 DNA. So the DNA goes off, comes back and it
23 is Brandon Benson's DNA. There's no real
24 question about that. And hopefully I will
25 come back to that. Brandon Benson's DNA is

1 present. No question.

2 Now, here's what I find fascinating.
3 This woman who said this happened to her on
4 Highway 93 in the nighttime, a dark, rural
5 road, admittedly drunk, can't identify
6 anyone. Yet some thirteen to fourteen months
7 later, law enforcement takes a photo lineup
8 out there. And if I recall, Officer Taylor's
9 testimony she almost immediately identifies
10 Brandon Benson. I find that fascinating. I
11 find that more than fascinating. I think
12 that goes back to say she knew who Brandon
13 Benson was and is. She knew.

14 Now, the DNA in and of itself,
15 you've heard Mr. Stewart testify from SLED
16 who is a DNA person. He was qualified as an
17 expert. His Honor has already charged you on
18 expert testimony and I suspect he will charge
19 you again on that. But because he was
20 qualified as an expert, that doesn't make his
21 testimony any more believable, credible than
22 anybody else. You can do with that testimony
23 what you want to do. He was fascinating to
24 talk to.

25 There were three tiers, if you will,

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CLOSING ARGUMENT BY DEFENSE

1 three layers to the DNA findings. One,
2 Brandon Benson on the vaginal swab and
3 cuttings. One in however many quadrillion,
4 way more people than are alive on the face of
5 this planet today.

6 But what also is fascinating is the
7 fingernail scrapings and the tampon. And the
8 tampon, I find interesting. Ladies and
9 gentlemen, I am not trying to be crude, that
10 is not my intent. But I find the tampon
11 interesting because when she went to the
12 hospital for this exam, it was as though, as
13 I recall the testimony, she did not know the
14 tampon was there.

15 The second thing I find fascinating
16 about the tampon, as I recall Mr. Stewart's
17 testimony, the panty cutting and the vaginal
18 swab DNA came back to Brandon Benson.

19 There were two other sets of DNA that
20 were taken out of the various samples that
21 were sent to SLED to be analyzed. One was
22 that tampon. On the tampon, as I recall Mr.
23 Stewart's testimony, there was sperm. They
24 developed a DNA but whose was it? What we
25 know is it wasn't Brandon Benson's, but whose

1 was it? What else went on that night, that
2 September the 27th, the early morning hours of
3 September the 28th that that sperm was present
4 on that tampon?

5 Fingernail cuttings, there were other
6 -- there was DNA on the scrapings, excuse me.
7 There was other DNA developed from fingernail
8 scrapings. Who did it belong to? We don't

9 know. But we know who it didn't belong to.
10 It did not belong to Brandon Benson. We know
11 that. That was the testimony from SLED, the
12 State's witness.

13 Mr. Benson comes before you and
14 testified. He was forthright about his
15 record. He has a record. I think His Honor
16 is going to charge you on that, and you take
17 the law as His Honor gives it to you. The
18 fact that he had a record, you cannot use
19 that to say he is guilty of this offense in
20 any way. The only thing you can use that
21 for, if anything at all, and it's up to you,
22 if anything at all is his credibility or his
23 believability. And I would suggest to you he
24 came to you and he was forthright.

25 And, again, there were some glitches

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1 with what he said to Officer Taylor when he
2 gave the statement. We saw the statement.
3 Initially, I think he may have been a little
4 blasé until Officer Taylor starts talking
5 about jail time. That was an awakening
6 moment for Mr. Benson. Mr. Benson then
7 shares several things.

8 Number one, he knew Tasha Medlin
9 before September the 27th of 2012.

10 Number two, he and Tasha Medlin had
11 had sexual intercourse prior to September the
12 27th of 2012.

13 I don't recall the drug issue. I
14 don't know if he said he had sold or given
15 her drugs before. I don't remember that.

16 He says he was home. Candice Hagood,
17 who also testified, the mother of three
18 children that Mr. Benson and Ms. Hagood have
19 together, he's home.

20 He said Corey Fowler came to the
21 apartment. Corey Fowler, who he had known
22 for years, came to his apartment. He gets in
23 the car with Corey Fowler and Tasha Medlin
24 because they or she wanted drugs. They get
25 in the car and ride.

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1 He said they go to Reliable. It
2 didn't take long to get there. And they pull
3 off on a road. I don't recall if the crack
4 cocaine went to be them before they got to
5 Reliable or after they got to Reliable. He
6 says in exchange for the crack cocaine, he
7 was to get sex. He got sex. That after that
8 -- it did not take long -- he was getting

9 paranoid and headed back to Westgate
10 apartments because at that point in time he
11 knew that he had to face the wrath of Candice
12 Hagood. And, he did.

13 When he left that vehicle -- what
14 time I don't know. I don't know that that
15 time ever came out. But when he left that
16 vehicle, that white Crown Vic that belonged
17 to Corey Fowler, Tasha Medlin and Corey
18 Fowler were still in that car. He went into
19 his apartment to face the wrath of Candice
20 Hagood.

21 I would suggest to you, ladies and
22 gentlemen that what you heard from Brandon
23 Benson, when you take that as a whole and
24 plug that into the lies that Tasha Medlin
25 told -- actually, I think that it wasn't a

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1 lie. I think the lie really basically came
2 afterwards. She said, 'yeah, we were riding
3 in a car, two of us.' She says that she'd
4 drank two pints of liquor. I'm not very good
5 with my measurements, but I think two pints
6 is a quart if I'm not mistaken. I believe
7 it's a quart. Two pints of liquor, vodka
8 that day over what period of time?

9 So the incidents I've shared with
10 you is a much more realistic event than the
11 truth of what happened on September the 27th
12 of 2012, possibly into the early-morning
13 hours of September the 28th.

14 Now, when we talked, I believe it
15 was Monday afternoon, we talked a little bit
16 about reasonable doubt. And, again, His
17 Honor is going to charge you on reasonable
18 doubt. You take the law from His Honor. His
19 Honor will charge you on reasonable doubt.
20 If you find that the State has carried the
21 burden of proof -- and that's what we're here
22 for, to see whether the State has carried
23 that burden of proof. If the State has
24 carried their burden of proof beyond a
25 reasonable doubt, then you must find Mr.

1 Benson guilty.

2 However, if you think that there is
3 a real possibility that Mr. Benson is
4 innocent then you must, under the law that
5 His Honor will charge and the oath that you
6 took, you must -- if there's real possibility
7 of his innocence, you must give him the
8 benefit of that doubt and find him not
9 guilty.

10 Now, I'm not going back into the
11 presumption of innocence but Mr. Benson
12 testified, you heard his testimony. The fact
13 that he testified does not strip him of that
14 innocence. It does not change the burden of
15 proof. The burden of proof is still right
16 there.

17 Now, there's nothing really for you
18 to deliberate on whether or not sexual
19 intercourse took place in this case because
20 it did. Mr. Benson said openly -- he sat in
21 that witness stand under oath and said, 'yes,
22 I had sex with her.' Where we've come to now
23 in the case is whether or not that sex was
24 consensual.

25 Now, the burden of proof is not on

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CLOSING ARGUMENT BY DEFENSE

1 Mr. Benson, the proof that it was consensual.
2 The burden of proof on that remains at this
3 table. The State of South Carolina, they
4 have the burden of proof beyond a reasonable
5 doubt that it was not consensual. Mr. Benson
6 doesn't has to prove to you it was
7 consensual. He still comes into this
8 courtroom, as I told you Monday afternoon,
9 with nothing to prove. He is innocent.

10 It's been a rather long few days.
11 You all have been more than gracious, more
12 than attentive. On behalf of Mr. Benson, we
13 really do appreciate it.

14 I would ask you now when listening to
15 Madam Solicitor as she gives her argument and
16 listen to the charge on the law from the
17 Judge, to keep an open mind. The Judge asked
18 you to keep an open mind. With that open
19 mind, now you have heard all the testimony
20 and you've seen all the evidence in this
21 case. When you go back there and deliberate,
22 I ask that you apply your common sense and
23 reasoning and bring back a verdict of Not
24 Guilty.

25 Thank you so much for your time.

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CLOSING ARGUMENT BY THE STATE

1 THE COURT: Ms. Odom.

2 SOLICITOR ODOM: Thank you, Your
3 Honor.

4 CLOSING STATEMENT

5 BY SOLICITOR ODOM:

6 September 27th of 2012, I told you
7 when I first got up here, in opening argument
8 that's the day that the victim in this case
9 knows. She's been thinking about that day
10 for years.

11 Just like she's been thinking about
12 that day, she'll never forget that day.
13 Today, November 18th, 2015, this is going to
14 be a day that she'll remember forever.

15 Now, usually at this time in my
16 closing I would give you a brief overview of
17 the facts. Y'all know the facts. Y'all
18 don't need me to tell you a brief overview.
19 We're going to get right into the nitty
20 gritty.

21 The first witness that testified was
22 Ms. Medlin. She's our victim in the case.
23 She's probably the State's most important
24 witness. Now, Ms. Medlin, you got to meet
25 her. You got to meet her husband. She has

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CLOSING ARGUMENT BY THE STATE

1 been married for several years. They have
2 two children together. And she told you how
3 after she had that second baby that things
4 got a little hard, that she was going through
5 some things. Her husband had said post-
6 partum. She wanted help. She was asking for
7 help with that. She went to the doctor and
8 got a prescription but it didn't quite -- it
9 wasn't quite enough.

10 Now, she testified how worthless she
11 felt and that's a hard thing to know. That
12 feeling, you know, if you've never, you know,
13 felt worthless, like you didn't belong, like
14 you were all alone, you know, you don't know
15 how that feels. It's kind of hard in this
16 case too to understand if you've never been
17 through say, 'Well, how did she feel alone?
18 She's got her husband. She's got her two
19 kids and why does she feel so bad? She can
20 take them to school and then she can go home
21 all day.' Well, you know, it started years
22 before that. You've got two little kids and
23 they're less than a year apart, your body's
24 been through it. Your mind's been through
25 it. Her mama's in North Carolina. All she's

CLOSING ARGUMENT BY THE STATE

1 got are her husband, his family, and their
2 two kids. But she loves them. She's glad
3 that she has them. So she asked for help
4 from the doctor. He gave her a prescription.

5 Well, like I said, it wasn't enough.
6 So she started drinking a little, drink a
7 little more. And over the years she's
8 drinking a lot. She had built up her
9 tolerance and something that was meant to
10 help her in the beginning, it just wasn't
11 working anymore to say the least.

12 Her husband knew it wasn't working
13 and he'd had enough. You see somebody you
14 love every day going through something. And
15 he said, he said on the stand, 'I just wanted
16 her to get help. I just wanted her to get
17 better.'

18 So he comes home on that day and
19 where does he find her? She's drunk again.
20 Enough's enough. He's had enough. They
21 start arguing. They're back and forth. You
22 know, she's saying 'all right.' He's saying,
23 'alright!' She's got her pajamas on so she
24 starts changing. She's gone. She's leaving.
25 She takes her pajamas off. She's putting her

1 normal clothes back on, her jeans, her tennis
2 shoes, her tee shirt. She said she had a
3 little jacket. And he said, you know, she's
4 changing. I see her. She doesn't have any
5 bruises. He's seen her naked, no bruises.
6 They're yay-yayying back and forth. This is
7 a big moment in their marriage. This is
8 life-changing. She walks out of that house,
9 but he calls the deputy out.

10 You know, like he said this was it.
11 He wanted her to get help and she didn't seem
12 to think she had a problem. So he's getting
13 his stuff. He's getting their kid's stuff
14 and he's going and she knew that. So he was
15 gone. He didn't tell her 'you're gone, get
16 out of here. You have no place to live,
17 leave.' He didn't say that. He's the one
18 that got his stuff and he got the kids and he
19 left. She had her home. She had her place
20 to stay.

21 Now, at this point, she's drunk.
22 She's emotional. She has basically just seen
23 the breakdown of her marriage. She's seen
24 her husband leave. She's seen her kids
25 leave. Everything in this world is

1 crumbling. A lot of people, myself included,
2 when you're going through a hard time, want
3 to talk to your mom. It doesn't matter how
4 old you are, you always talk to your mom.
5 And that's what she wants to do. She didn't
6 have minutes on her phone, though.

7 So, you know, she left the house.
8 She's walking, clearing her head, takes her
9 liquor with her. Still at that point,
10 probably not thinking that's really a
11 problem. You know, it helps her out. And
12 she's just headed -- she gets to the end of
13 Sims Mill Road. She turns left on Rahamer.
14 She goes up to the Liberty Bell. Yeah, she's
15 walking.

16 And she's like, well -- what's
17 another thing she's got in this world? Well,
18 she's got her husband's family and they work,
19 they own up there, at Harold's in Easley near
20 the skating rink, near Westgate apartments.
21 So she's walking that way. But that's taking
22 a long time. And in her mind, you know, she
23 even said 'if I could just get to my
24 husband's dad.' You heard her husband say
25 his daddy worked long hours at the tire. You

CLOSING ARGUMENT BY THE STATE

1 know, it wasn't unusual for him to be there
2 later. And then you heard the defendant said
3 that family lived near there, I don't know
4 about that. But she's walking to somewhere
5 she knows.

6 Keep in mind, you're drunk. It's not
7 like you're thinking the clearest. It's not
8 like you're making the best decisions. But
9 she leaves.

10 Now, she gets through Liberty. She
11 gets up to the rock quarry. Mr. DeJong says
12 King's Asphalt. It's the same place up
13 there. She gets up that way and a car pulls
14 over to offer her a ride. At this point,
15 it's really late. She's tired. She's had a
16 long time to think, a long time to walk.
17 She's been nipping on that liquor a little
18 more walking up the road. And they say, 'you
19 want a ride?' Yeah, she'll take it. At this
20 point, you know, she's abandoning the thought
21 of making it up there and then calling her
22 mom. And, you know, she's just saying, 'you
23 know, I just want to go home.' Her husband's
24 gone. She's got the house she can go back
25 to. She just wants to go home. She asked

1 them, 'can you take me home?' She gets in
2 the car.

3 Now, I want to talk about this, the
4 direction. Mr. DeJong said he wasn't quite
5 sure of the direction. So she's walking up
6 93. She's in Liberty walking towards Easley,
7 but the car, it comes down 93 going towards
8 Liberty. She's walking towards Easley. The
9 car is coming towards Liberty. But she gets
10 in the car and they continue on towards
11 Liberty. But she says at some point they
12 turn around. Now, granted Mr. DeJong's
13 saying well, that's a, you know, kind of
14 backwoods, not a lot of lights but plenty of
15 opportunity. You know, when they got to turn
16 around, Ingles is right there over the
17 bridge. It's always lit up. And you've got
18 several businesses along the way. You've got
19 P&P Printing or it used to be at least. A
20 little up, King's Asphalt; you know, there's
21 opportunity. But even if it was pitch black,
22 you've got cars passing in the other
23 direction. So, you know, there's that
24 opportunity there. It's not a lot of
25 opportunity but that's what happened. She

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1 got enough light where she could see. She
2 could make things out. So she gets in this
3 car.

4 What happens when she gets in?
5 They're chitting-chatting a little. She's
6 thinking she's going home. She wasn't. She
7 wasn't going home. The guy in the front seat
8 climbs over and -- you know, a big deal was
9 made about her positioning and everything.
10 And it's frustrating. It's frustrating
11 because I want to make sure you know what
12 happened, you have a clear picture so you're
13 not back there in the jury room saying, you
14 know, what was going on. When that guy
15 climbs over the front seat, don't think he
16 climbed over, sat there, turned, you know,
17 it's not one movement, one movement. No,
18 this happened quick. He climbs over. And as
19 he's climbing over, gets her shoulders shoves
20 her down. As he's shoving her down, the
21 Defendant's ripping her pants down, quick.
22 They're not playing games here. He knows
23 what he wants and he's going to take it. His
24 friend from the front seat shoves her down.
25 And the Defense wants to make a big deal

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1 about well, her shoulders didn't have
2 bruises. If what she's saying is true and
3 his buddy's got his knees on her shoulders,
4 her shoulders are going to have bruises. No,
5 no. Okay. Think about that. Think about
6 what makes sense. When he shoves her down in
7 that seat and he puts his knees to keep her
8 from moving around, if he puts his knees up
9 here on her collarbone, what's she going to
10 do, she's going to start moving her arms
11 around. No. He pins her down and shoves his
12 knees down. She said shoulders right here.
13 And you've got these pictures. You'll be
14 able to take these pictures back to the jury
15 room.

16 All this evidence you'll be able to
17 take back to the jury room and look at.
18 Review it, look at these pictures. State's
19 Exhibit 1, pictures of her arms, those
20 bruises right there on the inside of her arms
21 like somebody's holding her down. And she's
22 not just laying there. She's not laying
23 there saying, 'okay, well this is happening.'
24 She's fighting them. Yeah, she might be
25 drunk but she knows what's going on. She

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1 knows that somebody's got her pinned down.

2 So his buddy has got her pinned
3 down in the back, you know. Driver's seat,
4 buddy climbs over, pushes her down, had her
5 pinned down. The Defendant over there takes
6 her pants down, rips her pants down, takes
7 her panties down and pushes her legs over to
8 the side. And it makes sense because if he
9 takes her pants down and just gets on top of
10 her, his face is going to be in front of his
11 buddy's face. No. He pushes her legs to the
12 side and is able to force her down, keep her
13 leg down while he takes his penis and enters
14 her. He makes that penetration and he's able
15 to do what he wants. He's able to take what
16 he wants.

17 And when he's done with her, what
18 happens? They pull over and shove her out on
19 the side of the road. You heard her testify.
20 You know, they pulled her by the hair. The
21 old buddy over there holding her down pulls
22 her by the hair like she's nothing, like
23 she's nobody. And probably at the time they
24 picked her up, that's what they figured.
25 Some girl, they're going to give her a ride.

1 She gets in. It's pretty clear she's been
2 drinking. Nobody's going to believe her.
3 Shoves her out, pulls her out of that car.
4 Her pants, her panties, they're still down.
5 She's on the side of the road thinking 'Oh,
6 my God. What has happened to me?'

7 So at this point, you know, she got
8 in the car. And they were headed back
9 towards Liberty and they turn around coming
10 back towards Easley. She said -- she was
11 saying she was just wanting a ride but they
12 weren't just going to give her a ride. She
13 knew. And she was saying, asking 'please
14 just let me get out.' "Please just let me
15 get out." Uh-uh, (negative gesture).

16 Well, they let her out after the
17 Defendant over there got what he wanted. So
18 they drag her out of the car on the side of
19 the road.

20 What does she do? The nearest light
21 she sees she goes to get help. Now, keep in
22 mind she's been through a very traumatic
23 event. You think your husband is leaving
24 you. You think that's traumatic? Well, now
25 she's been raped. This wasn't something

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1 pleasurable for her. She wasn't in that back
2 seat enjoying herself, being held down. If
3 she was enjoying herself, they wouldn't have
4 had to hold her down. She did not consent to
5 this. She asked them to let her out. She
6 struggled. She told them to stop. She did
7 not want this.

8 She had a tampon in. And the
9 Defense wants to make a big thing about this
10 tampon. But, you know, she said she was on
11 her period. She'd been spotting. And that's
12 another thing. Y'all will take that tampon
13 back. All this evidence gets sent back with
14 you. And granted, you can't open it, not
15 that you would necessarily want to. But
16 you're going to be able to take that back and
17 look at that. This is it. Three years ago
18 the nurse took this out of her body. You
19 heard the nurse testify this was up inside of
20 her. This wasn't, you know, hanging out the
21 edge of her vagina. And I apologize for --
22 if you think I'm being vulgar, I apologize.
23 But this is what this case is about. We've
24 got to get into it. The nurse said this was
25 up inside of her, up at her cervix. This one

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CLOSING ARGUMENT BY THE STATE

1 now, you know, this had been shoved up inside
2 of her. And you may say 'well, why doesn't
3 the victim know about that?' Well, you might
4 say, 'hey I have had a tampon in before and I
5 sure as heck knew.' Yes, she'd been
6 drinking. Yes, she had had two pints of Wild
7 Turkey. But when she got in that hospital,
8 you can see the records, you can remember the
9 testimony, she said 'I hurt all over.' And
10 Nurse Fogarty said that. She said she hurt
11 all over. You can be sure of that, that she
12 hurt in her vaginal region that her vagina
13 hurt. Maybe she didn't realize that she
14 still had that tampon in, but when they took
15 it out, sure, yeah. She knew then. And
16 that's part of the reason she hurt so bad.
17 That was up there.

18 So when they shove her out of the car
19 she sees lights. Now, keep in mind, she's
20 just been raped. The car has drove off. She
21 doesn't know where this car is. She doesn't
22 know if they're coming back for her. All she
23 wants to do is get help. Talk with somebody,
24 somebody else. So she runs up to the nearest
25 light that she sees.

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CLOSING ARGUMENT BY THE STATE

1 She had no idea that the Defendant
2 lived at Westgate. She didn't know that.
3 You know, she runs up there banging on doors.
4 'Please, somebody help me. Call the law.
5 Somebody help me. Call 9-1-1. Call my
6 husband.' And, you know, it's 2:00 in the
7 morning at this point.

8 They do call the law. You heard the
9 Easley officer testify, Officer Felton. I
10 think he was the second one yesterday who
11 testified. He said he got a call about a
12 drunk girl at 2:00 in the morning out at
13 Westgate. And he testified, and you heard
14 the Defendant testify, Westgate can be kind
15 of a rough area. There's a lot that goes on
16 out there. And you heard them testify, the
17 Defendant say drugs? Yeah, that goes on.
18 Officer Felton, yeah, assaults, burglaries, a
19 little bit of everything. So when he gets a
20 call at 2:00 in the morning that they've got
21 some drunk girl out at Westgate, what you
22 think he's really thinking? You know, he
23 told you it's his job. He just responds to a
24 call. But he had this preconceived notion
25 going out there, 'here we go again. Let me

1 go, you know, round this girl up out there
2 disturbing everybody.' Yeah. He knew what
3 that call was about and he knew before he got
4 out the car what was going to go down.

5 So he goes out there and he starts
6 talking to her. And he says at first that
7 she says, 'yeah, people tried to rape me.'
8 You know, if anybody else was out there and
9 they were sober, do you think that would have
10 went down a little different? You know, when
11 you're talking to somebody and you're stone
12 cold sober and they're drunk as a skunk, just
13 drank two pints of whiskey and they're
14 slurring and they're trying to tell you all
15 this stuff and it's out of order and it's not
16 making sense. It don't matter what they're
17 talking to you about, you get irritated real
18 quick. When you're sober and you're having
19 to deal with somebody who's drunk, you know,
20 that ain't fun. And here you go. He's got
21 his job to do. He knows he has to deal with
22 this. And he dealt with this drunk girl.

23 So she's trying to talk to him and
24 she told you she was frustrated. She was
25 trying to tell him what happened. And to

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CLOSING ARGUMENT BY THE STATE

1 her, you know, she's feeling like he's
2 dismissive. She's trying to -- she's begging
3 for help. She's asking for help and she's
4 getting nowhere with him. And finally she's
5 just like 'well, whatever. You know,
6 whatever you want to do.' Well, he knew what
7 he wanted to do. Took her to jail. He took
8 her to the drunk tank. There she goes in the
9 drunk tank.

10 The next morning she gets out. So at
11 this point, you know, she gets out. She said
12 she PR'ed herself out, she got out on the
13 bond and she told them or she asked them 'can
14 somebody give me a ride to the hospital?'
15 She's still saying she's been raped because
16 she was raped. And they tell her no. They
17 don't want to give her a ride.

18 She's got to walk up there. She's
19 just been raped. She's got arrested. She
20 spent the night in jail and now they won't
21 even give her a ride to the hospital. It'd
22 been real easy for her to quit at that point.
23 It would have been real easy for her to say,
24 'This ain't working. I'm just going to go
25 home. I'm just going to get a ride home.'

1 Her husband wasn't at home. She could have
2 went home that -- at that point, laid on the
3 couch, taken a bath, took an Advil, drank
4 some Gatorade. She could have just had her
5 a day by herself at her house. Nobody was
6 there. But, no. She knows what happened and
7 she's not going to leave it at that.

8 She goes to the hospital. She walks
9 up there. Now, you know the Defense was
10 saying she knew she was homeless. She didn't
11 have a place to go. One, she wasn't
12 homeless. She had a home. He's the one that
13 had left. She could have went back there.
14 But, you know, even if she's thinking 'oh,
15 God, my marriage. I love my husband. I
16 messed up. I've got to fix my marriage.' Is
17 she really going to go through all of this?

18 It would have been real easy for her
19 to fix her marriage. All she would have had
20 to tell him, he's the one that wanted her to
21 get help. 'Baby, I know I'm wrong. I know I
22 shouldn't be drinking. I'm going to get help
23 for it.' That's all she had to say, 'I'm
24 going to get help for it' and he would have
25 took her back. They'd have been fine. She

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CLOSING ARGUMENT BY THE STATE

1 didn't have to make up a story about getting
2 raped. You heard her on the stand saying how
3 embarrassing it is.

4 So she gets to the hospital. They
5 do an intake on her. They kind of get her
6 story, get, you know, see what's going on.
7 Call law enforcement and get a nurse, the
8 last witness on Monday, Ms. Fogarty. And she
9 was saying, describing to you what all it
10 entails when you've got a victim of sexual
11 assault, what you have to do.

12 A standard procedure, you do the same
13 thing every time. So she goes into a room.
14 They roll out a piece of plastic. She stands
15 on top of it and undresses in front of a
16 complete stranger. You heard her say how
17 embarrassing it was. And, you know, you
18 might be saying, well, she's got two kids.
19 And if she's had kids, plenty of people have
20 -- you know, doctors saw her down there.
21 It's not like her husband is the only person
22 that's seen her down there. We're not
23 talking about just her private area. She
24 completely undresses in front of this
25 stranger and has this nurse poke and prod at

1 her and take pictures of every part of her
2 body that has a bruise and document it. And
3 that's nothing. When you go back there,
4 don't just look at the pictures. Look at the
5 medical report. The nurse read her list of
6 bruises, where everything was. Her husband
7 says there were no bruises when she left.

8 Now, you think a bruise that you get
9 it from somebody forcefully holding you down
10 is going to be different than a bruise when
11 you're trying to kick and your shin hits the
12 back of a seat. Like if you get a forceful
13 contact, the bruise is going to look
14 different than, you know, something little.
15 Read the report when you go back there. Look
16 over everything.

17 She's standing on this sheet. She's
18 getting poked and prodded. She's getting
19 looked at. But it doesn't stop there. The
20 nurse has to comb her pubic hair. I mean, do
21 you think this is something she's going to do
22 voluntarily? Combing her pubic hair? And
23 then she has to submit to, you know, a pelvic
24 exam. This nurse is pulling out that tampon.
25 She's taking a Q-tip and swabbing her. She's

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CLOSING ARGUMENT BY THE STATE

1 taking her underwear. And this isn't
2 something pleasant that you, you say, 'well,
3 you know, I don't have anything to do today.
4 I think I'm going to make up some rape. Go
5 get an exam.' No. She's not going to
6 willingly go and do this if it didn't happen.

7 Another thing to look for on the
8 records, her drug test. She got drug tested
9 when she went to the hospital. You heard the
10 nurse say that she did test positive for one
11 thing, her prescription medicine. She didn't
12 have any crack in her system. The Defendant
13 when he got on the stand trying to say,
14 'Well, yeah, I gave her a little crack rock.
15 They were in the back smoking it. And she
16 was trying to smoke it.' She didn't have any
17 crack in her system. And if you take the
18 Defendant at what he's saying, that would
19 have happened late in the night. She went to
20 the hospital the next day, twelve hours
21 later. Yeah, she didn't have anything in her
22 system.

23 So when she leaves the hospital, she
24 heads home. Now, a common thing with the
25 defense, they're trying to throw everything

1 they can out there. And I always call it the
2 spaghetti defense. I don't know about y'all
3 but when I'm cooking spaghetti and I want to
4 see if it's done, I pinch off a little piece
5 of the noodle. I flick it against the wall.
6 If it sticks, you know it's done. Now, my
7 husband doesn't really like this because now
8 we've got bunch of little old pieces of
9 spaghetti stuck to the wall, but it works for
10 me. If they don't stick, you keep cooking.
11 Throw off another piece of noodle. So that's
12 kind of what they've been doing. Just kind
13 of throwing everything against the wall to
14 see if anything sticks.

15 You know, they'll throw it against
16 the wall that, you know, these bruises she
17 could have got from falling down and all. Do
18 you really think she's going to get bruises
19 here and here from falling down? I don't
20 know what she would have been landing on to
21 get a bruise on here and here but not across
22 her body, not on her face.

23 But, you know, they're throwing that
24 out there. They wanted to throw stuff out
25 with the SLED analyst. I mean, it went on

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CLOSING ARGUMENT BY THE STATE

1 and on with that. And that I don't
2 understand because he's admitted, you know,
3 he had sex with her. So why get up here and
4 question the scientist about the DNA. Why
5 does that matter? He's admitted his DNA's in
6 there. Well, maybe it's something -- we just
7 throw that out there. You know, well, you
8 heard him ask about the statistics being
9 redone, even though it didn't change anything
10 in this case, something with the FBI, and
11 stuff he intimidated.

12 You know, all these little things
13 don't matter. There was really no reason to
14 even bring them up. But if he can get you to
15 look this way, maybe you won't look that way.
16 You know, if he can get your mind off of it,
17 maybe it would help him out a little.

18 So all this stuff, bruises, blisters
19 on her feet. She would have had to go
20 through a lot of effort. He was saying she
21 was homeless and she's going to do what she
22 has to to go back home. She could go back
23 home at any time. She didn't even have to
24 leave home. But she's going to give herself
25 these bruises all over her body? She's going

1 to shove a tampon so far up inside her that
2 it's in her cervix? She's going to give
3 herself these blisters on her feet? Man,
4 she's gone through a lot of effort when she
5 doesn't have to go through any effort.
6 There's no reason for her to do this.

7 She had a home. So maybe she wanted
8 to help her marriage. Again, let I said a
9 few minutes ago, she could have told him she
10 wanted help with her alcohol and that would
11 have done it.

12 They made a big deal about she knew
13 his name and she waited about a year and then
14 she went and got the DNA. And then although
15 the DNA comes back, then they know No, that
16 doesn't make any sense at all. That doesn't
17 make sense most times, it's not true. Like
18 that just doesn't make no sense. If she was
19 making this up, don't you think she would
20 have tried to make it as big as possible and
21 drag it out? You know, give more detail and
22 say, 'Well, you know, this guy, he came in
23 the tire shop before. I recognized him from
24 Westgate. You know, I've seen him in the
25 tire shop' or even that somebody took her to

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1 Westgate and she was raped. I mean, there's
2 so many ways her story could have had a
3 bigger impact to get her husband's attention.
4 But that's not the case at all here.

5 And he's saying well, she could
6 identify him a year later because she knew
7 him, because she'd been having an affair with
8 him. She knew his face a year later, the
9 same reason she still knows his face. She
10 sees it every night. She sees it every day.
11 And when she sees his face, she's feeling
12 what he did to her.

13 Yeah, it wasn't in, you know, in the
14 sun, you know, where there was all this
15 light. It wasn't in a white room with all
16 this light shining in on it. She took a
17 picture of him. She knows him. No. Passing
18 lights as this was happening to her, as she
19 was in so much pain with his penis -- with
20 him inside of her. She sees his face. The
21 back seat of a car, even a Crown Vic, it's
22 not huge. It's not like a king bed when you
23 can spread out. He's going to be all on her.
24 His face is right there. When a car passes
25 by, she sees him. This was so awful, so

1 traumatic, she's going to remember what his
2 face is. She's going to remember him.

3 And the officer said, she didn't
4 hesitate when she picked him out. She knew
5 who it was and she still knows who it is.

6 You know, we had a lot of witness.
7 Well, we had a good many witnesses. But
8 really, three things are the most important
9 in this case. Because all the -- the SLED
10 guy, like the officers who took stuff back
11 and forth to SLED really not important as far
12 as testimony goes. But they had to have been
13 there so we could get evidence in. So they
14 were necessary.

15 The three most important witnesses:
16 the victim, the Defendant's statement when it
17 was on video and from the stand, and then the
18 SLED scientist.

19 Now, he was kind of robotic a little.
20 He was real, just like direct with his
21 answers, didn't show a lot of emotion but
22 really that's kind of what you expect. He's
23 a scientist. He does this day in and day
24 out. He works with DNA. He testifies in
25 court. But more than that, he don't have a

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1 dog in this fight. There's nothing to him.
2 The victim got emotional, the Defendant got
3 emotion, the victim's husband got emotional
4 on the stand because this means so much to
5 them. But that SLED guy, I mean, it's his
6 job. It's not like he don't care but he
7 ain't got a dog in this fight. So Mr. DeJong
8 tries to get under his skin a little, ask him
9 all these questions don't matter. Mr. DeJong
10 said well you want him to find the
11 Defendant's DNA. No, he's just doing his
12 job. It really doesn't matter to him what is
13 or isn't found as long as he does his job.

14 And like I said before,
15 contamination doesn't matter. Her panties
16 and the SLED kit sent down a year before the
17 swab from the Defendant's mouth was sent
18 down. I asked him, did you have her panties
19 out when you were testing the swab? No. You
20 know, contamination doesn't matter because
21 he's admitted he had sex with her.

22 And all that testimony, two things
23 that I'll hit on, what Mr. DeJong was saying
24 how the tampon -- now, we've talked a lot --
25 I feel like we've talked a lot about sperm,

1 semen, seminal fluid, DNA. When I graduated
2 law school, I did not think I would be
3 talking about this as much. But, yeah, we've
4 talked a lot about it. And it's something
5 that it's hard to explain. All this science
6 stuff is hard to explain, but it's easy to
7 understand. Now, it's hard for him to
8 explain all this stuff, how he does it, the
9 science behind it. But, you know, it's easy
10 to understand when it comes down to it.

11 His DNA in her vagina from the
12 vaginal swab. DNA on the swab.

13 His DNA on her panties. I can
14 explain, she pulls her underwear up, the
15 fluid goes down.

16 So his sperm inside of her and in her
17 underwear.

18 But Mr. DeJong wants to make a big
19 deal about the fingernails. That there's two
20 unknown DNA under her fingernails. Well,
21 like when I get anxious, like if I'm waiting
22 my turn to talk or something, I do this a
23 lot, (demonstrating). Women usually have
24 longer nails that anyway than men. They've
25 got longer nails, most of the time.

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1 So and the scientists said, yeah, you
2 just brush against something, you can have
3 DNA under your fingernails. So two unknowns,
4 her DNA and one other person. She'd been
5 booked in, she'd been handcuffed. Even
6 before all this happened, she'd been with her
7 children. She'd left from her husband. It
8 doesn't matter whose other DNA is under her
9 fingernails.

10 You know, like I -- his DNA is inside
11 her body and that's what matters here.

12 And the tampon with him saying
13 there's -- he's trying to make somebody
14 else's sperm on this tampon. That wasn't the
15 testimony at all. You can read the SLED
16 guy's report. That that's not the testimony.
17 That's not what happened. It's his sperm on
18 everything. But there's seminal fluid on the
19 tampon and you've heard the SLED guy say
20 there's a difference between sperm and, like,
21 the seminal fluid and all that. There's a
22 lot of fluid but semen is made of sperm and
23 seminal fluid, one has DNA and the other
24 doesn't. What doesn't have the DNA was on
25 the tampon.

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1 It's like you got a milkshake.
2 You've got your milk and your ice cream. The
3 ice cream was gone but the milk wasn't. Like
4 they make up the milkshake, one was on and
5 one wasn't. And what was on there didn't
6 have his DNA because it doesn't. So don't
7 get confused there. And I feel like I might
8 have just confused you more. That's why
9 you're going to have the evidence. You're
10 going to have the report. You can read it
11 yourself.

12 But even if we argue about this and
13 go back and forth, it doesn't change anything
14 because his DNA from his sperm from his semen
15 was there.

16 But -- moving on. Art Taylor, he
17 testified after the SLED scientist. He said
18 one of his jobs is to deal with
19 inconsistencies. When he's talking to
20 somebody he's going to see, you know, does
21 their story change, what makes sense, what
22 doesn't make sense. And her story didn't
23 change. Like, yeah. She was walking. She
24 was drunk. She got picked up. She was
25 raped. She was dumped out. Begged for help,

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1 got arrested instead. You know, that's not
2 changing.

3 When you tell the truth -- you know,
4 you don't really have to have a good memory.
5 If you tell the truth every time, you don't
6 have to have a good memory. It's when you're
7 lying, when you're making something up and
8 you don't really know what happened, so
9 you're just going to say something. But then
10 it's not the truth so you forget it. And so
11 the next time you say it's a little
12 different, it's a little different and a
13 little different. But her story's been the
14 same. It stayed the same.

15 Now, you know, there were some --
16 it's a little thing the Defense was quick to
17 point out. When she tells the officer how
18 much she'd been drinking when she tells the
19 nurse how much she had been drinking. She
20 says a couple of beers. She doesn't say two
21 pints of Wild Turkey. Oh, yeah, you know,
22 she don't say that. Of course, she's going
23 to downplay that. She's an alcoholic.
24 Nobody is perfect and she'd be the first to
25 tell you she's not perfect. I'm not saying

1 she is. But when you introduce yourself to
2 somebody, it's not like you're going to be
3 proud and say, 'Hey, my name is so and so.
4 You know, I can drink two pints of Wild
5 Turkey. I'm an alcoholic. My name's so and
6 so, I've got post-partum depression' or 'I
7 was raped a little bit a go.' No. When you
8 introduce yourself, you tell people something
9 you're proud of. You tell them your name.
10 You tell them I'm married. I've got two
11 kids. I love my job. You know, you're not
12 going to tell them you've got post-partum
13 depression, you're an alcoholic and you've
14 just been raped. So, yeah, you know, she
15 wasn't completely truthful about how much
16 she'd had to drink.

17 Now, something else that came in
18 through Detective Taylor's testimony was the
19 interview. You know, you watched it on the
20 screen. If that's something you want to
21 watch again, you can. You know, but in that
22 interview of -- even stuff that's not said,
23 you know, a lot comes out. Like his
24 demeanor. And you can do this with everybody
25 in the trial, all the witnesses in the trial

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1 and him on his interview, Detective Taylor on
2 the interview. You can look at somebody's
3 demeanor, how they're acting. You can take
4 that all into effect. You don't just have to
5 listen to what they say. You see how they're
6 acting.

7 How is he acting in this interview?
8 Well, he comes in from one way and Detective
9 Taylor comes in from another way. They go in
10 here. He's wanting to know what's going on.
11 What's going on? And he's saying these cuffs
12 around my legs are hurting. Detective Taylor
13 said 'hold on, let me fix them.' Do you want
14 your pants on the inside? And he's like no,
15 'no, no, let's get this over with.' Let's
16 see what's going on. And the Defendant
17 starts saying, you know, 'What am I here for?
18 I've got a CSC warrant? What's going on?'
19 He's asking what's going on. He's wanting to
20 know stuff.

21 What is he not saying? He's not
22 saying, 'You just talked to me in the parking
23 lot and you said Tasha Riddle. I don't know
24 a Tasha Riddle.' The Defendant on the stand
25 said there's a lot that went on that's not on

1 that tape. You know, if Detective Taylor had
2 went out and talked to the Defendant out in
3 the parking lot and said 'Tasha Riddle says
4 this, this, and this', don't you think as
5 he's coming in the door he'd be saying, 'but
6 Detective Taylor, you said Tasha Riddle. I
7 don't know any Tasha Riddle. I didn't rape
8 no Tasha Riddle.' No. When he comes in that

9 door he says, 'I got a warrant for a CSC?
10 What does that mean?'

11 Uh-uh. No, no, no. Detective
12 Taylor didn't talk to him outside. If you're
13 going to come up with a lie, at least come up
14 with a good one.

15 So they get in there. And he says
16 'what's CSC?' He said, 'well, criminal
17 sexual conduct, also known as rape.' So they
18 start talking and, you know, he said, the
19 Defendant said yesterday, "I was nervous. I
20 got scared." He wasn't nervous or scared.
21 He propped his feet up. He was leaned back
22 against the wall with his feet propped up.
23 He wasn't nervous.

24 He was in there for a mission. He
25 wanted to know what the cops had on him. He

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1 wanted to know the evidence. And he asked
2 several times, 'Well, who said that? Who's
3 making statements? Well, well, did she say
4 that. Bring her in here. Did she say that?

5 And I've got to comment on Detective
6 Taylor. The less the detective talks the
7 more Defendant's going to talk. And that's
8 kind of common. People don't like silence.
9 You might like silence now. When I sit down
10 y'all might like some silence. But if you're
11 talking to somebody in a room. Or you're,
12 you know, you're doing your job and you're
13 there at your work. You know, people don't
14 like silence. They want to talk. So he was
15 talking. He wanted to know his information
16 and his day in court.

17 Now, he says 'I ain't never raped no
18 girl. I ain't got to rape no girl. I ain't
19 never raped no girl.' And it's not until
20 Detective Taylor comes out and says -- he
21 tells him, shows him the victim's license
22 picture. He says 'let me get her license
23 run.' Y'all will have this too. And he
24 slides it on the table. "You know her?" Got
25 her picture there. You got her picture

1 there. You heard the Defendant saying well
2 he knows who he's had sex with. He remembers
3 his women. Well, the detective slid this on
4 the table and he said, 'I don't know her. I
5 don't know her.' And then he sees the name.
6 'I don't know her.'

7 And the detective says, 'Well, how
8 did you DNA get inside of her?' And he
9 pauses and in that silence, that speaks so
10 loudly. He pauses and he's thinking. His
11 wheels are going. He's going a hundred miles
12 a minute. He's thinking, 'oh, crap, this is
13 it.' Then, 'What do you mean DNA? What do
14 you mean inside her?'

15 Well, he starts going and he starts
16 talking. And it goes from he doesn't know
17 this girl to, 'Oh, well, I know what this is
18 about but somebody else raped her.' You
19 know, don't you think if somebody comes to
20 you and says, 'Look, we've got a report that
21 you raped somebody.' What are you going to
22 say? 'I didn't rape anybody'? You know, if
23 the detective says 'we've got a report that
24 somebody raped her', are you going to say
25 'well, I didn't rape her but so and so raped

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1 her.' Deflecting. First he denied, then he
2 deflects.

3 And he's deflecting big time on his
4 buddy. His childhood friend who yesterday he
5 said he'll always have a place in his heart
6 for him. Corey Fowler, he's deflecting big
7 time saying, 'Uh-uh, wasn't me.' But 'my
8 best friend, it was him.' If you're going to
9 throw your best friend under the bus, you can
10 be guaranteed you're going to throw anybody
11 else under the bus.

12 And then he says to the detective,
13 'well, okay, maybe we had sex.' Well, first,
14 'well, I didn't rape her, somebody else raped
15 her.' And then, 'okay, well, we had sex but
16 it was consensual.'

17 Detective Taylor said, 'Well, why
18 didn't you just say that?'

19 He said, 'Well, I didn't want to get
20 her in trouble with her husband.' Are you
21 kidding me? Yesterday on the stand he says
22 how he didn't care about her. It was
23 nothing. They'd been having sex. But yet
24 when he's in that interview room he's
25 throwing his best friend under the bus but he

1 didn't want to get her in trouble, you know.
2 Then he says I didn't want to hurt her
3 husband's feelings. Are you kidding me?
4 You're having sex with a woman and you're
5 worried about hurting her husband's feelings?
6 Don't you think that would hurt them pretty
7 bad, having sex with his wife? Like, that's
8 just the biggest -- I mean, you take from

9 that what you want to take from that. Like I
10 said before, if it don't make sense, it's not
11 true.

12 So first the story, didn't have sex
13 with her, doesn't even know her. Then, well,
14 it was his buddy raped her. Well, he had sex
15 with her at Westgate apartments. He said,
16 'Well, I had sex with her at the apartments.'

17 But like he says in that recorded
18 interview, he's heard from the streets. He
19 knows. He knows what's been going on. He's
20 been hearing stuff from the street. And you
21 might say, 'Well, if he had heard stuff on
22 the street and he's been knowing about this
23 year, wouldn't he have had time to come up
24 with a better story?' Well, a year's gone
25 by. He's got comfortable. He doesn't think

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1 he's going to be charged. A year's gone by.
2 If they were going to charge him, they would
3 have done charged him. It's the last thing
4 on his mind until he gets arrested.

5 So he says at the apartments and then
6 he starts thinking, 'Oh, god, no, this
7 actually happened in the car.' He doesn't
8 know what evidence they have against him.
9 He's still asking the detective who said
10 what? He doesn't know what somebody said
11 yet. He thinks, 'Oh, crap, this happened in
12 the car.' Okay. It did happen in the car.
13 It happened in the car. It happened in the
14 car. So now his story changes again.

15 Now, like I said before if you're
16 telling the truth, you don't need a good
17 memory. But he keeps changing his story,
18 trying to find something. Throwing that
19 spaghetti against the wall trying to find
20 something that sticks, that's going to make
21 sense, you know, whatever evidence they have
22 against him, it's going to make sense.

23 Then they said, Mr. DeJong said in
24 his closing that, you know, he was all
25 comfortable and everything. It's not until

1 the detective told him that he could be
2 facing prison that he got nervous. Are you
3 kidding me? The detective told him when they
4 walked in the door what the charge was about.
5 He got nervous when he realized they had his
6 DNA. And you can watch the video. That's
7 when he gets nervous.

8 And as he goes along, he's hollering
9 and crying and -- I mean, what does a -- what
10 does your kid do when they get in trouble.
11 You've got a three-year-old or something?
12 They going to deny it. 'Well, no, I didn't
13 get any cookies, no.' And then they're going
14 to deflect, 'I think the dog actually got the
15 cookies. I think that's what happened.'
16 Maybe not a three-year-old, maybe like a
17 seven-year-old.

18 Then they say, 'Well, we've got some
19 evidence, we've got some physical evidence --
20 you might not notice but chocolate chip
21 stains, it's all over your face.' 'Oh, well,
22 uh, dad said it was okay.' And you go talk
23 to daddy and he didn't say it was okay. So
24 it's kind of like that. He's deflecting.
25 He's thinking on his feet. And when you say

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1 'look', at the end of the road, 'your dad
2 didn't it was okay', then he starts crying.
3 Ooooooh, not real tears, just like in this
4 case. Detective Taylor said all that
5 whooping and hollering and crying, there were
6 no -- there were not even any tears. He
7 wasn't sorry, you know, that he was in there.
8 He was sorry he got caught, sorry he got a
9 warrant.

10 All right. I'm almost done, y'all.
11 I promise. Now, let's go over a couple of
12 little inconsistencies.

13 You know, he was saying -- we'll
14 move on to the girlfriend. So his girlfriend
15 gets up here. And when I told you earlier
16 you can look at peoples' demeanor, you can
17 kind of get a feel for them. And a little
18 more, you can look at their bias. Look at
19 their motive. I mean, that's what the
20 defense has been saying all along. The
21 victim has motive. He wants to make some-
22 thing up. Well, what about his girlfriend's
23 motive? You've been living with somebody for
24 eleven, twelve years, you've got three kids
25 with them. She told you yesterday she loves

1 him. And that's expected. They've been
2 together a while. You know, that's expected
3 that she loves him. Love him enough to lie
4 and make up a story? What motive does she
5 have? Is she biased? Yes, she's biased.
6 That's her man over there.

7 So she gets up there and she says
8 that, you know, she remembers that the victim
9 came to her house and knocked on her door.
10 At first she said the conversation was ten
11 minutes maybe. Then after we went over it
12 again, oh, 'okay, maybe a minute.' So she
13 remembers this one-minute conversation from
14 three years ago. And she's just now saying
15 it. It doesn't make any sense. It's very
16 convenient, and it's just not likely.

17 She also said that the defendant
18 (sic) was up there for pills. Well, the
19 defendant -- or the victim was up there for
20 pills. The Defendant said she used crack.
21 So they can't even get their stories straight
22 together. And he even sat in here and
23 listened to his girlfriend testify. And she
24 said the victim was up there for pills. And
25 he gets up here and says she's up here -- up

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1 there for crack. They can't even get their
2 stories straight. When something's true, you
3 don't got to get your story straight because
4 you know what happened. She has no clue. No
5 clue at all.

6 Then she says that when her man
7 snuck out of the house he was gone for hours.
8 He was gone for hours and she went and sat on
9 the front porch and waited on him and then
10 they got in a fight. And she knows it was
11 September 27th, 2012 because they got in a
12 fight.

13 Well, I can tell you and you
14 probably know, if you've been in a
15 relationship, you're going to get into
16 arguments. That's part of being in a
17 relationship. It don't matter if you love
18 somebody, you're going to get into an
19 argument with them. But tell me the exact
20 date three years ago of a fight. You're not
21 going to remember that at all. It just
22 doesn't make sense. And bottom line is, she
23 doesn't want him to get him trouble so she's
24 going to do what she has to do.

25 So the Defendant gets up here. Last

1 witness. He made a big deal about when he
2 saw her DMV or when Detective Taylor snuck
3 out there and whispered her name to him, that
4 he said 'Tasha.' And that he didn't know her
5 as Tasha. He knew her as Nikki. Now, it's
6 funny that he says that, that he knew her as
7 Nikki but yet on the stand he kept saying
8 Tasha. He kept saying, 'well Tasha did this,
9 Tasha did that'; but he knows her as Nikki?
10 And it wasn't just a few times. It was a lot
11 of times.

12 I'll tell you this. Before I came
13 here, I worked in two other counties for five
14 years and I met a judge while I was down
15 there. He works in Pickens but I met him in
16 Greenwood and, you know, when I met him --
17 his name's Judge Miller. And I call him
18 Judge Miller, that's what I know him by.
19 But when I come to Pickens everybody calls
20 him Ned because they knew him before he was a
21 Judge and they know his family. And, you
22 know, they've been knowing him so they call
23 him Ned. Well, "Ned" is a lot shorter than
24 "Judge Miller." But no matter how much I
25 try, I called him Judge Miller for years and

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1 to me he is Judge Miller, that I can't bring
2 myself to call him Ned. Like, you know, if
3 we're just having a conversation and they
4 saying well, Ned, blah, blah, blah, blah.
5 Ned, blah, blah, blah, blah. I'll say Judge
6 Miller, just because that's what I know him
7 as. And it's weird to me to even hear his
8 name as Ned. I call him Your Honor, not Ned.

9 But that's what's going on here. If
10 he knew her as Nikki, he wouldn't have been
11 up here yesterday saying 'well Tasha did this
12 and Tasha did that and Tasha wanted it.' You
13 know, he wouldn't have been saying Tasha. He
14 would have been saying Nikki.

15 He also said like I said before,
16 she's back there smoking crack. No crack
17 found in her system.

18 And he's saying well, it took him
19 about a minute to finish. Once they started
20 having sex, he was done in a minute. And he
21 was quick to point out on that video 'well,
22 she enjoyed it too.' And 'I enjoyed it and
23 she was pleased, I was pleased; -- even
24 though he didn't say it in those words. And
25 it took him it a minute. Well, if it was --

1 he said, 'Aw, it wasn't nothing. It was just
2 some quick little thing. I just, you know,
3 wanted my, you know, just wanted my' -- well,
4 if it's going to be some quick little thing,
5 why drive down the road? Why sneak out? You
6 know, he could have gotten in the car and
7 drove across the street to the Plez-U. Or he
8 wouldn't even have had to get in the car. If
9 he knows it's going to be a quick little
10 thing, a quick little minute, then why chance
11 getting caught? Why not just -- he said
12 "wham, bam, thank you, ma'am." Wham, bam,
13 thank you ma'am, it's going to take a minute.
14 Do it in the back seat of the car. Don't
15 even leave the apartment parking lot. And
16 that makes no sense.

17 And he was saying how, you know, he
18 didn't want -- he didn't want to get caught.
19 And he didn't want to tell her name to the
20 detective because he didn't her to get in
21 trouble. He didn't want to get caught. He
22 snuck out of the house because he didn't want
23 to get caught. But then he said that they
24 were over having sex at her husband's
25 grandpa's house? They've done it there a

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1 couple of times? If you're not wanting to
2 get caught, then you might not want to go to
3 her in-laws house to have sex.

4 And, you know, you can believe
5 everything somebody says on this witness
6 stand. You can believe nothing. You can
7 believe a little. And that's another thing.
8 Every single witness who testified, even the
9 expert, you can believe a portion they say,
10 nothing they say, everything they say.
11 That's up to you.

12 But, you know, take into account
13 everything you've heard, all the witness
14 testimony, look at all the evidence. This
15 isn't something that you're going to have a
16 quick decision about -- or you may. But talk
17 about it. Deliberate.

18 The law, CSC first degree. It has
19 two parts to it. And you've got to have both
20 parts to check Guilty. The first part is
21 sexual battery and the second part is
22 aggravated force.

23 Sexual battery is just what it
24 sounds like. It's sex. And the judge will
25 you give you this direction here in a few

1 minutes. "Intrusion of the Defendant's body
2 or an object however slight into the genital
3 opening of another person." In other words,
4 sex. He put a part of his body inside her
5 genital opening. He admits to that. So
6 you're already halfway there.

7 The next part is the aggravated
8 force, "physical force or physical violence
9 of a high and aggravated nature to overcome
10 the victim." This is where it's going to
11 come down to. And this is where you're going
12 to, you know, really have to think about this
13 and look at all the evidence.

14 The pictures makes sense about what
15 she's saying.

16 The records. They make sense about
17 what she's saying. When you read everything
18 on the nurse's statement and the nurse says
19 big bruise on her leg. Big bruise on her
20 right or left leg. Think about the Defendant
21 holding her down. He is forcing her down
22 while his buddy is forcing her down into the
23 seat and holding her down. You can read
24 about that bruise on the nurse's report where
25 she had a big bruise on her leg where he

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CLOSING ARGUMENT BY THE STATE

1 turned her sideways and forced her down.
2 That's force. Where he forced her pants off.
3 He's using this physical force to overcome
4 her and to get what he wants. You've got to
5 have both aspects and you do. You've got sex
6 and you've got physical force.

7 Another thing that we've got to,
8 prove, the State has to prove, is that it
9 wasn't consensual. Here, it was not
10 consensual. You've got her testimony all day
11 long that she did not want this. Do you
12 think she wanted sex with a big old tampon
13 inside her body? And you can say well, she
14 didn't even know it was in there. Was she so
15 drunk she doesn't even know it's in there and
16 it's hurting all get out. When she's being
17 raped she's in so much pain and she goes to
18 the hospital and says 'my whole body hurts?'

19 She didn't want that. She didn't
20 want to have these bruises on her. You know
21 she did not want this. And you can think
22 about her demeanor when she's on the stand,
23 you know. She was crying up there. She
24 didn't want it.

25 All right. I've gone over witness

CLOSING ARGUMENT BY THE STATE

1 credibility. You can believe all or none.

2 Consider their motive on this.

3 You've got to find that this
4 happened beyond a reasonable doubt. You
5 know, you believe me on a reasonable doubt
6 that this crime occurred. It just means if
7 you hesitate to act, then it's not beyond
8 reason doubt. If it leaves you firmly
9 convinced. He's (Judge Gravely) going to
10 tell you that. If you are firmly convinced
11 this happened, then it's beyond a reasonable
12 doubt.

13 It's like if you're out hunting and
14 you're in a deer stand with your buddy and
15 you see a deer and he goes to shoot it. If
16 you're looking at him when he fires that shot
17 and then you look back and you see that deer
18 fall, there's no doubt there. Yeah, you
19 weren't standing right there at the deer and
20 put it in slow mo and saw that bullet go into
21 its body. You're not going to hesitate to
22 act about that. You're firmly convinced that
23 happened.

24 That's just like this case. You
25 know, you're firmly convinced it happened.

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CLOSING ARGUMENT BY THE STATE

1 Direct and circumstantial evidence,
2 you give them the same weight.

3 Direct is when you've got a witness
4 statement, an eye witness, that's the victim
5 in this case. Direct evidence. She says it
6 happened.

7 Circumstantial is things that kind
8 of indicate it happened, her bruises, you
9 know, the tampon forced so far up in there,
10 the circumstances surrounding it,
11 circumstantial evidence.

12 They weigh the same thing. So don't
13 get back there and say, 'well, there's more
14 circumstantial than direct. It doesn't
15 matter. Evidence is evidence.' And one last
16 thing before I sit down that I kind of want
17 to say. Whenever -- I've been like this for
18 a while. If I'm thinking something or I'm
19 feeling something, you see it on my face. I
20 could never get away with anything when I was
21 a teenager. My emotions are on my face. And
22 the same thing, if I came home upset, my
23 parents knew. It is still, to this day
24 that's true. You can kind of see my emotions
25 on my face and that includes when I get

1 flustered. So if I've done anything during
2 this trial that you thought was
3 unprofessional. If I've made a look that I
4 shouldn't have or raised my voice when I
5 shouldn't have, you know, don't hold it
6 against the case. You can hold it against me
7 all day long but please don't hold it against
8 this case. You know, nobody's perfect. I'm
9 certainly not. Nobody is. But please don't
10 get back there and say, 'man, you know',
11 don't hold it against me.

12 I'm going to close with this. When I
13 got up here in opening the last thing I said
14 before we got started was about her asking
15 for help. She asked for help so many times.
16 I've got a feeling she wasn't just asking,
17 she was crying for it. She was begging for
18 it. She asked so much. She was begging for
19 help.

20 She'd asked for a ride. She begged
21 them to just let her out. 'Just let me out.'
22 She knew something. 'Please let me out.'
23 She cried for help.

24 When it stopped, she got out in
25 Easley banging on those doors. She was

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CLOSING ARGUMENT BY THE STATE

1 begging for somebody to help her.

2 She got arrested.

3 She went to the hospital. Please,
4 you know, she's begging for help.

5 She even goes to rehab afterwards
6 and asked for help.

7 She's been crying and shouting,
8 begging for three years for help. And now
9 she's begging for justice, crying for
10 justice. Make that be her last cry. Go back
11 there and find him Guilty.

12 THE COURT: All right. Ladies and
13 gentlemen, I think we're going to take a
14 quick break here before we get into my
15 charge.

16 Again, it's not time to start
17 talking about the case yet. We'll have a
18 quick break, then bring you back out here and
19 give you the law and then you can get into it
20 at that point. So take a quick break.

21 Don't start eating your lunch yet
22 either, if it is here. We are just going to
23 take a quick break and then bring you back
24 out and I will give you the law.

25 (JURY OUT @ 12:15 P.M.)

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PORTION OF DEFENDANT'S TESTIMONY REPLAYED

1 officer at the Medlin's?" And my response
2 is, "We can allow you to review any testimony
3 requested."

4 SOLICITOR ODOM: Yes, sir. Thank
5 you, sir.

6 THE COURT: All right. Any
7 objection to that from the State or the
8 Defense?

9 SOLICITOR ODOM: (Negative
10 response).

11 MR. DEJONG: No, sir.

12 (EXHIBIT 2 RETURN TO JURY ROOM)

13 (COURT IN RECESS)

14 (JURY NOTIFICATION AT 4:35 P.M.)

15 (DEFENDANT PRESENT)

16 THE COURT: I am informed that we
17 have a verdict. All sides, I don't want to
18 have any inappropriate comments, reaction or
19 anything like that because we will flat take
20 you out of here. All right? Is that
21 understood from all sides? Okay.

22 We have a process to go through and
23 we will listen to the verdict and then we
24 will proceed from there. But I ask that
25 everybody, you know, keep their manners.

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VERDICT

1 All right. Bring the jury in.

2 (JURY IN @ 4:35 P.M.)

3 THE COURT: All right. Madam
4 Forelady, I understand you've reached a
5 verdict?

6 FORELADY: (Affirmative response).

7 THE COURT: Do you want to hand it
8 to the clerk?

9 FORELADY: (Tenders).

10 CLERK: (Tenders verdict form to
11 the judge).

12 THE COURT: If you will, publish
13 the verdict.

14 CLERK: This is the case of the
15 State of South Carolina versus Brandon James
16 [sic] Benson, indictment number 2013-GS-39-
17 3256.

18 As to the indictment for criminal
19 sexual conduct first degree, (reading):

20 "We, the jury, find the Defendant, Brandon
21 Jermaine Benson, guilty."

22 Is this your verdict and still your
23 verdict so say you all by raising your right
24 hands.

25 (UNANIMOUS AFFIRMATIVE RESPONSE BY JURY)

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VERDICT

1 CLERK: Thank you very much.

2 THE COURT: All right. Anything
3 else from the State before we release the
4 jury?

5 SOLICITOR ODOM: No, sir.

6 THE COURT: Anything else from the
7 Defense?

8 MR. DEJONG: Not from the Defense,
9 Your Honor.

10 THE COURT: All right. Thank you
11 ladies and gentlemen for your service. At
12 this time you can return to your jury room
13 and then be released from there.

14 I realize this has been several days
15 out of your life. But we appreciate your
16 service.

17 And usually, what I do if you have
18 any questions, I'll step back in your jury
19 room and be glad to answer anything at this
20 time. Thank you.

21 (JURY OUT @ 4:45 P.M.)

22 THE COURT: All right. I'm going
23 to give y'all just a minute. Do you have
24 everything ready, the sentencing sheet?

25 SOLICITOR ODOM: Yes, sir.

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VERDICT

1 THE COURT: All right. Let me
2 step back there a little bit.

3 (COURT STOOD AT-EASE)

4 THE COURT: All right. Well,
5 first any Motions?

6 MR. DEJONG: No, Your Honor.

7 THE COURT: All right. Are we
8 ready for sentencing?

9 MR. DEJONG: Yes, Your Honor.

10 THE COURT: All right. Mr.
11 Benson, as you know, the jury returned a
12 verdict for guilty. And you realize first of
13 all, as I'm sure as your attorney has told
14 you, you will have ten days to appeal not
15 only the verdict but the sentence. What I'll
16 do is hear from the Solicitor then I'll hear
17 from your attorney.

18 SOLICITOR ODOM: Thank you, Your
19 Honor. You've heard all the testimony. You
20 know the facts of the case. There's really
21 nothing more for the State to say. The
22 Solicitor's office, along with the victim,
23 would just ask for an appropriate sentence,
24 whatever you deem that to be.

25 THE COURT: Mr. DeJong?

VERDICT

1 MR. DEJONG: Thank you, Your Honor,
2 may it please the Court. Not a great deal I
3 can add. Mr. Benson was on the witness
4 stand. I think you gleaned probably most of
5 his personal information from there.

6 He obviously has some record, which
7 Your Honor heard from the witness stand.
8 That was the bulk of his record. There was
9 some minor stuff in there, I think, but not
10 much other than the three charges we
11 discussed.

12 He actually has five children. My
13 information is a bit outdated now, having
14 gleaned this in 2013. At that point in time
15 he had two ten-year-old children, a seven-
16 year-old, a six-year-old, and a nine-month.
17 So all of those children would be roughly two
18 years older now than they were.

19 Obviously, he's had a relationship
20 with Ms. Candice Hagood for a number of
21 years.

22 During the Motions hearing I shared
23 with Your Honor that he has been in the
24 Greenville County jail since, I believe
25 January of this year, if I'm not mistaken.

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VERDICT

1 I will share with the Court that Mr.
2 Benson has been a pleasure to represent.
3 He's been very gentlemanly to me throughout
4 this whole process, throughout the trial this
5 week.

6 Obviously, the jury has spoken, Your
7 Honor. I am not going to go into that at
8 all. I would certainly ask the Court for a
9 reasonable sentence in this case.

10 I'm not trying to lessen the verdict
11 that the jury came back with. But obviously,
12 the jury was out, all things considered, for
13 about three and a half hours, I think. So it
14 was a pretty long deliberation. My
15 perception was it was a close call factually.
16 Obviously, we now know that the jury came
17 back with a jury a guilty unanimously.

18 But, again, based on prior record,
19 Your Honor, I would ask for as much leniency
20 as the court can give us, Your Honor.

21 THE COURT: All right. Mr.
22 Benson, anything else you want to tell me?

23 DEFENDANT: I don't have nothing
24 to say.

25 THE COURT: Did he serve any time

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SENTENCE

1 back when he was originally arrested?

2 MR. DEJONG: I'm sorry, Your Honor?

3 THE COURT: How much time did he
4 spend when he was originally arrested?

5 MR. DEJONG: I don't know before he
6 made bond, Your Honor.

7 (Sidebar with Defendant), -- four to
8 five months. I know I had a bond reduction
9 on him on November the 22nd of 2013. That
10 reduction was denied. I honestly don't know
11 when he made bond, Your Honor.

12 THE COURT: All right. Anything
13 else from anyone before I ---

14 MR. DEJONG: Not from the Defense,
15 Your Honor.

16 SOLICITOR ODOM: No, sir.

17 THE COURT: All right. On 2013-
18 3256 criminal sexual conduct first degree, I
19 sentence you, Mr. Benson, to twelve (12)
20 years in the State Department of Corrections.

21 MR. DEJONG: Thank you, Your Honor.

22 (TRIAL TRANSCRIPT CONCLUDED)

23

24

25

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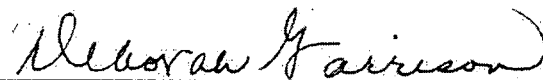
Jury Trial of November 16-18, 2015

CERTIFICATE OF COURT REPORTER

STATE OF SOUTH CAROLINA)
) CERTIFICATE
COUNTY OF PICKENS)

I, the undersigned Deborah Garrison, Circuit Court Reporter for the 9th Judicial Circuit, hereby certify that the foregoing is a complete and accurate transcript of the jury trial held in the within action on November 16-18, 2015, before The Honorable Perry H. Gravely;

I further certify that I am neither kin nor counsel to any of the parties and have no interest in the outcome of this action.



Deborah Garrison

Pickens, South Carolina
March 31, 2016

WITNESSES

James Arthur Taylor

Pickens County Sheriff's Office

10/25/2013

ARREST WARRANT NUMBER

2013A3910500396

ACTION OF GRAND JURY

Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 20 GS-39-3256

SBT

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

TERM 2015

THE STATE

vs.

BRANDON JERMAINE BENSON

Amended Indictment for

0160

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

VIOLATION § 16-03-0652

STATE OF SOUTH CAROLINA)
)
 COUNTY OF PICKENS)

AMENDED INDICTMENT FOR
 CRIMINAL SEXUAL CONDUCT FIRST DEGREE

At a Court of General Sessions, convened on

the Grand Jurors of Pickens

County present upon their oath:

That BRANDON JERMAINE BENSON did in Pickens County, on or about the 28th day of September, 2012, engage in sexual battery, with TASHA RIDDLE MEDLIN, using aggravated force to accomplish the sexual battery AND/OR perpetrating the sexual battery during the commission of a kidnapping and/or forcible confinement. This is in violation of South Carolina Code of Laws Section 16-3-652 of the South Carolina Code of Laws (1976) as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

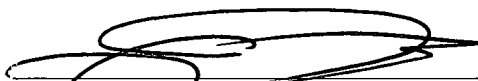
SOLICITOR

BAR # 78999

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



John H. Strom
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 22nd day of March, 2017.

ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Pickens County
Honorable Perry H. Gravely, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

BRANDON JERMAINE BENSON,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a copy of the Record on Appeal in the above-referenced case has been served upon Jennifer Ellis Roberts, Esquire, at the Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, this 22nd day of March, 2017.



George Vlasis
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 22nd day of March, 2017.

U. M. (L.S.)
Notary Public for South Carolina

My Commission Expires 5/12/2025.

RECEIVED

MAR 22 2017

SC Court of Appeals