

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Abbeville County

Honorable Alison Renee Lee, Circuit Court Judge

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AUG 11 2017
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TERRANCE LEMAN CALLOWAY,

APPELLANT

APPELLATE CASE NO 2016-001958

RECORD ON APPEAL

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E X H I B I T S

	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
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4	1	Evidence Collection kit	X	X
5	2	Victim's clothes	X	X
6	4	Picture of map	X	X
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1 you like to make an opening statement?

2 MS. BOLEN: Your Honor, if I can just have a
3 really brief moment at sidebar, just -- just very
4 briefly.

5 THE COURT: Yes.

6 (Sidebar discussion between the Court and
7 counsel and without the court reporter.)

8 THE COURT: Ladies and gentle -- ladies and
9 gentlemen, at this time we're ready to hear the
10 opening statement from the attorneys. Mr. Sheek.

11 OPENING STATEMENTS

12 MR. SHEEK: Thank you, Your Honor. May it
13 please the Court.

14 Ladies and gentlemen of the jury, good morning
15 again.

16 THE JURORS: (Collectively:) Good morning.

17 MR. SHEEK: We were introduced to you just a
18 little while ago. My name's Lance Sheek. I'm a
19 Senior Assistant Solicitor with the Eighth Judicial
20 Circuit.

21 Seated here at the table with me is Deputy
22 Solicitor Yates Brown. Both of us have the
23 privilege to serve this community as assistant
24 solicitors.

25 The Eighth Judicial Circuit is actually made up

1 of Abbeville, Greenwood, Laurens, and Newberry
2 Counties. Your elected Solicitor is David Stumbo,
3 and we work for him. And what do we do when I say
4 we serve as Assistant Solicitors? We are attorneys
5 who come into court and present on behalf of the
6 State criminal charges. That's what you've been
7 chosen for is a criminal jury.

8 And I know some of you had the opportunity to
9 serve on the jury earlier this week; some of you
10 haven't. But I can go ahead and tell you that
11 absent serving our nation in the military, this is
12 probably the most important way we as a community
13 have to serve our fellow citizens, and that is to
14 come in as jurors.

15 Because when we come in here, we often hear
16 police, sheriff's department, those kind of people
17 referred to as law enforcement, and that's what
18 they're out there doing, but they can only make a
19 charge if they believe that a crime has occurred,
20 but there's a process.

21 Her Honor sitting here is the sole judge of the
22 law in this case. If there's ever a disagreement,
23 as she talked you a minute ago, about evidence or
24 things of that nature, it's her determination and
25 her only regarding rules of court, what the law is.

1 And at the end of the case, she's actually going to
2 charge you in the law that you have to apply to the
3 facts of this case. And that means she's literally
4 going to read it to you what the law is and nobody
5 second guesses her.

6 But you folks, you folks together serve as what
7 we call the sole judges of the facts. Because law
8 enforcement can make a charge, the Court can set
9 penalties and punishments if someone is convicted or
10 pleads guilty to a charge, but the only way a person
11 can be convicted of a charge is through our jury
12 system, and that's why you're here today. So when
13 you come in as you sit as a jury, this is really how
14 laws are enforced. This is law enforcement actually
15 in progress.

16 Now, I tell you that because I'm going to go
17 ahead and tell you, those of you that served on the
18 jury know this. The ones that haven't, this is not
19 like an episode of Law and Order. It simply isn't.
20 That's TV. It's Hollywood. It's dramatization.
21 But this is real life. And real life is you have to
22 come in and you listen to the evidence like the
23 judge just told you, and you're going to make a
24 determination at the end of this case.

25 You're going to go back into this jury room

1 ~~that you've been in.~~ You're going to deliberate.
2 You're going to talk amongst yourselves about the
3 evidence that's brought to you. And you and you
4 alone will judge what the facts are. And nobody in
5 this courtroom has a right to second guess what you
6 determine the facts to be.

7 And like Her Honor just told you, you're going
8 to base that decision solely on the testimony and
9 the evidence brought to you throughout this case.
10 And the State has the burden to bring to you that
11 evidence. The defendant never has the burden to
12 come into court and prove himself innocent, prove
13 something did or didn't happen. He has no burden.
14 And we welcome that burden. And we're going to come
15 to you with this evidence, and that's going to come
16 through that chair right there where that microphone
17 is. It's either going to be a witness sitting there
18 talking to you. Or if it's a piece of physical
19 evidence that you can actually touch and feel and
20 take to the jury room and look at, it's going to be
21 entered through a witness sitting in that stand. So
22 that's where you want to pay your attention as we go
23 through this case.

24 So that is where we're going at the end of the
25 case to deliberate. You're going to be asked to

1 make a determination. Now, how are we going to get
2 there? Well, the State's going to call to you a
3 series of witnesses. You've had these indictments
4 read to you, and there's two charges. Mr. Calloway
5 is charged with kidnapping and he's charged with
6 criminal sexual conduct in the first degree.

7 Now, when you're told these have to be proven
8 to you by the State beyond a reasonable doubt, what
9 does that mean? Well, at the end of the case when
10 the judge charges you on the law, she's going to
11 talk you about the law. And one of the things that
12 she's going to talk to you about is reasonable
13 doubt. What does that mean? Because we can have
14 doubts about all kinds of things, can't we? We can
15 always find a reason to doubt something.

16 A definition used recently, and I think the
17 judge will talk to you about this, is a reasonable
18 doubt is proof beyond a reasonable doubt -- it's
19 that kind of proof -- that leaves you firmly
20 convinced of the existence of the fact, firmly
21 convinced.

22 For instance, if I get up in the morning, I
23 live out in the country. I've got a long concrete
24 driveway. And as I walk to my car, the car's
25 covered with water, the driveway's wet all the way

1. ~~out, the grass~~ is wet, and the sky is blue. I'm
2 firmly convinced it rained last night because I
3 don't have a sprinkler system out there to have done
4 it.

5 Now, I could say to myself, well, possibly the
6 fire department drove out here in the middle of the
7 night without me knowing it, took their trucks, and
8 they wet everything down and I could create some
9 kind of doubt. But I'm reasonably sure it rained
10 last night based on the evidence that I see when I
11 walk out of there.

12 And the State's going to bring to you the
13 evidence of what happened because what happened, I
14 submit to you, will be shown through these witnesses
15 is that on August 3rd of 2012, the victim in this
16 case, Ms. Williams, the lady sitting right back
17 here, went to a club located in Abbeville County
18 over in Honea Path. And she was there talking to
19 friends and visiting, just, you know, having a good
20 time.

21 Late that night she decided she was hungry.
22 She wanted to go get something to eat. She didn't
23 have a car there to go on her own. The defendant
24 was there, and he said he would take her to the
25 Burger King and get something to eat. So they left

1 in his vehicle, just the two of them.

2 As they're driving down, he takes a turn
3 different from the way that she knew he would've
4 went if he was going to the Burger King so she asked
5 him about it. He actually takes her down Horseshoe
6 Road. And this is after dark. And down there
7 secluded, just the two of them, he sexually assaults
8 her. It's charge number one, criminal sexual
9 conduct in the first degree. What that literally
10 means is he raped her. That's the proof that's
11 going to be brought to you by the State.

12 He first forces her in the car to perform oral
13 sex on him. Hits her in the back of the head, pulls
14 her hair, and by force makes her do this. She gets
15 out of the car. She makes a run for it. He catches
16 her. He gets out behind her. He catches her. And
17 there on the side of the road in the dark, he being
18 stronger, bigger than her, by force bent her over,
19 pulled her pants and underwear down, and then
20 sexually assaulted her from behind by actually
21 penetrating her vagina with his penis. He raped
22 her.

23 The car comes along. It stops. He gets her
24 back in the car, and they start back towards town.
25 And he's telling her, "If you tell, if anybody finds

1 out, I kill you, I kill your family." This is
2 what's happening on August the 3rd, 2012.

3 When they get back close to town, he has to
4 stop for a stoplight. She jumps out of the car
5 again and she runs. They're now in the Honea Path
6 area. It's right there near the Spinx gas station.
7 And she goes through and as she's going up towards
8 where the Burger King's sitting, she sees a car she
9 recognizes. It's her aunt. And she runs to that
10 car. She gets in with her aunt. And you're going
11 to hear from the aunt who was there that night.

12 And then as the aunt's sitting there in Burger
13 King drive-thru, low and behold she looks up and who
14 is actually in front of her, the defendant. She
15 jumps back out of the car. She runs from there.
16 They find her later. EMS is called. She goes to
17 the hospital. She has what we call a sexual assault
18 examination done, and you'll hear from the people
19 that did that.

20 Two charges, the rape, the criminal sexual
21 conduct, and then the kidnapping. Now, we'll go
22 ahead and tell you, commonly when we think of
23 kidnapping, what do we think of? We think of
24 someone that's grabbed, taken away, held for ransom.
25 You've got to pay me to get them back. And that

1 certainly would be kidnapping, but that in South
2 Carolina is not required for the offense of
3 kidnapping.

4 Her Honor read you the charge of the kidnapping
5 from the indictment and it used a bunch of words,
6 but basically kidnapping, if you take somebody by
7 force or threat of force, you hold them against
8 their will, you forcibly move them from place to
9 place, you confine them, won't let them leave when
10 they want to, that is kidnapping. So you don't --
11 it's not a ransom holding-type thing. It doesn't
12 require that. So that's the two charges. That's
13 where we're going in this case.

14 Now, how we're going to get there is through
15 the witnesses presented over the next day or so. I
16 don't think it will take a long time. Like the
17 judge said, I think this will be pretty
18 straightforward, but I want you to pay very close
19 attention because as you've heard the charges in
20 this case, it's a very important case, as all cases
21 are when they come to court.

22 Again, it's not like Law and Order. I wish it
23 was. I wish we could wrap this up in an hour with
24 some wonderful piece of science that, you know,
25 we -- we think exists and doesn't, but that's not

1 ~~the way it works.~~

2 Thank you very much for being here this week.

3 We -- we had a small group. If we hadn't had
4 enough, this trial wouldn't have happened. It
5 would've been put till later. Administrations of
6 justice requires on the members of our community
7 like yourselves to come in and do this. I know it's
8 not convenient. You've got lives. You've got jobs.
9 You've got families. You've got other things to do.
10 And this interrupts that and I understand that, but
11 I can tell you this, it is vitally important and
12 everybody involved in this process certainly
13 appreciates you being here. Thank you very much.

14 THE COURT: Ms. Bolen -- Ms. Granade.

15 MS. GRANADE: Thank you, Your Honor. May it
16 please the Court?

17 THE COURT: Yes, ma'am.

18 MS. GRANADE: Ladies and gentlemen, my name is
19 Kami Granade. My colleague sitting right there is
20 Patricia Bolen, and it is our privilege to represent
21 the defendant, Terrance Calloway.

22 As you have already heard, Mr. Calloway has
23 been charged with kidnapping and criminal sexual
24 conduct in the first degree. Now, the State has a
25 duty to prove each element of each of these crimes

1 beyond every reasonable doubt. And I submit to you
2 today that the evidence in this case, or really the
3 lack of evidence in this case, does not prove beyond
4 all reasonable doubt that Mr. Calloway committed
5 these crimes.

6 To be found guilty of criminal sexual conduct,
7 the State has to prove that the defendant committed
8 a sexual battery. However, no physical evidence
9 exists in this case proving that a sexual battery
10 occurred. There's actually no physical evidence
11 proving that Mr. Calloway and Ms. Williams had any
12 sexual encounter at all on the night of the alleged
13 incident. There was no evidence found on
14 Ms. Williams' body. There was no evidence found on
15 the clothes that Ms. Williams was wearing that
16 night. There were no eyewitnesses to either the
17 kidnapping or the criminal sexual conduct.

18 Ladies and gentlemen, I know that the
19 seriousness of these allegations can elicit a strong
20 emotional response. However, each of you are
21 sitting here because you said that you could be
22 impartial. All we ask is that you remain impartial
23 until the end of this trial and that you do not
24 reach any conclusions until you've heard from both
25 sides.

1 Regardless of your personal feelings of the
2 nature of these allegations, we ask that you please
3 hold the State to this Court's very high burden of
4 proving every element of every crime beyond every
5 reasonable doubt. If you do that, we are confident
6 that at the close of this trial each of you will
7 come to the realization that the overwhelming lack
8 of evidence in this case leads to only one
9 conclusion. There was no kidnapping and there was
10 no forced sex, oral or vaginal. That is why we ask
11 that in the interest of justice, you return a
12 verdict of not guilty.

13 Thank you for your time and thank you for your
14 service.

15 THE COURT: You may call your first witness.

16 MR. BROWN: The State calls Sherry Williams.

17 THE WITNESS: (Approaching.)

18 SHERRY WILLIAMS,
19 having been produced and first duly sworn as a
20 witness on behalf of the State, then testified as
21 follows:

22 THE COURT: State your full name, please.

23 THE WITNESS: Sherry Tameka Williams.

24 THE COURT: Would you spell your first name?

25 THE WITNESS: S-h-e-r-r-y.

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. BROWN:

4 Q. Ms. Williams, where do you live?

5 A. I live in Honea Path, South Carolina.

6 Q. And is Honea Path pretty -- it's in Anderson
7 County, right?

8 A. Uh-huh.

9 Q. Is Honea Path pretty close to Abbeville County?

10 A. Might as well say yeah. It depends on what
11 road you take.

12 Q. And are you pretty familiar with that part of
13 Anderson County and also Abbeville County?

14 A. Yeah.

15 Q. Ms. Williams, how old are you?

16 A. Forty-three.

17 Q. Forty-three. Where did you go to high school?

18 A. Dixie High School.

19 Q. And what county is that in?

20 A. That's in Abbeville.

21 Q. Ms. Williams, do you know the gentleman sitting
22 over there in the blue shirt?

23 A. Yes, I do.

24 Q. Who is that?

25 A. Terrance Calloway.

1 Q. Does he go by any other name?

2 A. Terry.

3 Q. How do you know Terry?

4 A. I went to school with Terry a long time ago.

5 Q. At Dixie High School?

6 A. Uh-huh.

7 THE COURT: When you answer, Ms. Williams,
8 you'll need to answer verbally instead of
9 "uh-huh" ---

10 THE WITNESS: Okay.

11 THE COURT: --- just so we can make sure that we
12 record your answer correctly.

13 THE WITNESS: Okay.

14 THE COURT: And you need to speak up just a
15 little bit louder.

16 THE WITNESS: Okay.

17 BY MR. BROWN:

18 Q. And, again, did you go to high school with him
19 at Dixie High School?

20 A. Yes, sir.

21 Q. 2012, August 3, 2012, had you been out that
22 night?

23 A. No. I had just walked from my aunt's house.

24 Q. Which aunt?

25 A. Tessie Singleton.

1 Q. Tessie Singleton.

2 A. And my cousin, Shaquille.

3 Q. Now, that night, did -- or that day, had you
4 been drinking some?

5 A. I had drunk a couple of beers and a little
6 liquor.

7 Q. A little liquor. And are you -- do you
8 drink ---

9 A. Well, every --

10 Q. --- regularly?

11 A. Every other day.

12 Q. Every other day. When you drink, do you --
13 even if you've had quite a few beers or liquor, you
14 still function?

15 A. Yes. Most of the time I drink at home.

16 Q. But you -- do you ever just get out of your
17 mind?

18 A. No.

19 Q. When you're drinking, you still remember
20 everything clearly?

21 A. Yes, I do.

22 Q. On August 3, 2012, did you go to the Time Out
23 Club?

24 A. Yes, I did.

25 Q. Where is the Time Out Club?

1 A. It's right there in Honea Path on U Street.

2 Q. Honea Path?

3 A. Uh-huh.

4 Q. How long were you there at the Time Out for?

5 A. I wasn't even there 15 minutes.

6 Q. Was anybody else in this courtroom there at the
7 Time Out Club with you?

8 A. No. Except for Terry Calloway.

9 Q. Terry was there?

10 A. Uh-huh.

11 Q. Did you ever leave the Time Out Club?

12 A. Yes.

13 Q. Who'd you leave with?

14 A. With Terrance Calloway.

15 Q. And how did you end up doing that?

16 A. Because I wanted to go to Burger King and he
17 said he would take me, but I never made it to Burger
18 King.

19 Q. You never made it to Burger King?

20 A. No.

21 Q. With Terry you never made it to Burger King?

22 A. Yes.

23 Q. What kind of car did Terry have?

24 A. A white Cadillac.

25 Q. And you got in the car with him?

1 A. Yes, I did.

2 Q. Do you wish you hadn't got in the car with him?

3 A. Yes, I do now. I regret it.

4 Q. As you're going to the Burger King after you
5 got in the car with Terry, what did he do?

6 A. He took a right right there at the funeral home
7 at the stop sign right in front of BP. He took a
8 right right off to the left heading 76, that was
9 Highway 76.

10 I said, "Terry, what are you doing?"

11 That's when he started telling me to shut up.

12 "Shut up." And he just kept riding and he started
13 forcing me to have oral sex.

14 Q. How did he force you to have oral sex with him?

15 A. He was telling me -- can I say the words?

16 Q. (Affirmative response.)

17 A. He said, "Suck my dick." That's what he said.

18 I said, "No. No."

19 He said, "You better." He said, "If you don't,
20 I'm gonna kill you and your family." That's what he
21 said.

22 Q. Now, when you were on 76, had you already
23 gotten into Abbeville County?

24 A. No. Because Horseshoe Road was taking you to
25 Abbeville County.

1 Q. And ---

2 A. Then that's when he pulled the car over. A
3 ways down the road, he pulled the car over, made me
4 get out, bent me over, and made me start having sex
5 with him.

6 Q. Now, when you -- as he's driving down the road
7 and forcing you to have oral sex with him, did he
8 hit you or ---

9 A. Pushed the back of my head.

10 Q. He forced your head down?

11 A. Yep.

12 Q. Once you got out on Horseshoe Road, what county
13 is Horseshoe Road in?

14 A. That's Abbeville.

15 Q. Are you certain it's in Abbeville County?

16 A. Yeah, because that's the road that takes you
17 the long way.

18 Q. And is Abbeville County in South Carolina?

19 A. Yes.

20 Q. Once you got on that road, did you try to get
21 out of the car?

22 A. He made me get out and bent me over. He came
23 on my side.

24 Q. Came on your side?

25 A. Yes.

1 Q. How did -- what did he do next after he made
2 you get out of the car?

3 A. He pulled my pants down and bent me over and
4 start -- and put his penis up in me and started
5 having sex.

6 Q. How long did that last?

7 A. I think about three to four minutes.

8 Q. Do you know if -- during this time, do you know
9 if he ejaculated or anything?

10 A. I don't think so.

11 Q. What made him stop?

12 A. A vehicle was coming.

13 Q. You say a vehicle was coming?

14 A. (Nonverbal response.)

15 Q. Did it startle him? Did it --

16 A. Yeah, it startled him.

17 Q. After that vehicle came by, what happened next?

18 A. Then he put me back over in the car and he got
19 in the car, turned around, and was heading back
20 towards Honea Path then. And then he made me start
21 having oral sex all over again with him.

22 Q. When you were actually in the car going down
23 Horseshoe Road, did you ask him to let you get out
24 of that car?

25 A. Yes. I asked him why he was doing this to me.

1 I said, "Why are you doing this, Terry?"

2 He kept me telling me, "Shut up, bitch."

3 That's what he kept telling me.

4 Q. When you're in the car with him there on
5 Horseshoe Road, did you feel like you could get
6 away?

7 A. No. It was a dark -- dark area. It was
8 wooded.

9 Q. Did he confine you to that car?

10 A. Excuse me?

11 Q. Did he make you stay with him in that car?

12 A. Yes. Until I got back to Honea Path and the
13 light turned green, that's when I jumped out.

14 Q. So you're going down Horseshoe Road, he forced
15 you to have oral sex with him?

16 A. Yes.

17 Q. And then he -- then he forced you ---

18 A. I had oral sex about 40 -- 30 or 40 minutes.

19 Q. And when you're having oral sex with him ---

20 A. He had my head down. I couldn't ---

21 Q. --- could you tell if he ejaculated then?

22 A. No.

23 Q. After that car came and startled him and he
24 forced you back inside of his Cadillac, you said you
25 went back to Honea Path?

1 A. Yes. That's when I jumped out the car at Honea
2 Path.

3 Q. And where did you jump out of the car?

4 A. Right there right in front of Spinx right
5 there, and I took off running. And then somehow he
6 turned around, and I was running, just running to
7 the Burger King parking lot.

8 And my Aunt Tessie, it so happened she was
9 there. And I jumped in the car with her, and he was
10 in front of her. And I saw the car, and I jump out
11 again and started running. I ran through BI-LO's
12 parking lot. And then my aunt stayed in the
13 apartments down there. And that's where I called
14 EMS, and they picked me up there.

15 Q. Did -- how long do you think it was between the
16 time you jumped out of the car -- out of his car and
17 the time you got to Burger King?

18 A. I don't know. I really don't. I was just
19 running.

20 Q. Long enough for him to get over there to the
21 Burger King parking lot?

22 A. Yes.

23 Q. How did all of this make you feel?

24 A. It made me feel miserable, lesser than a woman.
25 I couldn't sleep at night knowing -- knowing that he

1 was out or anything.

2 Q. After you got going towards your aunt's
3 apartment, you said EMS was called?

4 A. Yes.

5 Q. Did Anderson EMS come to your location?

6 A. Uh-huh. They came and picked me up right
7 there.

8 Q. Where did they take you?

9 A. They took me to the Anderson hospital.

10 Q. Did you meet with a nurse up there?

11 A. Uh-huh.

12 Q. Is that a "yes"?

13 A. Oh, yes. Sorry.

14 Q. Once they got you to Anderson hospital, did
15 they ask to do a rape kit?

16 A. Yes, they did.

17 Q. And the rape kit, did they make you take all
18 your clothes off?

19 A. Yes, they did.

20 Q. Did they swab around your vagina?

21 A. Well, I think they swabbed it. The rape kit
22 didn't go through because I was so sore down there.

23 Q. It was sore. They didn't actually swab inside
24 of your vagina, did they?

25 A. I can't remember, it's been so long. But I

1 know that I was sore because they were going to do
2 something, and I was too sore. And the woman told
3 me it would be alright.

4 Q. When you left the hospital, did you leave in
5 your clothes?

6 A. No. They gave me more clothes.

7 Q. Gave you more clothes. Ms. Williams, I want to
8 show you what's been previously marked for
9 identification purposes as State's ID No. 2.

10 A. That's what I had on.

11 Q. Are those your clothes?

12 A. Yes, it is. I had black and white tennis shoes
13 and white socks. I had black and white Nikes and
14 white socks to go with that outfit right there.

15 MR. BROWN: Your Honor, at this time the State
16 moves in State's No. 2 -- State's No. 2.

17 THE COURT: Any objection?

18 MS. BOLEN: No, ma'am.

19 THE COURT: It's admitted.

20 (State's Exhibit No. 2 was admitted into
21 evidence.)

22 BY MR. BROWN:

23 Q. Now, Ms. Williams, when you were at the Time
24 Out Club, were there a number of people there?

25 A. It was a few people standing outside.

1 Q. What time did you leave?

2 A. About -- I'd say about 8:00 something. It
3 would have to be a little bit after 8:00.

4 Q. A little bit after 8:00?

5 A. It was close to dark, getting close to dark.

6 Q. It was close to dark?

7 A. Yes.

8 Q. And this was August 3rd?

9 A. Yeah.

10 Q. Do you -- do you know the time you called 911,
11 or was it just ---

12 A. It was after 10:00, I know that.

13 Q. After 10:00. Ms. Williams, is the person that
14 sexually assaulted you that night, is he in the
15 courtroom?

16 A. Yes, he is.

17 Q. And, again, what's he wearing?

18 A. He's wearing a blue shirt and a tie.

19 Q. And did he forcibly make you have oral sex with
20 him?

21 A. Yes, sir.

22 Q. And he forced himself on you?

23 A. Yes, sir.

24 Q. Down on Horseshoe Road in Abbeville County?

25 A. Yes, sir.

1 Q. Ms. Williams, when he was forcing himself on
2 you, did you ever tell him "no"?

3 A. Yes, I did.

4 Q. Did you ask him to stop?

5 A. Yes, I did. I said, "Stop. You're hurting
6 me."

7 Q. Did you ask him to let you out of the car?

8 A. Excuse me?

9 Q. Did you ask him to let you out of the car?

10 A. He wasn't going to let me out the car. I had
11 to jump out the car when I got back to Honea Path.

12 Q. And he was actually the one that forced you out
13 of the car to have sex with you?

14 A. Yes, he did. He bent me over.

15 MR. BROWN: No further questions.

16 THE COURT: Any cross?

17 MS. BOLEN: Yes, ma'am.

18 CROSS-EXAMINATION

19 BY MS. BOLEN:

20 Q. Ms. Williams, you were at the Time Out Club
21 that evening, correct?

22 A. Later on that night.

23 Q. That night?

24 A. Yes. I'm going to say "yes."

25 Q. Okay. And you said you had been at your aunt's

1 house first, correct?

2 A. Yes. Me and my cousin walked.

3 Q. Okay.

4 A. We walked.

5 Q. All right. So you and your cousin went to the
6 club together, right?

7 A. No. My cousin stopped at the basketball court.
8 He's young.

9 Q. Okay. And you were at the Time Out Club,
10 right?

11 A. Yes.

12 Q. And there were other people ---

13 A. I did not make it into the club.

14 Q. Okay. So you were outside in the parking lot?

15 A. Yes.

16 Q. And there's other people coming in and out of
17 the club, right?

18 A. Yes.

19 Q. Driving cars?

20 A. No. It's -- most of them just be standing out
21 there just lingering around.

22 Q. Okay. So there's other people kind of hanging
23 out in the parking lot?

24 A. Yeah.

25 Q. Okay. And you live in Honea Path now?

- 1 A. Yes. I stay in Honea Path.
- 2 Q. And 76, that's the road you were talking about,
- 3 right?
- 4 A. Yes.
- 5 Q. And that's in Anderson County, correct?
- 6 A. Yes.
- 7 Q. And Horseshoe Road comes off of 76, correct?
- 8 A. Yes. But you have to go a long way.
- 9 Q. Okay. So you're basically heading 76 out to
- 10 25?
- 11 A. Yeah.
- 12 Q. Okay.
- 13 A. Just before you get to town.
- 14 Q. Before you get to 25?
- 15 A. Yes.
- 16 Q. And Horseshoe Road is actually a horseshoe,
- 17 right?
- 18 A. Yes.
- 19 Q. Like it comes around like that (indicating)?
- 20 A. No. It's a long road. I don't know cause I
- 21 ain't been down to the whole road.
- 22 Q. Okay. You haven't been up and down all of
- 23 Horseshoe Road?
- 24 A. Huh-uh.
- 25 Q. Okay. But it's off of 76 which is in Anderson,

1 correct?

2 A. Uh-huh.

3 Q. And a good portion of Horseshoe Road is in
4 Anderson County, correct?

5 A. I guess.

6 Q. Okay. And you say that that evening you wanted
7 to go get something to eat, right?

8 A. Yes, I did. Correct.

9 Q. Okay. So you got in the car with -- with
10 Terrance, correct?

11 A. Yes.

12 Q. Okay. And that's something you did
13 voluntarily, correct?

14 A. Yes.

15 Q. Okay. And then you say that he drove you out,
16 and you say -- testified just now that you drove out
17 76 and went down Horseshoe Road, correct?

18 A. Yes.

19 Q. And you said that while he was driving, he ---

20 A. Forced me to have ---

21 Q. --- forced you to have oral sex, correct?

22 A. Yes, he did.

23 Q. And you said he hit you in the head, correct?

24 A. Yes. In the back of my head while I was having
25 oral sex with him.

1 Q. Okay. And then you say he drove down Horseshoe
2 Road, right?

3 A. Yes.

4 Q. Okay. And you say -- and this is what time of
5 night? It's pretty dark, right?

6 A. It's about -- well, it really ain't got dark,
7 dark yet. It was like dusk-dark.

8 Q. Okay. And he pulls off on Horseshoe Road,
9 right, that's what you said?

10 A. Yes.

11 Q. Okay. And then you say that he got out of the
12 car, right?

13 A. Excuse me?

14 Q. He got out of the car?

15 A. Yes.

16 Q. All right. And you were sitting in the --
17 you're in the passenger's seat this whole time,
18 right?

19 A. Yes.

20 Q. Okay. So you're sitting in the passenger seat
21 and it's a Cadillac, right?

22 A. Yes.

23 Q. Okay. He gets out of the car, correct?

24 A. Correct.

25 Q. And then you say you're -- you're still sitting

1 in the car?

2 A. Yes.

3 Q. Okay. And then you say he takes you out of the
4 car?

5 A. Yes.

6 Q. Okay. And you said he bent you over, correct?

7 A. Made me take my clothes down and he bent me
8 over and put his penis in and he started having sex.

9 Q. Okay. And were you ---

10 A. And I told him, "Stop." I said, "because
11 you're hurting me."

12 Q. Okay.

13 A. I said, "Why are you doing this?"

14 Q. And then you said -- in your testimony just
15 now, you said that a car came by, correct?

16 A. Yes.

17 Q. So he then put you back in the car?

18 A. Pushed me back over in the car.

19 Q. Pushed you in the car. And then he got back in
20 and drives, right?

21 A. Yes.

22 Q. And then you testified that he -- after you got
23 back in the car, he forced you to have oral sex
24 again, right?

25 A. Again.

- 1 Q. And you said it lasted about 30 or 40 minutes?
- 2 A. No. That was on the way.
- 3 Q. On the way there it lasted 30 or 40 minutes?
- 4 A. Yeah, about 30. Yes. It lasted a long time.
- 5 Q. Of the forced oral?
- 6 A. Yeah, both ways.
- 7 Q. Okay. I just want to make sure I get this
- 8 straight.
- 9 A. Okay.
- 10 Q. Okay. So you're saying the forced oral on the
- 11 way there was 30 to 40 minutes?
- 12 A. About 25 to 30 minutes.
- 13 Q. Okay. Then you -- you're saying he had forced
- 14 vaginal sex?
- 15 A. Yes. That lasted about three to four.
- 16 Q. Okay. And then back in the car and you're
- 17 saying more forced oral sex?
- 18 A. Yes.
- 19 Q. Then you're saying another 30 minutes?
- 20 A. Well, I ain't going to say it was that long. I
- 21 really don't know how long it was.
- 22 Q. Okay. On your direct you said it was about 30
- 23 to 40 minutes. Would that be wrong?
- 24 A. I really don't know how long it was.
- 25 Q. Okay.

- 1 A. I was nervous. I was shaking. I'm in shock
2 really.
- 3 Q. Okay. But 25 the first time, a couple minutes,
4 and then somewhere around 30?
- 5 A. Yes.
- 6 Q. Okay. And you -- you were at the club in Honea
7 Path, right? It's called the Last Stop?
- 8 A. No. Time Out.
- 9 Q. Time Out. Okay. So you're at the Time Out,
10 and that's right in Honea Path. You go down 76 and
11 you don't get all the way to 25, so that's a couple
12 of miles, right?
- 13 A. Yes.
- 14 Q. And then you're on Horseshoe Road which is a
15 mile or two or so?
- 16 A. No.
- 17 Q. A little bit longer?
- 18 A. Well, yes, I guess if you say. I don't know.
- 19 Q. Okay. And then after you say he had you on the
20 side of the road and he gets you back in the car,
21 you go straight back to Honea Path, right?
- 22 A. Yes. That's when I jump out the car when I get
23 to the red light.
- 24 Q. Okay. So that's another couple miles, right?
- 25 A. No, not really -- well, yes, I guess so.

- 1 Q. So a couple miles. Okay.
- 2 A. From where we was on Horseshoe Road.
- 3 Q. Okay. And he was driving normally, right?
- 4 A. No. Not really.
- 5 Q. Okay. Now, do you remember -- well, not to get
- 6 ahead of myself here. So you then get back to Honea
- 7 Path. That's where you say you jumped out at the
- 8 red light, right?
- 9 A. Yes.
- 10 Q. Okay. You -- you're at the red light,
- 11 basically right downtown Honea Path, correct?
- 12 A. Yes.
- 13 Q. Okay.
- 14 A. Right there at Spinx.
- 15 Q. At Spinx. There's a Spinx on one corner.
- 16 There's a Mexican restaurant kind of across from
- 17 Spinx?
- 18 A. Yes.
- 19 Q. Okay. And you say that you then ran to the
- 20 Burger King which is a couple businesses up from the
- 21 Spinx, right?
- 22 A. It's on Spinx and the Hardee's on the left
- 23 side.
- 24 Q. Okay. So the Spinx, Hardee's, Burger King?
- 25 A. I ran to Burger King. I seen my Aunt Tessie's

1 car, and I jumped in the car with her.

2 Q. Okay. And where you were -- where you say you
3 were at the red light at the Spinx, if you had gone
4 the other direction, you would've gotten right to
5 the police station, right?

6 A. They moved the police station.

7 Q. Okay. But it -- it was right there, right?

8 A. Yeah, but he could've got behind me then too.

9 Q. And you say you got -- you ran to the Burger
10 King. You get in your aunt's car, correct?

11 A. Yes.

12 Q. You were in your aunt's car?

13 A. Yes. And then I seen his car right in front of
14 her's, and I went back in shock and I got out and
15 took off running. That's when I went through the
16 BI-LO's parking lot.

17 Q. Okay.

18 A. And my aunt stay in the apartments right there,
19 and I called EMS from there.

20 Q. Okay. So you're in your aunt's car. You
21 jumped out of your aunt's car?

22 A. Yes.

23 Q. And you run -- you basically run through the
24 BI-LO back towards where ---

25 A. No.

- 1 Q. --- Time Out?
- 2 A. Yes. Right there. I didn't go to Time Out.
- 3 Q. Okay.
- 4 A. I stopped right there at my aunt's, right there
- 5 on the back porch.
- 6 Q. But that's near the club, correct?
- 7 A. Yeah.
- 8 Q. Right on the same block basically?
- 9 A. Well, yeah, because the Time Out club is on the
- 10 other side of the road.
- 11 Q. Okay. And that's where you called EMS?
- 12 A. Yeah, EMS because some people from the club
- 13 came over.
- 14 Q. Okay.
- 15 A. And they stood out there with me until EMS
- 16 came.
- 17 Q. Okay. So you call EMS. And then also some
- 18 local Honea Path law enforcement officers -- police
- 19 officers came as well, right?
- 20 A. They came. Yes.
- 21 Q. Okay. So there were a couple officers who met
- 22 you at your aunt's house, right?
- 23 A. No. EMS came.
- 24 Q. Okay.
- 25 A. They came with the police.

1 Q. Okay. So you had some police officers there
2 and you had EMS there, correct?

3 A. Yes.

4 Q. And then you get in the ambulance for EMS,
5 correct?

6 A. Yes.

7 Q. Okay. And you remember talking to the EMS
8 officers?

9 A. No. They were just trying to calm me down.

10 Q. Okay. Do you remember telling them that -- you
11 said that he didn't wear a condom?

12 A. No. He didn't have on a condom.

13 Q. Okay. And EMS takes you to AnMed, right?

14 A. Yes.

15 Q. Hospital in Anderson, correct?

16 A. Yes.

17 Q. And there you met with an Anderson officer,
18 correct?

19 A. Yes.

20 Q. And an Abbeville County officer, correct?

21 A. Yes.

22 Q. And a doctor, correct?

23 A. Yes, it was I think.

24 Q. And a nurse, right?

25 A. Yes.

1 Q. Okay. So in between when you say you stopped
2 at the red -- red light, jump out at the red light,
3 you meet with one aunt in her car, correct?

4 A. Yes.

5 Q. A second aunt at her house?

6 A. I didn't get to see my second aunt. I called
7 the ambulance from her house.

8 Q. Okay.

9 A. She's an elderly woman. She's dead now.

10 Q. Okay. And then a couple of Honea Path
11 officers, EMS, and then some officers at the
12 hospital and the doctors, correct?

13 A. Yes.

14 Q. And do you remember when you were at the
15 hospital or shortly after meeting the officers that
16 you -- you gave a written statement? Do you
17 remember giving a written statement?

18 A. Yes, I do.

19 Q. Okay. And in that written statement, you don't
20 say anything about where this supposedly happened,
21 right? You don't mention anything about Horseshoe
22 Road?

23 A. I told the police at the hospital that it was
24 Horseshoe Road.

25 Q. Okay. But you didn't put that in your

1 ~~your~~ statement, right?

2 A. No. I told the police because that's why they
3 went to Horseshoe Road.

4 Q. Okay. But it's -- it's not something you wrote
5 in your statement, correct? You didn't put
6 Horseshoe Road in there?

7 A. No.

8 Q. Okay. And in your statement, you say, "He
9 finally stopped the car, jumped out, and started
10 raping me. When he finished, we headed back towards
11 Honea Path." That's what you wrote?

12 A. Yes.

13 Q. And this is ---

14 A. Yes. That's what I wrote.

15 Q. That was within hours, correct? Right?

16 A. Yes. Yes, ma'am.

17 Q. This was written I think on August 4th of 2012?

18 A. Yes. Okay. Yeah.

19 Q. So you say there, "When he got finished, we
20 headed back towards Honea Path," correct?

21 A. Yes.

22 Q. You don't say anything about a car coming up
23 and him getting startled, correct?

24 A. No.

25 Q. You don't write that in your statement?

1 A. No.

2 Q. And you testified on direct that you don't
3 think he ejaculated, correct?

4 A. Correct.

5 Q. But in your statement, you said, "When he got
6 finished," correct?

7 A. Yes.

8 Q. Okay. You also don't put anything in your
9 statement that you gave August 4, 2012, about him
10 pulling you out of the car and bending you over,
11 correct?

12 A. Correct.

13 Q. You don't put that in there?

14 A. No.

15 Q. Okay. You don't put anything about him taking
16 off your clothes, correct?

17 A. Correct. It's been four years.

18 Q. But this is what you wrote four years ago,
19 right?

20 A. Yes.

21 Q. Okay. And you then write about, you say, "When
22 I jumped out the car, I started running towards
23 Burger King, jumped in the car with my aunt," right?

24 A. Yes.

25 Q. You don't say anything in this statement about

1. ...him forcing you to have oral sex with him after you
2 had pulled over to the side of the road, correct?

3 A. Yes.

4 Q. You don't put anything in your statement?

5 A. No.

6 Q. Okay. And you didn't put anything in your
7 statement about you-all driving around out in the
8 country for a long time, correct?

9 A. No. Because, I mean, when he stopped, that's
10 when he started having sex with me, made me get out
11 the car.

12 Q. Okay.

13 A. Who's going to drive around? He made me get
14 the car and start having sex with me.

15 Q. But you don't put anything? I mean ---

16 A. It ain't like it was a pleasure.

17 Q. Okay. Well, but your statement at the time
18 doesn't give any indication that you go anywhere
19 other than out of the club, right at 76, down
20 Horseshoe Road, and then back the same way, correct?

21 A. Correct.

22 Q. Okay. And then you said you also talked to --
23 you said something about, "Well, I told the officer
24 that," right?

25 A. Yes.

1 Q. So you did talk to an officer? I think you
2 talked to an officer at the hospital, correct?

3 A. Yes. Correct.

4 Q. And do you remember telling that officer that
5 at one point you ran away, but he grabbed you?

6 A. Yes.

7 Q. Okay. And that's not in your written
8 statement, correct?

9 A. Correct.

10 Q. And that wasn't in your direct testimony,
11 correct?

12 A. Correct.

13 Q. Okay. And when you were at the hospital, that
14 was in Anderson, right?

15 A. Yes.

16 Q. Okay. And they took the clothes you were
17 wearing, correct?

18 A. Correct.

19 Q. Okay. And that was shirt, pants, belt,
20 underwear, correct?

21 A. That's correct.

22 Q. They took all of it?

23 A. Yes.

24 Q. So you actually were given clothes from the
25 hospital?

1 A. Yes.

2 Q. Including underwear, including the rest of your
3 outfit, right?

4 A. Correct.

5 Q. And you don't remember if there was any kind of
6 vaginal swab or anything like that?

7 A. No, I don't.

8 Q. Okay. And you didn't get any sort of follow-up
9 care, right? You didn't go back to the hospital
10 later, correct?

11 A. No.

12 Q. You didn't go see any doctors or counselors?

13 A. I went to a counselor ---

14 Q. Okay.

15 A. --- in Greenwood.

16 Q. And you -- you were released from the hospital
17 within hours, correct?

18 A. Yes.

19 Q. Okay. You also gave a blood sample at the
20 hospital, correct? They took your blood?

21 A. I think so, yes.

22 Q. Okay. And you had mentioned on direct that
23 you'd had some alcohol that night, correct?

24 A. Yes, I -- yes, I did.

25 Q. You'd some beer and some liquor, correct?

1 A. Yes.

2 Q. And you are -- are you aware that your blood
3 alcohol level was ---

4 A. Yes. I am a very small person. It don't take
5 very much for me.

6 Q. Okay. But you'd had a good bit to drink,
7 right?

8 A. No. I had two cups of liquor and two beers.

9 Q. Okay. But you were -- you wouldn't have been
10 able to drive, correct? You'd had that much
11 alcohol?

12 A. I don't have a vehicle.

13 Q. You don't have a vehicle?

14 A. No.

15 MS. BOLEN: If I can have one moment, Your
16 Honor.

17 (Counsel conferred briefly.)

18 BY MS. BOLEN:

19 Q. Ms. Williams, just a couple of follow-up
20 questions.

21 When you say you're on Horseshoe Road and he
22 pulled over, did you -- when you kept going, did
23 you -- did he turn around and go back?

24 A. Yes.

25 Q. Just turned around and went right back, right

1 to 76?

2 A. Yes.

3 Q. Then took a left on 76, correct?

4 A. Yes.

5 Q. Okay. And you remember talking to EMS that
6 night, correct?

7 A. Yes. I remember they put me in the
8 ambulance ---

9 Q. Okay.

10 A. --- because they put me on the stretcher.

11 Q. And you remember talking to the officers at the
12 hospital, correct?

13 A. Correct.

14 Q. Okay. And you say there are also some officers
15 and some folks around your aunt's house, correct,
16 before you got in the ambulance?

17 A. Yes.

18 Q. Okay. And you remember giving that statement,
19 correct?

20 A. My aunt, the one that was in the white car,
21 she -- she came there, you know, waiting on the
22 ambulance.

23 Q. The aunt that you met at the Burger King?

24 A. Yes.

25 Q. Okay. So after you jumped out of her car, she

1 ended up ---

2 A. Yes.

3 Q. --- coming back around?

4 A. Yes.

5 MS. BOLEN: I don't have anything further.

6 Thank you, Your Honor.

7 THE COURT: Any redirect?

8 MR. BROWN: Just a few follow-up questions.

9 REDIRECT EXAMINATION

10 BY MR. BROWN:

11 Q. Ms. Williams, going out -- Ms. Bolen was asking
12 you several questions about Horseshoe Road. You're
13 certain that it was -- it took you into Abbeville
14 County?

15 A. Into Anderson.

16 Q. Horseshoe Road goes into Anderson and Abbeville
17 County ---

18 A. Yes.

19 Q. --- correct?

20 A. Yes.

21 Q. And the sexual assault occurred -- or at least
22 part of it occurred out in Abbeville County?

23 A. Yes.

24 Q. Ms. Bolen also asked you about follow-up, going
25 back to the hospital after you left, but you said

1 ~~that~~ that you didn't have -- she also then asked you

2 about counseling. Did you have counseling?

3 A. Yes, I did. I went to Greenwood.

4 Q. How long were you in counseling?

5 A. I think I went to two sessions.

6 Q. And the counseling was a result of this rape?

7 A. Yes.

8 Q. While he was forcing you to have oral sex on
9 him and then actually forced himself on you, he made
10 threats to you?

11 A. Yes. He said that he would kill me and my
12 family if I told anybody.

13 Q. Did he physically assault you?

14 A. He hit me in the back of my head.

15 Q. Forced you to do that?

16 A. Yes. And he said he would kill me and my
17 family if I said anything.

18 MR. BROWN: No further questions.

19 THE COURT: You may step down, ma'am.

20 MS. BOLEN: Actually, very briefly if I may,
21 Your Honor.

22 THE COURT: I'm sorry, Ms. Williams.

23 RE-CROSS-EXAMINATION

24 BY MS. BOLEN:

25 Q. Ms. Williams, you said that he hit you in the

1 back of your head. On your direct, you said that
2 that happened on the way to Horseshoe Road, correct?

3 A. No. I said when I was sucking his penis, he
4 hit me on the back of my head and told me to, "Shut
5 up. Stop that crying, bitch."

6 MS. BOLEN: Nothing further. Thank you, Your
7 Honor.

8 THE COURT: You may step down. Thank you.

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 MR. BROWN: State calls Tessie Singleton.

12 (Witness entered.)

13 TESSIE SINGLETON,

14 having been produced and first duly sworn as a
15 witness on behalf of the State, then testified as
16 follows:

17 THE COURT: State your full name and spell the
18 first name.

19 THE WITNESS: Tessie Singleton, T-e-s-s-i-e.

20 THE COURT: And the last name?

21 THE WITNESS: Singleton.

22 THE COURT: Thank you.

23 DIRECT EXAMINATION

24 BY MR. BROWN:

25 Q. Ms. Singleton?

1 A. Uh-huh.

2 THE COURT: Ms. Singleton, when you answer, if
3 you'd say -- answer verbally "yes" or "no" so that
4 we make sure to record your correct answer instead
5 of "uh-huh" or "huh-uh."

6 THE WITNESS: Okay. Whatever he asks, yes.

7 BY MR. BROWN:

8 Q. Ms. Singleton, do you know Sherrie ---

9 A. Yes.

10 Q. --- Williams?

11 A. Yes.

12 Q. Who is she?

13 A. She's my niece.

14 Q. And do you know where she lives at?

15 A. She stays in [REDACTED] apartments.

16 Q. And where do you live?

17 A. I stay on [REDACTED] Smith Street in Honea Path, South
18 Carolina.

19 Q. Okay. And were you living around that area in
20 2012?

21 A. I've been down there since almost nine years.

22 Q. In that same location?

23 A. Yep.

24 Q. And so you're familiar with Honea Path pretty
25 well?

1 A. Yes. Very much.

2 Q. Do you know Terrance Calloway?

3 A. Yes, I do.

4 Q. How do you know him?

5 A. I went to school -- we all went to school
6 together.

7 Q. Where did you go to school?

8 A. Dixie High School.

9 Q. Is that in Abbeville County?

10 A. Abbeville County, yes, sir.

11 Q. Is Terry Calloway in the courtroom?

12 A. Yep. Yes, sir.

13 Q. What color shirt does he have on?

14 A. Blue -- light blue.

15 Q. Now, Ms. Singleton, do you remember August 3,
16 2012?

17 A. Not that -- well, I remember that night that it
18 happened. I was coming from church.

19 Q. Do you -- tell me when you saw what happened
20 when you were at the Burger King in line that night.

21 A. Okay. I was in the drive-thru. Then I seen my
22 niece -- it's a BI-LO right to the right of me, and
23 I seen my niece come running to my car. So I rolled
24 down the window, and she was crying and all
25 hysterical. Her hair was up on her head.

1 And I -- "What's wrong?" And the first thing I
2 thought was maybe her and her boyfriend been
3 fighting. That's what I think. I said, "Oh, no,
4 you ain't tell me this." And she was crying and
5 hysterical when she told me what Calloway had did,
6 not knowing that he was in the white Cadillac in
7 front of me at the drive-thru, but I didn't know
8 what had happened. He had already pulled off.

9 And so I said, "What?" And then by the time I
10 was -- well, he had pulled off. I went around and I
11 didn't see him anymore. I went around where the
12 people hanging. I didn't see his car nowhere
13 because we went looking for him when she told me
14 what had happened.

15 She was -- still I was trying to get her to get
16 in the car, she took running back across the BI-LO
17 parking lot and went to my aunt's house, and that's
18 where the ambulance and they came out there. And I
19 went down there after that.

20 Q. Do you know what kind of car that Terry was
21 driving?

22 A. I remember he was driving a white Cadillac.

23 Q. You said her hair was all over. What do you
24 mean by that?

25 A. Like it was out of place. She was crying and

1 she was being hysterical.

2 I'm like, "What? Tell me what happened," you
3 know, whatever. That's what she told me. She just
4 basically -- I guess she might've seen his car and
5 she -- she just took off running again across the
6 parking lot.

7 And I tried to tell her, "Sherry, come back.
8 Come back." And she just -- she wouldn't listen to
9 me. And she went to my aunt's house, the
10 apartments -- the apartments right behind BI-LO.

11 Q. Do you find this strange?

12 A. Yeah, that's why I said that. That's why I
13 said that. That's why I took off -- tried to tell
14 her come on and get back in the car.

15 Q. Does Sherry act like that often?

16 A. No.

17 Q. Have you ever known her to act like that?

18 A. No.

19 Q. You also mentioned that first you thought she
20 might've been in an argument?

21 A. Arguing with her boyfriend, yes. Like I said,
22 they had their little disputes and stuff, that's why
23 I think that. And she probably might've been
24 arguing with her boyfriend or something. That's the
25 first thing I thought.

1 But then when I seen her head -- her hair all
2 over her head and she was crying whatever, look like
3 something was out. It just looked unknown. I knew
4 something was wrong.

5 Q. Who is her boyfriend?

6 A. Tim.

7 Q. Tim?

8 A. Uh-huh.

9 Q. Not Terry?

10 A. No.

11 Q. What's Timothy's last name?

12 A. Let me see what -- I just always call him
13 Timothy.

14 Q. Now ---

15 A. Black. Because I work with his brother -- his
16 brother Robert Black. That's his brother.

17 Q. Last name ---

18 A. Timothy Black.

19 Q. Timothy Black. After she ran to your car, you
20 said she ran where?

21 A. Across the parking lot, BI-LO'S. My aunt's
22 apartment is down right behind, and she ran to my
23 aunt's house which is deceased now. She's dead.
24 She passed. And they called the ambulance.

25 Q. Did she ride in the ambulance?

1 A. Yeah, she went to the hospital in the ambulance
2 to AnMed over in Anderson?

3 Q. To AnMed?

4 A. In Anderson.

5 MR. BROWN: No further questions.

6 THE COURT: Any cross?

7 MS. BOLEN: Yes, ma'am. Thank you.

8 CROSS-EXAMINATION

9 BY MS. BOLEN:

10 Q. Ms. Singleton, you've lived in Honea Path nine
11 years, correct?

12 A. Yes.

13 Q. And before that, you lived in the general area?

14 A. I stayed in Donalds.

15 Q. Donalds, Due West area?

16 A. Yeah.

17 Q. Okay. So you're familiar with that area,
18 correct?

19 A. Yes. Yes.

20 Q. And you know in Honea Path, part of it's in
21 Anderson County, part of it's in Abbeville, right?

22 A. Yes.

23 Q. Okay. And, in fact, the most of it's in
24 Anderson, right?

25 A. Yeah.

1 Q. Okay. And if you're at the sort of downtown
2 area in Honea Path where you've got the Mexican
3 restaurant, the space, all that. If you were to
4 take a right there, that puts you on Highway 76,
5 correct?

6 A. I don't know the highway.

7 Q. Okay. But the road that it would take you, you
8 know, down to 25, right?

9 A. 25.

10 Q. Okay. And that's all in Anderson County,
11 correct?

12 A. Uh-huh.

13 Q. And it's about maybe 7, 10 miles from Honea
14 Path to 25?

15 A. Yeah, somewhere in there.

16 Q. Okay. But not more than that, right?

17 A. Yeah.

18 Q. Okay. And are you familiar with Horseshoe Road
19 at all?

20 A. No.

21 Q. No. Okay. But between Honea Path and getting
22 to 25 is somewhere around 7 miles, right?

23 A. Yeah.

24 Q. And you said you knew my client Terrance from
25 high school, right?

1 A. Yeah.

2 Q. And you -- you and Sherry are related, right?

3 A. That's correct.

4 Q. Okay. And you're saying Sherry had a boyfriend
5 at the time?

6 A. Yes.

7 Q. Okay. And you know Terrance is married or was
8 married at the time?

9 A. Well, I don't know nothing about him like that.
10 They say he's married.

11 Q. Okay. And you were in school with him, right?

12 A. Yes. High school.

13 Q. So you know they used to date in high school?

14 A. Yeah.

15 Q. Okay. Regarding that evening, you said you
16 were -- you were not at the club, right?

17 A. No. It was at nighttime. I left a revival.

18 Q. Okay.

19 A. I come from a revival.

20 Q. Okay. What time -- what time did you leave
21 your revival?

22 A. I'd say between -- I usually get home
23 between -- anywhere between 10:00, between 9:00 and
24 10:00. That's how long the revival lasts.

25 Q. And you were at the Burger King, right?

1 A. Burger King.

2 Q. Which is if you're coming up from the Spinx,
3 that would be on your -- your right, correct?

4 A. Right. Yeah, correct.

5 Q. Okay. And you say that Sherry ran up to your
6 car, correct?

7 A. Yeah, she ran to my car.

8 Q. Okay. And she got in your car, right?

9 A. Well, she was at the window. No, she didn't
10 get in. I told you she didn't get in the car. She
11 was at the window and she was crying and stuff.

12 "Sherry, get in." And I couldn't get her --
13 when she -- she looked -- she was looking
14 hysterical. Like I said, then she took off back
15 running down, so she didn't get in the car.

16 Q. So you're saying she never got in?

17 A. No, she didn't.

18 Q. So if she didn't get in, she couldn't get out,
19 correct?

20 A. Correct.

21 Q. Okay. And you remember back on August 4th of
22 2012, you remember giving a statement to law
23 enforcement?

24 A. Uh-huh.

25 Q. And do you remember putting in that statement

1 that, "After I got my food, my niece got out of the
2 car"?

3 A. No. I said she left -- I said she went back
4 running through the parking lot. She ran to my car.

5 Q. Would it refresh your memory for you to look at
6 your statement to see what you wrote back then?

7 A. Okay.

8 MS. BOLEN: If I can approach, Your Honor?

9 THE COURT: Yes.

10 BY MS. BOLEN:

11 Q. And that -- that is the statement you gave on
12 August 4th, right?

13 A. (Reading.) Yeah, I did. Yeah, I made the
14 statement, but...

15 Q. Okay. So that -- that's the statement you
16 made, right?

17 A. Yeah.

18 Q. And in that statement, you said, "After my
19 niece got -- after I got my food, my niece got out
20 of the car," correct?

21 A. Yes, I did.

22 Q. Okay. And then you say that she goes to the
23 BI-LO parking lot, right?

24 A. Goes running through the BI-LO parking lot.

25 Q. Okay. And prior to saying that in your

1 statement, you say that she had come up to you,
2 right?

3 A. Yeah.

4 Q. And you were going to take her to the police
5 station, right?

6 A. Yes. Sure was.

7 Q. But you -- you actually continued in the
8 drive-thru and got your food, right?

9 A. I was at a standstill. Like I said, I was
10 waiting. I had did my order and I was waiting when
11 she come up to the car and she was crying and stuff.

12 And I kept saying, "What's wrong, Sherry?" And
13 she said what Terry had did. And I was trying to
14 get her to get in the car.

15 I see in the statement. Maybe they
16 misunderstood me, but she didn't never get in the
17 car. She took back off running through the parking
18 lot.

19 Q. But you -- you got your food while ---

20 A. Yeah, and I went -- went trying to look for
21 him.

22 Q. Okay. And then you say she runs across the
23 parking lot?

24 A. The BI-LO parking lot.

25 Q. And then you drove around to try to find her?

1 A. I drove around in the Honea Path asking has
2 anybody seen Terry.

3 Q. Okay. And you were -- you were actually in the
4 drive-thru line, right?

5 A. Yes.

6 Q. Had you already placed your order or you're
7 paying?

8 A. Yeah, I had already placed the order.

9 Q. Okay. So that's a pretty -- even though it's
10 night, there's lights?

11 A. I sat in the drive-thru. I had about two cars
12 or whatever. It was two cars near me, his car and
13 another car.

14 Q. Okay. So you're saying it was his car, your
15 car, and then ---

16 A. Yeah.

17 Q. --- another one behind you?

18 A. Like I said, two cars was in front of me, and
19 I'm not knowing that the white car was his.

20 Q. But there were no cars behind you, right?

21 A. I can't recall.

22 Q. Can't recall. Okay. And being in the
23 drive-thru line, the Burger King was open, there
24 were some lights on, correct?

25 A. Yeah, correct.

1 MS. BOLEN: Nothing further. Thank you, Your
2 Honor.

3 THE COURT: Any redirect?

4 MR. BROWN: Not from the State.

5 THE COURT: You may step down. Thank you.

6 THE WITNESS: All right. Thank you.

7 (Witness excused.)

8 MR. BROWN: Your Honor, the State would ask for
9 a quick break.

10 THE COURT: Yes, sir. I think it's a good time
11 to take a morning break.

12 Ladies and gentlemen, I'm going to remind you
13 of the instruction you're not to discuss this matter
14 among yourselves because you've still not heard all
15 the evidence. Let's take a morning break for about
16 10 minutes or so, and then we'll come back and
17 continue on.

18 (At 11:38 a.m., the jury was excused for a
19 midmorning break.)

20 THE COURT: Anything we need to take up before
21 we take a break?

22 MR. BROWN: Not from the State.

23 MS. BOLEN: No, ma'am.

24 THE COURT: Then let's take a break. We'll
25 come back.

1 (From 11:39 to 11:52 a.m., a recess was taken.)

2 THE COURT: Anything we need to take up before
3 we bring the jury back?

4 MR. BROWN: Nothing from the State.

5 THE COURT: Anything for the defense?

6 MS. BOLEN: No, ma'am.

7 THE COURT: You may call the jury in.

8 (At 11:55 a.m., the jury entered the
9 courtroom.)

10 THE COURT: Thank you. You may call your next
11 witness.

12 MR. BROWN: State calls Sandy Purdy.

13 (Witness entered.)

14 SANDY PURDY,

15 having been produced and first duly sworn as a
16 witness on behalf of the State, then testified as
17 follows:

18 THE COURT: Would you state your full name, and
19 spell your first name and your last name, please.

20 THE WITNESS: Sandy, S-a-n-d-y, Elaine Purdy,
21 P-u-r-d-y.

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. BROWN:

25 Q. Ms. Purdy, where do you work?

1 A. I work with the Anderson County 911.

2 Q. How long have you been with Anderson County?

3 A. Since 2013.

4 Q. And what are your duties with Anderson County
5 911?

6 A. I was a dispatcher when I first went there for
7 a couple of years. And this past September, I
8 started the CAD administrative position, which I
9 handle the software side and the computer side
10 mostly, the record part of it.

11 Q. The record part of it. Does that mean
12 anything -- any past calls, 911 calls?

13 A. Yes. We have historical reports that we can
14 run things from, from back to I think 2008 or '09
15 that I can get stuff from.

16 Q. And before coming to court today, did you
17 prepare a CAD report -- or was there a CAD report
18 prepared back on August 3, 2012?

19 A. Yes.

20 Q. In relation to a sexual assault that had
21 occurred?

22 A. Yes.

23 Q. And you work with Anderson County?

24 A. Uh-huh.

25 Q. If somebody called 911 from -- in Anderson

1 County, would that obviously go to Anderson?

2 A. Uh-huh.

3 Q. And if they were in Abbeville, it would go to
4 Abbeville 911?

5 A. Well with cell phones, if it's a cell phone
6 call, it could go -- it hits the nearest tower,
7 wherever the nearest tower is and it goes to the
8 nearest 911 center associated with that tower. So
9 we get calls from other counties, various counties,
10 Greenville, different place. Then we transfer to
11 different people once we know where it's at if we
12 need.

13 Q. In this case, did you get a call with regard to
14 Sherry Williams?

15 A. Yes.

16 Q. What time did this call come in?

17 A. It came in it looks like at 10:53 p.m. from a
18 cell phone caller, Sherry Williams.

19 Q. And, again, what was the date?

20 A. August 3rd of 2012.

21 Q. Once you got that telephone call, were you able
22 to get an idea of what the call was concerning?

23 A. Yes. The call taker at that time would've
24 talked to whoever called and asked them, "What's
25 your emergency? Where are you at?" Those kind of

1 questions.

2 And then from there, the Anderson officer to
3 help her. I believe in this instance, she was
4 actually in Honea Path city limits. Honea Path
5 officer went and spoke with her.

6 Q. Later on, did you dispatch any other agency ---

7 A. Yes.

8 Q. --- outside of Anderson County?

9 A. It looks like that a Honea Path City unit and
10 an Anderson County unit because they thought it was
11 in Anderson County at the time, and then eventually
12 transferred it to Abbeville County.

13 Q. And it would've been transferred to Abbeville
14 County why?

15 MS. BOLEN: Your Honor, at this point I believe
16 we may have a matter of law. If we can just address
17 briefly?

18 THE COURT: Yes, ma'am.

19 (Sidebar discussion between the Court and
20 counsel and without the court reporter.)

21 THE COURT: Yes, sir.

22 BY MR. BROWN:

23 Q. Now, Ms. Williams -- not Ms. Williams.

24 Ms. Purdy, the 911 call concerned Sherry Williams,
25 correct?

1 A. Uh-huh.

2 THE COURT: You need to answer out loud.

3 THE WITNESS: I'm sorry. Yes.

4 BY MR. BROWN:

5 Q. And you'd already said, just going back, you
6 contacted which law enforcement agencies?

7 A. Honea Path Police Department and it looks
8 Anderson County Sheriff's Department.

9 Q. And later on, did you contact any other
10 agencies?

11 A. Yes. Abbeville County after that.

12 Q. And why did you do that?

13 A. Because the sergeant that was on duty that
14 night, it looks like there's a notation in here that
15 he ---

16 MS. BOLEN: Your Honor, at this time I'd just
17 object referencing our sidebar conference to
18 hearsay.

19 THE COURT: Rephrase the question.

20 BY MR. BROWN:

21 Q. Did you ultimately contact another agency based
22 on information you received through the 911 call?

23 A. Yes.

24 Q. And what agency did you contact?

25 A. Abbeville.

1 Q. Abbeville County Sheriff's Office?

2 A. Yeah, or Abbeville 911. And they, in turn,
3 would've contacted the Sheriff's Office.

4 Q. And that's based off the information that was
5 received through 911 that night?

6 A. Mostly received by the officer -- from the
7 victim to the officer and their contact.

8 MS. BOLEN: Just renew my objections based on
9 hearsay. She's referencing information received
10 from other parties.

11 THE COURT: As -- as long as there's not a
12 discussion as to what was said and who -- who said
13 it.

14 MR. BROWN: Thank you, Your Honor.

15 BY MR. BROWN:

16 Q. And, again, that phone call or the CAD, the
17 initial call to 911 was what time?

18 A. At 10:53 p.m.

19 Q. And on the date of August 3, 2012?

20 A. August 3rd. Yes, sir.

21 Q. And called in relation to what kind -- what was
22 the call about again?

23 A. It's ---

24 MS. BOLEN: Same objection.

25 THE WITNESS: --- documented that ---

1 THE COURT:) One moment.

2 THE WITNESS: Okay.

3 MR. BROWN: I think she's already testified to
4 that. I was just double checking.

5 MS. BOLEN: In that case, my objection would be
6 based on asked and answered already.

7 THE COURT: I'll allow her to answer.

8 THE WITNESS: It's documented that the caller
9 stated that she had been raped by a Terry Calloway
10 in a -- and he left in a white car, unknown
11 direction of travel.

12 MR. BROWN: No further questions.

13 THE COURT: Any cross?

14 MS. BOLEN: Very briefly.

15 CROSS-EXAMINATION

16 BY MS. BOLEN:

17 Q. Ms. Purdy, you -- you were not the one --
18 you -- you work at Anderson 911, correct?

19 A. Yes.

20 Q. You were not the one to take this call,
21 correct?

22 A. No, ma'am. The person doesn't work there any
23 more.

24 MS. BOLEN: That's all I have. Thank you, Your
25 Honor.

1 THE COURT: You may step down. Thank you.

2 THE WITNESS: Okay.

3 (Witness excused.)

4 MR. SHEEK: State calls Cory Michael Freeman.

5 (Witness entered.)

6 THE COURT: Step forward please to be sworn.

7 THE WITNESS: Yes, ma'am.

8 CORY FREEMAN,

9 having been produced and first duly sworn as a
10 witness on behalf of the State, then testified as
11 follows:

12 THE COURT: State your full name and spell your
13 first name, please.

14 THE WITNESS: Cory Michael Freeman, C-o-r-y.

15 THE COURT: Yes, sir.

16 MR. SHEEK: Thank you.

17 DIRECT EXAMINATION

18 BY MR. SHEEK:

19 Q. Mr. Freeman, with whom are you employed?

20 A. Honea Path Fire/EMS in Honea Path, South
21 Carolina, Anderson County.

22 Q. And what are your duties and responsibilities
23 with them?

24 A. I am a firefighter/paramedic. I run a 24-hour,
25 72-hour shift; work 4, off 72.

1 Q. Okay. So as a firefighter and paramedic, you
2 respond to calls regarding fighting fires, as well
3 as medical emergencies?

4 A. Yes, sir. We are cross-trained.

5 Q. And on the date of August the 3rd of 2012, were
6 you on duty that day?

7 A. Yes, sir, I was.

8 Q. And do you recall receiving a call that evening
9 having to do with an alleged sexual assault?

10 A. I do not remember the call personally, but I
11 do -- I -- I run the call, yes, sir.

12 Q. Okay. Well, I know you -- you've got notes
13 that you take?

14 A. Yes, sir. I got a copy of the report.

15 Q. And you have the report. Are these filled out
16 for every type of call you go on?

17 A. They are, yes, sir. Every patient encountered,
18 we -- we have -- we do fill one out.

19 Q. Okay. And that evening, what was the nature of
20 the call that you responded to?

21 A. A reported sexual assault at [REDACTED]
22 [REDACTED] apartments.

23 Q. And did you respond to that location?

24 A. I did. Me and my partner, Megan Massengill.
25 I'm the paramedic on the truck, and she was the

1 intermediate.

2 Q. Okay. And what would you -- what did you do
3 when you responded to the location?

4 A. We responded emergent as requested by
5 centralized dispatch. Arrived on scene, and we
6 found the patient talking to law enforcement, which
7 we responded to it like we do any other call for
8 service as far as medical or fire.

9 Q. And when you respond to a call for medical, do
10 you do an assessment of the patient?

11 A. I do, yes, sir.

12 Q. Who was -- who was the person that you saw that
13 evening? What was her name?

14 A. (No response.)

15 Q. You're welcome to refer to your report.

16 A. Okay. Let me see here, Ms. Sherry Williams.

17 Q. Okay. And when you do an assessment, what --
18 what do you do?

19 A. A visual assessment. Initially, just the way
20 the patient looks, and then we'll try and talk to
21 the patient and find out what happened.

22 Q. Okay. And that night, did you do a visual
23 inspection of how she appeared?

24 A. Yes, sir, we did. We didn't -- didn't find any
25 gross visual, like any obvious injuries.

1 Q. Did you make note of her demeanor?

2 A. It's not noted in the report.

3 Q. Okay.

4 A. And I don't remember exactly.

5 Q. And did she -- did she report to you that she
6 had been the victim of any type of incident?

7 A. She said that she was sexually assaulted by a
8 male that's known to her, that she was vaginally
9 raped.

10 Q. Okay. By a male that was what? I'm not sure I
11 heard you.

12 A. That was known to her.

13 Q. Okay. So she knew who she had been raped by?

14 A. That's -- that's -- that's what she had.

15 Q. Okay. And she reported -- when you say
16 vaginally raped, what does that mean?

17 A. Intercourse. Sexual intercourse through ---

18 Q. Penetration?

19 A. --- penetration of the male genitalia, yes,
20 sir.

21 Q. Okay. Was she transported?

22 A. She was.

23 Q. And where was she taken?

24 A. She was taken to Anderson Area Medical Center
25 and placed in a room in intermediate care.

1 Q. When you had talked to her making that
2 assessment prior to transport, did she tell you
3 whether or not she was experiencing any pain or any
4 type of bleeding, anything of that nature?

5 A. As it's documented in the report, she said that
6 she was having a little pain and some light bleeding
7 or a little bleeding, but that was as far as she
8 answered.

9 Q. When she said that she was experiencing pain,
10 did she say where?

11 A. In her genital area.

12 Q. Now, when you say transported her, she was
13 taken to the hospital?

14 A. Yes, sir.

15 Q. When you get her to the hospital, do you have
16 any more responsibilities regarding treatment or
17 care?

18 A. We give a patient care report, a verbalized
19 report to -- to the receiving nurse letting her know
20 what we did, what we found. And in this case, we
21 also let them know that there was supposed to be a
22 deputy to meet the patient there at the hospital.
23 And then we get our report signed, and we're cleared
24 for another call.

25 MR. SHEEK: Okay. Thank you, sir. Please

1 answer anything that Ms. Bolen may have.

2 THE WITNESS: All right.

3 CROSS-EXAMINATION

4 BY MS. BOLEN:

5 Q. Hi, Mr. Freeman. Just have a couple of
6 follow-up questions for you. So you worked EMS,
7 correct, in Honea Path?

8 A. Yes, ma'am.

9 Q. You've worked there a couple years?

10 A. I have worked in Honea Path for six years.

11 Q. Okay.

12 A. July of 2010.

13 Q. Okay. So you're familiar with Honea Path,
14 right ---

15 A. Yes, ma'am.

16 Q. --- the city? Okay. And you responded to, I
17 believe, [REDACTED] which is an apartment
18 complex?

19 A. Yes, ma'am.

20 Q. Okay. And that --

21 A. The apartments right there.

22 Q. And that's near what we call the downtown area,
23 correct?

24 A. Yes, ma'am.

25 Q. Downtown you've got a gas station, a BI-LO, a

1 couple fast food restaurants, that kind of thing,
2 right?

3 A. Yes, ma'am.

4 Q. And then there's also a club called the Last
5 Stop that's also near Rouse street?

6 A. Yes, ma'am, there is.

7 Q. And Rouse Street is only about maybe a quarter
8 to a half mile away from the main downtown area,
9 correct?

10 A. Yes, ma'am.

11 Q. Okay. And if you're at the intersection, it's
12 sort of a five-way intersection there, right? The
13 main intersection downtown?

14 A. Oh, yes, ma'am. Yes, ma'am.

15 Q. Okay. If you're at that intersection and
16 you're going toward -- to Rouse Street where you
17 responded, that's probably a total of less than a
18 half a mile?

19 A. It would be close.

20 Q. Close. Okay.

21 A. Close to half a mile, maybe a little over
22 actually.

23 Q. And you would -- you would pass a Burger
24 King ---

25 A. Yes, ma'am.

1 Q. --- there, right? And you would also be right
2 in the area of that -- that club, correct?

3 A. Yes, ma'am.

4 Q. So the Burger King and the club are really
5 close to each other?

6 A. Fairly close.

7 Q. Fairly close?

8 A. Yes.

9 Q. All within that ---

10 A. A couple of blocks.

11 Q. A couple blocks.

12 A. Between the Burger King and where the apartment
13 complex is.

14 Q. Okay. So a couple of blocks. Okay. And if
15 you were at, again, what we're calling the downtown
16 area of Honea Path and you were to go down Route 76,
17 that'll take you to 25, correct? Are you familiar
18 with that area?

19 A. 76?

20 Q. It's Princeton Highway ---

21 A. Yes.

22 Q. --- is what they call it?

23 A. Yes, ma'am.

24 Q. That'll take you to Highway 25, right?

25 A. Yes, ma'am.

1 Q. And from downtown Honea Path down 76, Princeton
2 Highway, to 25 is probably about what, seven miles?

3 A. Seven to eight.

4 Q. Seven to eight?

5 A. Yes, ma'am.

6 Q. Okay. That evening when you responded, you
7 said when you got there, the officers -- there was
8 some officers already speaking with Ms. Williams,
9 correct?

10 A. Yes, ma'am.

11 Q. Okay. And you talked a little bit about what
12 she told you, right? And you said that she told you
13 he vaginally raped her, correct?

14 A. Yes, ma'am.

15 Q. That he didn't use a condom, correct?

16 A. Yes, ma'am.

17 Q. That she had a little bit of bleeding, correct?

18 A. Yes, ma'am.

19 Q. Okay. And you know that she hadn't washed or
20 taken a shower, correct?

21 A. Yes, ma'am.

22 Q. Okay. And you noted in your report that she
23 did not appear to have any obvious injuries,
24 correct?

25 A. Yes.

1 Q. Okay. You never saw any bleeding, right?

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

3 Q. That was something she told you?

4 A. Yes, ma'am.

5 Q. Okay. And you also note in your report that
6 patient stated she didn't think she was physically
7 hurt very badly, correct?

8 A. Yes, ma'am.

9 Q. Okay. And you transported her to AnMed, right?

10 A. Yes, ma'am.

11 Q. And that's in Anderson. About how long does
12 that take from Honea Path to Anderson to the
13 hospital?

14 A. Roughly, 30 -- 30 to 35 minutes.

15 Q. So you talked to her for a little while, right?

16 A. Yes, ma'am.

17 Q. And she gave you some -- some details of what
18 she said happened, right? She said she was raped
19 vaginally. She talked about him not using a condom,
20 right?

21 A. Yes. I mean, I -- I assumed, yes, ma'am, as
22 far as I can remember.

23 Q. Okay. And you also had a female assistant in
24 the EMS ambulance with you, correct?

25 A. Yes, ma'am.

1 MS. BOLEN: Okay. I don't have anything
2 further. Thank you, Your Honor.

3 THE COURT: Any redirect?

4 MR. SHEEK: No, ma'am.

5 THE COURT: You may step down. Thank you.

6 (Witness excused.)

7 THE COURT: You may call your next witness.

8 MR. BROWN: State calls Timothy Black.

9 (Witness entered.)

10 THE COURT: Step forward please to be sworn.

11 TIMOTHY BLACK,

12 having been produced and first duly sworn as a
13 witness on behalf of the State, then testified as
14 follows:

15 THE COURT: State your full name, please.

16 THE WITNESS: Timothy Black.

17 DIRECT EXAMINATION

18 BY MR. BROWN:

19 Q. Mr. Black, where do you live?

20 A. Honea Path.

21 Q. And do you know this lady sitting right here?

22 A. Yes.

23 Q. Who is that?

24 A. My girlfriend.

25 Q. Your girlfriend. How long have you and

- 1 Ms. Williams been dating?
- 2 A. Been together eight years.
- 3 Q. Eight years?
- 4 A. Uh-huh.
- 5 Q. Y'all live together?
- 6 A. Yes.
- 7 Q. Where do y'all live?
- 8 A. [REDACTED] Apartments in Honea Path.
- 9 Q. Mr. Black, do you know Terry Calloway?
- 10 A. I know of him.
- 11 Q. Would you recognize him if you saw him?
- 12 A. Yeah.
- 13 Q. Is he in the room?
- 14 A. Yes, sir.
- 15 Q. What color shirt is he wearing?
- 16 A. Blue.
- 17 Q. Mr. Black, do you remember the night of August
- 18 3, 2012?
- 19 A. Yes.
- 20 Q. And what do you remember that night?
- 21 A. Well, I was watching the Olympics sports and
- 22 swimming was going on. And her niece -- her aunt
- 23 come to the door and told me what had happened. And
- 24 then I went on up to where she had got to.
- 25 Q. Now, 2012, which Olympics were those?

1 A. It was swimming, the Winter Olympics.

2 Q. The Winter Olympics or the Summer Olympics in
3 London?

4 A. It was -- well, yeah, it was during the
5 Winter -- the Winter Olympics, the swimming.

6 Q. It was swimming, so Summer?

7 A. Yeah.

8 Q. But you were at your apartment watching the
9 Olympics?

10 A. Right.

11 Q. Was this at night?

12 A. When it happened.

13 Q. What did you do after Sherry's aunt came to the
14 door?

15 A. Well, I went on with them. She had told me
16 what happened, and I went on with them.

17 Q. Did you ride in the ambulance?

18 A. No. They wouldn't let me.

19 Q. Who wouldn't let you?

20 A. The paramedics. I went on in the car.

21 Q. Who'd you ride with?

22 A. Her aunt.

23 Q. Why wouldn't EMS let you in the car?

24 A. They said it was ---

25 MS. BOLEN: Objection as to speculation,

1 calling for hearsay.

2 THE COURT: Sustained.

3 BY MR. BROWN:

4 Q. Ultimately, you weren't allowed to get in the
5 ambulance, were you?

6 A. No.

7 Q. How did you get on up to Anderson?

8 A. In the car.

9 Q. Did you ever see Sherry that night?

10 A. Yes.

11 Q. What was her demeanor?

12 A. Well, she was shook up. She was really shook
13 up. She was scared. I could tell that she was real
14 shook up.

15 Q. Does she normally act like that?

16 A. No.

17 Q. When she left from the apartment earlier that
18 night, was she in that condition?

19 A. No.

20 Q. Was she crying?

21 A. Yes.

22 Q. Are you and Sherry still together?

23 A. Still together.

24 MR. BROWN: No further questions.

25 THE COURT: Any cross.

1 MS. BOLEN: Briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. BOLEN:

4 Q. Mr. Black, you and Sherry are dating, right,
5 together?

6 A. Yes.

7 Q. Okay. And you said you've been together eight
8 years?

9 A. Eight years.

10 Q. So you were together back in 2012, correct?

11 A. Yes.

12 Q. But you were at home that night?

13 A. Yeah.

14 MS. BOLEN: Nothing further. Thank you.

15 THE COURT: Any redirect?

16 MR. BROWN: No redirect, Your Honor.

17 THE COURT: You may step down. Thank you.

18 THE WITNESS: You're welcome.

19 (Witness excused.)

20 THE COURT: You may call your next witness.

21 MR. BROWN: The State calls Kerry Smith.

22 (Witness entered.)

23 KERRY SMITH,

24 having been produced and first duly sworn as a

25 witness on behalf of the State, then testified as

1 follows:

2 THE COURT: State your full name and spell your
3 first name.

4 THE WITNESS: Kerry Smith, K-e-r-r-y.

5 THE COURT: Common spelling for Smith?

6 THE WITNESS: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. BROWN:

9 Q. Ms. Smith, where do you work?

10 A. AnMed.

11 Q. How long have you been with AnMed?

12 A. Since -- as a nurse, since 2005.

13 Q. And what's your current position there at
14 AnMed?

15 A. Currently, I'm on the resource team, but I have
16 formerly worked the Med/Surg floor and in the ER.

17 Q. In 2012, specifically August 3, 2012, where
18 were you working?

19 A. In the ER.

20 Q. And as a nurse in the ER, did you have any
21 particular role in your nursing capacity?

22 A. There have been times when we have had people
23 come in with -- complained of a sexual assault. And
24 the nurse is charged with the duty of collecting
25 external evidence and assisting a doctor in an

1 internal exam to gather evidence and take it so that
2 it could be used to take to court if need be.

3 Q. What -- what's that nurse called?

4 A. It's called a SANE nurse, sexual assault nurse
5 examiner.

6 Q. And were you in that role that night?

7 A. Yes, sir.

8 Q. Did you have an opportunity to examine Sherry
9 Williams?

10 A. Yes.

11 Q. Is Sherry Williams here in the courtroom?

12 A. Uh-huh. Sitting right there with the black
13 coat on.

14 Q. Is this who you examined that night?

15 A. Uh-huh.

16 Q. Is that a "yes"?

17 A. Yes. Yes. I'm sorry. Yes.

18 Q. Do you remember what time of night that she
19 arrived at AnMed?

20 A. I'm not exactly sure without looking -- having
21 the chart right in front of me, but I work third
22 shift so it was some time after midnight I believe.
23 Without having the M-Stat report, I can't give you
24 like specific times.

25 Q. I'm going to show you a document and see if

1 that would refresh your memory.

2 A. Yes. This is -- this is it. She came in at
3 11:33 on August 3, 2012 -- I mean, 11:37. I'm
4 sorry.

5 Q. 11:37?

6 A. Yes. 11:37.

7 Q. And once she arrived at the ER, what's the
8 normal protocol? What happens?

9 A. Normally when a person comes in and says
10 they've been assaulted, we put their name in the
11 computer and a complaint. The triage nurse takes
12 them back, which is the first nurse they see. Gets
13 a set of vital signs.

14 If the police are with them, they take them
15 back to a private room if there's one available.
16 Usually, I think they use room 19 now.

17 Or if a police officer is not with them, they
18 go to the family room and we wait on the police to
19 get there.

20 Q. In this case, was she accompanied by police?

21 A. Yes.

22 Q. Did you perform an exam on Ms. Williams?

23 A. We performed an external exam. We document any
24 scratches, bruises, marks, any -- if anything's
25 wrong with them, what complaints there are, what

1 ...they say happened.

2 Do what they call an external exam where we
3 scrape under their fingernails, comb the pubic hair
4 to make sure there's nothing in there. Take their
5 clothes off on a sheet of paper so that any -- any
6 evidence drops onto the piece of paper. Do a skin
7 assessment to make sure there's no scrapes on the
8 back or anywhere else. And then we call the doctor
9 to do the internal exam.

10 Q. Now, I'm going to show you what's been
11 previously entered into evidence as State's No. 2.
12 And you -- did you collect clothes in this case?

13 A. I believe so. I believe there are. They would
14 probably be in the very bottom because it's the
15 first thing we do.

16 Q. Now, tell me the protocol or the process of
17 when you first have a patient come in, how do you go
18 about collecting their clothes?

19 A. The first thing we do is we take them into the
20 room. Provide for their privacy. Put the --
21 there's a very large piece of paper, white paper,
22 heavy white paper, that we have them stand on. And
23 they disrobe and just immediately drop everything
24 there. Then we give them a hospital gown and let
25 them sit on the table for the rest of the exam.

1 Q. And the -- part of the sexual assault exam you
2 did, you say you performed an external exam?

3 A. Uh-huh.

4 Q. What do you mean by that?

5 A. You scrape underneath the fingernails over
6 again a white piece of paper to fold and collect any
7 scrapings that come out from underneath their
8 fingernails. If there's any cuts, we use a Q-tip
9 and scrape them off into that and collect that for
10 evidence.

11 Anything external like scrapes, abrasions,
12 cuts, bite marks, anything like that, we document on
13 a piece of paper that should be in that kit as well
14 for external -- obvious external injuries.

15 Q. Show you what's been marked previously as
16 State's ID No. 1. Do you recognize?

17 A. Uh-huh.

18 Q. Is that a "yes"?

19 A. Yes.

20 Q. And what is that?

21 A. That is the collection kit that -- the part of
22 the kit where we put blood, any swabs we collect,
23 the slides that you prepare and dry, and we seal
24 this as well to go into evidence.

25 Q. And do you recognize this particular box?

1 A. Yes. That is the box that I completed on
2 Sherry Williams at AnMed Health. And the date of
3 the collection was 8/4 because we didn't get started
4 until after midnight.

5 Q. And the requesting agency's name is which
6 agency?

7 A. Abbeville County.

8 Q. And there's an officer's name at the top of it,
9 as well?

10 A. Sergeant Norman.

11 Q. Now, after you collect this --

12 MR. BROWN: Your Honor, at this time the State
13 would want to move State's No. 1 in as evidence.

14 MS. BOLEN: Without objection.

15 THE COURT: It's admitted.

16 (State's Exhibit No. 1 was admitted into
17 evidence.)

18 BY MR. BROWN:

19 Q. Now, Ms. Smith, when you meet or when you met
20 with Ms. Williams, did she seem of clear mind?

21 A. Yes.

22 Q. Did she answer --

23 A. She was alert. She was oriented. She was able
24 to answer questions appropriately. Walked back to
25 the room without any difficulty. Walked on her own

1 freewill.

2 Q. What was her demeanor like?

3 A. She was quiet. She was quiet and she didn't
4 really make a whole lot of eye contact, but that's
5 not unusual in a sexual assault that I've seen.

6 Q. Was she upset?

7 A. Yes.

8 Q. How do you mean? How was she upset? What
9 would you describe her as?

10 A. She seemed kind of in shock and sad and just --
11 she would answer the questions, but she was not
12 overly talkative making chitchat. She just answered
13 the questions very -- very plainly and very quickly
14 and just wanted to get it over and done with.

15 Q. When you're doing the exam -- you said you did
16 an external exam. Were you and -- was there a
17 doctor involved in this case?

18 A. There was a doctor involved in the case for the
19 internal part of the exam.

20 Q. What was his name?

21 A. His name is Dr. James Stump.

22 Q. Were you and Dr. Stump able to do an internal
23 exam?

24 A. We explained the process before we started,
25 including the internal exam, and she was agreeable

1 to it. But when the doctor actually came in the
2 room, I was in the room with him. And he went to
3 touch her and start the internal part of the exam,
4 where he puts the speculum actually into the vagina.
5 And as soon as he touched her, she said, "No, no,
6 no. I'm too sore down there. You can't do it. You
7 can't do it."

8 Q. So the -- a swab's collected for DNA swabs and
9 I guess put on a smear?

10 A. Uh-huh.

11 Q. Those ---

12 A. Yes.

13 Q. --- are from the outside of her vagina?

14 A. Yes.

15 Q. No -- no swabs are done of the inside?

16 A. No. No internal swabs were done.

17 Q. After she said that she couldn't or didn't feel
18 comfortable or able to have the speculum inserted,
19 what happened next?

20 A. With that, the doctor said, "Okay." Dr. Stump
21 stood up and walked out of the room. And I stayed
22 in the room with her and we completed the rest of
23 the -- the exam where we make sure we've documented
24 her prophylactic. We use Cipro and Flagyl to
25 prevent any STDs that could've been -- she could've

1 been exposed to. We offer Plan B for pregnancy
2 prevention considering the possibility. And we --
3 we give her, usually clothes, because we've taken
4 hers out of the closet that they have.

5 Q. So she came in the hospital and was examined,
6 had her clothes taken or she left her clothes there?

7 A. Yes. Yes. Her clothes were taken to be part
8 of the evidence.

9 Q. And freely walked into the hospital, took her
10 clothes off; is that correct?

11 A. Uh-huh.

12 Q. And allowed you to swab?

13 A. Completely.

14 Q. Her genitalia?

15 A. Uh-huh.

16 Q. And, again, you stated when she walked in, she
17 appeared to be of clear mind?

18 A. Uh-huh.

19 Q. Did she appear to be drunk?

20 A. She did not appear drunk to me, no. She was
21 able to -- her speech was clear. She was oriented.
22 She knew where she was, what was going on. We had
23 to have those things -- we had to make sure she knew
24 those things so that we could get her to sign the
25 consent to have the kit completed.

1 Q. Did you even smell alcohol on her?

2 A. I did not smell alcohol on her breath, and I
3 was -- you know, we have to do oral swabs as well,
4 and I didn't smell any then.

5 Q. How long was she at the hospital that night?

6 A. She left at 5:11 in the morning.

7 Q. So arrived before midnight?

8 A. Uh-huh. Yes.

9 Q. Stayed until 5:00 a.m. in the morning?

10 A. Yes, sir.

11 Q. After these items were collected, were they
12 transferred over to an officer with Abbeville County
13 Sheriff's Office?

14 A. Yes, sir. They stayed in my possession until I
15 hand them to the officer, and we both sign the
16 outside of the tape to complete the chain of
17 evidence.

18 Q. And, again, is this the lady that you examined
19 that night?

20 A. Yes, sir.

21 Q. On your medical notes, were you able to get an
22 age?

23 A. When the patient gives us their birth date, it
24 automatically comes up with their age.

25 Q. What's her age?

1 A. Thirty-nine years old.

2 MR. BROWN: No further questions.

3 THE COURT: Cross?

4 MS. BOLEN: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BOLEN:

7 Q. Ms. Smith, you stated that at the time in
8 August 2012, you were what's called a SANE nurse,
9 right? Sexual assault nurse examiner or that was
10 your role?

11 A. That was my role.

12 Q. Okay. And there's training and protocol that
13 goes with that, correct?

14 A. Yes. Yes.

15 Q. Okay. And there is -- you talked a lot about
16 evidence collection, having her drop her clothes
17 onto a white piece of paper, correct?

18 A. Yes.

19 Q. And that's all done to make sure there's no
20 contamination of any possible evidence, correct?

21 A. Yes, ma'am.

22 Q. You want to save anything that might be on the
23 clothes, right?

24 A. Yes. Yes, ma'am.

25 Q. And you talked about some of the policies and

1 procedures that you followed in collecting any
2 physical evidence ---

3 A. Yes, ma'am.

4 Q. --- on her body, correct?

5 A. Yes.

6 Q. And, again, those policies and procedures are
7 something you followed to preserve evidence,
8 correct?

9 A. Yes, ma'am.

10 Q. So if there's anything there, it's preserved
11 and it can be analyzed?

12 A. Yes.

13 Q. Okay. And you followed those policies that
14 night, right?

15 A. Yes, ma'am.

16 Q. Okay. And I know you've got your chart with
17 you, right?

18 A. I've got what they call the M-Stat. It's
19 what -- what we record in our records ---

20 Q. Okay.

21 A. --- for medical records purposes. We do it on
22 everybody.

23 This -- this kind of charge is done on
24 everybody that comes into the emergency room.

25 Q. And you -- you said that Ms. Williams came in

1 at -- I think you said 11:37, 11:30?

2 A. Yeah, 11:37.

3 Q. Okay. And a --shortly after she came in, a
4 pain assessment was done, correct?

5 A. Yes.

6 Q. And that pain assessment was three out of ten,
7 correct?

8 A. Yes, ma'am.

9 Q. So fairly low? I mean, ten being the highest?

10 A. Well, on a zero to ten scale, three is
11 considered moderate -- mild to moderate.

12 Q. Okay. Then talked about that you took her
13 clothes, right?

14 A. Uh-huh.

15 Q. Okay. And that was on that white piece of
16 paper, right? And I think that's actually the paper
17 we've got here, right?

18 A. Uh-huh.

19 THE COURT: Is that a "yes"?

20 THE WITNESS: Oh, I'm sorry. Yes. I'm sorry.
21 Yes.

22 THE COURT: You really do need to answer "yes"
23 or "no," a verbal answer so we can make sure it's
24 recorded correctly.

25 THE WITNESS: I'm sorry. Yes.

1 BY MS. BOLEN:

2 Q. And the clothes you took were a top, right?

3 A. I would have to look actually in the kit
4 because we document what is usually taken in, you
5 know, shirt, shorts, underwear.

6 Q. But it's fair to say that following the
7 procedures you're supposed to follow, you would've
8 taken everything she was wearing, right?

9 A. Yes, ma'am.

10 Q. Underwear?

11 A. Yes, ma'am.

12 Q. Pants? Top?

13 A. Yes, ma'am.

14 Q. And I think you had mentioned in your report
15 you gave her clothes to wear home which included a
16 top, pants, and underwear, right?

17 A. I would have to look.

18 Q. You were with Ms. Williams that -- basically
19 the whole time she's in the hospital?

20 A. Yes, ma'am.

21 Q. She was your patient?

22 A. Yes, ma'am.

23 Q. Okay. And you were there when Dr. Stump was
24 there as well, right?

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

1 Q. And you talked a little bit about the external
2 exam and the internal exam, right?

3 A. Yes, ma'am.

4 Q. Okay. And you talked about that something you
5 do is you look to document any scratches, right?

6 A. Yes, ma'am. We try.

7 Q. Any bruises, any marks, right?

8 A. Yes, ma'am.

9 Q. And you said you do a skin assessment, you
10 mention looking on, you know, all over someone's
11 back, that sort of thing, right?

12 A. Yes, ma'am.

13 Q. And, again, that's part of the policies and
14 procedures that you would follow as a SANE, right?

15 A. Yes, ma'am.

16 Q. And -- and the reason to document all of that
17 and to note any sorts of scratches, bruises, marks,
18 would be to -- for evidentiary purposes, correct?

19 A. Yes, ma'am, so that we can document it.

20 Q. And you would document anything you found in
21 your report, correct?

22 A. In -- not in the M-Stat, but in the paperwork
23 that goes with the kit, that's where it's
24 documented.

25 Q. And in this case, there's no documentation of

1 any bruises or cuts or marks on Ms. Williams, right?

2 A. No obvious ones ---

3 Q. Okay.

4 A. --- at the time that I saw her.

5 Q. And there's -- you -- you -- you actually don't
6 note any physical injuries, right, in your report?

7 A. Externally, no.

8 Q. Externally?

9 A. Yes.

10 Q. Okay. And that's a thorough external exam,
11 right? You're looking top, head to toe, right?

12 A. Yes, ma'am.

13 Q. And nothing noted in your report?

14 A. No, ma'am.

15 Q. Okay. And you said that you talked to
16 Ms. Williams about the internal exam, right?

17 A. Yes, ma'am.

18 Q. And you got swabs of the external part of her
19 vagina, so you got some ---

20 A. I believe so, yes, ma'am.

21 Q. Okay. And I think you mentioned getting oral
22 swabs, as well?

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

24 Q. Okay.

25 A. I believe we did.

1 Q. And, obviously, you -- in taking the swabs of
2 the outside of her genitals, you saw her genital
3 area, correct?

4 A. Yes, ma'am.

5 Q. And you didn't note in your report that there
6 was any bleeding, right?

7 A. No obvious bleeding ---

8 Q. Okay.

9 A. --- externally.

10 Q. No obvious external bleeding?

11 A. Right.

12 Q. Okay. And you didn't note any obvious external
13 bruising, correct?

14 A. No.

15 Q. Or swelling?

16 A. Not at -- not at the time.

17 Q. Okay. And this evening was the -- the one and
18 only time you saw Ms. Williams, right?

19 A. Yes, ma'am.

20 Q. Okay. You also mentioned as part of the
21 external exam that you would take fingernail
22 scrapings, correct?

23 A. Yes, ma'am.

24 Q. And you -- you took those in this case, right?

25 A. Yes, ma'am.

1 Q. And, again, that's part of the policies and
2 procedures to make sure evidence isn't contaminated,
3 correct?

4 A. I believe so.

5 Q. You also said, you know, part of your
6 procedures would be if there were cuts or
7 lacerations, you would use a Q-Tip?

8 A. We try to.

9 Q. But you didn't do that in this ---

10 A. Sometimes people complain of pain. And if it's
11 too painful, we can't.

12 Q. But you didn't do that in this case because
13 there weren't any cuts or lacerations, correct?

14 A. Not obvious, no.

15 Q. Okay. And you took blood sample, right, as
16 part of your ---

17 A. Yes, ma'am.

18 Q. Okay. And then you said that after Dr. Stump
19 left the room, you finished the rest of the exam,
20 correct?

21 A. That's when we talk about, like I said, the
22 medications and getting her some clothes.

23 Q. And you gave her medications for STDs, correct?

24 A. She was given Plan B, Rocephin IM,
25 Azithromycin, and Tylenol while she was there.

1 Q. Okay. And Plan B, that would be to prevent an
2 unwanted pregnancy, correct?

3 A. Yes, ma'am.

4 Q. And, obviously, a pregnancy only happens if
5 there's sperm that goes inside the vagina, correct?

6 A. It happens -- pregnancy happens -- I really --
7 I really don't know how to answer that because
8 pregnancy ---

9 Q. That's all right. That's all right. But
10 that -- that's something that's given to prevent an
11 unwanted pregnancy?

12 A. Yes. Yes. It's given to prevent an unwanted
13 pregnancy.

14 Q. And just to finish up, you said that you
15 swabbed the outside of her vagina, and you did an
16 oral swab as well, correct?

17 A. I believe so, yes. I have not had a chance
18 to -- they didn't give me a copy of everything that
19 we had in there. We don't keep that. It stays with
20 the medical records, so...

21 MS. BOLEN: Okay. I don't think I have
22 anything further, but let me just take a moment to
23 make sure. Okay?

24 THE WITNESS: Okay.

25 MS. BOLEN: That's all I have. Thank you, Your

1 Honor.

2 THE COURT: Any redirect?

3 MR. BROWN: Just a few, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

6 Q. Ms. Smith, Ms. Bolen asked you about the pain
7 scale of zero -- zero to ten.

8 A. Uh-huh.

9 Q. And Ms. Williams said her pain scale was what?

10 A. Initially, it was a three. And by the time she
11 was getting ready to go, it was a five.

12 Q. So she became more sore?

13 A. Yes. Yes, sir.

14 Q. Ten would be what?

15 A. What we normally ask people when we ask them to
16 rate their pain, we give them a pain scale, say zero
17 is no pain. And I usually say, "Ten is enough to
18 make you fall out in the floor." Pain is always
19 subjective. It is what the patient says it is.

20 Q. She said three which you would characterize as
21 what?

22 A. Mild to moderate.

23 Q. And what's a five?

24 A. Moderate. Moderate to severe. Moderate. It's
25 middle.

1 Q. Ms. Bolen also asked you about when Dr. Stump
2 came in, and I previously said that -- or asked you
3 that on direct. How long was he in the room?

4 A. Grand total at the most, three minutes.

5 Q. And the reason why he left was what?

6 A. Because -- because she did not want him to
7 complete an internal exam. She said she -- he went
8 to -- what you do when you do the internal exam, we
9 put the patient in stirrups. They're undressed from
10 the waist down. All they have on is a hospital
11 gown. We put them in stirrups. The doctor puts
12 on -- washes his hands. Puts on gloves. Takes the
13 speculum. We put water on it because you can't put
14 any kind of lubrication on it that you normally
15 would to protect any evidence.

16 And the doctor says, "Okay. You're going to
17 feel me touch you and then you're going to feel me
18 insert the speculum." Well, when Dr. Stump went to
19 put his hand on her, he put his hand and said, "I'm
20 fixing to touch you and put the speculum in."

21 She said, "No, no, no. You can't do it. I'm
22 too sore down there."

23 Q. Was there a follow-up question to that? Was
24 she sure?

25 A. We ---well, we explained to her that we need to

1 do that part of the exam to get any evidence, sperm
2 or DNA, to look inside her vagina and see if there
3 were rips, tears, internal injury, inside of her to
4 make sure that was documented as well, and she
5 just -- she couldn't -- she couldn't let us do it.

6 Q. You also mentioned -- Ms. Bolen asked, "Was
7 there any bleeding -- external bleeding outside?"
8 and you said?

9 A. Not to my knowledge, no.

10 Q. And if there were any bleeding inside, if there
11 was no actual internal exam, could you have seen
12 that?

13 A. No.

14 Q. To follow-up your actual exam, you mentioned
15 that you went over medications. You said -- what
16 all medication did she take?

17 A. She said that she took no home medications.
18 She had no known allergies. While she was in the
19 emergency department, we gave her Plan B at 4:13.
20 We gave her an IM which is inner muscular Rocephin
21 shot to prevent STDs at 4:13. And we gave her one
22 gram of Azithromycin at 4:13.

23 Q. And she did take a shot?

24 A. Yes. She -- we gave her a shot.

25 Q. What does the Plan B pill do?

1 A. The Plan B pill is actually a hormone pill that
2 prevents a fertilized egg from implanting in the
3 uterus. It makes it so that your uterus is not able
4 to get pregnant. It like forces you to start your
5 period.

6 Q. Forces her to start her period?

7 A. It can. It makes the lining of the uterus
8 unacceptable to implantation of an egg and sperm.

9 Q. After -- after a patient takes Plan B, are they
10 normally expected to have a period?

11 A. You can have heavy spotting. It's usually not
12 quite as bad as a normal period.

13 Q. But after she left, she went to the extent of
14 taking a shot and having a Plan B pill?

15 A. Yes.

16 MR. BROWN: No further questions.

17 THE COURT: Anything further?

18 MS. BOLEN: No, ma'am.

19 THE COURT: You may step down.

20 (Witness excused.)

21 THE COURT: Ladies and gentlemen, this is a
22 good time to take a lunch break. I'm going to
23 remind you the instructions that are given to you.
24 You're not to begin to discuss this matter among
25 yourselves because you still haven't heard all the

1 evidence.

2 Please remember as you come and go from the
3 courthouse not to listen to conversations that you
4 may hear in the hallways, again for the reasons that
5 you have to make the decisions based upon the
6 evidence that's been presented here.

7 Please also remember not to allow anyone to
8 approach you to discuss this matter with you. If
9 someone attempts to discuss it with you, please tell
10 them that you are on a jury and you cannot discuss
11 it. And I ask that you report it as soon as
12 possible.

13 Ladies and gentlemen, I'm going to ask that you
14 report back to the jury room at two o'clock. And
15 when you report back at that time, we'll be ready to
16 continue on with the trial in this matter. Thank
17 you. Have a good lunch.

18 (At 12:50 p.m., the jurors were excused for the
19 lunch break.)

20 THE COURT: Is there anything we need to take
21 up before we break for lunch?

22 MR. BROWN: Not from the State.

23 MS. BOLEN: No, Your Honor.

24 THE COURT: Mr. Calloway, you are out on bond;
25 is that correct?

1 THE DEFENDANT: Yes, ma'am.

2 THE COURT: I'll allow you to continue to
3 remain on bond over the course of this trial;
4 however, you need to make sure that you appear in
5 the courthouse and in this courtroom at the time
6 designated. If you were to fail to appear when you
7 were required to appear and we can't locate your
8 whereabouts or we don't have a reason why you're not
9 present, then a bench warrant will be issued for
10 your arrest and the trial would continue in your
11 absence. Do you understand that?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Then if there's nothing further,
14 we'll see you all at two o'clock.

15 MS. BOLEN: Thank you, Your Honor.

16 MR. BROWN: Thank you.

17 (From 12:52 to 2:04 p.m., a break was taken for
18 lunch recess.)

19 THE COURT: Is there anything that we need to
20 take up before we bring the jury in?

21 MR. BROWN: Not from the State.

22 MS. BOLEN: No, ma'am.

23 THE COURT: You may ask the jury to come in,
24 please.

25 (At 2:04 p.m., the jury entered the courtroom.)

1 THE COURT: Good afternoon, ladies and
2 gentlemen.

3 THE JURORS: (Collectively:) Good afternoon.

4 THE COURT: We're ready to continue on. You
5 may call your next witness.

6 MR. BROWN: State calls Monique Bell.

7 (Witness entered.)

8 MONIQUE BELL,
9 having been produced and first duly sworn as a
10 witness on behalf of the State, then testified as
11 follows:

12 THE COURT: State your full name please and
13 spell your last name.

14 THE WITNESS: Laquetta, L-a-q-u-e-t-t-a,
15 Monique Bell.

16 THE COURT: And would you spell your middle
17 name, as well?

18 THE WITNESS: M-o-n-i-q-u-e.

19 THE COURT: Thank you.

20 DIRECT EXAMINATION

21 BY MR. BROWN:

22 Q. Ms. Bell, where do you work?

23 A. At the Abbeville County Sheriff's Office.

24 Q. How long have you worked at the Sheriff's
25 Office?

1 A. Six years.

2 Q. And what's your role at the Abbeville County
3 Sheriff's Office?

4 A. I'm the law enforcement victim advocate.

5 Q. How long have you been in the victim's advocacy
6 role?

7 A. Eleven years.

8 Q. Were you in this position back on August 3,
9 2012?

10 A. Yes.

11 Q. And August 4, 2012?

12 A. Yes.

13 Q. Do you remember getting a call to Anderson --
14 to the Anderson Hospital?

15 A. Yes.

16 Q. What was that call in relation to?

17 A. A sexual assault due to a victim being sexually
18 assaulted.

19 Q. And what was that victim's name?

20 A. Sherry.

21 Q. Sherry Williams?

22 A. Sherry Williams.

23 THE COURT: Would you please speak up a little
24 bit?

25 THE WITNESS: Okay. Sherry Williams.

1 BY MR. BROWN:

2 Q. Is she in the courtroom today?

3 A. Yes. She's right there (indicating) on the
4 end.

5 Q. When was the first time you interacted with
6 Ms. Williams on that night?

7 A. That night at the ER. I was called by
8 Deputy -- Sergeant Norman, and I met her at the ER.

9 Q. And while at the ER, what did -- what did you
10 do there?

11 A. I was there to help to console the victim with
12 her being a victim of a rape. I was there to help
13 her do the exam and everything.

14 Q. Were you in the room with the nurse and the
15 doctor when they performed the exam?

16 A. Yes.

17 Q. And after the exam -- and that exam was a
18 sexual assault exam?

19 A. Yes.

20 Q. After those items or items that were collected
21 in the sexual assault, did you collect those and
22 take them back down to Abbeville?

23 A. Yes, I did.

24 Q. They were in your care and custody?

25 A. Yes.

1 Q. While you were there at AnMed and in the
2 presence of Ms. Williams, do you remember what her
3 disposition was, what she looked like or acted like?

4 A. She was traumatized. She was very nervous,
5 crying off and on about the exam, kept trying to
6 tell us, you know, what had happened to her that
7 night when she left the club from Time Out.

8 Q. Now, did -- what time did you arrive at the
9 hospital that night? Do you remember?

10 A. I don't remember.

11 Q. Were you there a long while at the hospital
12 with her?

13 A. I was there until she got discharged.

14 Q. Was that the extent of your role in this case?

15 A. After, I still helped her with her counseling
16 and anything that she may need assistance with.

17 Q. After she was discharged from the hospital?

18 A. Yes.

19 MR. BROWN: No further questions.

20 THE COURT: Any cross?

21 MS. BOLEN: May we just have a moment, Your
22 Honor?

23 (Counsel conferred briefly.)

24 CROSS-EXAMINATION

25 BY MS. BOLEN:

1 Q. Ms. Bell, you've work for the Sheriff's Office
2 for six years, right?

3 A. Yes.

4 Q. Okay. And before that, you were with Abbeville
5 City?

6 A. I was with the Townville Police Department.

7 Q. Townville. Okay. And with the Sheriff's
8 Office, you would cover all of Abbeville County,
9 correct?

10 A. Yes. Every -- everything but the city,
11 Abbeville City.

12 Q. Okay. All right. So you're familiar with the
13 county?

14 A. Yes.

15 Q. Okay. And you're aware that Honea Path is
16 partially in Anderson County, correct?

17 A. Uh-huh.

18 THE COURT: I'm sorry. You need to speak
19 up ---

20 THE WITNESS: Yes.

21 THE COURT: --- and you need to answer
22 verbally. Thank you. Please keep your voice up.

23 BY MS. BOLEN:

24 Q. And, in fact, a good bit of Honea Path is in
25 Anderson County?

1 A. Yes.

2 Q. Including what they call Princeton Highway,
3 Highway 76, that goes to 25? Are you aware that's
4 in Anderson?

5 A. To be honest with you, I'm not good with the
6 road. I don't work the roads. I'm not a deputy
7 that be on the road, so I don't really know.

8 MS. BOLEN: Okay.. That's fine. I believe
9 that's all I have. Thank you.

10 THE COURT: Any redirect?

11 MR. BROWN: No redirect.

12 THE COURT: You may step down. Thank you.

13 (Witness excused.)

14 THE COURT: You may call your next witness.

15 MR. SHEEK: Yes. The State calls Verona
16 Gibson.

17 (Witness entered.)

18 VERONA GIBSON,
19 having been produced and first duly sworn as a
20 witness on behalf of the State, then testified as
21 follows:

22 THE COURT: Please state your full name and
23 spell your first name.

24 THE WITNESS: Verona Herrera, V-e-r-o-n-a.

25 THE COURT: Your last name's Herrera?

1 THE WITNESS: Herrera, yes, ma'am.

2 THE COURT: Spell that please.

3 THE WITNESS: H-e-r-r-e-r-a.

4 THE COURT: Thank you.

5 DIRECT EXAMINATION

6 BY MR. SHEEK:

7 Q. Ma'am, when I called your name out for you to
8 come out, I said Verona Gibson. What -- what's
9 changed recently?

10 A. I got married late last year.

11 Q. Okay. So you were Verona Gibson and now you're
12 Verona Herrera?

13 A. Correct.

14 Q. And with whom are you employed, ma'am?

15 A. The South Carolina Law Enforcement Division
16 which we refer to as SLED.

17 Q. And what do you do with SLED?

18 A. I'm a forensic serologist in the DNA section at
19 SLED.

20 Q. Okay. Well, tell us generally what kind of
21 work you do as a forensic serologist in the DNA
22 center?

23 A. We get larger pieces of evidence. We evaluate
24 those based on our requests of the item. We're also
25 looking for bodily fluids such as semen. We also do

1 some ownership collections of DNA or touch DNA. We
2 evaluate hair to see if it's suitable for the type
3 of DNA testing we perform at SLED. And then we do
4 confirmatory testing on some of the items -- or some
5 of the body fluids.

6 Q. Okay. Ma'am, I'm going to show you what's been
7 marked already as State's Exhibit No. 2 for
8 evidence, and ask you if you can identify this?

9 A. Yes. My initials and the date that I closed up
10 the box are on the top of it.

11 Q. Okay. So this box was brought to you?

12 A. Yes, sir.

13 Q. And what kind of testing, if any, were you
14 requested to perform?

15 A. The request was for semen.

16 Q. Okay. So when you have clothing such as what's
17 in State's Exhibit No. 2, what do you do with it?

18 A. We use an alternate light source, which is kind
19 of like a blue light if you've ever seen one of
20 those. It makes areas of semen, saliva, urine glow
21 so we can more easily visualize those because unlike
22 blood spots, they're not as easy to visualize with
23 the naked eye.

24 Then those areas are tested. They're
25 fluoresced. And we would -- it's a quick drop a few

1 ~~chemicals~~ chemicals on a swab that we swab the area with. If
2 there's a color change, that means there's a
3 possibility that substance could be semen in this
4 case. We would cut that out and kind of forward
5 that on to further testing in another section of the
6 DNA department.

7 Q. Okay. So when you got these items in State's
8 Exhibit No. 2, did you check them or perform any
9 presumptive test of bodily fluids?

10 A. Yes, sir, I did.

11 Q. And were you able to identify any bodily fluids
12 on those items?

13 A. There was no areas that tested positive for the
14 presumptive test for semen.

15 Q. When you have clothing like this and you don't
16 have any areas that test positive for the
17 presumptive testing, do you go forward with any DNA
18 testing?

19 A. No, sir.

20 Q. And can you tell us why?

21 A. We would just have to either test the entire
22 item, which would have to be cut into very small
23 pieces, so one shirt could be a couple hundred
24 samples. So it's just not -- with no indication
25 that the body fluid that the agency is interested in

1 is there, we just don't do any further testing.

2 Q. And would it be feasible to test every item of
3 clothing completely that's brought to SLED for
4 testing?

5 A. No, sir.

6 Q. And do y'all do testing for just this area, or
7 do it for the state, or what do you do?

8 A. We do it for every agency within the state that
9 requests it from us. There are a couple of labs
10 scattered across the state that do local testing,
11 but for the most part we do the entire state.

12 Q. And do you have a backlog of cases waiting to
13 be tested?

14 A. We do, yes, sir.

15 Q. Okay. And is it standard operating procedure
16 at SLED that when you have no positive presumptive
17 test that it's not forwarded for any further
18 testing?

19 A. That is correct.

20 Q. And so in this case I believe you testified no
21 presumptive positive results?

22 A. That's correct.

23 Q. Has it -- and that ended your involvement?

24 A. Yes, sir.

25 MR. SHEEK: Beg the Court's indulgence one

1 moment.

2 (Counsel conferred briefly.)

3 MR. SHEEK: Thank you, Ms. Herrera. Please
4 answer anything the defense may have.

5 THE COURT: Any cross?

6 MS. BOLEN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. BOLEN:

9 Q. Ms. Herrera, you said you test for bodily
10 fluids such as blood, saliva, semen, correct?

11 A. Yes, ma'am.

12 Q. And in this case, I believe you -- the
13 particular items you looked at were a shirt,
14 correct?

15 A. That was one of the items, yes, ma'am.

16 Q. Pants?

17 A. And a belt.

18 Q. And a belt. Okay. No underwear?

19 A. No, ma'am.

20 Q. Just those three. And you didn't find any
21 blood, saliva, semen, or other bodily fluids,
22 correct?

23 A. I only checked these for semen. The request,
24 when it came in, was multiple items. But I spoke
25 with the investigator, and they only wanted semen on

1 the items.

2 Q. Okay. And you didn't find any, correct?

3 A. That's correct.

4 MS. BOLEN: Okay. Thank you. Nothing further.

5 THE COURT: Any redirect?

6 MR. SHEEK: No redirect, Your Honor. I would
7 ask that this witness be excused from her subpoena.

8 THE COURT: Any objection?

9 MS. BOLEN: No, ma'am.

10 THE COURT: You may be excused. Thank you.

11 (Witness excused.)

12 MR. SHEEK: Your Honor, the State next calls
13 Courtney Thompson who I believe has also been
14 married now.

15 (Witness entered.)

16 COURTNEY THOMPSON,
17 having been produced and first duly sworn as a
18 witness on behalf of the State, then testified as
19 follows:

20 THE COURT: Would you state your full name,
21 please?

22 THE WITNESS: Courtney Thompson.

23 THE COURT: And would you spell your first
24 name?

25 THE WITNESS: C-o-u-r-t-n-e-y.

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. SHEEK:

4 Q. Thank you, ma'am. Courtney, with whom are you
5 employed?

6 A. I'm employed at the South Carolina Law
7 Enforcement Division, also referred to as SLED.

8 Q. And in what division or department are you
9 employed there?

10 A. I work in the DNA case work department.

11 Q. When you say DNA case work, what kind of work
12 do you do?

13 A. Specifically, my job title is that I'm a
14 forensic serologist. And what I do in the DNA case
15 work department involves identifying body fluids of
16 interest to the DNA case work department for
17 possible DNA analysis.

18 Q. Ms. Thompson, I'm going to hand you what's been
19 marked as State's Exhibit No. 1. Ask you, do you
20 recognize that?

21 A. Would it be alright if I open it, sir?

22 Q. Please open it if you need to.

23 A. It appears that this is the box that the sexual
24 assault evidence collection kit was packaged in.

25 Q. And as a part of that sexual assault kit, what

1 kind of items were you given, if any, regarding the
2 case of Sherry Williams and Terrance Calloway?

3 A. Within the sexual assault kit, I have the
4 opportunity to examine smears, vaginal, oral, and
5 rectal swabs, fingernail scrapings, pubic hair
6 combings, a standard -- a known standard from the
7 victim, a recollection, as well as underwear from
8 the victim.

9 Q. Okay. So the underwear from a victim were
10 contained in the sexual assault kit?

11 A. They were not contained in the sexual assault
12 kit once it came to me. Upon a sexual assault kit
13 being brought to SLED, a technician at evidence
14 control removes the underwear and packages it
15 separately, does not touch the item in any fashion,
16 and then I pick it up as a separate item and I
17 analyze it separate from the sexual assault kit.

18 Q. Okay. And when you have those items, do you
19 perform any type of presumptive testing checking for
20 the presence of any bodily fluids?

21 A. With a sexual assault kit, my examinations were
22 for semen. And for the pair of underwear, I did a
23 presumptive screening for semen, as well.

24 Q. And were you -- were you able to locate or
25 identify any semen?

1 A. In this particular case, no. I did not have
2 the occasion to find any areas that were positive
3 for semen.

4 Q. Okay. And were you -- you testified you were
5 given smears. What kind of smears were these -- or
6 if you would, ma'am, do you -- can you explain to
7 the jury what we're talking about when we say a
8 "smear"?

9 A. Yes. A smear is a small glass slide that is
10 collected at the time of a sexual assault. And
11 typically what happens is, the medical personnel who
12 is collecting the smear takes a swab and rubs a
13 slight amount of that material that's collected.

14 So in this case, I had vaginal, oral, and
15 rectal smears. So what they did is when the -- for
16 instance, a vaginal swab was collected. They took
17 that swab and rubbed it on the smear a little bit
18 and dried it and packaged it.

19 And then when I receive it, I use a special
20 stain that allows us to visualize cellular material
21 on a microscope, and I put that on the smears and
22 then I examined that smear under a microscope to see
23 if I could identify any sperm.

24 Q. And were you able to identify any sperm from
25 the smears which you were provided?

1 A. For the vaginal, oral, and rectal smears, I did
2 not identify any sperm.

3 Q. Now, were you able -- were you also checking
4 the pubic hair combs?

5 A. Yes, sir. I did have the occasion to look at
6 the pubic hair combs.

7 Q. What is a pubic hair combing?

8 A. Whenever a kit is collected at a hospital, the
9 medical personnel have a sterile napkin and a
10 sterile fine tooth comb, and they will gently comb
11 through the pubic area of the victim. And any
12 potential stray hairs are collected inside of the
13 sterile napkin. And then it's packaged up and
14 sealed out of the kit.

15 Q. And there were you able to identify any hair
16 identified as pubic hair combing?

17 A. I was not able to identify any hair at all.

18 Q. Now, we talked about debris collection. What
19 are you talking about when you talk about that?

20 A. The debris collection is a large sheet that
21 when a victim enters into the hospital, whenever
22 their clothes are removed, they undress over the
23 sheet, and then the medical personnel carefully
24 folds it up and preserves any particular evidence
25 that might have fallen off the victim's clothes.

1 And in this case, the debris collection was
2 examined for hair. And my result for that is that
3 no hair was found that was suitable for DNA
4 analysis.

5 Q. Now when you say not suitable, what do you need
6 on a hair for it to be suitable for DNA analysis?

7 A. At SLED per protocol, a root must be present at
8 the end of a hair in order for it to be able to be
9 used in DNA.

10 Q. So in the debris, you found no hair suitable
11 for DNA analysis?

12 A. That is correct.

13 Q. And did you find any other debris that
14 indicated it would be suitable for DNA analysis?
15 Anything test positive, the presumptive test for
16 semen?

17 A. No, sir. None of my tests were positive for
18 semen.

19 Q. Do you know from your training when DNA became
20 commonly used in investigative purposes?

21 A. I'm sorry. I do not know that exact year off
22 the top of my head, but I could refer to some
23 literature, but I don't happen to have any of it
24 with me at this time.

25 Q. And when you examined the underwear, did you

1 find any hair available there suitable for DNA
2 testing?

3 A. My results indicate that, no, I did not find
4 any hair.

5 Q. When you performed the examination like you
6 have, if you have no positive results for
7 presumptive testing for DNA -- for bodily fluids --
8 I apologize -- or semen when you're looking for
9 that, do you forward it to any other departments for
10 further analysis?

11 A. No. After my screening for semen is complete,
12 if I do not have any positive results, then that
13 particular item does not travel any further in the
14 DNA department.

15 MR. SHEEK: Thank you. Ms. Thompson, please
16 answer anything the defense may have.

17 THE COURT: Any cross?

18 MS. BOLEN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. BOLEN:

21 Q. Ms. Thompson, you examined quite a few pieces
22 of evidence in this case, right?

23 A. Yes, I did.

24 Q. Okay. You had the vaginal smear, right?

25 A. Yes, I did.

1 Q. Oral smear which would've been just from oral
2 meaning inside the mouth, correct?

3 A. That is correct.

4 Q. Okay. And rectal smear?

5 A. Yes.

6 Q. Okay. Pubic hair combings, you examined that,
7 right.

8 A. Yes.

9 Q. Debris collection, correct?

10 A. Yes.

11 Q. And a pair of underwear, right?

12 A. Yes.

13 Q. And for all of those, you were looking
14 specifically for semen, correct?

15 A. For the smears, what I was trying to identify
16 would be a sperm cell on the smear.

17 And then for the underwear, I was testing for
18 any indication of semen being present.

19 The pubic hair combings and the debris, I was
20 looking for hair primarily.

21 Q. Okay. Right. I misspoke there, so those you
22 were looking for hair and there wasn't anything in
23 the pubic hair combings, right?

24 A. That's correct.

25 Q. And there wasn't any presence of any sperm

1 cells or semen in the underwear, correct?

2 A. That's correct.

3 Q. And you didn't note in your report finding
4 anything else in the underwear, correct? No
5 other -- you didn't notice any other bodily fluids,
6 correct?

7 A. And that is -- that is correct. But also per
8 the request that was placed by the agency, I was
9 only screening for semen as that's what was
10 indicated to be most prevalent for this particular
11 occurrence.

12 Q. Okay. And if you had seen visible blood on any
13 items of clothing, that's when you would've noted in
14 your report?

15 A. Possibly if I thought that it might be
16 pertinent to the case scenario. I don't know of it
17 every time. For instance, a victim might be on
18 their -- on their period or anything that were
19 recently on it. And so I'll note it if it doesn't
20 seem like it's a part of the particular case.

21 Q. And you didn't make any note of seeing any
22 blood on the underwear in this case, right?

23 A. Let me refer real quick to my report.

24 (Reading.) No. I did not note anything like
25 that on this particular case.

1 MS. BOLEN: Nothing further. Thank you.

2 THE COURT: Any redirect?

3 MR. SHEEK: Beg the Court's indulgence one
4 moment.

5 (Counsel conferred briefly.)

6 MR. SHEEK: No redirect, Your Honor.

7 THE COURT: You may step down. Thank you.

8 (Witness excused.)

9 THE COURT: You may call your next witness.

10 MR. BROWN: State calls Leslie Norman.

11 (Witness entered.)

12 LESLIE NORMAN,

13 having been produced and first duly sworn as a
14 witness on behalf of the State, then testified as
15 follows:

16 THE COURT: Can you state your full name,
17 please?

18 THE WITNESS: Leslie Wells Norman.

19 THE COURT: Thank you.

20 DIRECT EXAMINATION

21 BY MR. BROWN:

22 Q. Ms. Norman, where do you currently work?

23 A. I work for Department of Public Safety Mental
24 Health.

25 Q. And where? Which county?

- 1 A. That's Belton, Anderson County.
- 2 Q. Ms. Norman, where did work back in 2012?
- 3 A. Abbeville County Sheriff's Office.
- 4 Q. And what was your position there?
- 5 A. Sergeant deputy.
- 6 Q. And being a sergeant deputy, did you -- are you
- 7 familiar with the roadways in Abbeville County?
- 8 A. Yes.
- 9 Q. Did you have the occasion to work on or get
- 10 involved with this particular case on August 3 ---
- 11 A. Yes.
- 12 Q. --- 2012?
- 13 A. Yes.
- 14 Q. And do you know this lady (indicating) on the
- 15 front row?
- 16 A. Yes, I do.
- 17 Q. Who is that?
- 18 A. That's -- I forgot her name, but I know who she
- 19 is. She's the victim.
- 20 Q. Sherry Williams?
- 21 A. Sherry Williams.
- 22 Q. Ms. Norman, did you get a call to respond to a
- 23 sexual assault?
- 24 A. Yes.
- 25 Q. On August 3, 2012?

1 A. Yes.

2 Q. Where did you respond?

3 A. I responded to Anderson Area Medical Center.

4 Q. And at that location, did you talk with
5 Ms. Williams?

6 A. Yes, I did.

7 Q. In speaking with Ms. Williams, did she indicate
8 where this sexual assault took place?

9 A. Horseshoe Road.

10 MS. BOLEN: Objection as to hearsay.

11 THE COURT: (No response.)

12 MS. BOLEN: Your Honor, I think we can -- I'm
13 going to withdraw my objection, Your Honor.

14 THE COURT: Going to withdraw it?

15 MS. BOLEN: Yes, ma'am.

16 BY MR. BROWN:

17 Q. Ms. Norman, speaking with Ms. Williams, did she
18 say on what road this occurred?

19 A. Horseshoe Road in Abbeville County.

20 Q. Now, being a road deputy, are you familiar with
21 Horseshoe Road in Abbeville County?

22 A. Yes.

23 Q. I'm going to show you what's been marked for
24 identification purposes as State's No. 4. Can you
25 tell me what that picture shows?

1 A. It shows the surrounding county -- surrounding
2 area in Anderson County that leads back to Horseshoe
3 Road in Abbeville.

4 Q. And do you see the Abbeville/Anderson County
5 line?

6 A. Yes.

7 Q. And how is that denoted in that photograph?

8 A. How is it denoted? It's in the yellow.

9 Q. A yellow highlighter shows the county line?

10 A. Uh-huh.

11 Q. And is the green -- what does the green show?

12 A. The green shows the Horseshoe Road area.

13 Q. Is part of that green on Horseshoe Road, is
14 that in Abbeville County?

15 A. Yes.

16 MR. BROWN: Your Honor, at this time the State
17 moves State's ID 4 into evidence as State's No. 4.

18 THE COURT: Any objection?

19 MS. BOLEN: No, ma'am. No objection.

20 THE COURT: It's admitted.

21 (State's Exhibit No. 4 was admitted into
22 evidence.)

23 BY MR. BROWN:

24 Q. Now, when you were talking to Ms. Williams,
25 where did you -- you said you went to AnMed?

- 1 A. Yes.
- 2 Q. And what time -- were you there the entire time
- 3 she was at the hospital, or did you arrive a little
- 4 later?
- 5 A. No. I arrived later. I worked a shift -- a
- 6 12-hour shift that day. I believe it was after
- 7 12:00 when I got the call.
- 8 Q. And the call originally came in to Anderson
- 9 County; is that correct?
- 10 A. Yes.
- 11 Q. And then Anderson dispatch contacted Abbeville
- 12 County?
- 13 A. Yes.
- 14 Q. And that's when you got involved?
- 15 A. Yes.
- 16 Q. State's Evidence No. 4. This map is a little
- 17 light in color, but again, what's the yellow line?
- 18 A. That's the county line. That's Highway 252.
- 19 It's Abbeville County.
- 20 Q. And the county up here (indicating), is that
- 21 Anderson County?
- 22 A. That's Anderson County.
- 23 Q. And Abbeville would be the bottom half, right?
- 24 A. Yeah, it is. The green is the Horseshoe Road
- 25 area.

1 Q. Horseshoe Road is in Anderson and it also comes
2 into Abbeville County?

3 A. Yes.

4 Q. And when you spoke with Ms. Williams again, she
5 stated it happened on Abbeville Horseshoe. --

6 A. Yes.

7 Q. --- Horseshoe Road?

8 A. Yes.

9 Q. Did -- so your role in this case, you met with
10 her and then took a report?

11 A. Yes.

12 Q. Documented everything she said?

13 A. Yes.

14 Q. And, ultimately, you are the one that secured
15 the warrants for Mr. Calloway's arrest?

16 A. Yes.

17 MR. BROWN: No further questions.

18 MS. BOLEN: If I may have just a moment, Your
19 Honor.

20 (Counsel conferred briefly.)

21 MS. BOLEN: No cross, Your Honor.

22 THE COURT: You may step down. Thank you.

23 (Witness excused.)

24 THE COURT: You may call your next witness.

25 MR. BROWN: The State rests at this time, Your

1 Honor.

2 THE COURT: Ladies and gentlemen, we have some
3 legal issues which we need to take up outside of
4 your presence. I'm going to ask that you retire to
5 the jury room and not to begin any discussions about
6 this matter as you've not heard all the evidence.
7 Or even if you have heard all the evidence, you've
8 not heard my instructions to you as to the law. So
9 let's take a break for you while we take up these
10 legal issues and we'll bring you back shortly.

11 (At 2:37 p.m., the jury was excused from the
12 courtroom.)

13 THE COURT: Are there any motions at this time?

14 MS. BOLEN: Yes, ma'am, Your Honor. At this
15 time the defense moves for a directed verdict on --
16 I'm sorry, Your Honor. I'm just having a computer
17 problem. Defense moves for a directed verdict of
18 not guilty on both charges.

19 Your Honor, this is a two-part motion. Our
20 first argument, Your Honor, is that the State has
21 not -- has not presented evidence that this was a --
22 an assault that occurred by any sort of aggravated
23 force. The CSC first degree statute specifically
24 requires aggravated force or that the assault
25 happened while under -- and it lists number of

1 crimes, one of which is kidnapping, but it rides
2 into one of our next arguments, Your Honor, that the
3 State has not presented evidence that Ms. Williams
4 was forcibly kidnapped, taken away by force, kept by
5 force by Mr. Calloway.

6 Without the kidnapping, Your Honor, there's not
7 been any testimony about any sort of aggravated
8 force used in the assault. And without sufficient
9 evidence of the kidnapping, there's not sufficient
10 evidence of the CSC. So we make a directed verdict
11 motion with respect to both charges that there
12 hasn't been sufficient evidence presented to
13 establish the elements of the statutes.

14 Your Honor, we also make a directed verdict
15 motion on the basis that the State has not
16 established venue. There's been testimony that the
17 location of the alleged assault was on Horseshoe
18 Road by the State's last exhibit, which I believe is
19 Exhibit 4. The majority of Horseshoe Road is
20 actually in Anderson County, not in Abbeville
21 County.

22 There was testimony by Ms. Williams that the
23 assault happened in Abbeville County, but there
24 wasn't anything -- she didn't have any corroboration
25 or support of that. There were no landmarks noted.

1 There were no, "I knew I was exactly at this spot
2 because of this reason." Looking at the map, Your
3 Honor, the -- I would say 90 percent of Horseshoe
4 Road is in Anderson County, and the State needs to
5 prove venue as one of its elements. And it's our
6 position that they have not proved that any assault
7 happened in -- in Abbeville County.

8 Furthermore, Your Honor, with respect to the
9 kidnapping and venue, there's been ample testimony
10 plus the State's Exhibit 4 that showed that the
11 allegations about the kidnapping would've been in
12 Anderson rather than Abbeville County.

13 So our position, Your Honor, is that there
14 should be a directed verdict of not guilty with
15 respect to both charges; first, on the basis of
16 insufficient evidence; and second, on the basis of
17 the venue has not been proved.

18 And it's -- for venue I believe that it goes --
19 the kidnapping, the obligations are put squarely in
20 Anderson rather than Abbeville. And with CSC, that
21 there hasn't been evidence presented that it was in
22 the Abbeville section of Horseshoe Road.

23 THE COURT: Yes, sir.

24 MR. BROWN: Your Honor, with regard to the
25 first point, as Ms. Bolen stated, there's not

1 evidence presented to show evidence of force. The
2 statute says aggravated force means acting as
3 physical force.

4 THE COURT: I'm sorry. Say that again.

5 MR. BROWN: Aggravated force in the statute
6 means the act uses physical force or physical
7 violence of an -- it says or physical violence of a
8 high and aggravated nature.

9 Aggravated coercion part of the statute means
10 act with threatening force or violence. There's
11 also a part of that as an aggravated coercion is --
12 or threatens to retaliate in the future by
13 infliction of physical harm, kidnapping, or
14 extortion.

15 Your Honor, in all three of those -- B, C, and
16 D -- there's been testimony suggesting that is
17 exactly what happened, aggravated force.

18 Ms. Williams stated that he forced her head down in
19 his lap, punched her in the back of the head,
20 actually removed some of her hair from the back of
21 her head which would be physical force. He
22 threatened to kill her, which would be a threat
23 which would also be part of the aggravated coercion.

24 Your Honor, part of the argument of Ms. Bolen
25 stated would go also to the kidnapping. The

1 kidnapping, State would suggest or would
2 followthrough is that when Ms. Williams got in the
3 car, she was going to Burger King. And when he
4 takes those next turns and takes her down the road
5 where he's threatening her, she's in the process of
6 being kidnapped, going in from Anderson County into
7 Abbeville County.

8 Unfortunately, Anderson did not charge on the
9 kidnapping, but Abbeville did. He carried her over
10 into Abbeville County. He got her out of the car,
11 forcibly bent her over the front of the car, and
12 forcibly put her back in the car once a car showed
13 up which scared him. That would all be in line with
14 kidnapping.

15 And in the light most favorable to the State,
16 there has been evidence presented that Ms. Williams
17 was sexually assaulted. She testified to that
18 saying he forced her to perform oral sex on him,
19 also sexually penetrated or had sexual
20 intercourse -- forcible sexual intercourse with her.
21 So there is, again, in the light most favorable to
22 the State ample evidence there for a jury to decide
23 the facts in this case and it should go to the jury.

24 And with regard to venue or jurisdiction, it
25 has been testified to, Ms. Williams stated that she

1 did grow up in Abbeville -- or in Abbeville County.
2 Went to Dixie High School. Is very familiar with
3 the area. Lives in Honea Path which is just
4 neighboring on the other side of the county line.
5 We have provided testimony from the 911 CAD from the
6 custodian saying that they also called Abbeville
7 County to work the case.

8 Leslie Norman, who was the officer involved in
9 this case who took the report, also testified that
10 she's familiar with the roads in Abbeville County.
11 And, of course, the part of Horseshoe Road is in
12 Abbeville County. Therefore, we do feel like we
13 have provided information and facts on the subject
14 matter of jurisdiction and both of those points that
15 Ms. Bolen has provided should be denied.

16 THE COURT: Any response?

17 MS. BOLEN: No, Your Honor.

18 THE COURT: Let me start with the motion
19 relating to venue. There was testimony by the
20 victim that she -- that they had gone down Horseshoe
21 Drive, that they went down Highway 76, that they
22 turned on Horseshoe Drive, and that she was
23 assaulted in Abbeville County because that is where
24 the car was stopped. And the testimony was that the
25 car was stopped, but she was forced out of the car.

1 He had forced her to have sexual intercourse, and
2 then he forced her back into the car. And those
3 events took place in Abbeville County. So there is
4 evidence in the record that the offense, as
5 testified to by the victim, occurred in Abbeville
6 County. It's up to the jury to determine whether or
7 not they choose to believe her testimony and whether
8 or not they believe that she provided sufficient
9 information to be able to establish that it was
10 Abbeville County, but I'm only concerned with the
11 existence of the evidence and what weight to give
12 it, so there is evidence of that.

13 In addition, there is also evidence of
14 kidnapping in Anderson -- I'm sorry -- Abbeville
15 County. The kidnapping is abducting or carrying
16 away or confining. And the testimony was is that he
17 forced her to move from one place to another, that
18 he confined her in his car, that she could not jump
19 out the car at that particular point and leave, and
20 that it was against her will. And so I think -- and
21 that that occurred at or about the time that she was
22 sexually assaulted on Horseshoe Drive, so I think
23 that that constitutes evidence in the light most
24 favorable to the State, which is what I'm using as
25 well, that there was a kidnapping in Abbeville

1 County.

2 As to the motions relating to whether there was
3 evidence of the CSC first, the CSC first, of course,
4 is either aggravated force or physical violence of a
5 high and aggravated nature to the victim or threat
6 of use or deadly weapons, or it requires forcible
7 confinement, kidnapping. And I think that there's
8 evidence of either aggravated force, which is
9 physical force based upon the testimony that she was
10 forced out of the car, that he forcibly bent her
11 over the car and had sexual intercourse with her.
12 There was also the threat of the use of a deadly
13 weapon -- well, threat -- threatened to kill her and
14 the family, and so I think that's sufficient to
15 constitute the kidnapping, as well as CSC first.

16 And kidnapping is either forcible confinement
17 or carrying away by means -- any means whatsoever or
18 unlawfully seizing or confining the fact that she
19 would've been confined to the vehicle, that he took
20 her away from location where she thought she was
21 going to be going, and that that continued, and it
22 continued into Abbeville County, according to her
23 testimony, and then back into Anderson County before
24 she was able to jump out of the car. I think that
25 that's evidence from which the jury could consider,

1 so there is existence of evidence as to the
2 kidnapping.

3 So I'm going to deny all the motions from the
4 defense at this time.

5 MS. BOLEN: Thank you, Your Honor.

6 MR. BROWN: Thank you, Your Honor.

7 THE COURT: Mr. Calloway, would you stand
8 please and raise your right hand?

9 THE DEFENDANT: (Complying.)

10 THE COURT: Do you solemnly swear or affirm
11 that the answers that you shall give shall be the
12 truth?

13 THE DEFENDANT: Yes, ma'am.

14 THE COURT: Thank you. We've now reached that
15 part of trial where you may put up a defense. In
16 connection with putting up a defense, that means
17 that you can call witnesses that will testify on
18 your behalf. You may also get on the witness stand
19 and testify for yourself.

20 If you -- whether or not you wish to testify is
21 entirely up to you. It's a matter that you can
22 certainly discuss with your family and friends, but
23 I encourage you most of all to discuss with your
24 attorney. I will tell you that if you have a
25 record, a criminal history or convictions of crimes

1 that involve moral turpitude or crimes that carry a
2 term of imprisonment for more than one year, than
3 those crimes can be used to impeach you if you get
4 on the stand and testify.

5 As to the State, does he have any criminal
6 history that we need to be aware of?

7 MR. SHEEK: Your Honor, he does have a
8 significant criminal history. I believe what would
9 be available to the State for impeachment purposes
10 should the defendant choose to testify would be a
11 conviction for assault and battery of a high and
12 aggravated nature. That conviction came in, I
13 believe, 2008. He was given into custody of the
14 Department of Corrections in 2009. That is within
15 the last ten years obviously, so that one I think
16 would be available.

17 He had a 2012 conviction for CVD second. That
18 only carries up to one year. We will not seek to
19 introduce any evidence for impeachment purposes on
20 that.

21 The other remaining convictions are more than
22 ten years old, and I believe would not be relevant
23 unless he testified and made them relevant through
24 some testimony, Your Honor.

25 He's got -- should he testify, he does have

1 prior domestic violence convictions, a couple of
2 driving offenses. He also has a lynching which
3 looks like was either convicted or plead to assault
4 and battery high and aggravated in '06. He also has
5 two prior sexual assaults, Your Honor, which were
6 both resulting in convictions, a CSC first and a CSC
7 third. And as a result of that, he is a registered
8 sex offender. I don't believe that was available to
9 us to bring into evidence ourselves unless the door
10 were opened in direct testimony.

11 THE COURT: The lynching you said was a 2006
12 conviction?

13 MR. SHEEK: Yes, Your Honor. It was a lynching
14 charge. It's an ABHAN, but it appears that he was
15 confined for it in 2009. So I believe that's one in
16 the same conviction, the '06 and the '09
17 imprisonment.

18 THE COURT: And you mentioned that there was an
19 '08 conviction in which he went to jail in 2009.

20 MR. SHEEK: I misspoke. It was an '06 charge
21 and '09 violation of probation that he was
22 incarcerated on. And, obviously, in the event that
23 he were to testify and we thought something that was
24 relevant, we'd bring that to the Court's attention
25 prior.

1 THE COURT: Well, and so, Mr. Calloway, you've
2 heard what they claim what your record is. It
3 appears that the one charge that could be used to
4 impeach your testimony will be the assault and
5 battery of a high and aggravated nature in which you
6 were -- there was a probation violation revocation
7 in 2009. So that would be because you were still
8 under the effects of the conviction in 2009, that --
9 the conviction actually occurred in 2006, so that
10 would be eligible to be used to impeach your
11 testimony should you decide that you wish to
12 testify.

13 If you decide that you do not wish to testify,
14 then the jury will be specifically instructed that
15 you have the Constitutional right to remain silent,
16 that the fact that you have exercised that right
17 could not be considered by them in any manner
18 whatsoever in determining your guilt or your
19 innocence on this charge.

20 In fact, they would be instructed that they
21 should not even discuss the fact that you did not
22 testify in this matter and during the course of
23 their deliberations, or it shouldn't be mentioned at
24 all while they're in the jury room.

25 You do -- as I stated, you do have the

1 opportunity to have a conversation with your
2 attorney, with your family and friends. Certainly,
3 take a break so that you can -- you could do that.
4 And then when we come back from this break, you can
5 let me know whether or not you wish to testify or --
6 and your attorney can let me know whether or not you
7 intend to call any witnesses on your behalf. Do you
8 understand what I've stated?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do have any questions?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Then let's take a break and we will
13 come back in a few minutes.

14 (From 3:12 to 3:25 p.m., a recess was taken.)

15 THE COURT: Mr. Calloway, have you had the
16 opportunity to consult with your attorney and make a
17 decision in this matter?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And so what is your decision about
20 whether or not you wish to testify?

21 THE DEFENDANT: I'm not going to testify.

22 THE COURT: Therefore, Mr. Calloway, the jury
23 will be instructed the fact that you did not take
24 the witness stand and testify may not be -- may not
25 be considered by them in any way in determining your

1 guilt or your innocence and cannot be discussed
2 during the course of their deliberations.

3 Ms. Bolen, have you decided whether or not you
4 all are going to put up any witnesses?

5 MS. BOLEN: Yes, ma'am. We will not be putting
6 up any witnesses.

7 THE COURT: So at this time then, we will be
8 prepared to go to a closing argument, is that
9 correct, and charge?

10 MS. BOLEN: Yes, ma'am.

11 MR. BROWN: Yes, Your Honor.

12 THE COURT: Are there any additional requests
13 to charge? I've received -- I've received one
14 request? I don't think I've received anything else.
15 The only request I received was about the firmly
16 convinced language.

17 MR. SHEEK: Your Honor, is it your practice to
18 charge the statute regarding the testimony of a
19 victim may not be corroborated?

20 THE COURT: No. Because the case law clearly
21 says that that's no longer appropriate.

22 MR. SHEEK: Do you -- do you have an objection
23 to the State arguing that because it is in the code?
24 I know charging it obviously according to the case
25 law is improper.

1 THE COURT: Frankly, I think that any argument
2 along those lines in -- in -- in saying need not --
3 need not be corroborated.

4 MR. SHEEK: I tell you what, Judge, we won't
5 mention it in closing. I -- I apologize for even
6 bringing it up.

7 THE COURT: Oh, no. You know, I just think
8 that since the recent case law is such that they --
9 they indicate that it's really not something
10 that's -- that should be charged to the jury. It's
11 still there for the use of the defendants and the
12 prosecution.

13 And to -- for benefit of the Court in coming up
14 with certain decisions and -- and -- and motions,
15 you know, that it's much like the -- mind you, it's
16 much like the child forensic interviews, that those
17 statements have to -- statements have to be limited
18 to time and place and, you know, that they shouldn't
19 be anything else that would tend to bolster the
20 victim's testimony in any form or fashion.

21 So I don't have a problem arguing -- having an
22 argument that, you know, that the -- that no one
23 else was there, there were no eyewitnesses, but I
24 wouldn't necessarily use the words "need not be
25 corroborated."

1 MR. SHEEK: Thank you, Judge.

2 MS. BOLEN: Your Honor, I didn't submit any
3 charge request, and I understand that Mr. Brown did.
4 And I believe he just submitted the firmly
5 convinced, and that -- that's -- I'm -- I'm assuming
6 Your Honor's charges are fairly standard.

7 THE COURT: I'm about to go -- I'm about to go
8 over them with you, but I just want to make sure
9 that there was nothing -- that someone didn't submit
10 something that I didn't receive.

11 MS. BOLEN: No. Not from us.

12 THE COURT: Okay. I've tried to determine the
13 facts based upon the evidence. I have to determine
14 the credibility of the witnesses.

15 I'll charge them on circumstantial evidence.
16 In essence, that cause may be proven by
17 circumstantial evidence. The law makes no
18 distinction between the rate of value to be given to
19 either direct or circumstantial to the extent that
20 the State will open on circumstantial evidence and
21 that all the circumstances must be consistent with
22 each other. And when taken together, point
23 conclusively to the guilt of the accused beyond a
24 reasonable doubt, that the circumstances merely
25 portray the defendant's behavior suspicious or the

1 proof has failed.

2 The burden is on the defendant -- I'm sorry.

3 The burden is on the -- I'm sorry. The State has
4 the burden of proving the defendant guilty beyond a
5 reasonable doubt. The burden rests with the State
6 regardless of whether the State relies upon direct
7 evidence, circumstantial evidence, or a combination
8 of the two.

9 Conjecture, speculations, suspicions,
10 probabilities, do not constitute circumstantial
11 evidence. I'll charge on the presumption of
12 innocence. Actually, I'll charge -- probably charge
13 failure of the defendant to testify first. That is
14 that it's a Constitutional right to remain silent,
15 and the fact that he's exercising that right must
16 not be considered by them in any manner in
17 determining the guilt or the innocence of the
18 defendant. They're to draw no conclusion from the
19 fact that the defendant did not testify, and it
20 should not even be discussed with them. The burden
21 of proof is on the State.

22 I'll charge them on the Victim v. Nebraska,
23 reasonable doubt, that is proof beyond reasonable
24 doubt is proof that leaves you firmly convinced of
25 the defendant's guilt. There are very few things we

1 know in this world absent certainty. The law does
2 not require proof that overcomes every possible
3 doubt, but based upon your consideration, if you're
4 firmly convinced that the defendant's guilty of the
5 crime charged, you must find him guilty. If, on the
6 other hand, you think it's a real possibility that
7 he's not guilty, then you must give him the benefit
8 of the doubt and find him not guilty.

9 Criminal sexual conduct, I'll charge kidnap --
10 kidnapping. The State must prove beyond a
11 reasonable doubt that the defendant knowingly and
12 unlawfully seized, confined, inveigled, decoyed
13 kidnapped, abducted, or carried away another person
14 without authority of law. To do a thing unlawfully
15 is to do it against -- to do it willfully against
16 the law.

17 Knowingly means with knowledge, consciously not
18 accidentally. Seize means to take hold of suddenly or
19 forcibly. Confine means to limit, restrict, or
20 enclose within the bounds imprisonment or shut or
21 keep in. Inveigle means to lure, entice, or lead
22 astray by false representations, promises, or other
23 deceitful means. Decoy means to or by or intent by
24 decoy. The decoy is something to entice a person
25 into a trap. Kidnap is to remove a person against

1 his will by unlawful force or by fraud. Abduct
2 means to carry off secretly or by force for a
3 limited purpose. Carry away means to move. The
4 State does not have to prove that the defendant did
5 all of those things. Instead, if you find they are
6 reasonable that the defendant did any of these
7 things, then you can find the defendant guilty of
8 kidnapping.

9 Something done without authority of law is
10 something which the law does not sanction, permit,
11 or condone or provide justification for. The
12 kidnapping does not have to be for any personal or
13 monetary gain or for any monetary gain for illegal
14 purpose. It may be for any reason whatsoever.

15 Criminal sexual conduct first degree, the State
16 first has to prove the defendant engaged in a sexual
17 battery with the victim. Sexual battery is sexual
18 intercourse. It includes cunnilingus, fellatio, or
19 anal intercourse, or any intrusion however slight of
20 any part of any person's body, or any object into
21 the genital or anal openings of another person's
22 body, except when it's accomplished for medically
23 recognized treatment or diagnostic purposes.

24 If you find that there's been no sexual
25 battery, then you can stop your deliberations. If

1 you find that the sexual battery did occur, then the
2 State has to prove beyond a reasonable doubt that
3 the defendant used aggravate force to accomplish the
4 sexual battery. Aggravated force means use of
5 physical force or physical violence of a high and
6 aggravated nature to overcome the victim. This
7 includes the threat of using a deadly weapon, or the
8 State has to prove beyond a reasonable doubt that
9 the victim submitted to sexual battery while the
10 victim was also the victim of a forcible
11 confinement, a kidnapping, robbery, extortion,
12 burglary, or housebreaking, or some other similar
13 offense.

14 There are two -- two charges. There are two
15 possible verdicts. One is guilty; one's not guilty.
16 There's no significance to which I say them. I have
17 to put one first; I have to put one second. The
18 verdict has to be unanimous.

19 Is there anything further?

20 MR. BROWN: Not from the State.

21 MS. BOLEN: No, ma'am.

22 THE COURT: Okay. Does the defense wish to
23 rest on the record?

24 MS. BOLEN: I don't believe we need to. No,
25 ma'am.

1 THE COURT: All right. So I can just skip over
2 that part.

3 MS. BOLEN: I guess I -- I do need to renew all
4 of our -- we didn't make any pretrial motions, but
5 all of our trial objections and motions and all of
6 our -- the DV motion we made, I need to renew all of
7 those I believe before resting and then after
8 resting as well just to preserve the record.

9 THE COURT: You want to make those motions at
10 this particular time? My -- my thought is that
11 because we're going directly, that there's been no
12 additional testimony. So I know that the Supreme
13 Court and Court of Appeals might view it
14 differently, but to the -- to the extent that you
15 make the same directed verdict motion that you made
16 previously, I've not heard anything new that
17 would ---

18 MS. BOLEN: Right.

19 THE COURT: --- that would make me change my
20 mind that there's evidence in the light most
21 favorable to the State that should go to the jury
22 for them to properly weigh the evidence and
23 determine credibility. As it relates to objections,
24 I think there were a couple of objections made about
25 hearsay. One was at sidebar.

1 MS. BOLEN: Yes, ma'am. There were a few
2 others in there.

3 THE COURT: There were a couple of others. I
4 think one was withdrawn. I overruled one. And I
5 think the one at sidebar came down to how the
6 question was asked.

7 MS. BOLEN: Yes, ma'am.

8 THE COURT: And I think that did, in fact, lead
9 to an objection which I overruled.

10 MS. BOLEN: Because I just -- I just want to
11 make sure the record is clear that I did renew our
12 objections and our motions.

13 THE COURT: Yes, ma'am.

14 MR. BROWN: Your Honor, I just request that the
15 defense rest on the record in front of the jury just
16 so everything's nice and neat throughout, you know,
17 the rest of closing. That would just be our
18 position.

19 THE COURT: Any particular reason why? They're
20 not required to put up a defense.

21 MR. BROWN: No particular reason.

22 MS. BOLEN: Your Honor, we're -- we're
23 satisfied with resting right now. I mean, it's on
24 the record. It's clear on the record that we're
25 resting, so we just ask that has to be sufficient.

1 THE COURT: And it doesn't necessarily have to
2 be in front of the jury.

3 MS. BOLEN: I don't -- I don't believe there's
4 any reason for that, no.

5 THE COURT: We can ask the jury to come back
6 in.

7 (At 3:39 p.m., the jury entered the courtroom.)

8 THE COURT: Ladies and gentlemen, at this time
9 we are now ready to hear the closing arguments of
10 the attorneys. As I told you earlier, their closing
11 arguments are not evidence, but what they will do is
12 they'll make arguments to you and pick out the
13 portions of the evidence that you've heard and make
14 those arguments in an effort to try to sway you to
15 find the facts in accordance with their view of what
16 occurred.

17 So I ask that you listen very carefully to
18 those closing arguments. Sometimes they cause you
19 to think about the evidence in a different light, or
20 they may raise questions that you'll want to discuss
21 among yourselves when it's time for you-all to begin
22 your deliberations.

23 Once they have made those closing arguments,
24 then I will instruct you on the law that's to be
25 applied and then you may begin your deliberations at

1 that particular point.

2 Yes, sir.

3 CLOSING ARGUMENTS

4 MR. BROWN: Thank you, Your Honor. May it
5 please the Court?

6 Ladies and gentlemen, thank you again for being
7 here this week on multiple -- many of y'all have
8 served on both juries and we appreciate that. This
9 was a case that was pretty straightforward as that
10 was said early. This went pretty quick. One took
11 days. This will probably take one day. It's
12 straightforward.

13 So who did you hear from today, what did you
14 hear, and how does it all add up? Again, Sherry
15 Williams grew up in Abbeville. Lives over in Honea
16 Path. Went to Dixie High School with Terry
17 Calloway. She knew him. Thirty-nine years old at
18 the time this happened.

19 She had been out and was actually living with
20 her boyfriend Mr. Black here. She went out to the
21 club that night. Wanted to go get a bite to eat.
22 Instead of walking across the road, she sees
23 Mr. Calloway, somebody she's known for quite some
24 time. He offered to give her a ride in his white
25 Cadillac.

1 She didn't make it to Burger King to get food.
2 Took a wrong -- took a right-hand turn, went down
3 the road from Abbeville to Anderson County at that
4 point on Horseshoe Road which then goes into
5 Abbeville County. He's got her in the car, striking
6 her in the back of the head, pulling her hair, and
7 then making -- making her as she said -- she said he
8 told her to suck his dick. Forcing her head down.
9 It was just force. Forcing her to do that going
10 down Horseshoe Road. Forcing her to do that in
11 Abbeville County on Horseshoe Road.

12 And finally when they get to Abbeville County,
13 a dark road where nobody else is there, gets her out
14 of the car, forces her out of the car, bends her
15 over the front of the car -- the hood of the car,
16 pulls her pants down, and sexually assaults her.

17 Remember what she said, he wasn't doing it very
18 long. Wasn't doing that very long until a car --
19 luckily a car drove by. A car at night that had its
20 lights on. Remember you're going down Horseshoe
21 Road in Abbeville County at night. There's nobody
22 else out there, but luckily somebody rode by with
23 lights. It startled him. Made him stop.

24 It didn't end there though. He forced her back
25 in the car, again threatened her, said, "I'll kill

1 you." Slapped her in the back of the head. Punched
2 her in the back of the head. Made her again perform
3 sexual -- or oral sex on him. Sexual battery.
4 That's aggravated force. And that's aggravated
5 coercion of making somebody do those acts by
6 threats.

7 They're driving back into Honea Path, got to a
8 stoplight. Before that, you remember her saying up
9 here on the stand she couldn't leave. He had
10 actually grabbed her and pulled her out of the car.
11 Wouldn't let her leave. She was forced -- or she
12 was forced to stay in the car. She was kidnapped.
13 Not only was she sexually assaulted, she was
14 kidnapped.

15 We'll go more into definitions here in a moment
16 and the judge will read out all the definitions in
17 the statute.

18 Once she got back to Honea Path, gets to the
19 stop sign, she's going to make a break for it. She
20 opens up the door and runs. Runs. And, luckily,
21 she goes to Burger King. She's down the road a
22 little bit from it. She gets to the Burger King.

23 She sees a familiar car, her Aunt Tessie.
24 She's here today four years later saying that her
25 niece comes to the door, bangs on it. Her hair is

1 all messed up. She's frantic. She's crying. She's
2 upset.

3 And all of a sudden, she darts away. Why did
4 she dart away? Why did she dart away? Because she
5 sees him again. That's the actions of somebody
6 that's terrified. Somebody that is scared to death
7 of what might happen if he sees her again or if he
8 catches her again. Somebody that's grown up with
9 her aunt. Somebody that feels comfortable enough to
10 approach her aunt to try to get in the car, but then
11 runs away. She was scared to death.

12 She goes to her other aunt's house. What does
13 she do? She calls 911. Gets EMS to come pick her
14 up. You heard the EMS worker. Gets her into the
15 ambulance and takes her to AnMed. She discloses a
16 sexual assault. She's petrified. She's upset.
17 Talks about being in pain.

18 She gets to the hospital. Who did she see?
19 Who's the person that testified? The woman that
20 there was with her doing the sexual assault kit,
21 Ms. Kerry Smith. She sees her. She gets there at
22 11:00, a little bit before twelve o'clock on
23 August 3, 2012. She doesn't leave the hospital
24 until 5:00 a.m. on August 4th. It's a long time to
25 be in a hospital.

1 Not only was she in the hospital in her own
2 clothes and the comfort of her own clothes, she's
3 stripped down there. She stood over a white paper,
4 took her clothes off, and had to be subjected again
5 to swabbing the physical exam. But then, again,
6 when she got -- after getting to the actual internal
7 physical exam and the doctor was there and was about
8 to stick the speculum inside of her, at that point
9 she had enough. She'd already had enough sticking
10 in her that night. She was too sore. You heard it
11 from her mouth. You heard it from the nurse's
12 mouth. She couldn't take it anymore. She had
13 already been subjected to that.

14 She didn't want to be at the hospital that
15 night. She didn't want to have to leave her clothes
16 with somebody else to be boxed up in here. She
17 didn't want to have to get that Rocephin shot in
18 her -- in her arm for STD's. And she obviously
19 would not want to get a Plan B pill that would force
20 her into having a period. It's a lot to go through
21 if you're making it up or if it didn't happen. So I
22 imagine the defense would say that it didn't happen.
23 Folks, that's a lot of stuff that went on. It's a
24 lot that went on that she put herself through and
25 come here again today four years later to testify

1 to.

2 You heard Tessie say, "Was that normal for her
3 to act like that? Is that normal for her to be that
4 upset, to be that scared?" No.

5 I asked Mr. Black that. "What were you doing
6 that night?" "I was laying on the couch watching
7 the Olympics." 2012 in London. Michael Phelps. He
8 was alarmed by that. His girlfriend who he lives
9 with comes to the door, and he races to the
10 hospital. He sees her there. She's upset.

11 What the defense is going to -- I'd imagine
12 they'll talk to you about is, "Well, we don't have
13 any signs of semen, not in her clothes, not during
14 the vaginal smears on the swabs." Well, again,
15 remember that they actually didn't -- weren't able
16 to take an internal swab which would then obviously
17 be put on a smear. Why? Because she was in pain.
18 She didn't want to be prodded anymore. When another
19 man comes in there to do a medical test, she
20 couldn't do it. She had already gone through it.
21 She probably wishes now that it had happened, but
22 that night she was in pain.

23 But what did you find out? What did you find
24 out from SLED agents that came up here? Well, on
25 the clothes, they take snippets. They take little

1 spots and they test it. They looked for bodily
2 fluids. Swabs are needed if they said we need
3 bodily fluids. They look for those, semen in
4 particular. On all of them, they look for semen.

5 Well, remember what she said from the get go.
6 I asked her, "Do you know if he ejaculated?" She
7 wasn't sure if he did or not. Out there on the
8 road, it was quick. She didn't remember him doing
9 that while he was forcing her to have oral sex on
10 him. So if he didn't ejaculate, would you find
11 semen? Would you find sperm? You've got to have
12 one to find the other.

13 But, again, what did they -- what did they
14 test? The nurse said she was only able to get the
15 outside. Pubic hair combings, there weren't
16 sufficient to test. There weren't any of the first
17 test. And then on the debris shield, on the debris
18 paper, there wasn't any sufficient because you have
19 to have the actual follicle with the root on it to
20 be able to test it. So that wasn't -- they couldn't
21 test it.

22 Four years later, she's here. She's
23 testifying. Familiar with her interactions that
24 night that she was petrified. She was scared. She
25 was of sound mind. She remembered. She was

1 clearheaded. Nurse said she walked down the
2 hallway. She knew exactly where she was. She
3 answered in complete sentences, but she was
4 withdrawn. She was quiet. She was traumatized.
5 She was shocked. She had just been raped.

6 So what is it we have to prove to you beyond a
7 reasonable doubt? We have to prove to you that she
8 was sexually assaulted by that man, Terry Calloway.
9 As Leslie Norman stated and as you saw on State's
10 Evidence 4, you can see Horseshoe Road, Abbeville
11 County. Imagine that question was asked a lot. It
12 might be something that's brought up again. She's
13 adamant. She grew up in Abbeville. She knows where
14 she is. She was in Abbeville County when it
15 happened.

16 The kidnapping when she forced in his car,
17 forced out of his car, and forced back in his car,
18 kidnapping in Abbeville County. She was forced to
19 perform oral sex on him in Abbeville County when he
20 bent her over the front of the car and had sex with
21 her in Abbeville County.

22 Criminal sexual conduct in the first degree. A
23 person is guilty of criminal sexual in the first
24 degree if the actor engages in a sexual battery, if
25 any one of the following circumstances are proven:

1 The actor uses aggravated force to accomplish sexual
2 battery, or the victim submits to sexual battery by
3 the act or under circumstances where the victim is
4 also the victim of forcible confinement, kidnapping,
5 trafficking a person, robbery, extortion, burglary
6 housebreaking. The ones focused on are the forcible
7 confinement, the kidnapping, the aggravated force.
8 The judge is going to give you the definition of
9 violence.

10 Aggravated force, what does that mean? It
11 means the actor, which is the actor in this case
12 would be the defendant, Terry Calloway, uses
13 physical force or the threat of physical force and
14 violence to make Ms. Williams perform this act.
15 Remember what he said, "I'll kill you or your family
16 if you tell anybody." Hit her in the back of the
17 head, pulled her hair, made her do it -- made her do
18 that.

19 Intimate parts. Folks, to have a criminal
20 sexual conduct, it's penetration or the intrusion of
21 any kind of body part or however slight by the
22 defendant. It means mouth; it means vagina; it
23 means any opening on the body. And as you heard
24 from her, he penetrated her mouth and he penetrated
25 her vagina. So sexual battery means sexual

1 intercourse, cunnilingus, fellatio, anal intercourse
2 any intrusion however slight of any part of the
3 person's body or any object in the person's body.

4 Kidnapping. What does that mean? Whoever
5 shall unlawfully seize, confine, inveigle, decoy --
6 decoy, kidnap, abduct, or carry away. Ladies and
7 gentlemen, she got in the car with Terry Calloway in
8 Honea Path. Once he made that other turn not going
9 to Burger King but going down Horseshoe Road, he
10 wouldn't let her leave that car. He wouldn't let
11 her leave that car once she got in Abbeville County.
12 He forced her out of the car. There he forced her
13 back in the car, and you heard her own statement
14 that she felt like she couldn't leave. He had her
15 by the back of the head. That's kidnapping.

16 Once again, our burden to prove -- is to prove
17 to you beyond a reasonable doubt that Terry Calloway
18 committed these crimes. What is that? Some of
19 y'all have already heard me talk about this. Beyond
20 a reasonable doubt is proof that leaves you firmly
21 convinced in his guilt. Firmly convinced. Doesn't
22 mean all doubt, doesn't mean every doubt, and it
23 doesn't mean any doubt. It doesn't have to be
24 beyond every possible doubt. It's reasonable doubt.
25 Reasonable.

1 Is it reasonable for somebody out there to be
2 sexually assaulted and calls EMS? Somebody that's
3 been sexually assaulted takes the EMS ride to the
4 hospital. Drops their clothes on a paper sack.
5 Gets swabbed. Takes an STD shot to make sure she
6 doesn't get that. Takes a Plan B pill. Proof
7 beyond a reasonable doubt.

8 She contacted law enforcement right after it
9 happened. You heard the Anderson 911 call. Once
10 they realized it was in Abbeville County, they
11 called Abbeville County. Had the victim's advocate
12 there, Monique Bell. Had Leslie Norman respond.

13 Folks, it would be nice to have DNA serology
14 semen, but with it not being there it doesn't mean
15 it didn't happen. It's an awful lot of stuff she
16 put herself through that night if it didn't happen.
17 It's not reasonable. Just because you don't have
18 semen does not make it reasonable doubt. Proof
19 beyond a reasonable doubt leaves you firmly
20 convinced that Terry Calloway did this.

21 The judge will give you the definition. She'll
22 tell you the law in this case. And we ask that you
23 pull back in your memory, remember what she said.
24 Remember what all the witnesses said, and come to
25 the conclusion that Terry Calloway is guilty of

1 ~~kidnapping~~ of Sherry Williams and raping her, which
2 he did on August 3, 2012, in Abbeville County. I
3 appreciate your time.

4 THE COURT: Ms. Bolen.

5 MS. BOLEN: Thank you, Your Honor. May it
6 please the Court?

7 THE COURT: Yes, ma'am.

8 MS. BOLEN: Folks, it's not just a lack of
9 semen that gives you reasonable doubt in this case.
10 State wants you to think that, oh, that's all you've
11 got. You know, that -- that's the only problem in
12 this case. What the State has to prove to you is
13 that Terrance Calloway committed these two acts
14 beyond a reasonable doubt. They've got to prove
15 each and every element of both of these crimes
16 beyond a reasonable doubt.

17 The judge will instruct you about what
18 reasonable doubt is, but I'm going to go over where
19 I see reasonable doubt in this case and there --
20 there's quite a lot of it. There's a lot of
21 reasonable doubt, and what I'm seeing is four basic
22 categories. Okay.

23 Where you see reasonable doubt. Number one, in
24 Sherry Williams' statements, and I'll go over those
25 and go over why there's reasonable doubt in her

1 statements.

2 Number two, there's reasonable doubt that these
3 crimes occurred at all based on where Sherry is
4 saying it happened and how the scene is laid out and
5 on the venue, what county it is in.

6 Number three, there's reasonable doubt based on
7 the investigation. Okay.

8 And number four, there's reasonable doubt based
9 on the evidence, physical as well as testimonial
10 presented to you.

11 And I say evidence, it really could be the
12 evidence or the lack thereof, okay, because there's
13 not a whole lot of evidence in this case.

14 Going to number one, Ms. Williams. And I
15 apologize. I've got kind of messy handwriting.
16 I'll try to write as neatly as I can. Sherry
17 Williams. What did she say? Well, that depends on
18 what version of her statement you listen to. Okay.
19 What she got up and said to you today was that she
20 was at the club in Honea Path right downtown, that
21 she wanted something to eat, and so she got in the
22 car with Terrance Calloway and said she wanted to go
23 to Burger King, which is just, as the EMS officer
24 testified, it's about two or three blocks away. And
25 that -- that's -- that's one problem. Okay. Why

1 are you getting a ride for somewhere that's just a
2 couple of blocks away?

3 But she says after getting in the car with him,
4 he goes the wrong way. He goes down 76. It's also
5 called Princeton Highway, and they go the wrong way.
6 Okay. Then she says that pretty much as soon as
7 they turn, he -- he starts forcing her to give him
8 oral sex. Starts hitting her in the head. Starts
9 telling her, "You're going to do this. I'm going to
10 kill you. Shut up."

11 Then she says they drive along 76 for a while.
12 And you'll have a map to look at because the
13 State -- and this is in evidence as State's 4.
14 Okay. They drive along Highway 76 for a couple of
15 miles. They go down Horseshoe Road. It's a couple
16 of miles. Okay. Some of the testimony said it was
17 maybe, you know, five to six, somewhere around
18 there.

19 And she says on Horseshoe Road he pulls over.
20 She says he gets out of the car. She stays in the
21 car. That's another problem. He's out of the car.
22 Why not lock the doors and drive away? How is she
23 kidnapped at that point?

24 Anyway's, she says he gets out, he comes
25 around, he pulls her out. And then she says -- she

1 doesn't say he bent me over the front of the car.
2 That's what the Solicitor said in his closing, but
3 that -- those were not her words. Her words were,
4 "He bent me over, started raping me from behind,
5 okay, vaginally." And she says that happened for a
6 couple of minutes, two, three, maybe four.

7 And then today she tells you he stopped because
8 a car drove by. Okay. So that -- that's her basic
9 outline today. And then she says after the car
10 drives by, he gets her back in the car, turns around
11 on Horseshoe, and goes right back the way they came.
12 And, again, that's a couple of miles. And she says
13 that he -- after getting her back in the car
14 continues to force her to have oral sex. So her
15 order today is oral, vaginal, oral. Okay.

16 What does she say about how long this takes?
17 She says, first, that the second forced oral took 30
18 to 40 minutes. Okay. She said it takes 30 to 40
19 minutes of him forcing her to perform oral sex, yet
20 they're only driving a couple of miles. That --
21 that just doesn't make sense. Does not make sense.
22 And that should give you reasonable doubt.

23 Then on cross -- on cross when I asked her
24 about that, she said, "No, no, no. That was the
25 first time." Then she said it was probably more

1 like 25 minutes of forced oral. And, again, it's
2 the same couple of miles -- five, six, maybe seven
3 at the most. It's not -- not 25 minutes of driving.
4 She doesn't say anything about him going anywhere
5 else other than Princeton Highway, Horseshoe Road.
6 But this is the order she gives today. Okay.

7 And then I asked her about, well, you know, you
8 talked to Leslie Norman, Officer Norman. You might
9 remember Mr. Sheek in his opening said something
10 about that her testimony was going to be that when
11 he pulled over to the side of the road, she got out
12 and ran away but he caught her. There's no
13 testimony about that from her. She did not say that
14 in her direct exam. Another thing that should give
15 you some reasonable doubt. Okay. Because that's a
16 pretty important fact, right? If you're under as
17 much trauma as the State is saying she's under, she
18 doesn't mention that.

19 So I asked her about it, and she -- she said,
20 yeah, she had said that to Leslie Norman after she
21 met with her at the hospital. She also said, you
22 know, yeah, she had written a statement. And her
23 written statement was written August 4th. Okay.
24 August 4, 2012. 8/4/2012.

25 And I submit to you a part of -- a good part of

1 your job as jurors is to use your common sense and
2 it's common sense to know that your memory is better
3 right after something happens and not four years
4 later.

5 And I went over her written statement with her.
6 And there's a lot of differences between what she
7 says then and what she says now, or what she doesn't
8 say then. Today we get this, you know, 30 to 40 to
9 25 minutes of oral, vaginal, gets me out of the car,
10 bends me over, car comes by, and then another 30
11 minutes of oral.

12 But in her statement on August 4th of 2012, she
13 doesn't mention any of that. She says, "He starts
14 beating me in the head, forcing me to have oral sex
15 with him. We pull off. He starts raping me." She
16 doesn't say anything about being bent over. She
17 doesn't say anything about being raped from behind.
18 She says he starts raping me. And then she says,
19 "When he finished, we got back in the car. Drove
20 back. I jumped out the car."

21 She said today she didn't know if he had
22 ejaculated or not, but in her statement on August 4,
23 2012, she said he finished. Y'all can use your
24 common sense to know what she -- she may have meant
25 by that.

1 But what's important about looking at her prior
2 statement, she does not mention being bent over.
3 She doesn't mention this car that drives by. She
4 doesn't mentioned oral sex taking 30 to 45 -- 30 to
5 40 minutes or maybe 25 minutes on the way out. And
6 she never mentions forced oral on the way back. She
7 doesn't say any of that. None of it. And that
8 should give you reasonable doubt because her
9 statements are all over the place.

10 She says to EMS that night, "I was vaginally
11 raped and I'm bleeding a little bit." Okay. That's
12 what she says to EMS. You heard that from the EMS
13 officer, okay, vaginal and bleeding. You don't hear
14 anything about her telling EMS that there's oral
15 forced sex -- forced oral sex. So her account of
16 the alleged assault just doesn't make sense because
17 it -- it's all over the place.

18 Let's look at what else she says about how
19 she's saying this happened. Okay. She says they
20 get in the car to go to Burger King. Then when
21 they're coming back, she jumps out of the car at the
22 Spinx, which you've heard testimony about that's a
23 fairly busy intersection. There's five roads that
24 come in there.

25 She runs, not to the police station which is

1 right there, but she runs over to Burger King. She
2 gets to Burger King. She says today in her
3 testimony, she says, "I got in my aunt's car." And
4 that's what she says in her statement back on
5 August -- August 4, 2012. She says she gets in her
6 aunt's car, and then she thinks maybe she sees
7 Terrance and so she jumps out. Runs away. Runs
8 over to a second aunt's house. Calls EMS and she
9 said, you know, "There's people out there. People
10 lingering around," and she talked to some officers.

11 Leads me to the second part, second category
12 where you just don't -- State just doesn't have the
13 evidence. Okay. And that's the scene. Okay. How
14 she's saying it happened, her timing, all of it.
15 None of it makes sense. It just doesn't make sense.
16 It doesn't make sense that she'd be in the car for
17 30 to 45 minutes -- 30 to 40 minutes to go a couple
18 of miles. Does not make sense that instead of going
19 to the police station, she goes to Burger King, and
20 then run on out to the club where she was supposedly
21 taken.

22 So the timing and how the scene is laid out,
23 that gives you some reasonable doubt because there's
24 just no way of what she's saying can work out the
25 way she's saying it did. Where she is at the

1 intersection, at the Spinx intersection, she says
2 she jumps out. She says she runs to the Burger
3 King. She says she runs right there, sees her aunt,
4 and then thinks she sees Terry ahead of her. Well,
5 if she had jumped -- just jumped out of the car, how
6 is he two cars ahead of them? That doesn't make any
7 sense either. Okay.

8 What also doesn't make sense is what we call
9 venue. Okay. And in addition to proving beyond a
10 reasonable doubt that these allegations actually
11 happened, the State's got to prove that it happened
12 in Abbeville County. And that -- that's another
13 thing that they're just missing.

14 They have this map. And you'll -- you'll have
15 this back with you in the jury room, okay, and you
16 can look at it. The yellow line is the county line.
17 Everything up here is Anderson; everything down here
18 is Abbeville. This is Princeton Highway, Route 76,
19 and this green line helps you.

20 You can see that just a very small portion of
21 Horseshoe Road is in Abbeville County. She doesn't
22 give you any evidence that she was in Abbeville
23 County portion, and the State said in their closing,
24 "Hey, she grew up in this county." Well, I don't
25 know where county lines change. Most of us don't

1 know exactly where county lines change.. How -- she
2 didn't say anything about land -- landmarks or
3 seeing anything in particular or seeing the county
4 line. They can't prove to you it happened, if it
5 happened at all, that it happened in Abbeville
6 County, and that's a problem. So they've got some
7 problems. They've got some reasonable doubt built
8 in with the scene. Okay.

9 Then let's look at the investigation. And this
10 is kind of a big one. Okay. There's a lot of
11 reasonable doubt when you look at their
12 investigation. Let's kind of outline what the
13 investigation is. Okay. So she -- she first makes
14 contact with law enforcement at the second aunt's
15 house. Okay. So she calls EMS, and some Honea Path
16 officers arrive, right? Honea Path officers. She
17 also says there's some other folks just kind of
18 spilling over from the club. But we've got some
19 Honea Path officers who arrive, and she talks to
20 them.

21 She talks to the two EMS officers. We've heard
22 from one. Okay. There's two officers. She's then
23 transported to AnMed. Okay. And AnMed she said she
24 met with some Anderson officers, some Abbeville
25 officers, one that who we heard from, doctor, nurse.

1 Okay. She also talked to her Aunt Tessie. So these
2 are all the people that we have testimony that had
3 some sort of contact with Sherry that night.

4 First at Honea Path officers. You've got these
5 first responders, the first people that talk to her
6 and there is no testimony from them. Okay. And
7 that gives you some reasonable doubt because these
8 are the first officials who meet and talk to Sherry
9 Williams. None of them were here to testify about
10 her demeanor, whether they saw injuries, nothing
11 like that.

12 Then you've got EMS. Okay. And she was in the
13 ambulance for about 30 minutes is what Mr. Freeman
14 said. It took about 30 minutes to get from Honea
15 Path to Anderson. She talked to him. She told him,
16 "I was vaginally raped. I'm bleeding. And I'm not
17 in that much pain."

18 What is important about Mr. Freeman's
19 testimony? That's the EMS officer that was here.
20 What's important about it that gives you reasonable
21 doubt? Two things. He said he saw no physical
22 injuries to her and he could not comment on her
23 demeanor. Remember that? He had a report. And
24 they asked him, you know, "Did you note anything
25 about her demeanor in the report?" And he said,

1 "No." And he said, "And, honestly, I can't remember
2 it."

3 There's a lot of conflicting testimony about
4 her demeanor and that's another thing that gives you
5 reasonable doubt. Okay. You've got some of these
6 witnesses saying she's hysterical and crying.
7 You've got others saying she's quiet and calm.
8 You've got one who's like he don't remember. Can
9 you -- you can use your common use to know that her
10 demeanor must not have been that -- all that
11 unusual. If it was, he would've made a note of it,
12 right?

13 And what's important that gives you reasonable
14 doubt based on Mr. Freeman's testimony, there's no
15 physical evidence. He doesn't see anything. He
16 doesn't do any kind of intensive exam. He looks her
17 over. He doesn't see anything.

18 So we've got Honea Path who we haven't heard
19 from. We've got EMS who we've heard from. It gives
20 you some reasons that he's -- reasonable doubt. We
21 have the Anderson officers that we haven't heard
22 from. These are people who respond to the hospital
23 and they're the first ones at the hospital. They'll
24 hear from them. We've got an Abbeville officer and
25 then Ms. Bell. Ms. Bell responded and then

1 Ms. Norman responded. Then we've got the doctor and
2 the nurses. And we've got, of course,
3 Ms. Williams's Aunt Tessie.

4 What are these officers, all the people who
5 came -- the EMS officers, Ms. Norman, doctor -- the
6 doctor didn't come -- the nurse -- what do they all
7 have in common with what they testified to that
8 gives you reasonable doubt? Not a single one of
9 them gave any testimony about seeing any kind of
10 physical injury to Ms. Williams. And, in fact, they
11 didn't see any.

12 You heard from the nurse who the -- they call a
13 sexual assault nurse examiner. She's trained. She
14 follows policies and procedures. She does those to
15 preserve evidence. State makes a big deal about the
16 fact that Ms. Williams was in the hospital for five
17 or six hours. There's time for a thorough exam -- a
18 thorough external exam and there's nothing. There's
19 nothing. There's no scratches. There's no bruises.
20 There's no swelling. There's no cuts. There's
21 nothing.

22 And yet you've got testimony from Ms. Williams
23 that he was violently beating her about the head.
24 Nothing. No testimony about anyone, any of these
25 trained professionals seeing any injuries to her

1 head, as well as anywhere else on her body. You get
2 that from EMS, the first responder. You get that
3 from -- you don't hear anything from Ms. Norman
4 about any kind of injuries. You get that from the
5 nurse. No injuries. No nothing. And that's after
6 someone was supposedly beat about the head violently
7 for anywhere from -- you add 25 and 30 and going on
8 an hour, beaten. Nothing. That gives you
9 reasonable doubt. Okay. That absolutely gives you
10 reasonable doubt.

11 Let's talk a little bit about Ms. Williams'
12 Aunt Tessie's testimony. Okay. Her Aunt Tessie,
13 Tessie Singleton. She says that she was at the
14 Burger King in the drive-thru. She was there. She
15 says that Ms. Williams runs up to her. She was
16 really clear today and really adamant today that
17 Ms. Williams didn't get in her car. Okay. She
18 said, and the way she remembers it, Ms. Williams was
19 banging on the window crying. Doesn't get in the
20 car.

21 Well, Sherry, Ms. Williams herself, says she
22 gets in the car. The stories just don't make sense.
23 They don't make sense. You can't have both be true.
24 And Aunt Tessie was really adamant. She had just
25 come from revival. There was a revival. She was

1 going to Burger King. She was clear about what she
2 remembered. And then she says that Ms. Williams
3 runs across the parking lot. And she said it didn't
4 make sense to her, and it really doesn't make sense.
5 You're either in a car or able to get in a car.
6 You're safe. Why are you running away? Why are you
7 running towards where you're saying all this
8 happened? Doesn't make sense.

9 Another thing that doesn't make sense is their
10 testimony that Terrance could've been two cars ahead
11 of them. Again, if you're going to believe what
12 Ms. Williams says, then how -- how does he get
13 there? How does he get two cars ahead of her if she
14 jumps out and he goes and somehow beats her there?
15 Doesn't make sense.

16 Nothing about the investigation. Okay. We've
17 been over what they presented to you, and you've got
18 to look also at what they don't present, okay,
19 because that also gives you reasonable doubt. What
20 they don't present. There's no witnesses from the
21 club. Ms. Williams said, "Yeah, there were people
22 milling around outside." There's no one here to
23 even corroborate that Terrance was at the club.
24 Okay.

25 Another thing that's a lack in the

1 investigation that gives you reasonable doubt, they
2 don't have any of the -- the witnesses that were
3 supposedly with Ms. Williams when she's at her
4 aunt's house. Okay. None of the people that were
5 milling around with her or the Honea Path police.

6 They also didn't present to you any kind of
7 testimony about anyone seeing her jump out of a car.
8 Think about it. You know, this is somewhere around
9 10:00, 10:30. It's got to be a fairly busy night
10 because Ms. Singleton, Aunt Tessie, says that
11 there's people in line at the Burger King. Sherry,
12 Ms. Williams, says that she jumps out at this very
13 busy intersection. No one sees that happen. That
14 seems a little unusual. That's something that gives
15 you reasonable doubt. Okay. No one sees -- no one
16 calls to say, "Hey, we just saw a woman jump out of
17 the car and run across."

18 Another thing that gives you reasonable doubt
19 with respect to both her statements and the
20 investigation. Okay. The State made a big deal
21 both in their testimony from the nurse and in their
22 closing about, oh, Sherry was too sore. She was too
23 sore to have that exam. That's not what Sherry
24 said. Ms. Williams testified. She said, "I don't
25 know if I had it. I don't remember. A long time

1 --ago. --I don't remember." She didn't remember. If
2 it was something that was as traumatic as they're
3 saying it was, wouldn't she have remembered? But
4 she told you, "I don't remember if I had the vaginal
5 exam or not." Another thing that gives you
6 reasonable doubt.

7 Last area in which there's reasonable doubt --
8 I'm going to switch pens. That one is kind of
9 dying. Okay. -- is the evidence, or as I said, the
10 lack of it. I mean the evidence in two ways. Okay.
11 I mean the physical evidence and I mean the
12 testimonial evidence. Okay.

13 EMS, Mr. Freeman says that she says she's
14 bleeding, yet there's absolutely no testimony to
15 corroborate that. She goes right to the hospital.
16 State makes a big deal of that. She goes right to
17 the hospital. The nurse said she did the vaginal
18 swabs, maybe not the internal, but the external. No
19 bleeding. Okay. There's no -- it's not -- it's not
20 just that there's no testimony about it. There's
21 testimony that there was no bleeding. Okay. Yet
22 she told the EMS worker there was. No bleeding.
23 We've got this whole too sore to have an exam, but
24 today she says can't remember.

25 And when you're looking at all of this evidence

1 and considering whether there's reasonable doubt,
2 which I submit there's a tremendous amount of
3 reasonable doubt, but you could possibly not want to
4 have an exam because you're too sore or you could
5 possibly not want to have an exam because you know
6 it's not going to show anything. There's certainly
7 two reasonable ways to see that.

8 Also, with the EMS, remember Ms. Williams says
9 that for EMS, she didn't remember much about talking
10 to them, but she said, "They mostly just calmed me
11 down." Okay. That's what she said. "Mostly just
12 calmed me down." That's completely in conflict with
13 what the EMS worker says. He says, "I don't
14 remember demeanor and I didn't make any note of it."
15 That's another problem of their evidence. It just
16 doesn't match up and gives you reasonable doubt.

17 The lack of physical injuries, that's a big
18 one. Again, she's saying she was beaten for
19 somewhere around an hour about the face. Her hair
20 was pulled. There is nothing. All right. No
21 physical injuries. There's no bruising; no
22 bleeding; no swelling. And remember this nurse does
23 her exam. She's there for a couple hours. She was
24 there for the whole thing. And I specifically asked
25 her, "Did you see any bruising to her vaginal area?"

1 ~~No bleeding~~, no swelling, and there's nothing
2 mentioned about injuries to her head or anywhere
3 else. And that gives you reasonable doubt as to
4 whether you can believe what Ms. Williams is telling
5 you.

6 And, of course, you got the DNA. And, again,
7 it's a lack of it. Again, let's look at what
8 Ms. Williams is telling you. Okay. She goes to the
9 hospital right away. Doesn't change her clothes.
10 There's no testimony about her changing her clothes.
11 She says that she is raped. She says he finishes.
12 She says she is bleeding. And there's nothing on
13 any of her clothes. Her underwear is submitted. No
14 semen. No blood mentioned in the report. Her pants
15 are analyzed by SLED. Nothing. No semen. Nothing
16 else noted. Same with her shirt. Nothing. You can
17 use your common sense here. If what she's saying is
18 true, there should've been something. There should
19 have been something, and there's absolutely nothing.

20 You heard the nurse say that they follow all
21 these procedures and policies collecting the
22 evidence for evidentiary purposes to make sure it's
23 not contaminated. They follow those. This evidence
24 and what they collected was not contaminated.
25 There's just nothing there. And that just goes

1 against what she's trying to tell you happened
2 because there's nothing in that DNA, in the clothes,
3 any of it, to back up what she's saying.

4 Remember also that Ms. -- I think it was
5 Ms. Courtney Thompson with SLED says that she does
6 the smears. There's vaginal smears; rectal smears;
7 oral smears. And remember this is -- you know,
8 Ms. Williams is saying that this oral sex happened
9 for somewhere around 55 minutes total. Nothing in
10 the oral smear. Nothing. Nothing in the vaginal
11 smear. Nothing in the rectal smear.

12 You also heard one of the -- you heard the
13 nurse talk about getting fingernail scrapings, but
14 you didn't hear anything about those scrapings being
15 analyzed. And you can use your common sense to
16 document anything. They've collected fingernail
17 scrapings. There wasn't anything. You know there
18 wasn't because it would've been presented to you if
19 there was.

20 So the physical evidence, the lack of physical
21 evidence, every little piece of that, every little
22 piece that is lacking. She's saying she's bleeding.
23 There's no bleeding. Her drastic changes in what
24 people are saying her demeanor is like; the lack of
25 any physical injuries to her head; the lack of any

1 ~~sort of injury~~ or genital area; the lack of any sort
2 of DNA, each one of those gives you reasonable
3 doubt. When you put them all together, more than
4 enough reasonable doubt.

5 Now, the State said in their closing, doesn't
6 make sense that she would go through all of this.
7 Doesn't make sense that she would be in the hospital
8 for five hours, get a -- get a shot. It doesn't
9 make sense that she'd come here today. What she's
10 telling you doesn't make sense. What she's telling
11 you doesn't make sense. It doesn't make sense that
12 he's forcing oral sex on her for 30 to 40 minutes on
13 a ride that take -- covers maybe 7 miles.

14 What she's telling you about how it -- it
15 happened doesn't make sense. And you can look
16 through her statement. She's all over the place.
17 What she's telling you about a second round of
18 forced oral sex that takes another somewhere between
19 25 and 30 minutes that doesn't mention until today.
20 That doesn't make sense. What she's saying doesn't
21 make sense.

22 And you may wonder, you know, why -- why would
23 she make this up? I can't answer that for you, but
24 the thing is we don't have to. It is not the
25 defense's burden to try to show why someone would

1 make something like this up. And, in fact, we
2 can't. There's no way to do that. It is the
3 State's burden to prove beyond a reasonable doubt
4 that this assault and this kidnapping happened the
5 way she said it did or that it happened at all. And
6 I submit it -- it didn't happen at all. They just
7 don't have the evidence to say that it happened at
8 all.

9 What they're missing is anything to back up
10 what she says. And what she says is all over the
11 place and just doesn't make sense. They don't have
12 anywhere near enough evidence to prove he's guilty.
13 They don't have the evidence to prove that any sort
14 of sexual contact even occurred. They don't even
15 have the evidence to -- to say that Terrance was
16 even there that night. They don't have anyone to
17 corroborate that.

18 But I think when you look back at the evidence
19 that's been submitted and the testimony you've heard
20 and you put it all together, you look at how she's
21 saying it happened, the differences in her
22 statement, the utter lack of any corroboration in
23 terms of the physical evidence and injuries to her,
24 you'll find the only reasonable conclusion is that
25 he is not guilty. Thank you.

1 MR. BROWN: Judge, may we approach?

2 (Sidebar discussion between the Court and
3 counsel and without the court reporter.)

4 THE COURT: Ladies and gentlemen, before I
5 begin my instructions to you as to the law, we have
6 an issue that we need to take up outside of your
7 presence. I'm going to ask that you retire to the
8 jury room. I'm going to ask that you not begin to
9 discuss this matter among yourselves until we're
10 able to discuss this legal issue. Then when you
11 return, I will instruct you on the law that's to be
12 applied, and then you can begin your deliberations
13 at that particular point. So I'll bring you back
14 shortly.

15 (At 4:33 p.m., the jury exited the courtroom.)

16 THE COURT: Yes, sir.

17 MR. SHEEK: Thank you, Your Honor. The State
18 would request a charge for clarification to the
19 jury. And I apologize, Your Honor, for not having
20 addressed this earlier, but I didn't anticipate the
21 defense actually arguing failure to prove venue
22 beyond reasonable doubt being a ground for a not
23 guilty verdict.

24 Article 1, Section 11 of the South Carolina
25 Constitution requires that a prosecution be tried in

1 the county in which the offense was committed.

2 There's a couple cases that I don't have printed out
3 having not anticipated it, but I can give you the
4 sites, Your Honor, that dwelt with that question of
5 venue.

6 If you look at probably the best case about it
7 is *State v. Gethers*. That is G-e-t-h-e-r-s.

8 THE COURT: I'm sorry. G-e- ---

9 MR. SHEEK: --- t-h-e-r-s. That is 269 S.C.
10 105. Interestingly, that's the case where the
11 defendant was charged with criminal sexual conduct
12 and kidnapping where allegedly he picked up the
13 defendant [sic] in one county, took him into another
14 county to commit the offenses, and then brought him
15 back to that county. In that case, the Supreme
16 Court specifically discussed because the defendant
17 raised the issue of venue and alleged that the State
18 could not prove it.

19 *State v. Gethers* specifically cited to *State v.*
20 *Wharton*, W-h-a-r-t-o-n, which is 263 S.C. 437. If
21 you look at that, Your Honor, the Court stated that
22 the right of the party to be tried in the county
23 where it was committed is a jurisdictional issue.
24 However, it is not necessary in a criminal case that
25 venue should be proven affirmatively to the ~

1 sufficient evidence for which it can be inferred.

2 Evidence of venue, though slight, is sufficient in
3 the absence of conflicting evidence and may be
4 proved through circumstantial.

5 And if you look at all of these cases, they
6 refer to it being a jurisdictional issue. Since it
7 is a jurisdictional issue, the defense would not be
8 able to argue that this jury has the jurisdiction to
9 find him not guilty based on the lack of proper
10 jurisdiction. I mean, obviously it's conflicting in
11 and of itself. They either have jurisdiction to
12 hear the case or they don't. So that's an issue to
13 be raised to the Court because it's a matter of law,
14 not a matter of fact. And like a -- like the Court
15 said and the cases say, evidence, however slight, is
16 sufficient if it's not contradicted.

17 There is a 2012 case which is *State v. Kelly*,
18 K-e-l-l-y. Your Honor, I'll give you the cite on
19 that; however, that's an unreported opinion so it
20 has very little precedential value, but they also
21 discuss this case. They referred back to the Kelly
22 case, but they also cited the Amjure (phonetic)
23 second criminal law where it states, and they quoted
24 it, wherein certainty exists, the accused may be
25 tried in any county in which the evidence indicates

1 the crime might have been committed. And that is
2 something the Court stated in their opinion in the
3 Kelly case.

4 So what we have is, yes, venue has to be
5 proper. Evidence has to be submitted to make it
6 proper, but that is a question of law, not a
7 question of fact that the jury has to determine.
8 Once the Court determines there is sufficient venue,
9 then it goes to the jury on the elements of the
10 crime. Venue is not an element of the crime.

11 THE COURT: Anything from the defense?

12 MS. BOLEN: If I can just have a moment to look
13 at some of these cases, Your Honor?

14 THE COURT: Yes, ma'am.

15 MS. BOLEN: I believe *State v. Warden* appears
16 to be overturned, and so I'm trying to find out why.
17 Looking at *State v. Evans*, Your Honor, I think is
18 one of the cases the State cited. They -- the Court
19 in that case says that it's not a -- it's not a
20 jurisdictional right.

21 THE COURT: What's the site on Evans?

22 MS. BOLEN: *State v. Evans*, 307 S.C. 477. And,
23 actually, that's been overruled as well, so let me
24 look at that.

25 Your Honor, does look like on the case law that

1 ~~venue is~~ certainly something for the directed
2 verdict stage. I -- honestly, I didn't really
3 anticipate this coming up, so I hadn't done the
4 research on it, but...

5 And, Your Honor, what I'm -- what I'm looking
6 at is in *State v. Evans*. It says, "Although the
7 accused has a right to be tried in the county in
8 which the offense is alleged to have been committed,
9 we hold the right is not jurisdictional." So I
10 think the language is clear that it's not a
11 jurisdictional thing, and it is something the jury
12 could consider.

13 MR. SHEEK: Is that the one that's been
14 overturned?

15 MS. BOLEN: But on different grounds. All of
16 these have been overturned.

17 MR. SHEEK: I believe, and I may be wrong, but
18 I think Evans was referring to subject matter
19 jurisdiction which is granted to General Sessions
20 Court when an indictment is presented and true
21 billed; therefore, subject matter has been met,
22 yeah.

23 MS. BOLEN: Okay.

24 MR. SHEEK: It goes on to say, "Instead of the
25 right of privilege of the accused and any objection

1 to improver venue is waived if not raised by timely
2 objection." I believe under Evans it would be
3 waived anyway.

4 THE COURT: If you-all will just give me a
5 chance to read, please, and then I'll -- if there is
6 are anything additional you want to argue at that
7 time, I'll let you argue it then.

8 MS. BOLEN: Your Honor, I -- I -- I don't mean
9 to interrupt, but I did find a case that I think
10 aligns with what the State is saying that might beg
11 you some reading. There is *State v. Brisbane*, I
12 believe, Brisbane. It's 323 S.C. 324. And it does
13 address -- it looks like this -- this issue of
14 whether venue has to be proved beyond a reasonable
15 doubt.

16 And in that case, the Court said it -- it -- it
17 concerned the jury instruction, but the Supreme
18 Court said that a jury instruction requiring the
19 State to prove venue beyond a reasonable doubt was
20 not valid, so I think that would candor with the
21 tribunal, would go towards what the State is saying.

22 THE COURT: I've looked through a number of
23 cases. What's cited in Brisbane seems to make the
24 most sense in terms of the fact that it's not -- the
25 case law clearly says it's not jurisdictional. It

1 says, "The accused has the right to be tried in the
2 county in which the offense is alleged to have been
3 committed. This right is not jurisdictional."

4 It cites Evans which has been overruled, but
5 "Venue in a criminal case need not be affirmatively
6 proved if there's sufficient evidence in which it
7 can be inferred.

8 "Evidence of venue, though slight, is
9 sufficient in the absence of conflicting evidence
10 and may be proved by circumstantial as well as
11 direct evidence. Where acts essential to the
12 offense are committed in both -- in different
13 counties, the accused may be tried in either
14 county."

15 And then goes on to say that the recitation
16 that I've just given makes clear that Brisbane's
17 second argument related to venue, that it must be
18 proved beyond a reasonable doubt lacks validity. So
19 at best what I would -- what I would propose to
20 charge the jury as it relates to those comments is
21 that the accused has the right to be tried in the
22 county in which the offense is alleged to have been
23 committed. This is known as venue. Venue does not
24 have to be proven by the State beyond a reasonable
25 doubt. Venue is not an element of the criminal

1 charge. The State is only required to prove each
2 and every element of the charge -- of the criminal
3 charge beyond a reasonable doubt.

4 Is there anything the parties wish for me to
5 add to that?

6 MR. SHEEK: Nothing from the State, Your Honor.

7 MS. BOLEN: No, ma'am.

8 THE COURT: All right. Counsel, it's five
9 o'clock. I don't have a problem charging the jury
10 at this particular time. They won't get it until
11 probably 20 after, 5:30.

12 MS. BOLEN: I don't have any objection to
13 staying, Your Honor. I would inquire of the State.

14 MR. BROWN: I can stay too.

15 THE COURT: We'll see how long. Okay. You can
16 bring the jury in.

17 (At 5:10 p.m., the jury entered the courtroom.)

18 JURY CHARGE

19 THE COURT: At this time, ladies and gentlemen,
20 I'm now prepared to provide you with instructions as
21 to the law in this matter. I'm going to go ahead
22 and instruct you, and then you may begin your
23 deliberations once I have concluded my instructions
24 to you.

25 During this trial, ladies and gentlemen, you

1 ~~and I have~~ certain duties to perform. As the trial
2 judge, it's my responsibility to preside over the
3 trial of this case and to rule upon or pass upon the
4 admissibility of evidence that's been presented
5 throughout the course of this trial, and you are to
6 consider only the competent evidence which is before
7 you. To any evidence to which there is an objection
8 sustained, you must not speculate as to what the
9 evidence might've been or the reasons for the
10 objection. Again, you should consider all the
11 evidence along with the exhibits that have been made
12 a part of the record.

13 Now, I have the additional duty and
14 responsibility to instruct you on the law that
15 applies. And as the trial judge, I'm the sole judge
16 of the law that applies. If you have any
17 preconceived ideas as to what the law is or what you
18 think the law is or your interpretation of the law,
19 you must set all of that aside. For under your oath
20 as jurors, you are sworn to accept the law as I
21 charge it to you.

22 Now, if by chance I make some error in those
23 instructions, then there's another Court at another
24 time that can correct those errors of law. For
25 right now, this moment, at this time, you must

1 accept the law as I instruct you as being the
2 correct statement of the law.

3 Now, in every case tried before a jury, you the
4 jurors become the sole and exclusive judges of the
5 facts in this case. No one can tell you what the
6 facts of this case are. And if I've done anything
7 throughout the course of this trial that's given you
8 any impression that I'm commenting on the facts or
9 I'm telling you what the facts are or I'm giving an
10 opinion about the facts, I ask that you set that
11 aside as well. I assure you, I don't have any
12 opinion about the facts of this case. That's not my
13 job here. That's not my role. That's your duty and
14 responsibility as jurors to determine the facts of
15 the case.

16 Now, in order to do that, you have to analyze
17 and evaluate the evidence and determine what
18 evidence convinces you of its truth. In order to do
19 that, you have to judge the credibility or
20 believability of the witnesses. In order to do
21 that, you may consider the following factors:

22 What was the manner and appearance of the
23 witness who testified on the witness stand?

24 Was the witness hesitant or straightforward in
25 answering the questions?

1 And was the witness's testimony consistent or
2 inconsistent?

3 How did the witness come to know the facts that
4 he or she testified to?

5 What was his or her ability to know these
6 facts?

7 Did the witness provide testimony that was
8 biased or prejudiced in some manner?

9 And was the testimony of the witness
10 strengthened or weakened by other testimony or other
11 evidence?

12 Now, ladies and gentlemen, determining the
13 credibility of the witnesses, you may believe one
14 witness against several witnesses, or you may
15 believe several witnesses against one witness. You
16 may believe a portion of a witness's testimony and
17 disregard other portions of that same witness's
18 testimony. And if you have a good and sufficient
19 reason for doing so, you may accept the witness's
20 testimony in its entirety or you may reject it in
21 its entirety. But these factors you should not
22 consider arbitrarily, but if in your good judgement
23 there's reason for you to consider these things,
24 then you should do so.

25 You objective, ladies and gentlemen, is to seek

1 the truth and whether it comes from a witness or
2 witnesses for the State or the witness or witnesses
3 for the defense. You don't determine the
4 truthfulness of the testimony by counting the number
5 of witnesses who've testified for one side or the
6 other. The truth isn't determined by counting
7 witnesses.

8 What the law simply requires is that when you
9 exercise your mental processes in coming up with
10 what you consider to be truthful evidence, that you
11 should use your good common sense, your sense of
12 logic and reasoning, use your experiences in life.
13 You then apply these attributes to the evidence and
14 determine the facts based upon your view of that
15 evidence. And then to those true statements of
16 factors determined by you, you apply the law as I
17 instruct you and then you'll be able to arrive at
18 your verdict.

19 Ladies and gentlemen, your verdict should not
20 be based upon sympathy, passion, or prejudice. Your
21 verdict should simply speak the truth.

22 Now, ladies and gentlemen, there are two types
23 of evidence that can be presented throughout the
24 course of a trial. One is direct evidence and the
25 other is circumstantial evidence. Direct evidence

1 directly proves the existence of a fact and does not
2 require that you make any deductions.

3 Circumstantial evidence is proof of a chain of
4 facts and circumstances that indicate the existence
5 of a fact. Crimes may be proven by direct evidence
6 or circumstantial evidence or by both. The law
7 makes no distinction between the weight or the value
8 to be given to either direct evidence or
9 circumstantial evidence.

10 But to the extent that the State relies on
11 circumstantial evidence, all of the circumstances
12 must be consistent with each other. And when taken
13 together, they must point conclusively to the guilt
14 of the accused beyond a reasonable doubt. If the
15 circumstances merely portray the defendant's
16 behavior as suspicious, then the proof has failed.
17 The State has the burden of proving that the
18 defendant is guilty beyond a reasonable doubt, and
19 that burden rests for the State whether the State
20 relies on direct evidence, circumstantial evidence,
21 or a combination of the two. Conjecture,
22 speculation, suspicion, or probabilities do not
23 constitute circumstantial evidence.

24 Now, ladies and gentlemen, I instruct you now,
25 as I did earlier, once again that these indictments

1 which I've read to you are -- simply contain the
2 allegations of the charges in this case. And they
3 are not evidence of guilt, nor does it create any
4 presumption or any inference of guilt. These
5 indictments are just the manner in which we're able
6 to come to court to have a trial to determine
7 whether or not the State would be able to meet that
8 burden.

9 Now, to this and these indictments, the
10 defendant has pleaded not guilty. And that plea
11 casts the burden on the State to prove that he is
12 guilty of each of these crimes because a person
13 who's charged with committing a crime is never
14 required to prove that they are innocent.

15 Ladies and gentlemen, it is a cardinal
16 important rule of law of evidence that the defendant
17 in a criminal trial, no matter how serious a charge
18 against a defendant may be, is always innocent and
19 remains innocent unless and until the State is able
20 to prove that he is -- he or she is guilty by
21 evidence that satisfies you of that guilt beyond a
22 reasonable doubt.

23 Now, ladies and gentlemen, this is called
24 presumption of innocence, and it does not end when
25 you go into the jury room to begin your

1 deliberations. The presumption of innocence remains
2 with him from the time that he makes an appearance
3 in court until you return a verdict of guilt that's
4 based upon evidence that satisfies you of that guilt
5 beyond a reasonable doubt.

6 Our Supreme Court has said that the presumption
7 of innocence is like a robe of righteousness that's
8 placed about the defendant's shoulders, and it casts
9 him with that -- the cast of being innocent, until
10 that presumptive robe is stripped from him by
11 evidence that convinces -- that satisfies you of his
12 guilt beyond a reasonable doubt.

13 Ladies and gentlemen, I cannot emphasize enough
14 how important the presumption of innocence is. It's
15 just -- it's not a nice legal phrase. It's not just
16 something that we toss around lightly, but it is a
17 very important cardinal rule of law that the
18 defendant is always presumed innocent until you find
19 that he is guilty based upon evidence that satisfies
20 you of that guilt beyond a reasonable doubt.

21 Now, ladies and gentlemen, I instruct you and
22 emphasize to you the fact that the defendant did not
23 testify in this case should not be a factor
24 considered by you in any manner whatsoever during
25 your deliberations or the question in determining

1 his guilt or his innocence. It must not be
2 considered by you in any manner whatsoever. The
3 defendant has a Constitutional right to remain
4 silent. And the fact that he has exercised that
5 right in this particular case must not be considered
6 by you during the course of your deliberations.

7 Under your oath, ladies and gentlemen, you are
8 to draw no conclusion whatsoever from the fact that
9 the defendant did not take the witness stand to
10 testify in this case. And the fact that the
11 defendant did not testify should not even be
12 mentioned or discussed by you during the course of
13 your deliberations. As I've stated, the defendant
14 is not required to prove that he is innocent and
15 that burden remains with the State to prove that he
16 is guilty beyond a reasonable doubt.

17 So what is reasonable doubt? The Government
18 has the burden of proving each and every element of
19 the offense that has been charged beyond a
20 reasonable doubt. And some of you may have served
21 as jurors in civil cases in which you were told that
22 it only required that they had to prove the fact
23 that it was more likely true than not true, but in
24 criminal cases the burden is more powerful than
25 that. It's proof beyond a reasonable doubt.

1 There are a few things that we know in this
2 world with absolute certainty, and the law does not
3 require proof that overcomes every possible doubt.
4 But if after your consideration of all the evidence
5 that has been presented you are firmly convinced
6 that the defendant is guilty of a crime with which
7 he's been charged, then you must find him guilty.
8 If, on the other hand, you think that there is a
9 real possibility that he is not guilty, then you
10 must give him the benefit of that doubt and find him
11 not guilty.

12 Now, ladies and gentlemen, the accused, the
13 defendant has the right to be tried in the county in
14 which the offense is alleged to have been committed.
15 This is known as venue. Venue does not have to be
16 proven by the State beyond a reasonable doubt. The
17 State is only required to prove each and every
18 element of the crime charged beyond a reasonable
19 doubt. And venue is not an element of the crime
20 that's charged.

21 The defendant has been charged with kidnapping.
22 With kidnapping, the State must prove beyond a
23 reasonable doubt that the defendant knowingly and
24 unlawfully seized, confined, inveigled, decoyed,
25 kidnapped, abducted, or carried away another person

1 without authority of law.

2 To do something unlawfully is to do it
3 willfully against the law.

4 Knowingly means with knowledge, consciously,
5 not accidentally.

6 Seize means to take hold or suddenly takes hold
7 of suddenly or forcefully.

8 Confined means to limit, restrict, or enclose
9 within bounds, imprison, or shut in, or keep in.

10 Inveigle means to lure, entice, or lead astray
11 by false representations or by promises or other
12 deceitful means.

13 Decoy means to lure by or as if by decoy. The
14 decoy is something to entice a person into a trap.

15 Kidnap is to remove a person against his will
16 by unlawful force or by fraud.

17 Abduct means to carry off, secretly or by force
18 for an illegal purpose.

19 And carry away means to remove.

20 Now, ladies and gentlemen, the State does not
21 have to prove that the defendant did all of these
22 things. Instead, if you find beyond a reasonable
23 doubt that the defendant did any one of these things
24 or any of these things, then you may find the
25 defendant guilty of the kidnapping.

1 Something done without authority of law is
2 something which the law does not sanction or permit
3 or allow or condone or provide justification for.
4 And kidnapping does not have to be for any personal
5 or monetary gain for any illegal purpose. It may be
6 for any reason whatsoever.

7 The defendant has also been charged with first
8 degree criminal sexual conduct. And the State has
9 to prove beyond -- the first element that the State
10 has to prove beyond a reasonable doubt is that the
11 defendant engaged in a sexual battery with the
12 victim. The sexual battery is sexual intercourse,
13 cunnilingus, fellatio, anal intercourse, or any
14 intrusion however slight of any part of the person's
15 body or any object into the genital or anal openings
16 of another person's body except when the intrusion
17 is accomplished by medically recognized treatment or
18 diagnostic purposes.

19 If you find that the State has failed to show
20 beyond a reasonable doubt that there was a sexual
21 battery, then your deliberations as to the criminal
22 sexual conduct would end at that particular point,
23 and the defendant would be not guilty.

24 If, however, you find that a sexual battery did
25 occur, then you must decide whether the State has

1 proven beyond a reasonable doubt one of two things:

2 One, that the defendant used aggravated force
3 to accomplish the sexual battery. Aggravated force
4 means that the use of physical force or physical
5 violence of a high and aggravated nature was used to
6 overcome the victim. This includes the threat of
7 using a deadly weapon.

8 Or the State must prove beyond a reasonable
9 doubt that the victim submitted to sexual battery
10 while the victim was also the victim of forcible
11 confinement, kidnapping, robbery, extortion,
12 burglary, housebreaking, or any such similar
13 offense.

14 Now, ladies and gentlemen, when you have
15 considered all of the evidence in this case, then
16 you -- you will be able to determine the facts based
17 upon your view of what that evidence shows, and then
18 you must apply the law as I've instructed you and
19 you will be able to arrive at your verdict. At that
20 time, your foreperson would be required to complete
21 and write the verdict on the appropriate form.

22 Ladies and gentlemen, this is an indictment for
23 kidnapping. There are two possible verdicts for
24 kidnapping. One is guilty; one is not guilty.
25 There's no significance to the order in which I say

1 ...it. I have to put one first and I have to put one
2 second.

3 Mr. Foreman, if you determine based upon the
4 laws I've instructed you as to the elements of
5 kidnapping, you find the -- that the State has
6 proven beyond a reasonable doubt that the defendant
7 is guilty, then you will write guilty on the front
8 of the indictment where it says "verdict." You'd
9 sign your name and then place today's date.

10 If, however, you find that the State has failed
11 to prove that the defendant is guilty of kidnapping
12 beyond a reasonable doubt, then you would place on
13 this line "not guilty" and do the same thing.

14 The other -- this indictment is for criminal
15 sexual conduct first degree. Again, there are two
16 possible verdicts in this case, guilty or not
17 guilty. Again, there's no significance to which I
18 say them. I have to say one first; I have to say
19 one second. Again, the same thought process. Did
20 the State prove beyond a reasonable doubt each and
21 every element of the crime of criminal sexual
22 conduct first degree? If you find that the State
23 met that burden, then you would write "guilty."
24 Again, you would sign your name on the front here
25 and place today's date. If you find that the State

1 failed in meeting that burden, you would write "not
2 guilty" and sign your name again and place today's
3 date.

4 Ladies and gentlemen, your verdict must be
5 unanimous. It must be the verdict of all 12 of you.
6 You have been sworn as fair and impartial jurors to
7 determine the facts of this case based upon the
8 evidence that's been presented throughout the course
9 of this trial and based upon my instructions to you
10 as to the law. And when you have done that, then no
11 one can complain about the verdict that you've
12 reached, and you would've fully discharged your duty
13 and your responsibility as jurors in this particular
14 matter.

15 Ms. Gordon is the alternate. Your role is very
16 important. If one of your fellow jurors had been
17 unable to complete service, then you would've
18 stepped into that person's shoes. I ask that when
19 you go back behind the doors, do not go into the
20 actual jury room with them. Stand outside in that
21 little hallway, and I'll come excuse you in just a
22 few moments.

23 Ladies and gentlemen, before you begin your
24 deliberations, I'm required by law to consult with
25 the attorneys and make sure that I have not omitted

1 ~~anything from my~~ charge. If I have not omitted
2 anything, then the indictments as well as the
3 exhibits will be sent to you and you may begin your
4 deliberations at that time.

5 Mr. Foreman, if there are questions that come
6 up that you'd like the Court to try to answer it,
7 please write the question on a sheet of paper, knock
8 on the door and give it to the bailiff, and we'll
9 try to answer it. If you don't have any questions
10 and once you reach your verdict, if you've written
11 on the indictments, knock on the door and tell them
12 that you have a verdict and we'll just come back
13 into court and we will receive you at that time.

14 As I told the jury yesterday, I'm willing to
15 stay here as long as you wish to stay here, but I
16 will not be feeding you dinner. And so to the
17 extent that you want to take a break for the evening
18 or go home and have dinner and come back tomorrow, I
19 will -- all you have to do is write me a note about
20 that and I will be happy to excuse you for the
21 evening and we can come back tomorrow morning. And
22 I'll be here tomorrow all day. And so, you know, I
23 don't want you to rush through any type of
24 deliberations or anything. I want to make sure that
25 you've considered all the information and evidence

1 as you see -- as you see fit and appropriate to do.

2 And so don't let the fact that it becomes a late
3 hour stop you from taking a break and coming back.

4 At this time, I'd ask that you retire to the
5 jury room and await for further instructions. Thank
6 you.

7 (At 5:29 p.m., the jurors exited the
8 courtroom.)

9 THE COURT: Are there any exceptions to the
10 charge by the State?

11 MR. BROWN: Not by the State.

12 THE COURT: By the defense?

13 MS. BOLEN: No, ma'am.

14 THE COURT: If you will come and look at the
15 indictments. Make sure that they're -- it's correct
16 and it's appropriate to send back. And, also, there
17 were three exhibits -- one, two, and four?

18 MR. SHEEK: Correct.

19 THE COURT: You can give it to them. You may
20 tell them they may begin their deliberations, and
21 I'll come excuse the alternate in just a moment.

22 We'll stand in recess until we hear from them
23 further.

24 (At 5:30 p.m., the jury began their
25 deliberations.)

1 (At 6:21 p.m., a verdict was reached.)

2 THE COURT: I understand that they've reached a
3 verdict. Is there anything we need to take up
4 before we bring the jury in.

5 MR. BROWN: Not from the State.

6 MS. BOLEN: No, ma'am.

7 THE COURT: Will you ask the jury to come in,
8 please?

9 (At 6:23 p.m., the jury entered the courtroom.)

10 THE COURT: Mr. Foreman, I understand that
11 y'all have reached a verdict; is that correct?

12 MR. FOREMAN: That's correct.

13 THE COURT: If you'd pass that to the bailiff.
14 Thank you.

15 MR. FOREMAN: (Complying.)

16 THE COURT: Madam clerk, if you'd please
17 publish the verdicts.

18 VERDICT

19 THE CLERK: The State of South Carolina, County
20 of Abbeville, Indictment 16GS01-411, State v.
21 Terrance Leman Calloway, indictment for kidnapping;
22 verdict, guilty. Tracy Chiles, Foreman.

23 The State of South Carolina, County of
24 Abbeville, Indictment 16GS01-433, the State v.
25 Terrance Leman Calloway, indictment for criminal

1 sexual conduct; verdict, not guilty. Tracy Chiles,
2 Foreman.

3 Mr. Foreman, ladies and gentlemen of the jury,
4 is this your verdict so say you all? Please signify
5 by raising your right hand.

6 THE JURORS: (Indicating.)

7 THE COURT: Thank you. Do the parties wish to
8 pole the jurors?

9 MR. BROWN: The State does not.

10 MS. BOLEN: No, ma'am.

11 THE COURT: Ladies and gentlemen, the Court's
12 not concerned with your verdict so much as I'm
13 concerned with the manner in which you reach your
14 verdict. You listened to the evidence as it was
15 presented throughout the course of this trial. You
16 also listened to my instructions to you as to the
17 law. You determined the facts in accordance with
18 your view of what that showed, and you applied the
19 law as I instructed you, and, therefore, you have
20 arrived at your verdict and no one can complain
21 about the verdict that you've reached and you've
22 fully discharged your duty and your responsibility
23 as jurors.

24 On behalf of the State and Abbeville County,
25 I'd like to thank you very much for your willingness

1 ~~to~~ to serve as jurors this week. I am pleased to tell
2 you today that your service is concluded for the
3 week, so you don't have to call back after 6:00,
4 which it's after 6:00 now, and you don't have to
5 report back tomorrow like I told some of you
6 yesterday, but I want to thank you very much for
7 your service. I appreciate your service here for
8 Abbeville County. You are excused.

9 "Return to work" forms, if you need them,
10 she'll meet you at the back door. Someone will meet
11 you at the back door, and your checks will be in the
12 mail.

13 (At 6:30 p.m., the jury was excused from
14 further service.)

15 THE COURT: Are there any motions with respect
16 to post-trial motions?

17 MR. BROWN: Not from the State, Your Honor.

18 MS. BOLEN: Your Honor, I don't believe we have
19 any post-trial motions either at this time.

20 THE COURT: Okay. And I believe the sentencing
21 sheet has already been prepared.

22 MR. BROWN: That's correct, Your Honor.

23 THE COURT: Okay. Well, Mr. Calloway has been
24 convicted of kidnapping, which carries up to
25 30 years imprisonment. It's considered to be a

1 violent offense as well as a much serious offense
2 which constitutes a strike. And so I'll hear from
3 the State in terms of additional information related
4 to sentencing.

5 MR. BROWN: Thank you, Your Honor.

6 Your Honor, Mr. Calloway's got an extensive
7 record going back to 1993.

8 Mr. Calloway was charged and convicted of
9 assault and battery of a high and aggravated nature.
10 Received a probationary sentence at that time. He
11 had a custody status for his violation, and he was
12 revoked for several months on that charge.

13 1997, he was convicted of a criminal sexual
14 conduct second degree and also manufacturing or
15 possession of controlled substance, possession of
16 mar -- possession of marijuana, 1997. I've already
17 said the criminal sexual conduct second degree, but
18 he also had a criminal sexual contact third degree
19 which he received a seven-year sentence. He also
20 had a resisting arrest in 1997. The criminal sexual
21 conduct, second offense, was a violent offense at
22 that time. And I have passed forward a certified
23 copy of that indictment from here in Abbeville
24 County.

25 Malicious injury to property, date was 1998.

1 And simple assault and battery, 1998.

2 Criminal domestic violence or simple assault
3 and battery, 2003.

4 A criminal domestic violence, first offense, in
5 2004. Again, he was convicted of assault and
6 battery of a high and aggravated nature. It was --
7 I believe it was a 2004 charge; sentenced in 2006.
8 Convicted ten years upon the service of four years
9 with probation for five years. That also looks --
10 I believe he had a custody status on that charge
11 from, 2006.

12 In 2009, has a violation of parole and was sent
13 to prison for a longer period of time on that
14 assault and battery, high and aggravated nature.

15 Your Honor, Mr. Calloway has been in and out of
16 the court system, been in and out of the judicial --
17 out of the Department of Corrections. And with his
18 record and already having a violent crime for
19 criminal sexual conduct second degree, criminal
20 sexual conduct third degree, and this charge of
21 kidnapping surrounding a sexual assault, and I know
22 the jury found him not guilty on those, but revolved
23 around the same facts and traumatized the victim in
24 this case.

25 And, Your Honor, the State would recommend a

1 very substantial and lengthy prison sentence for Mr.
2 Calloway. He has proved to be a danger to the
3 community here in Abbeville County and would be a
4 danger to the State if he's released and left on the
5 street, so we'd ask for a very lengthy prison
6 sentence.

7 THE COURT: Mr. Calloway, are you employed?

8 THE DEFENDANT: Not right now.

9 THE COURT: How far did you go in school?

10 THE DEFENDANT: Twelfth grade.

11 THE COURT: You graduated?

12 THE DEFENDANT: Yes, ma'am.

13 THE COURT: Have you ever been treated for or
14 received counseling for any substance abuse or
15 mental health disorders?

16 THE DEFENDANT: No, ma'am.

17 THE COURT: And, Mr. Calloway, do you
18 understand that as I stated earlier, this is
19 considered to be a most serious offense which
20 constitutes a strike. And so if you were
21 subsequently convicted of other charges that carry a
22 serious or a most serious designation, then at some
23 particular point the State could seek to -- will
24 serve you with notice that they intend to seek a
25 life without the possibility of parole. Do you

1 ~~understand that?~~

2 THE DEFENDANT: Yes, ma'am.

3 THE COURT: And I understand that you're
4 already required to register; is that correct?

5 THE DEFENDANT: Yes, ma'am.

6 THE COURT: Yes, Ms. Bolen.

7 MS. BOLEN: Thank you, Your Honor. Terrance is
8 45 years old. He is from this area. Lived here his
9 whole life. Did go to high school here. Lives with
10 his mother and his brother. He's worked in
11 construction.

12 Your Honor, he is -- it's worth noting a number
13 of things based on what the State brought up. His
14 significant criminal history is quite old. It's
15 from I believe 1997. In the past, he does have that
16 ABHAN conviction which I believe is under the common
17 law misdemeanor ABHAN, but other than that, he
18 doesn't have any recent substantial charges, Your
19 Honor. He has been out on bond for the past about
20 three years.

21 THE DEFENDANT: Yeah, three.

22 MS. BOLEN: He served some time in the local
23 detention center, Your Honor, and then he bonded
24 out. He's been out on bond for quite a while, and
25 he's had a GPS monitor on as a condition of his

1 bond. And there have been no problems at all, Your
2 Honor. We've never had any kind of bond revocation.
3 There's never been, you know, any allegations of him
4 violating his bond. There's never been any problem
5 with the GPS. I think he has done well in the past
6 couple years. I don't -- I don't believe he's
7 gotten any charges since this one. And I --
8 contrary to what the State says, I don't find him to
9 be a dangerous person or a danger to the community.

10 Your Honor, I understand the jury's verdict and
11 I was taking a minute to look up the inconsistent
12 verdicts. And I don't know that there's an
13 inconsistent verdict in this situation, but I think
14 it is very worth noting that they did not find him
15 guilty of the CSC. They found him guilty of the
16 kidnapping. And taking the facts in the light most
17 favorable to the -- to the State, the facts upon
18 which they found him guilty of kidnapping were just
19 not very egregious.

20 The facts presenting with respect to the
21 kidnapping were basically he picked her up at the
22 club. She got in the car voluntarily. He took a
23 turn. It was not the one she was expecting to take,
24 and then had her in the car for some period of time,
25 not exceeding about one hour.

1. ~~There's a great sentencing range in~~
2 kidnappings, Your Honor. And I think, you know,
3 there's also a great amount of range in what
4 constitutes a kidnapping in the statutes, the
5 different sorts of action that can constitute a
6 kidnapping. And I think there's -- having done the
7 case law research and just being part of society and
8 seeing on the news, there are kidnappings that are
9 far, far more egregious than this one.

10 And, again, going on what the jury found him
11 guilty of and the facts presented, you're talking
12 about a situation where they found him guilty of
13 after she got in the car voluntarily, had her in the
14 car for maybe an hour, maybe a little more. And I
15 think the sentencing range for kidnapping is there
16 to cover situations like this as opposed to far more
17 egregious situations where someone is abducted by
18 force with weapons and kept for a period of time.

19 So we'd ask Your Honor to come in on the lower
20 end of the sentencing range. We're actually asking
21 Your Honor to consider a suspended sentence given
22 the amount of time he did in the jail. I believe he
23 was in the jail for about -- about one year, Your
24 Honor. And he's been on house arrest, and I believe
25 that the house arrest statute leaves it up to the

1 judge's discretion whether the time he's been out on
2 bond can be counted towards his sentence. We would
3 ask that it would.

4 But we'd ask that you take into consideration
5 the fact that his history is quite old, that he's
6 done very well in the past couple of years, no
7 incidents other than this, that this is clearly
8 something the jury, you know, they -- they did not
9 find him guilty of what I would call the principle
10 offense, the sort of driving charge here. And I'd
11 ask that you take into consideration the broadness
12 of the kidnapping statute both in terms of what
13 actions constitute kidnaping and in terms of
14 sentencing range, and that you consider the lack of
15 egregiousness about this particular kidnapping. And
16 we ask that you consider a suspended sentence or one
17 on the lower end of the sentencing range, Your
18 Honor.

19 MR. BROWN: Your Honor, just in response to the
20 driving offense. Kidnapping classified as a
21 violent, most serious, just as criminal sexual
22 conduct first degree. Both carry the same penalties
23 from 0 to 30 years. And this one also, the
24 kidnapping, we would ask that it would be noted that
25 it is -- or does have something, and I know the jury

1 ~~would be left up~~ here to your discretion obviously
2 on that about being associated with a sexual offense
3 or attempt.

4 We're not sure what the jury discussed about
5 that, but would make note of that, that it does
6 evolve around sexual offense, even though they did
7 not find him guilty of that offense along with the
8 kidnapping.

9 And, Your Honor, just in response to, again,
10 credit for the GPS monitoring. We did have multiple
11 bond hearings with regard to his GPS and where he
12 could go. He was allowed to travel a good bit while
13 on monitoring, so it would be the State's position
14 that he was not under house arrest and that should
15 not be credited as jail time on that.

16 MS. BOLEN: Well, Your Honor, respond to that.
17 When the say he was allowed to travel a good bit, we
18 had a bond hearing. He lived in Due West. He asked
19 the judge for permission to travel to Greenwood
20 which is about 20 minutes away to help his
21 father-in-law mowing the lawn once or twice a week.
22 So it's not that he was traveling all over the state
23 or going out of the state or going out of the
24 country.

25 And I think, again, that shows some of his

1 character that he came to court and asked
2 specifically, you know, "Before I go and do this, do
3 I have permission to leave and go to Greenwood to
4 the next county over to help out a family member?"

5 THE COURT: And when was he arrested?

6 MS. BOLEN: Your Honor, he was arrested on
7 December 30th of 2012, and he bonded out on
8 January 7th of 2014.

9 THE CLERK: December 7th of 2013. You have to
10 go by the actual --

11 MS. BOLEN: I was reading the public index,
12 Your Honor. Apparently ---

13 MR. BROWN: I believe it's 363 days he was in
14 the Abbeville County Detention Center.

15 THE COURT: So he was arrested on the 27th, or
16 he made bond on the 27th?

17 MS. BOLEN: Yes.

18 THE CLERK: Yes, ma'am.

19 THE COURT: January 27th?

20 THE CLERK: No. December the 27th.

21 THE COURT: When was he arrested?

22 MS. BOLEN: December 30th of 2012.

23 THE COURT: And when did he make bond?

24 MS. CLERK: December 27th of 2013.

25 THE COURT: Thank you. And he was on -- were

1 the conditions for bond was that he have a GPS?

2 MS. BOLEN: Yes, ma'am.

3 THE COURT: Mr. Calloway, when were you
4 released from the Department of Corrections?

5 THE DEFENDANT: In 2009, I believe.

6 THE COURT: You were released in 2009? And
7 that's ---

8 THE DEFENDANT: Oh, 2001 for the CSC.

9 THE COURT: No, sir. I mean, from what I
10 understand, you were convicted of assault and
11 battery of a high and aggravated nature. And in
12 2006, that there was a parole revocation or
13 something in 2009. Was that correct or not correct?

14 THE DEFENDANT: Yes. That's correct, I think.

15 MR. BROWN: Your Honor, I can pass forward the
16 history. It's hard to read what the actual sentence
17 was on that, but it says, "VOP zero to five. It
18 looks like one year, so it looks like it's a one
19 year additional year to 2009. So that was
20 December 16, 2009, which would then put it at 2010.

21 THE DEFENDANT: 2010.

22 THE COURT: Okay. From what I understand,
23 there were some charges back in 1997 that involved a
24 CSC in which there was a negotiated plea pursuant to
25 Alford to a seven-year sentence. There was some --

1 and that was when -- the charges after that, with
2 the exception of the 2006 ABHAN and the CDV where
3 some concerns with the ABHAN, it would've been under
4 the -- the old misdemeanor, ten-year misdemeanor.

5 I've been told that he was sentenced to ten
6 years, suspended upon the service of four years, and
7 five years probation, that the parole was revoked
8 for one year in 2009, so he was released in 2010.

9 There were no other incidents until these --
10 this arrest on these charges in 2013. He was
11 charged with a CSC first, as well as the kidnapping.

12 The jury found him not guilty of the criminal
13 sexual conduct in other words. And the reasons are
14 unknown whether they found that there was a sexual
15 battery, but not the other elements were met or
16 perhaps there was no sexual battery, but they found
17 him guilty on the kidnapping, which is not
18 inconsistent given what the allegations are related
19 to the kidnapping.

20 I understand the State's position that he has a
21 significant criminal history. He's proven in the
22 past to be a danger to the community. Since he's
23 been released on bond in 2014, he's been on GPS
24 monitoring. His bond was modified several times
25 from allowing him to move from Greenville to Due

1 ~~West and to then go to -- I'm sorry -- Greenville~~
2 with his wife to go to Due West to live with his
3 mother, and then to be able to go to Greenwood
4 several times a week for purposes of doing some
5 work.

6 I've heard the arguments that both of the
7 crimes with which he's been charged were violent
8 crimes and are both considered to be serious crimes
9 and -- and that is correct. I do, however, consider
10 the character in terms of the allegations, and I
11 think there is a difference between the allegations
12 of a CSC and the allegation of kidnapping.

13 I do understand the testimony of the victim in
14 this case and what she testified to on the witness
15 stand. And I understand the State's argument about
16 the fact that he should be put away for a long
17 period of time. Respectfully, I would disagree with
18 that given the verdict of the jury in this
19 particular case.

20 I would agree with the defense that the -- in
21 my view, the most egregious offense would've been
22 the CSC first. Although, both crimes are
23 designated. I understand why they both are because
24 they require some assault on a victim.

25 In this particular case, based upon the jury's

1 verdict with the kidnapping, and we don't go behind
2 what they were thinking or why they came up with
3 their conclusions with the kidnapping. In this
4 particular case, while it's unlawful, it was not as
5 egregious as the criminal sexual conduct.

6 So having said all that, Mr. Calloway, I've
7 considered all of your criminal history. I've
8 considered the State's request. I've considered
9 your attorney's request. I don't think that I would
10 give you credit for the time that you have spent
11 while you were incarcerated. I do not consider the
12 time that you were on GPS monitoring to really
13 satisfy the requirements of house arrest.

14 I don't believe that there is a -- at least
15 from what I saw, I did not see a house arrest that
16 was required. I saw restrictions on where you could
17 travel or whether or not you could leave the county
18 and whether -- I think the original conditions were
19 that you live in Greenville. Certainly, when you
20 moved to Due West, that had to have a court order to
21 require that change.

22 Apparently, there's not been any contact or
23 violations in connection with the GPS monitoring or
24 in connection with the bond. And taking that in
25 consideration in terms of what type of sentence to

1 ~~impose, but not to give you credit for that.~~

2 So, Mr. Calloway, I'm going to sentence you to
3 the Department of Corrections for a period of five
4 years. I give you credit for the time that you --
5 the one year that you've served. Good luck to you,
6 sir.

7 THE DEFENDANT: Yes, ma'am.

8 MS. BOLEN: Thank you, Your Honor.

9 THE COURT: And I've also made a notation that
10 there should be no contact with the victim upon your
11 release and as a condition of your parole. There
12 is -- actually, it's a no parole offense, 85 percent
13 time, so you'd be required to serve 85 percent of
14 your sentence that would be imposed before you'll be
15 eligible for release under the Community Supervision
16 Program. You're required to successfully complete
17 two years of that Community Supervision Program
18 before you'll be released from any further duties
19 and responsibilities as it relets to that sentence.
20 Do you understand?

21 THE DEFENDANT: Yes, ma'am.

22 THE COURT: Good luck to you.

23 THE DEFENDANT: Thank you.

24 (The proceedings concluded at 7:00 p.m.)

25

1 C E R T I F I C A T E O F R E P O R T E R

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF ABBEVILLE

5

6 I, the undersigned, Lisa Scott, Circuit Court
7 Reporter for the Eighth Judicial Circuit of the
8 State of South Carolina, do hereby certify that the
9 foregoing is a true, accurate and complete
10 transcript of record of all the proceedings had and
11 the evidence introduced in the trial of the
12 captioned cause, relative to appeal in the Criminal
13 Court for Abbeville County, South Carolina, on the
14 31st day of August, 2016.

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

17

18

November 27, 2016

19

20

/s/Lisa Scott

21

22

Lisa Scott
Circuit Court Reporter

23

24

25

WITNESSES

Kenneth Smith
Abbeville County Sheriff

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

COURT OF GENERAL SESSIONS

August Term, 2016

Indictment # 16CS01-0411

WARRANT NUMBER

2015100100100080

TRUE BILL

Caroline Blackwell

Foreman of the Grand Jury

Date: AUG 26 2016

THE STATE

vs.
Terrance Lenna Calloway

VERDICT

Guilty

Tracy Chiles
Foreman 8/31/16

INDICTMENT FOR

KIDNAPPING
§16-03-0910

CDR: 0095

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

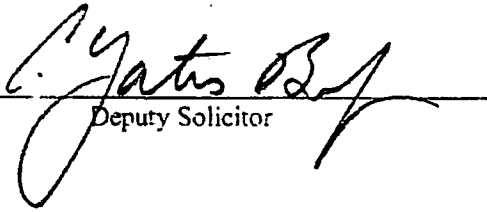
INDICTMENT FOR

KIDNAPPING
§16-03-0910

At a Court of General Sessions, convened on the 26th day of August, 2016, the Grand Jurors of Abbeville County present upon their oath:

That Terrance Leman Calaway, on or about August 3, 2012, in Abbeville County, willfully and unlawfully with criminal intent, seize, confine, inveigle, decoy, kidnap, abduct or carry away Sherry Tameeka Williams without authority of law, in violation of Section 16-3-910 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 cases made and provided.


Deputy Solicitor

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Abbeville
 STATE VS.
Terrance Leman Calloway

INDICTMENT CASE#: 16GS01-0411A.W.#: 2015D0100100080Date of Offense: 8 3 2012S.C. Code: 16-03-0910CDR Code #: 0095

AKA:

Race: AFRICAN AME Sex: M Age: 45DOB: 1970 SS#: Address: Moffett StreetCity/State/Zip: Due West, SC 29639DL#: SID#: *CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Kidnapping; 0-30 yrsin violation of 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ 17-25-45

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Brown, C. Yates286.07

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed yearsand/or to pay a fine of \$; provided that upon the service of days/months/years and/or paymentof \$; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code 24-13-40 to be calculated and applied by the State Department of Corrections. 363 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient:

*Fine:

14-1-206 (Assessments 107.5%) \$ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.0014-1-211(A)(2) (DUI Surcharge) \$100 \$ 56-5-2995 (DUI Assessment) \$12 \$ 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def. Probation) \$500 \$ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.0014-1-213 (Drug Court Surcharge) \$150 \$ 50-21-114(B)(1) Breath Test Fee) \$50 \$ 56-5-2942(I) (Vehicle Assessment) \$10 ea \$ 3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 126.75

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA 217 (07/2016)

Shandal B BoggsLisa Scott

Presiding Judge

Judge Code:

Sentence Date:

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W.F. beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning \$ paid to Public Defender FundOther: no contact with the victimupon release

☐ Appointed PD or appointed other counsel.
 Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Al Anna Lee21188/31/2016

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,



Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of August, 2017.

RECEIVED

AUG 11 2017

SC Court of Appeals