

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Williamsburg County

Honorable D. Craig Brown, Circuit Court Judge

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S.C. SUPREME COURT

DENNIS WRIGHT,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO. 2017-001243

APPENDIX

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State of South Carolina)
)
County of Sumter)
)

The State of South Carolina,
Plaintiffs

vs.

Dennis Wright,
Defendant

Transcript of Record
2009-GS-45-01999

BEFORE THE HONORABLE Clifton Newman, Judge.

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

Ms. Kimberly Barr,
Assistant Solicitor for the State

Mr. Charles David Barr,
Attorney for Defendant

Margaret T. Sullivan,
Court Reporter

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1 MS. BARR: Judge, we would call the case
2 of the State versus Dennis Wright. Indictment No.
3 2009-GS-45-199. Mr. Wright was indicted by the
4 Grand Jury on August 20th 2009, charged with
5 criminal sexual conduct in the first degree. And
6 abuse of a vulnerable adult. Mr. Wright is
7 represented by Mr. Barr and the State is ready for
8 trial. We have a matter we need to take up at the
9 bench.

10 THE COURT: All right.

11 (Whereupon, the attorneys confer at the
12 bench with the judge.)

13 THE COURT: Ladies and gentlemen, the
14 State has called for trial the case of the State
15 versus Dennis Wright. Mr. Wright was indicted by
16 the grand jury for the offenses of criminal sexual
17 conduct in the first degree and abuse of a
18 vulnerable adult. He has pled not guilty to these
19 two charges. He is presumed to be not guilty of
20 these charges. He cannot be found guilty of these
21 charges unless the State represents evidence which
22 convinces the jury of his guilt beyond a
23 reasonable doubt.

24 Mr. Wright is in court with counsel. And
25 Mr. Barr, if you would introduce yourself. And,

1 Mr. Wright, if you will stand as well.

2 MR. BARR: Good evening, Ladies and
3 gentlemen. I am Charles David Barr. I practice
4 law here in Kingstree. My office is 319 West Main
5 Street. And I practice there with my brother
6 Verdell Barr.

7 THE COURT: Mr. Wright, you may be seated.
8 The State is represented through the Solicitor's
9 Office. Ms. Barr, and, Mr. Harvin.

10 MS. BARR: Thank you, Judge. Please the
11 Court. Good afternoon, Ladies and gentlemen. My
12 name is Kimberly Barr. I along with my
13 co-counsel, Doward Harvin, will be prosecuting
14 the case. In addition to being an assistant
15 solicitor, we also have a private firm practice
16 with Ronnie Sabb and Helen McFadden.

17 THE COURT: Ladies and gentlemen of the
18 jury, I have a number of questions to ask you.
19 And I want you to remember the oath that you took
20 earlier to truthfully respond to all questions
21 that you are asked. It is essential for the State
22 and the Defense in the jury selection process of
23 getting a fair and impartial juror, and to have
24 the ability to select a fair and impartial juror;
25 to have a complete and accurate information from

1 the perspective jurors. If there are questions
2 that might apply to you, you must disclose the
3 information consistent with the oath that you
4 took.

5 Now people who may testify in this case
6 include the following witnesses. And if you are
7 here, I would like for you to stand and face the
8 jury panel. Investigator Pamela Jean Lail.
9 Investigator Deborah Collins. Investigator, I am
10 sorry, Deputy Alex Edwards. Lieutenant Jeff
11 Scott. Sergeant Caressa Blunt. Dr. Kenneth
12 Faile. F-A-I-L-E. Lori Giles from Sled. And
13 Kimberly McGill from Sled. Azalee Mouzon.
14 Thank you very much. Edie Brooks. E-D-I-E
15 Brooks. Michael Mouzon. Right here. Emma
16 Barksdale.

17 If any member of the jury panel is
18 related by blood or connected by marriage, if you
19 are a family member or close friends or associates
20 of Mr. Dennis Wright or with any of the witnesses
21 whose names I have called, please stand.

22 (Whereupon, no response.).

23 THE COURT: If you are a close friend,
24 relative or associate or a current or previous
25 client with the Third Circuit Solicitor's Office

1 or of Mr. Sabb, Ms. Barr, Mr. Harvin or Charles
2 David Barr or Mr. Verdell Barr. If so, please
3 stand. If any of them have represented any of
4 you. If the answer to the question is yes, please
5 stand. Not raise your hand. Please stand. Yes,
6 sir.

7 THE JUROR: Mr. Barr's brother did the
8 closing on my house.

9 THE COURT: Your name?

10 THE JUROR: Paul McKnight.

11 THE COURT: Thank you. Juror No. 168.

12 THE COURT: Yes, ma'am.

13 THE JUROR: Mr. Sabb did my divorce.

14 THE COURT: What is your name, please?

15 THE JUROR: Maggie Felder.

16 THE COURT: Thank you, Ms. Felder. If you
17 have any family members or close---

18 THE JUROR: Nelson Brock. Attorney Sabb
19 represented my husband.

20 THE COURT: If you have any family members
21 or close friends who are employed in law
22 enforcement or who work for the Williamsburg
23 County Sheriff's Department, or Sled, please
24 stand. Yes, ma'am.

25 THE JUROR: Attorney Barr closed a sale on

1 a house we had.

2 THE COURT: What is your name, please?

3 THE JUROR: Gladys Samuel.

4 THE COURT: Thank you, Ms. Samuel.

5 THE JUROR: My brother-in-law is a sled

6 agent.

7 THE COURT: And what is your name?

8 THE JUROR: Raymond Biles.

9 THE COURT: And his name is?

10 THE JUROR: Walter Staggers.

11 THE COURT: Mr. Staggers. Sled Agent

12 Staggers. Thank you. Yes, ma'am.

13 THE JUROR: My uncle is Richard McDowell

14 who works at the Sheriff's Department.

15 THE COURT: And your name is?

16 THE JUROR: Connie Wilson.

17 MR. BARR: I didn't get her last name.

18 THE COURT: Connie Wilson?

19 THE JUROR: Yes.

20 THE COURT: Yes, ma'am.

21 THE JUROR: I used to work with Genevieve

22 Fulton.

23 THE COURT: Genevieve Fulton. If any

24 member of the jury panel or any member of your

25 family has ever been -- has ever been the victim

1 of a criminal offense relating to an assault and
2 battery or a criminal sexual conduct if so, please
3 stand. If you or any member of your family have
4 ever been the victim or victims of a criminal
5 offense involving assault and battery or criminal
6 sexual conduct. If so, please stand. Yes,
7 ma'am.

8 THE JUROR: Not in this case, but a couple
9 of months ago, my husband was charged with rape.

10 THE COURT: And your name is?

11 THE JUROR: Nicole Cannon.

12 THE COURT: Thank you, Ms. Cannon. Yes,
13 ma'am.

14 THE JUROR: My nephew was involved in an
15 assault case I believe about a year ago.

16 THE COURT: And his name is?

17 THE JUROR: Tyrone Robinson.

18 THE COURT: Thank ma'am. yes, ma'am.

19 THE JUROR: Maggie Felder. My son was
20 charged with assault and battery.

21 THE COURT: Say that again, please.

22 THE JUROR: Maggie Felder. My son Adrian
23 Henderson was charged with assault and battery.

24 THE COURT: Thank you. Yes, ma'am.

25 THE JUROR: My granddaughter was attacked.

1 THE COURT: And your name, please?

2 THE JUROR: My name is Dorothy Epps.

3 THE COURT: Yes, ma'am.

4 THE JUROR: Bertha Campbell. And my
5 husband has been assaulted by my sister.

6 THE COURT: Thank you. If any member of
7 the jury panel or immediate family is employed by
8 a Social Services Agency; such as, D.S.S. or a
9 similar agency, please stand.

10 (Whereupon, no response.)

11 THE COURT: If any member of the jury
12 panel or any close personal friend or family
13 member has ever been the victim of a violent
14 crime, if so, please stand.

15 (Whereupon, no response.)

16 THE COURT: Violent crimes being rape,
17 robbery, murder, assault and battery with intent
18 to kill, burglary. If you or any close friend or
19 any family member has ever been the victim of a
20 violent crime. If so, please stand.

21 You don't have to repeat standing if you
22 stood already.

23 THE JUROR: Your Honor, my grandson is in
24 jail waiting for a hearing on breaking and
25 entering charges.

1 THE COURT: And that's Mr. -- and your
2 name is?

3 THE JUROR: Kay Crosby.

4 THE COURT: Crosby. Thank you. Now,
5 Ladies and gentlemen, if you know of any reason
6 whatsoever why you cannot give both the State of
7 South Carolina and the Defendant a fair and
8 impartial trial, if you know of any reason why you
9 cannot follow the law as I will instruct you, if
10 so, please stand.

11 (Whereupon, no response.)

12 THE COURT: If you know of any reason why
13 you cannot be selected to sit as a juror in this
14 case, please stand.

15 (Whereupon, no response.)

16 THE COURT: I will give you some names of
17 additional and perspective or potential witnesses.
18 And they include, and if any of those people are
19 here, I need you to stand. Shirley Bogan, Dorothy
20 Smith, Jazz Mouzon, Neal Sapp, Sandra Lewis,
21 Gloria Hannah, Dorothy Rhames, and Ernie Mouzon.

22 If you are a friend or associate or
23 acquaintance to any of those possible witnesses,
24 please stand.

25 (Whereupon, no response.)

1 THE COURT: Any additional questions
2 proposed by to State or the Defense?

3 MS. BARR: None from the State, Your
4 Honor.

5 MR. BARR: No, sir, Judge.

6 THE COURT: Ladies and gentlemen, we will
7 proceed with jury selection. The strikes are 5
8 and 10.

9 THE CLERK: Juror No. 138 Sheron Pickett
10 (f-b) state struck. No. 161 Coretha Singletary
11 (f-b) accepted. Juror No. 152 Carl Scott (m-b)
12 accepted. No. 17 Samuel Bradley (m-b) accepted.
13 No. 54 Elliott Floyd (m-w) defense struck.
14 No. 187 Yolanda Williams (f-b) defense struck.
15 No. 116 Paul McKnight (m-b) state struck. No. 34
16 Cynthia Crooks (f-w) defense struck. No. 104
17 Joann McClary (f-w) accepted. No. 166 Norman
18 Staggers (m-b) accepted. No. 148 Calvin Rouse
19 (m-b) accepted. Juror No. 82 Millicent Jackson
20 (f-b) defense struck. Juror 18 Angie Brown (f-b)
21 state struck. 195 Jennifer Wilson (f-b) defense
22 struck. Juror No. 57 Genevieve Fulton (f-b)
23 defense struck. 106 Towanda McClary (f-b)
24 accepted. 156 Aaron Shaw (m-b) accepted. No 35
25 Katie Crosby (f-w) state struck. Juror No. 190

1 Thomas G. Willis (m-w) accepted. No. 91 Mary
2 Jordan (f-w) defense struck. 101 Bernard Mathews
3 (m-b) accepted. 134 Brandon Owens (m-w) accepted.
4 Juror 139 Calvin Powell (m-w) state struck. No.
5 48 Dorothy Epps (f-b) accepted. Juror No. 74
6 Justin Hammett (m-b) accepted.

7 THE CLERK: Do you want 1 or 2 alternates,
8 Your Honor?

9 THE COURT: Why don't we try one more.

10 THE CLERK: 127 James Morris (m-w)
11 accepted.

12 THE COURT: Any matters of law regarding
13 jury selection?

14 MR. BARR: Not on behalf of the State,
15 Your Honor.

16 MR. BARR: No, sir.

17 THE COURT: Ladies and gentlemen, you have
18 been selected to be the jury in the trial of this
19 case. Ladies and gentlemen, those of you who are
20 not selected, you are to free to go today and
21 tomorrow. We need you to call back after 6 p.m.
22 tomorrow to find out what is next. You are free
23 to go today and all day tomorrow. Call back after
24 6 tomorrow for further instructions. Thank you
25 very much.

1 Ladies and gentlemen, those of you who
2 were selected, I am going to have you go to the
3 jury room for just a few minutes to get acquainted
4 while I speak with the lawyers for just a moment.
5 I am going to have you all come back and let you
6 all leave shortly. And I tell you what time you
7 need to come back. For the time being, go to the
8 jury room. Please do not discuss the case while
9 you are in the jury room.

10 (Whereupon, the following takes place
11 outside the presence of the jury.)

12 THE COURT: As far as the schedule of this
13 case, Ms. Barr? First of all, before we do that,
14 there were a couple of names on the jury list that
15 could not be used. Connie L. Wilson No. 191.

16 THE CLERK: Ms. Wilson has a doctor's
17 appointment on Wednesday.

18 THE COURT: She was not used for that
19 reason. And Juror No. 87 Levy Johnson.

20 THE CLERK: I was informed by my court
21 bailiff, Ms. Canty, that he was highly
22 intoxicated. He left did not return.

23 THE COURT: Any objection to those jurors
24 not being used?

25 MS. BARR: Not from the State.

1 MR. BARR: No.

2 THE COURT: Once we pull a strike sheet,
3 the record has to reflect what happened with every
4 juror. Now the scheduling I was talking about,
5 asking about.

6 MS. BARR: Yes, sir, judge, if you are
7 inclined to start court at 9:30, we would ask to
8 have this jury to come back at 10. Or the
9 scheduling to have them start or come back at
10 10:30. There are a couple of matters that we need
11 to take up outside the presence of the jury.

12 THE COURT: Any problem with the schedule,
13 Mr. Barr?

14 MR. BARR: No, sir.

15 THE COURT: We are going to let this jury
16 panel go for the balance of the day. We will have
17 them come back at 10:30 tomorrow morning.

18 MS. BARR: Judge, I have got a matter on
19 this particular case.

20 THE COURT: All right.

21 MS. BARR: It concerns the indictment.
22 Your Honor, I believe Count 1 he is charged with
23 CSC in the first degree under Section 16-3-652.
24 And, Your Honor, in the narrative under Count 1,
25 it indicates that the defendant did in

1 Williamsburg County, February 15th and February
2 22nd commit the offense of criminal sexual conduct
3 in the second degree. Judge, the word second is
4 actually a typographical error. Your Honor, you
5 can see on the front page of the indictment, as
6 well as the nature of the offense; is that, it is
7 a CSC first allegation.

8 In addition, Judge, when he was arrested,
9 he was charged with criminal sexual conduct in the
10 first degree. So that's simply a clerical error.
11 And, Judge, we would move to amend the indictment
12 to reflect that that should be CSC in the first
13 degree, rather than the second.

14 THE COURT: Mr. Barr.

15 MR. BARR: Your Honor, I think the
16 substance of it would be the difference between
17 aggravated coercion because---

18 MS. BARR: Aggravated force.

19 MR. BARR: ---aggravated force. Our
20 position with respect to proof, that I would
21 respectfully say, I would expect them to prove
22 what is alleged in the body of the indictment.
23 And, of course, with respect to notice, it would
24 be our position that we have notice of what has
25 been alleged in the indictment which charges

1 second degree CSC. Which as a element of the
2 offense of second degree CSC, requires the sexual
3 battery, and of course the aggravated, to be
4 accomplished by aggravated coercion.

5 Now I don't know that if it is a simple
6 typo, I can't go along with that. Because It
7 really substantiates the difference between two
8 degrees of criminal sexual conduct. However, if
9 the court does permit me in a minute, and I think
10 I am required. Then I certainly could understand
11 that. I am not going to consent to something that
12 actually changes the substantive charge.

13 THE COURT: Well he can get up to 10 years
14 as well.

15 MR. BARR: Yes, sir.

16 THE COURT: The indictment says criminal
17 sexual conduct in the first degree under 16-3-652.
18 Which is the offense of criminal sexual conduct in
19 the first degree. Then the body says that he
20 committed criminal sexual conduct in the second
21 degree; in that, he did engage in sexual battery
22 with the victim under the use of aggravated force
23 in violation of 16-3-652.

24 Under 16-3-652, it says that a person is
25 guilty of criminal sexual conduct in the first

1 degree if the actor engages in a sexual battery
2 with the victim and the actor uses aggravated
3 force to accomplish the sexual battery. So the
4 allegation of the use of aggravated force, in the
5 body of the indictment would make it -- would make
6 the offense a first degree criminal sexual
7 conduct.

8 Let's see. Criminal sexual conduct in the
9 second degree is Section 16-3-653. Not what he is
10 indicted for. It says a person is guilty of
11 second degree CSC if they use aggravated coercion
12 to accomplish the sexual battery. So clearly
13 everything relating to this indictment including
14 all the captions and code sections and all that,
15 clearly indicate that he is accused of criminal
16 sexual conduct in the first degree. Except for
17 the wording second degree in the body of the
18 Indictment. And whether or not the impact of that
19 is considering his 10-year degree on a sentence is
20 such that the state should not allowed to amend.
21 Only the State will need to study that more to see
22 what the courts have said regarding cases on that
23 issue. And we can talk about that in tomorrow
24 morning.

25 MR. BARR: Thank you, Judge.

1 THE COURT: Let's bring them. As far as
2 the defendant being in custody, what's the story?

3 MR. BARR: Judge, I don't think the jury
4 has been sworn yet, have they?

5 THE COURT: No.

6 MS. BARR: Judge, we take the position
7 that the case has been called for trial, and the
8 defendant ought to be in custody.

9 MR. BARR: Judge, the defendant has been
10 here from I think we initially were going to try
11 this case, since 2007.

12 MS. BARR: No, it hasn't been that long.

13 MR. BARR: It hasn't been that long?

14 MS. BARR: No. It happened 18 months ago.

15 MR. BARR: It's been a long time. I don't
16 think he has ever missed one of your roll calls.
17 Moreover, inasmuch as, while you call the case,
18 jeopardy is not attached because there has been
19 no swearing the jury.

20 So it would simply be our position, judge,
21 they don't have to call this case. They can call
22 another case. So unless the defendant is in a
23 position where jeopardy has attached, it would be
24 our position that there would be no need to cancel
25 his bond. And he would be entitled to remain on

1 the bond that he is on until such time as his case
2 has been called or the jury is sworn.

3 THE COURT: Well the I guess that's why we
4 debate about when a bondsman goes off the bond.
5 In most instances, the bondsman consider their job
6 done when they deliver the person to court for
7 trial. And, of course, once the trial starts,
8 it's clear the bond is up unless there is some
9 order by the court based on the consent of the
10 bonding company to stay on the bond throughout the
11 trial. We will revisit the issue tomorrow, and we
12 will see where it stands. But he won't be in
13 custody tonight.

14 MR. BARR: Thank you, Judge.

15 THE COURT: Now let's bring the jury in
16 so we can let them go.

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

19 THE COURT: Ladies and gentlemen, we are
20 going to let you all go. We need you back at
21 10:30 tomorrow morning. It is important to be
22 here at 10:30. Is there anyone that can't be here
23 at 10:30 tomorrow morning? Thank you very much.
24 We will see you all tomorrow morning at 10:30.
25 If you will come to report to the jury room.

1 Please do not come to the courtroom at all during
2 the entire case. Come directly into the jury
3 room. And when you come, come directly to the
4 jury room so you won't be exposed to anyone
5 talking about the case outside the jury room.
6 Thank you very much. And we will see you all
7 tomorrow.

8 (Whereupon, the jury is dismissed at 5:15
9 p.m.)

10 (Whereupon, the trial commences at 10:30
11 a.m. on Tuesday, October 12, 2010.)

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

14 THE COURT: We have one juror who sent a
15 note after getting on the jury about being the
16 victim of a violent crime. And having a family
17 member being murdered. I'm not sure how much in
18 talking with people out in the audience and you
19 are looking for them to respond to questions. You
20 almost have to beat them over the head to tell
21 them they must disclose information before getting
22 on a jury. As opposed to getting on the jury and
23 then deciding it is time to disclose information.

24 But be that as it may, we have a juror Justin
25 Hammett. Let's have him come in and see what he has to

1 say .

2 (Whereupon, the juror comes into the
3 courtroom.)

4 THE COURT: Mr. Hammett, now that you are on the
5 jury, do you have more information to give us? If you
6 will talk louder so everyone can hear you.

7 MR. HAMMETT: I have an aunt that was murdered
8 in Maryland when I was about 5 years old.

9 THE COURT: Of course, we have a number of
10 people to choose from. The lawyers in the selecting the
11 jury, as I explained to the jury yesterday, of course,
12 that you must give this information so that the lawyers
13 would have the benefit of the information in picking the
14 jury. Now we have selected the jury, and we let
15 everyone go. And you've decided to come forward at this
16 time. It didn't occur to you earlier?

17 MR. HAMMETT: No, sir.

18 THE COURT: Who was that that was murdered?

19 MR. HAMMETT: My aunt.

20 THE COURT: Your aunt was murdered in Maryland?

21 MR. HAMMETT: Yes, sir.

22 THE COURT: And you were about 5 years old.

23 MR. HAMMETT: 5 years old.

24 THE COURT: I appreciate you bringing it up at
25 this point. Would that fact affect your ability to be a

1 fair and impartial juror in this case?

2 MR. HAMMETT: No, sir.

3 THE COURT: If you will stand right outside that
4 door for a minute and let me talk to the lawyers.

5 Ms. Barr?

6 MS. BARR: Judge, we don't have any objection to
7 the juror staying.

8 THE COURT: Mr. Barr?

9 MR. BARR: Judge, I have no objection.

10 THE COURT: Do you want him to stay on or
11 get off?

12 MR. BARR: We have no objection to him remaining
13 on the jury.

14 THE COURT: Very good. Let me have him stand in
15 that doorway one more time. Mr. Hannah.

16 MR. HANNAH: Yes, Your Honor.

17 THE COURT: Yes, sir. Thank you for bringing
18 that to our attention. You are still part of the jury.
19 Thank you for bringing that to our attention. If you
20 would join your other jurors. And we will have you all
21 come out in a few minutes. Anything else before we
22 bring them on?

23 MS. BARR: If Your Honor, please, the state
24 would like to add two witnesses if I may.

25 THE COURT: Who might they be?

1 MS. BARR: Michelle Hartley. H-A-R-T-L-E-Y.

2 And Ruth Hyatt. H-Y-A-T-T.

3 THE COURT: Michelle Hartley?

4 MS. BARR: Yes, sir.

5 THE COURT: And what are they going to
6 testify about?

7 MS. BARR: Victims of sexual assault.

8 THE COURT: Where are they from?

9 MS. BARR: Williamsburg County, Judge.

10 MR. BARR: Judge, I strenuously object to that.

11 The prosecution is certainly is held under the law.

12 Moreover, the jury was not voir dired. And the jury was
13 questioned regarding knowing these witnesses and
14 testifying. And I'm not even sure whether or not it's
15 always required. But all the names of the witnesses be
16 given in court. And the court inquired of the jury as
17 to whether they knew any of these witnesses. Whether
18 they had any relationship with them. Whether or not
19 they had any knowledge about any of the witnesses that
20 would prevent them from being able to come back with a
21 verdict. And this way, we have now two additional
22 witnesses who will giving testimony.

23 And for that reason, Your Honor, we would
24 respectfully take the position that it is too late for
25 the State's witness list.

1 THE COURT: Ms. Barr?

2 MS. BARR: Judge, I am not sure that I heard
3 Mr. Barr's first objection. And the second objection
4 is, this can be cured by questioning this jury as to
5 whether or not they know any of those perspective
6 witnesses. Judge, when the trial came here for the
7 defense, the main thing we call alibi witnesses, we're
8 always allowed in a case to present witnesses in a
9 trial. Who you may not know their name until you get to
10 that point where they put up a case. So, Judge, I think
11 oftentimes in a trial, additional witnesses have to be
12 brought forward in a case. And the jury has to be
13 polled as to whether or not they know.

14 Judge, we have 12 jurors and 2 alternates.
15 So I think if one of them has a problem with one
16 of the victims, is more likelihood there may be
17 witnesses we intend to call in rebut of the
18 defense of alibi. I certainly don't think that
19 counsel can simply say that it's too late.

20 MR. BARR: Your Honor, an alibi witness by the
21 State, I would respect that these witnesses will qualify
22 as an experts. And of course, as experts they will be
23 afforded the right to testify regarding their opinion.
24 I know that throughout the discovery requests that we be
25 given, request the names of all the experts as well as

1 the subject of what their opinion will be. And, Judge,
2 I thought we were provided that information. I know we
3 were provided. We are at the process that we are now.
4 And as I understand it, there are two experts being
5 called in this case to give their opinions. And those
6 are the only two experts we are aware of. And the only
7 two opinions that we have been provided concerning, or
8 subject to their opinion that we have been provided.

9 And now the prosecution is now saying we have
10 got some more people that they intend to call, and let
11 them give their opinions as experts. And quite frankly,
12 I do not see how they can give that kind of testimony
13 other than to be qualified as experts. And for that
14 reason, as well as the one that has already been
15 outlined, Your Honor, we would certainly think that it
16 would unfair to the defense at this point, to allow
17 opinion witnesses to come in and testify.

18 THE COURT: How are these witnesses now
19 related now to the State?

20 MS. BARR: Judge, on the first thing this
21 morning, and, Your Honor, if I may, now it is my fault.
22 And I will certainly accept responsibility of it. And,
23 Judge, I saw these cases so blunt. And in my mind it is
24 a given, and I understand why victim's don't report
25 sexual assault cases right away. And quite frankly, the

1 case I thought it would beneficial for the jury to hear.
2 it. And, Judge, one more thing. First of all, the
3 State has filed a notice for the Rule 5 Motion. There
4 is nothing in there about experts giving opinions or
5 anything like that.

6 I think under Rule 5 we are required to disclose
7 scientific reports. And we have done that. But these
8 folks did not generate any reports. There is no
9 requirement under Rule 5 or Brady to disclose or even
10 notify these defendant's that we are going to use expert
11 witnesses. Judge, we also have Dr. Kenneth Faile who is
12 on our list. And he has not been qualified as an
13 expert. And I certainly didn't hear any objections to
14 him. And so I think counsel's reliance on discovery,
15 his own discovery Motion, is in place. He is under no
16 obligation on our list to disclose existence of expert
17 witnesses who he had not prepared in his case.

18 MR. BARR: Judge, in fact we were supplied with
19 a summary, I believe. I would call it a summary, which
20 says it contains the opinions of Dr. Faile. And I am
21 very much aware. Quite frankly, I think the prosecution
22 has a problem with that opinion. But we will deal with
23 that issue at the appropriate time. But clearly, there
24 is an opinion that we have been provided with that
25 summarizes to the court that or summarize the opinion of

1 Dr. Faile.

2 And, judge, of course to suggest that the
3 defendant should not be entitled to a report or
4 substantive report from any expert under the rules, as
5 well as under Brady, clearly we consider that to be
6 somewhat dishonest. And the facts we are entitled to.

7 THE COURT: I am going to take a couple of
8 minutes. And I'm really concerned about this shotgun
9 approach to jury selection. And selecting a jury, and
10 and then adding, modifying indictments so we can add new
11 witnesses. We will take a couple of minutes. These two
12 witnesses, I think their testimony would be admitted as
13 expert testimony; that the defense would like to know
14 about and be informed to get an expert on rebuttal or
15 response. And would deprive the defendant of his right
16 to a fair trial to allow the state to include additional
17 witnesses, expert after the jury is sworn.

18 Anything else? Let's bring the jury.

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

21 THE COURT: Good morning. Ladies and gentlemen,
22 if you all would stand at this time and be sworn.

23 (Whereupon, the jury is sworn.)

24 THE COURT: Ladies and gentlemen, the case we
25 are about to try, is the case of Dennis Lee Wright. As

1 I told you yesterday, Mr. Wright has been indicted by
2 the Grand Jury and charged with criminal sexual conduct
3 first degree. And abuse of a vulnerable adult. He has
4 pled not guilty to these two charges. He is presumed to
5 be not guilty of these charges, and cannot be found
6 guilty unless the State presents evidence which
7 convinces each of you of his guilt beyond a reasonable
8 doubt. And that is the purpose of a trial to determine
9 if the State can meet its burden of proof.

10 Each of you plays a very important and
11 critical role in our judicial process. A person
12 who is accused of a crime has a right to a trial
13 by a jury. And each person summoned for jury
14 duty, has a constitutional right to serve on a
15 jury. And once selected by the parties, to make
16 judgment regarding guilt or innocence based on the
17 evidence presented during the trial. Because you
18 all play a very critical role in our judicial
19 process. Because of all the people who were
20 summoned for jury duty, out of all the other
21 people who live in Williamsburg County, all the
22 other people who live in South Carolina, out of
23 all the other people who live in the United
24 States, out of all the other people who live in
25 the world, only the 12 of you will deliberate and

1 decide the facts of this case. Therefore, it is
2 important to pay close attention to the testimony
3 and the evidence that is presented, so that at the
4 end of the process you will be in a position to
5 deliberate and to fairly and justly decide this
6 case.

7 Now just as only you can decide the facts of
8 this case, as the presiding judge, I am the sole judge
9 of the law of the case. And you must accept as correct,
10 the law as I state it to at this time during the trial
11 and in much greater detail at the end of the trial. I
12 cannot tell you what the facts are. And you cannot
13 disbelieve me as to what the law is or should be. And
14 your job is, will be, to take the law as I give it to
15 you and apply it to the facts as you find the facts to
16 be from the testimony of the witnesses who come in and
17 testify and from the evidence introduced. And then
18 reach your verdict, which should be a true and just
19 verdict under the solemn oath that you just took as
20 jurors.

21 Until I tell you that it is time to begin
22 deliberating, you are not to discuss the case with each
23 other, with anyone who is not on the jury or any family
24 or friends. Because under our process, your role is to
25 sit there quietly, conscientiously and patiently listen

1 to everything that is in, and then deliberate on only
2 people who have heard the same thing that you have
3 heard. And that will take place at the conclusion of
4 the evidence in the case. And then I will give you the
5 signal to deliberate.

6 And we will try to move this case along. And
7 try to keep it as quick as possible. If at any time any
8 of you need a break for any reason, just let me know.
9 And we will accommodate you to the fullest. So that you
10 do not spend most of your time sitting in the jury box
11 under the constraints that you are sitting -- have to
12 sit in during the course of this trial. We don't want
13 to wear you out. We don't want to tire you out. If at
14 any point and time you need a break, let me know and we
15 will take a break. We will hopefully, we will take
16 frequent enough breaks just to set pace.

17 Later on in this process I am going to appoint
18 one of you as the foreperson of the jury. And that
19 person will serve as the spokesperson for the jury. And
20 you will have the responsibility of presiding over the
21 jury deliberations and of writing and completing the
22 verdict form of the unanimous verdict of the jury. And
23 let you know that it is important to keep an open mind.
24 And not to decide any issue in this case until all of
25 the evidence has been presented. And the parties have

1 made their closing arguments, and I have instructed you
2 as to the law that you are to apply. It is your solemn
3 responsibility to determine the guilt of the defendant
4 in this case. You have heard it must be based solely on
5 the evidence that is presented during the course of the
6 trial and on the law.

7 In just a moment the Solicitor, Ms. Barr, will
8 make what is called an opening statement in which she
9 will explain what she contends to be the issues in this
10 case, and what she thinks the evidence will show. And
11 Mr. Barr on behalf of the Defendant will then have an
12 opportunity to do the same thing, but it is not required
13 to submit such a statement. I look forward to working
14 with you in this case. We will start now at this time
15 with the opening statements of Ms. Barr.

16 MS. BARR: Thank you, judge. May it please the
17 Court.

18 THE COURT: Yes, ma'am.

19 MS. BARR: Mr. Barr, Ladies and gentlemen
20 of the jury, good morning. My name is Kimberly
21 Barr. I am one of the three Assistant Solicitors
22 in Williamsburg County. And from the fear of
23 moving things along, I am going to give you good
24 news and tell you I am not going to stand up here
25 very long. Now oftentimes we tell jurors, hurry

1 up. And then tell them to wait. We tell you to
2 hurry up and then once you get here, we have you
3 wait. But, folks, I anticipate that this case
4 will not take very long. Hopefully we will be
5 able to get through the trial in two or three
6 days. But let me, first of all, thank you all for
7 being here. More important than your being here
8 though, is the time and the attention that you
9 give this case. This case is extremely important
10 to the State of South Carolina and to Williamsburg
11 County. And it's extremely important to Dennis
12 Wright.

13 You all know that we went through the process
14 yesterday where several names of jurors were called, and
15 not everybody got picked. And let me just share
16 something with you. I don't think I know all of you
17 personally. I don't think the defense attorney probably
18 knows any of you all personally. But what has happened
19 is when we select a juror on a case, and a juror gets up
20 and the juror says her name and says where the spouse
21 works and where you live and that sort of that thing.
22 Lawyers in a case really have a split second to make an
23 important decision, a very important decision. In fact,
24 one of the most important decisions in this case. And
25 that is to decide who is going to sit on the jury, and

1 who is going to hear the facts, and who is going to
2 render a verdict.

3 And so when you look at it, you kind of have to
4 get a gut feeling, Do I believe this person is going to
5 be a good juror. Do I believe that this juror is a
6 person who is going to possibly render justice in this
7 case. And I will happy to say and I think Mr. Barr will
8 share my sentiments, that we think we have got it all.
9 We think we have an intelligent jury. We have a fair
10 jury. And we have a jury that will listen to all the
11 evidence in this case.

12 Now what we expect to show, Mr. Dennis Wright is
13 charged with criminal sexual conduct in the first degree
14 and abuse of a vulnerable adult. Let's talk about Count
15 1, criminal sexual conduct in the first degree. Well
16 that's probably a lot of legal talk. What the
17 prosecution will show in this case, is that the victim
18 in this case, Ms. Azalee Mouzon. You all know her
19 from yesterday. The evidence is going to show the
20 defendant was living in the home with her. He was
21 supposed to be a caretaker. And on a certain night, he
22 sexually assaulted her. He raped her.

23 In addition in Count 2, he is charged with the
24 abuse of the a vulnerable adult. And that's again a
25 legal term. What It means if you cause harm or you

1 abuse a elderly person who is in a vulnerable state
2 because of physical conditions or what have you, that's
3 a separate offense. And so you will have two offenses
4 in this case. Now we will have Ms. Mouzon testify. We
5 will have law enforcement testify. We will have the
6 physician. You will hear from a number of witnesses.

7 At the conclusion, you know, we are going to lay
8 the job on you to render a verdict in this case. Now
9 she is obviously been required to be here. She will
10 have to testify. And she obviously moves a little slow.
11 And they get emotional. And at times for her it may be
12 a little difficult to get through testimony. But bear
13 with her, because I think she is going to be firm enough
14 to come up to you and tell you.

15 Now, folks, you all, I'd like to call are
16 the most important people in the courtroom. We
17 are going to ask you to pay very close attention
18 to what you hear in this case, because ultimately
19 it's going to be in your hands to determine
20 whether or not this person is guilty or not guilty
21 of the crimes for which he has charged. And after
22 all the evidence is in, I get to stand here in
23 front of you again. And that part of the case is
24 called the closing arguments. And at that time, I
25 will ask you based on everything you have heard in

1 case, based on the law the judge is going to tell
2 you about, we are going to ask you to render a
3 verdict of guilty on both counts. Thank you all
4 for being here.

5 THE COURT: Mr. Barr.

6 MR. BARR: Please the court, Judge. Ladies and
7 gentlemen, I introduced myself yesterday. I am Charles
8 David Barr and I practice law here in South Carolina.
9 And here in Williamsburg County. In the great city of
10 Kingstree. The greatest city in the United States. I
11 have been practicing law here now for approximately 30
12 years. At times, I am called upon to stand where I'm
13 standing now. Each time you're called upon in a
14 situation where you present yourself to a jury,
15 representing a person or an individual, and in this
16 case, Mr. Dennis Wright. It brings something different
17 and it brings something different to your mind.

18 But there's always one thing that's always
19 the same. And that is representing someone that
20 is charged with a criminal offense. It's a very
21 serious, serious, serious matter. Now that having
22 been said, I would simply say that my role as a
23 defense lawyer in a criminal case, and in a very
24 serious criminal case, is perhaps no different
25 from yours. It's no different from the judge's

1 role in the prosecution, quite frankly. It's no
2 different than that of the solicitor. Everybody
3 in a criminal case has a role. And when I say
4 everybody, I'm talking about jurors. Prosecutors.
5 I'm talking about judges. And I'm talking about
6 defense lawyers.

7 Now I just want to take just a minute in
8 this opening statement to tell you just a little
9 bit. And I won't tell you everything the
10 prosecution has already said. But we look at
11 things differently. I love Ms. Kimberly Barr. We
12 are not related, but we don't agree. And one of
13 the reasons we don't agree is, of course, she told
14 you and indicated what this case will show. But I
15 am going to go out on a limb. And when I think
16 about it, I can't think about a whole lot without
17 going out on a limb such as what I am about to do
18 now.

19 She has told you that the Defendant in this case
20 is charged with the offenses of first degree criminal
21 sexual conduct. Essentially what we used to call rape.
22 And abuse of a vulnerable adult. That's an elderly
23 person. And she told you that he is guilty of it. And
24 she wants you to come back with a verdict at the end of
25 the day that says he is guilty.

1 Now, Ladies and gentlemen, that would be
2 very easy. However, as in most other states, we
3 don't quite do it that way. We don't quite do it
4 that way. We have some rules that we have to go
5 by in a criminal prosecution. And these rules
6 have to be followed. And I tell you one of the
7 things that lawyers are concerned about during
8 that jury selection process is getting 12 people
9 who will come and listen at the evidence and make
10 a decision based on the evidence and the law as it
11 is charged by His Honor.

12 That might seem to be a simple thing to see. I
13 will tell you that it is not very simple. Because we
14 all have our own views of what evidence is. And His
15 Honor will tell you that at the appropriate time, you
16 will be called upon to come back with a verdict in this
17 case. And that verdict will have to be a unanimous
18 verdict. That is, all 12 will you have to agree. And
19 what you will be agreeing on, Ladies and gentlemen, will
20 be that the prosecution has proven the Defendant's guilt
21 beyond a reasonable doubt.

22 Now notice that I say that's the truth of it.
23 Because that's what the truth -- that's the truth that
24 you will be called on to render in this case. Now a lot
25 of times, and it's not like television where somebody is

1 just going to run up and go, "Oh, I did it." Or Perry
2 Mason is going to step in at the last moment with the
3 last piece of evidence that is going to convict
4 somebody. What you will have to do is, you have to
5 decide whether or not the prosecution has proven the
6 case and proven it to the standard we call beyond a
7 reasonable doubt.

8 His Honor is going to charge you regarding
9 the law. He's going to tell you that right now in
10 this case, Dennis is presumed innocent. Believe
11 it or not, that is the law. That's the law. He
12 is presumed innocent. And the presumption of
13 innocence, Ladies and gentlemen, is not something
14 that is just flimsical. It is a substantive right
15 of every defendant that is charged with an offense
16 under an indictment. An indictment, Ladies and
17 gentlemen, is only that piece of paper. It's only
18 that process by which a case comes in to court for
19 you to hear the case and deliberate. That's all
20 an indictment is. An indictment has no
21 evidentiary value. That's why Dennis is sitting
22 over here right now. And that's why you are here.

23 Now in addition, the presumption of innocence,
24 the prosecution; that is, the burden is on this table to
25 prove the defendant's guilt, and to prove it beyond a

1 reasonable doubt. Beyond the kind of doubt that would
2 cause a person to hesitate to act. In other words, His
3 Honor will charge you at the appropriate that the
4 evidence is going to have to be such that you must be
5 firmly convinced of the Defendant's guilt before you can
6 find him guilty. And how are you firmly convinced of
7 his guilt? By evidence. Ladies and gentlemen, it has
8 to be by way of proof. By way of proof.

9 Now I will submit to you that irrespective
10 of how long this case may be. And as I said, I am
11 going to go out on a limb. You're not going to
12 find anybody in this case that's going to come and
13 tell you and corroborate and substantiate
14 Dr. Faile, or nobody else, that this lady; that
15 is, the alleged victim, Ms. Mouzon, had sexual
16 intercourse with Dennis. It's just not going to
17 happen. It's not going to happen. It will be
18 months to corroborate that.

19 Now, let me just say, Ladies and gentlemen, at
20 this stage, that having been said, and having put myself
21 out on the limb. Lord knows, I hope I don't live to
22 regret that. But I think I know a little bit about
23 this. And if you would, His Honor will instruct you at
24 the appropriate time. That one of the things that you
25 will have to concern yourself with as jurors. One of

1 the things you will be called upon to make a decision
2 about in this case, and the witnesses that take the
3 witness stand, will be an issue of credibility. And
4 credibility is nothing more than believability. In
5 other words, you will have to decide whether or not a
6 person's testimony and whether you believe them. How do
7 you do that? You just your good common sense. Use your
8 good common sense.

9 Let me say, I can bring Rock Hudson over here.
10 And he can put on a show for you. I am sure he could
11 put on a very convincing show. But I don't know how
12 much he paid or what the consideration would be. Let me
13 tell you what, in this case, let me submit to you, I
14 know that there will be some drama. But, please, ma'am,
15 please, sir, don't leave your good common sense at home.
16 Don't leave your good common sense at home. His Honor
17 will tell you that as jurors, you are the sole judges of
18 the credibility of witnesses. And the believability of
19 witnesses who take this witness stand. And what you use
20 to judge their credibility, you use your common sense.
21 That's your vast collection of experiences that you have
22 accumulated every year that allow to sit back and look
23 at somebody and formulate from your opinion, and in your
24 own mind and in your heart, whether or not the person
25 is telling you the truth. And even in some cases, some

1 people may even make everybody believe that they are
2 telling you the truth. Some might believe they are
3 true, and they still might not be true. You have to
4 discern it. You have to discern it.

5 I'm not going to stay up here any longer. I'm
6 going to sit down. And I am going to let the
7 prosecution start their case. And, Ladies and
8 gentlemen, please, ma'am, please, sir, don't start
9 reaching a verdict in this case until His Honor tells
10 you what the law is. That is how you are supposed to go
11 about reaching that verdict. And that's the reason why
12 the 12 of you are sitting here. You are still not
13 fumbling around and looking around and looking in your
14 background. And that's exactly what we are doing. When
15 I say, "We," I am talking about the defense table as
16 well as the prosecution. We know where you went to
17 school. How long you went to school. What kind of work
18 do you do. Are you married. Single. Where are you
19 working. All of those things will assist lawyers in
20 making a determination as to whether or not they have
21 gotten somebody they can trust to make a decision, and
22 to take into consideration what judge tells you the law
23 is. And not to come to court and use their own
24 preconceived notions about how things ought to be done.
25 And the 12 of you, the 12 of you will agree, that is

1 myself, and the prosecution, that the 12 of you will do
2 that. And, Ladies and gentlemen, even if I were sitting
3 in this chair where Dennis is sitting right now, and
4 right now is the hot seat. If I was sitting there, I
5 couldn't ask for anything more than 12 jurors such as
6 yourself, to any of you, and decide whether or not I am
7 guilty of what I have been charged with. You couldn't
8 ask for anything more. So with that, I thank you. And
9 I certainly hope that the experience that you have as
10 jurors in this case will be one that is rewarding to
11 you. And one that you will learn some things about this
12 judicial system that you can perhaps even share with
13 your family members.

14 Now I am not saying to discuss this case with
15 them. I am saying at the end of the day when all the
16 evidence has been presented and His Honor has instructed
17 you on the law and you have reached a verdict. And that
18 verdict has been approached, then perhaps you might find
19 yourself in a position whereby you have learned
20 something about this criminal justice system that you
21 might find worthy of sharing perhaps with your family or
22 your friends.

23 On behalf of Mr. Dennis, we certainly would like
24 to thank you for your jury service. Thank you on behalf
25 of the court system and everybody involved.

1 THE COURT: Madam Solicitor.

2 MS. BARR: We would call Azalee Mouzon.

3 AZALEA MOUZON, after being duly sworn,
4 testified as follows:

5 Direct Examination by Ms. Barr:

6 Q Ms. Mouzon, I need to make sure you do two
7 things for me, Okay. I need you to make sure you
8 speak up nice and clear, okay. And you talk slow,
9 okay. Can you hear me?

10 A Yes.

11 Q I need you to make sure you talk up nice
12 and clear so I can hear you back here. Okay?
13 What is your full name?

14 A Mouzon.

15 Q What is your first name?

16 A Azalee Mouzon.

17 Q That's good. I need you to keep your
18 voice up just like that for you me, okay. How old
19 are you, Ms. Mouzon?

20 A 85.

21 Q 85. Where do you live?

22 A In Hemingway.

23 Q You live in Hemingway?

24 A Yes, ma'am.

25 Q You've lived in Hemingway all your life?

Azalee Mouzon-direct by Ms. Barr

- 1 A Yes.
- 2 Q Who lives with you?
- 3 A My son.
- 4 Q Your son?
- 5 A Uh-huh. (Affirmative.)
- 6 Q Is that James sitting back here?
- 7 A Yes, James.
- 8 Q This is Mr. James with the striped shirt
- 9 on?
- 10 A Uh-huh. (Affirmative.)
- 11 Q Now there may be times I need to ask you
- 12 to repeat it so I can hear you, okay. You're not
- 13 saying anything wrong, I just need to make sure I
- 14 hear you, Okay? How many children do you have?
- 15 A Nine. One passed.
- 16 Q You have nine children and one passed? So
- 17 you are doing good now speaking up. Who is your
- 18 oldest child?
- 19 A Ortha.
- 20 Q Ortha?
- 21 A Yes.
- 22 Q Who is your youngest child?
- 23 A Queenie.
- 24 Q Queenie is the youngest child?
- 25 A Yes, ma'am.

Azalee Mouzon-direct by Ms. Barr

1 Q Now James lives here in Hemingway with
2 you, right?

3 A Yes, ma'am. He lives here.

4 Q And you told me one child passed already,
5 right?

6 A Yes, ma'am.

7 Q Okay. Where do your other children, where
8 do they live?

9 A All of them upstate.

10 Q All of them where?

11 A Upstate.

12 Q Upstate?

13 A Yes, New Jersey.

14 Q In New Jersey?

15 A Yes.

16 Q And now who is Michael Mouzon?

17 A Michael Mouzon?

18 Q Who is that to you?

19 A He is my grand.

20 Q He's your grandson. And that's Michael
21 back there with the purple shirt on?

22 A Yes, ma'am.

23 Q What is your husband's name?

24 A Charlie Mouzon.

25 Q Now is Mr. Charlie still living?

Azalee Mouzon-direct by Ms. Barr

1 A No, ma'am.

2 Q He passed?

3 A Yes, ma'am.

4 Q Now, Ms. Mouzon, at some point and time,
5 did Dennis Wright live with you at your house In
6 Hemingway?

7 A Yes, because---

8 Q I can't hear you. Talk up again loud for
9 me.

10 A Yes, him and Michael went to school
11 together. He came with Michael.

12 Q Him and Michael were friends at school
13 together?

14 A Yes.

15 Q Okay. And he was living with you at some
16 point?

17 A Yes.

18 Q He's not living with you anymore now, is
19 he?

20 A No, ma'am.

21 Q Now, Ms. Mouzon, you know why we are here
22 today, right?

23 A Yes, ma'am.

24 Q You know you got to tell the court what
25 happened, right?

Azalee Mouzon-direct by Ms. Barr

1 A Yes, ma'am.

2 Q Now do you remember talking to the police
3 last year about Dennis?

4 A Yes, ma'am.

5 Q Tell us what did Dennis do?

6 A Well I was in the living room looking at
7 the TV.

8 Q You were in the living room looking at TV?

9 A Yes.

10 Q Okay.

11 A Dennis always had back trouble and stomach
12 trouble.

13 Q Dennis always had back trouble and stomach
14 trouble?

15 A Uh-huh. (Affirmative.)

16 Q Okay.

17 A And he was in the bed. So he called me
18 "Mama."

19 Q He called you mama.

20 A He called me mama.

21 Q Okay.

22 A He said, "Mama will you come and rub my
23 back." I won't go right there. He said, "I am
24 hurting. Will you come and rub my back." And
25 then I got up.

Azalee Mouzon-direct by Ms. Barr

1 Q You got what?

2 A I got up and went in the room where he
3 was.

4 Q Okay. You got up and went in the room
5 where he was?

6 A Yes.

7 Q What part of the house were you in when
8 you got up and went into the room?

9 A I was in my living room.

10 Q You were in your living room? How many
11 bedrooms did you have in the house?

12 A I have three.

13 Q Three bedrooms? Okay. Now on the night
14 this happened, who all was living in the house
15 with you other than Dennis?

16 A I always lived by myself after my husband
17 died. I had one I raised. She stayed there most
18 of the time, Melissa.

19 Q Melissa. Who is that to you?

20 A Mouzon.

21 Q Melissa Mouzon. Who is Melissa to you?

22 A I raised her from a baby.

23 Q You raised her from a baby?

24 A Yes, ma'am.

25 Q The night that this happened when he was

Azalee Mouzon-direct by Ms. Barr

1 telling you to come rub his back, was anybody else
2 in the house other than you and him? Or were
3 y'all by yourself?

4 A We were by ourself by ourself for a while.

5 Q Okay.

6 A Edie Mae and my daughter come.

7 Q So tell me you said he said his back was
8 hurting and he asked you to come rub it for him.

9 A I did.

10 Q You went in the room. Tell me what
11 happened when you went into his room.

12 A I sat on his bed. On the side of his bed.
13 I rub his shirt, his tee shirt.

14 Q He had his tee shirt up?

15 A Telling me where to rub.

16 Q Was he laying on the bed?

17 A He was on the bed. He was flat on his
18 stomach.

19 Q He was laying flat on his stomach?

20 A On his stomach. And so I rubbed. I
21 rubbed him awhile. But I asked him, I said,
22 "That's all right." And when I noticed him, he
23 must be had to have been on his stomach.

24 Q Okay.

25 A And so when I went to go, he grabbed my

Azalee Mouzon-direct by Ms. Barr

- 1 tongue.
- 2 Q He did what?
- 3 A He grabbed my tongue.
- 4 Q Your tongue?
- 5 A And went and kissing me. And then....
- 6 Q It's okay. Take your time. Take your
- 7 time, sweetie.
- 8 A And then he take his peeny---
- 9 Q He did what? He take his peeny?
- 10 A Yes.
- 11 Q What is his peeny?
- 12 A And tell me to suck it.
- 13 Q He took his penis out and told you suck
- 14 it?
- 15 A Yes.
- 16 Q And what did you?
- 17 A I went to raise his hand, and he catch me
- 18 and pulled me down to the foot of the bed and went
- 19 up me.
- 20 Q Okay. You said he took his peeny out?
- 21 A Put my foot up like that. (witness
- 22 indicating.)
- 23 Q Put your foot up on him?
- 24 A He carried me up like that. (witness
- 25 indicating.)

Azalee Mouzon-direct by Ms. Barr

1 Q How did that feel when he pulled your foot
2 up and your legs up?

3 A Terrible.

4 Q Terrible? It felt terrible?

5 A Yes.

6 Q Your voice is leaving me now, Sweetie.
7 Tell me again now.

8 A And I went to raising sand, trying to get
9 away from.

10 Q You were raising sand trying to get away
11 from him?

12 A Yes.

13 Q Okay.

14 A And then he take his peeny.

15 Q He did what now with his peeny?

16 A His peeny.

17 Q Where did he put his peeny?

18 A In my rectum down there.

19 Q He put it in your rectum?

20 A And then my bowels moved.

21 Q Okay. You said he put his peeny in your
22 rectum and your bowels moved? Okay. Did you have
23 to go to the bathroom?

24 A I stand up.

25 Q You did what to him?

Azalee Mouzon-direct by Ms. Barr

1 A Yes, ma'am, I had to go.

2 Q You had went to the bathroom. Now stay
3 with me. You are doing fine. You are doing good.
4 I need to kind of go back a little bit. Now what
5 are you talking about when you call it a peeny?
6 What is a peeny? Because I don't know what that
7 means. Tell me what the peeny is? Ma'am?

8 A Can I say that word?

9 Q Yeah, tell me what you mean when you talk
10 about a peeny? What is a peeny?

11 A He went up my rectum and my bowels had
12 moved when he did that.

13 Q Slow down. When you say a peeny, are you
14 talking about his private parts?

15 A Ma'am?

16 Q Are you talking about the man's private
17 parts? He put his private parts in your rectum?

18 A He went up there.

19 Q With what?

20 A When he bent this foot -- that's when he
21 take my foot. My feet was hurting so bad. He
22 took me up.

23 Q Your feet was hurting so bad when he
24 grabbed your leg?

25 A When he pulled me down, he took both of my

Azalee Mouzon-direct by Ms. Barr

1 feet carrying up to my head.

2 Q Okay. Did he ever touch you on your
3 chest? On your breast?

4 A No, I can't recall that.

5 Q Now you talked about how your leg and
6 you feet were hurting.

7 A Yes.

8 Q Do you have arthritis?

9 A Yes, ma'am.

10 Q Where do you have arthritis at?

11 A All over my legs. I can't walk that far.
12 I walk like that.

13 Q That's why you have the walker?

14 A I have a walker, and this leg been broke.

15 Q Which leg was broke?

16 A This.

17 Q I see, which one are you pointing to
18 there?

19 A Right there.

20 Q And that's the left leg? I need you to
21 say yes or no.

22 A Yes, ma'am.

23 Q Your left leg was broken and you have got
24 arthritis?

25 A Yes, ma'am.

Azalee Mouzon-direct by Ms. Barr

1 Q Now you told me that he put his peeny in
2 your rectum and your bowels moved?

3 A Yes.

4 Q Did he put his penis in your vagina too?

5 A Yes, ma'am. He took my feet up.

6 Q Okay.

7 A Up in this.

8 Q What did you do when he told you to suck
9 his peeny?

10 A I holler, because it scared me.

11 Q It scared you?

12 A Yes, ma'am.

13 Q Now when you say he put his penis -- peeny
14 in your vagina and in your rectum, are you talking
15 about his penis? The male penis?

16 A Yeah.

17 Q You said you were raising cain when he did
18 that. Did you tell him he was hurting you?

19 A Yes.

20 Q What was he saying -- what did he say when
21 you told him, "You are hurting me. You hurting
22 me."

23 A He said, he was saying "You can't stand
24 nothing." What he said.

25 Q He said what now?

Azalee Mouzon-direct by Ms. Barr

1 A "You can't stand that."

2 Q He told you, "You can't stand that?"

3 A Yeah.

4 Q How did you get away from him?

5 A I got on the floor.

6 Q Your voice is leaving me. Tell me again.

7 A I run to the bathroom. And then he put,

8 "Don't holler." When he went up and put---

9 Q Now again it's okay, but I need you to
10 tell me that again because I can't hear you. And
11 this lady needs to take down what you're saying.
12 So tell me that last part again. How did you get
13 away from Him?

14 A I got up from the floor, and I run in my
15 bathroom.

16 Q You got up and ran in your bathroom?

17 A Yes, ma'am.

18 Q You got up from where? From the bed or
19 from where?

20 A On the floor.

21 Q You were on the floor?

22 A Uh-huh. (affirmative.)

23 Q Ma'am?

24 A Yes.

25 Q How did you get on the floor?

Azalee Mouzon-direct by Ms. Barr

1 A When he pulled me down there, I get up.

2 Q He pulled you down on the floor?

3 A Down. When he went up.

4 Q Okay. What did you do when you went in
5 the bathroom?

6 A My bowels moved, and I clean myself up.

7 Q Okay, your bowels moved and you cleaned
8 yourself off. After you cleaned yourself off,
9 what did you do?

10 A When I called Edie Mae and my daughter.
11 He was there at Edie Mae's house.

12 Q You said you called Edie Mae and your
13 daughter?

14 A Yes.

15 Q Who is Edie Mae?

16 A Well that's my niece.

17 Q That's your niece. Okay. And you called
18 him and he was there?

19 A Yeah, he showed you right. The Way of the
20 Cross is right at the church. Right next to the
21 church.

22 Q So you go to the Way of the Cross Church?

23 A I didn't go.

24 Q You didn't go. They were at the Way of
25 the Cross Church.

Azalee Mouzon-direct by Ms. Barr

1 A He went to next door.

2 Q He went next door?

3 A He always go there and give, they call her
4 Laura. Laura and call her baby. And he went
5 there and got her.

6 Q He went next door and got Bay?

7 A Yes.

8 Q Okay.

9 A And come back and help with his clothes.
10 To help him pack his clothes. He was leaving.
11 And I said, "You ain't leaving tonight until the
12 law gets here. Because my daughter has called the
13 law."

14 Q You said, "You're not leaving until the
15 law gets here?"

16 A Yes.

17 Q Okay.

18 A So he didn't went then. So I went in my
19 room and laid down on the bed. I was feeling
20 rough.

21 Q You say you laid down on your bed because
22 of what?

23 A I felt rough after that.

24 Q You felt rough after that?

25 A Yes.

Azalee Mouzon-direct by Ms. Barr

1 Q Okay.

2 A So he leave and then he come back again.

3 And that's when he get in his car and get his

4 clothes and carried them next door.

5 Q He carried his clothes next door and

6 stayed there for awhile, is that right?

7 A That's it. And I think the car stayed for

8 awhile. For a long while.

9 Q Okay. When you said the law came, are
10 you talking about this young lady right here? Do
11 you remember talking to her?

12 A Yes, ma'am, I sure did.

13 Q Now did you ever -- did he ever tell you
14 or did you ever tell him you were going to tell on
15 him and what he did to you?

16 A Dennis?

17 Q Yes.

18 A Yes, ma'am.

19 Q Now you told me that your husband has now
20 passed on, right?

21 A Yes.

22 Q And he was -- and he had already passed on
23 by the time this happened, right? Your husband
24 was already dead by the time this happened, right?

25 A My husband was.

Azalee Mouzon-direct by Ms. Barr

1 Q How long ago did he pass?

2 A Oh, he passed. He passed.

3 Q For how long?

4 A Maybe about 10 years.

5 Q Maybe 10 years? Is that right?

6 A Yes, ma'am.

7 Q Do you remember how long you and your
8 husband have been married? How long were you
9 married, a long time?

10 A About 60 years.

11 Q Your voice went down.

12 A About 60 years.

13 Q About 60 years. Have you ever been with
14 anybody else other than your husband?

15 A No, ma'am. I didn't do that. I wasn't
16 that kind of a woman.

17 Q You wasn't that kind of woman?

18 A No, ma'am.

19 MS. BARR: I beg the court's indulgence,
20 Your Honor.

21 Q When you told him that you were going to
22 tell on him, what did he say?

23 A Well he must have didn't care.

24 Q Say again?

25 A I said he must have didn't care.

Azalee Mouzon-direct by Ms. Barr

1 Q He didn't care?

2 A No.

3 Q Is that yes or no?

4 A He didn't care.

5 Q Okay.

6 A But he was getting out of there before the
7 cops get there.

8 MS. BARR: Ms. Mouzon, that's all the
9 questions that I have for you. Please answer any
10 questions that this lawyer may have for you, okay?

11 MR. BARR: I have no questions.

12 THE COURT: Ladies and gentlemen, we are
13 going to have you go to the jury room for just a
14 few minutes. Please do not discuss the case. You
15 can go to the jury room.

16 THE COURT: Let's take a few minutes.
17 I'll give you a chance to come down.

18 (Whereupon, the court takes a short
19 recess.)

20 THE COURT: You may bring the jury.

21 (Whereupon, the following takes place
22 within the presence of the jury.)

23 MS. BARR: I would call Michael Mouzon.

24 Michael Mouzon, being first
25 duly sworn, testified as follows:

Azalee Mouzon-direct by Ms. Barr

1 Direct Examination by Ms. Barr:

2 Q Ms. Mouzon, let me get you to state your
3 full name for me.

4 A Michael Mouzon.

5 Q And, sir, where do you currently reside?

6 A Right now, Lake City.

7 Q And what is your relationship with Azalee
8 Mouzon?

9 A I'm her grandson.

10 Q Now do you work?

11 A Yes, I'm a business owner and work.

12 Q I'm sorry. Your voice went out. Say
13 again.

14 A Business owner and work.

15 Q Okay. What kind of business do you do?

16 A A car wash detail business.

17 Q And you say you also, I guess you work a
18 9 to 5 as well?

19 A Yes, part-time.

20 Q Now how old is your grandmother, Azalee
21 Mouzon?

22 A She is 90.

23 Q She is 90. Did she recently celebrate a
24 birthday?

25 A Yes.

Michael Mouzon-direct by Ms. Barr

1 Q When was her birthday?

2 A

3 Q . Now your aunts and your
4 uncles, where do they live?

5 A Forsake, New Jersey.

6 Q Forsake, New Jersey. Now James Mouzon
7 the gentleman that is here in the courtroom, is
8 that your dad or your uncle?

9 A That's my uncle.

10 Q What is your father's name?

11 A My father's name is J.D. Williams.

12 Q Now you were present in the courtroom when
13 your grandmother testified?

14 A Yes.

15 Q And she told us that her husband's name
16 was Charlie, is that right?

17 A Yes.

18 Q How long had she and Charlie been married
19 as far as you can remember?

20 A 60 years or better.

21 Q And that looks like that's longer than how
22 old you are, right?

23 A Yes, sir.

24 Q How old are you?

25 A 49.

Michael Mouzon-direct by Ms. Barr

1 Q And how many children did Ms. Azalee and
2 Charlie have together?

3 A Nine.

4 Q Do you recall when your granddad passed?

5 A Yes.

6 Q When was it?

7 A It was November 10th 2004.

8 Q November 10th 200--

9 A 2005.

10 Q About 5 years or so?

11 A Yes.

12 Q Now when he passed, right before he died,
13 was he living at home with your grandmother, or
14 was he in what we call an old folks home or what?

15 A He was at home.

16 Q Now in terms of your grandmother and her
17 physical condition, and I will get in to some of
18 the particulars later. When he passed, was she
19 living on her own once he died?

20 A Someone was always there.

21 Q Do you all have -- what kind of care do
22 you all provide for her?

23 A Homemade.

24 Q She has got homemade care?

25 A Yes.

Michael Mouzon-direct by Ms. Barr

1 Q Tell me what that consists of? What do
2 you mean when you say homemade?

3 A A nurse comes in the morning. And
4 sometimes they will come in in the afternoon for
5 maybe an hour.

6 Q And how long has she had been having home
7 aid or home health care?

8 A Since my grandfather passed.

9 Q Now what types of services do the nurses
10 provide when they come in and they do the home
11 aid?

12 A They cook her breakfast. And they wash
13 her or any other need that she needs at the time.

14 Q Now when you saw your grandmother testify
15 earlier, we know that she had a walker with her.
16 Why does she have a walker with her?

17 A She has got arthritis in her legs. And
18 she has a problem with one of her legs that she
19 had broken some years back.

20 Q In terms of her physical condition now, is
21 it about the same as it was in February of 2009?

22 A Yes.

23 Q Did she have to use the walker back in
24 February of 2009?

25 A Yes.

Michael Mouzon-direct by Ms. Barr

1 Q And did she have home health coming in to
2 see her in 2009? February of 2009?

3 A Yes.

4 Q Now you know Dennis Wright, don't you?

5 A Yes.

6 Q How long have you known him?

7 A A long time. Since third grade.

8 Q You all went to school together?

9 A Yes.

10 Q And you told me you were what, 49?

11 A Yes.

12 Q So he is about the same age as you?

13 A Yes.

14 Q Now where is he from?

15 A He grew up in Forsake, New Jersey.

16 Q He grew up in New Jersey?

17 A Yes.

18 Q How long had he been down in South

19 Carolina?

20 A Me, or Dennis?

21 Q Dennis.

22 A I can't recall the period of time, but it
23 has been a few years.

24 Q Now at some point and time, was Dennis
25 Wright residing with your grandmother?

Michael Mouzon-direct by Ms. Barr

1 A Yes.

2 Q For about how long? Was it months, years
3 or weeks or what?

4 A Maybe a couple of months.

5 Q A couple of months?

6 A Yes.

7 Q So if the incident happened in February of
8 2009, when would you think around about the time
9 he would have been living with her?

10 A Some point.

11 Q So maybe December, November of the year
12 before 2008?

13 A I can't remember. I can't remember the
14 exact time.

15 Q How did he come to be living with your
16 grandmother?

17 A Because I was there, and me and him, we
18 discussed about him being there to help me out to
19 help take care of her.

20 Q So what was he supposed to be helping do,
21 as far as your grandmother is concerned?

22 A Like just being there, and taking her
23 different places.

24 Q Grocery store and doctor visits or
25 whatever?

Michael Mouzon-direct by Ms. Barr

1 A Yes.

2 Q And in exchange for him agreeing to do
3 that, what benefit was he supposed to receive as a
4 result of that? Was he paid a salary or how did
5 you all work that out?

6 A Because he had somewhere to stay at the
7 moment.

8 Q So he gets basically free room and board?

9 A Yes.

10 Q Now as far as you know, was he working
11 anywhere during the months he stayed with your
12 grandmother?

13 A He helped me at the car wash sometimes
14 during that time.

15 Q So that would have been the only extended
16 income he had during that time?

17 A I wouldn't say that's his only extended
18 income. He has a retired pension.

19 Q But do you know whether or not he was
20 actually working anywhere other than helping you
21 out at the car wash? Did he have to go to work
22 every day?

23 A No, ma'am.

24 Q Now prior to February of 2009, did
25 Mr. Wright ever tell you that he didn't want to

Michael Mouzon-direct by Ms. Barr

1 take care of your grandmother anymore?

2 A No.

3 Q Did he ever tell you or express any
4 concerns about her wandering off from the house?

5 A Not wandering from the house, no.

6 Q What about bothering him or assaulting him
7 or interfering with him in any way?

8 A No. Nothing that I could see.

9 Q Now in terms of your grandmother's mental
10 state at the time, kind of describe for me her
11 ability to recall information, her memory.
12 Whether or not she was alert. Kind of tell me
13 about those things.

14 A She got a good memory. And sometimes she
15 would say things I couldn't. She's got a good
16 memory.

17 Q During this time, would you describe her
18 as being alert?

19 A Yes.

20 Q Now where were you living during the month
21 of February of 2009? Where have you considered
22 home to be?

23 A Lake City.

24 Q During this period of time, I guess
25 beginning in January of last year, how often would

Michael Mouzon-direct by Ms. Barr

1 you see your grandmother?

2 A During that particular time?

3 Q Correct.

4 A Probably every day.

5 Q Would anyone else have been spending the
6 night at the house as far as you know, other than
7 Dennis Wright?

8 A Yes.

9 Q Who else would have been spending the
10 night?

11 A Melissa Mouzon.

12 Q And Melissa is who?

13 A My cousin.

14 Q Melissa is who to your grandmother?

15 A It's her granddaughter when she raised
16 her.

17 Q So she would have been living -- well
18 first of all, what is the street address where
19 your grandmother lives?

20 A Hemingway.

21 Q Would Melissa have been living
22 address at that time?

23 A Back and forth sometimes.

24 Q So did she have her own place?

25 A She did.

Michael Mouzon-direct by Ms. Barr

1 Q He would kind of go back and forth to
2 check on her, is that right?

3 A Yes.

4 Q Now where is Melissa at today?

5 A New Jersey.

6 Q She moved to New Jersey or moved back to
7 New Jersey?

8 A I don't know.

9 Q Would anybody else would have been staying
10 the night there during that period of time?

11 A Other than myself, no.

12 Q Now, Mr. Mouzon, I need to be careful how
13 I word this, and I need you to be careful how you
14 respond. Did at any point and time in February,
15 did you have a conversation with your grandmother,
16 and just answer my specific question, about an
17 incident with Dennis Wright? Did you have a
18 conversation with her?

19 A Yes.

20 Q And based on that conversation, did you
21 then confront Mr. Wright?

22 A Yes, I asked him a question.

23 Q About what? What did you ask him a
24 question about?

25 A About that conversation.

Michael Mouzon-direct by Ms. Barr

1 Q What did you ask him?

2 A What is going on with my mama.

3 Q Do you recall whether it was before or
4 after the police were notified about this
5 incident?

6 A It was before.

7 Q It was before?

8 A Yes.

9 Q Now we've heard testimony that Mr. Wright
10 no longer resides with your grandmother?

11 A That's true.

12 Q Now up until the point where the police
13 were called to investigate, had he been living
14 with her for a couple of months?

15 A Before the incident?

16 Q Yes.

17 A Yes.

18 Q When did he actually move out, before or
19 after the police were called.

20 A After they were called?

21 Q Yes.

22 A Or afterwards?

23 Q Both.

24 A Well after the incident, yes.

25 Q Okay.

Michael Mouzon-direct by Ms. Barr

1 A Because after they were called, he was
2 arrested.

3 Q Now did your grandmother go to church?

4 A Yes.

5 Q Where did she go to church?

6 A We came out of the Way of the Cross.

7 Q Way of the Cross?

8 A Yes.

9 Q Where is that located?

10 A That was located down on Washington
11 Street, Hemingway.

12 Q Now how would you describe her involvement
13 in the church?

14 A Very involved.

15 Q She would go there pretty often?

16 A Yes.

17 Q Now did you talk with either Investigator
18 Lail or Investigator Collins after this was
19 reported to them?

20 A I talked to the officer right there.

21 Q Do you have a specific recollection of
22 whether or not your grandmother went to church on
23 Sunday, February 22nd 2009? After the incident?

24 A I think she did. I am not positively
25 sure.

Michael Mouzon-direct by Ms. Barr

1 Q You can't tell me who did it, but did your
2 grandmother ever tell you she was raped?

3 A Yes.

4 Q Again, you can't tell me who, but did she
5 tell you where it happened?

6 A Partly, yes.

7 Q Did your grandmother work outside the
8 home?

9 A Work like at a job?

10 Q Yes.

11 A No.

12 MS. BARR: I believe that's all the
13 questions, Mr. Mouzon. Please answer any
14 questions of the defense counsel.

15 Cross Examination by Mr. Barr:

16 Q Mr. Mouzon, you said there did come a
17 point and time when your grandmother told you that
18 she had been assaulted by Dennis.

19 A Yes.

20 Q What time was that?

21 A That was after the fact. I can't recall
22 the date.

23 Q Now when you say after the facts, when the
24 allegation surfaced, my understanding is that
25 Dennis was arrested, is that correct?

Michael Mouzon-cross by Mr. Barr

1 A Yes.

2 Q And do you know when he was arrested?

3 A I don't know the date. I can't recall the
4 date, but it was after. Shortly after.

5 Q After what now?

6 A After it presumably happened. I don't
7 know what date.

8 Q Well you said that at some point your
9 grandmother told you that she had been assaulted
10 by Dennis. Do you know what date that she told
11 you she would have been assaulted by him?

12 A I can't remember the date.

13 Q Do you remember whether or not It was
14 before or after he was arrested that she told you
15 that?

16 A Before he was arrested.

17 Q I see. So then prior to the time that
18 Dennis was arrested, your grandmother told you
19 that Dennis had assaulted her.

20 A Yes.

21 Q Now as a result of her telling you that he
22 had assaulted her, before he was arrested, what if
23 anything did you do?

24 A Well I was out of state, and I got a phone
25 call. I was out of state at that time. And so

Michael Mouzon-cross by Mr. Barr

1 there wasn't nothing I could have done from where
2 I was at. I didn't do anything.

3 Q You didn't do anything.

4 A No.

5 Q Did you call anybody?

6 A I had got a call.

7 Q Well you got a call. So you were out of
8 state at the time that she told you that she had
9 been assaulted by Dennis?

10 A Yes.

11 Q And but you don't remember what time?

12 A No, sir.

13 Q Now what specifically did she tell you?

14 A I remember vaguely, because it was not a
15 long conversation. She said that he raped her.

16 Q That's what she told you?

17 A Yes, sir.

18 Q Now you were interviewed by, I believe, at
19 some point by, I believe Officer Lail, were you
20 not?

21 A Yes.

22 Q Were you interviewed by her on the 27th of
23 February of 2009?

24 A It could have been that date. I know it
25 was February.

Michael Mouzon-cross by Mr. Barr

1 Q And did you describe to her a telephone
2 call that you had received from your grandmother?

3 A I think. I got it vaguely.

4 Q Vaguely?

5 A Yes.

6 Q And would it have been in that telephone
7 call that your grandmother would have told you
8 that Dennis raped her?

9 A Yes.

10 Q Did you -- do you recall telling Officer
11 Lail that your grandmother told you Dennis had
12 touched her?

13 A It could have been.

14 Q Now this is very important.

15 A Yes, sir.

16 Q Did your grandmother tell you in that
17 conversation that Dennis had raped her?

18 A Yes, he had touched her.

19 Q She told you that?

20 A Vaguely as I remember.

21 Q Now of course inasmuch as you were
22 interviewed by Officer Lail, if your mother had
23 told you, or your grandmother had told you that
24 Dennis had raped her, you probably would have told
25 Officer Lail that, wouldn't you? If she had told

Michael Mouzon-cross by Mr. Barr

1 you that.

2 A If she had asked me I probably would have.

3 Q Well I mean you had a long conversation
4 with her. She interviewed you.

5 A Yes.

6 Q And your grandmother you said had told
7 you that.

8 A Yes.

9 Q And I am sure she asked you -- did she ask
10 you whether or not you had any contact with your
11 grandmother?

12 A I can't exactly remember word for word. A
13 lot of this vague to me.

14 Q Vague to you?

15 A Yes, I can't remember all that was said at
16 that time.

17 Q But you recall telling her that your
18 grandmother told you that Dennis had raped her.

19 A I believe so. I am not exactly sure.

20 Q I see. So you may have not have told her
21 that. Sir?

22 A If she asked me, If she had asked me, I
23 probably did. If she didn't, I probably didn't.

24 Q So then you have no independent
25 recollection of telling Officer Lail on the 27th,

Michael Mouzon-cross by Mr. Barr

1 that your grandmother told you that Dennis raped
2 her?

3 A It could have been.

4 Q Now surely you were very concerned about
5 your grandmother and her well being, aren't you?

6 A Yes, sir.

7 Q Now ordinarily with respect to that
8 concern for your grandmother, if she had told you
9 that Dennis raped her, it would have caused you to
10 be upset, wouldn't it?

11 A Yes.

12 Q And of course, would you not agree that
13 being upset, that's certainly something you would
14 have told to Officer Lail when you spoke to law
15 enforcement?

16 A Well that was time past after I talked to
17 her.

18 Q Okay. Did you speak with any other law
19 enforcement officers?

20 A No, sir.

21 Q Now did you confront at any time, after
22 your grandmother told you Dennis had raped her,
23 did you confront Dennis?

24 A Yes, I asked him.

25 Q And you asked him. Did you say, "Dennis,

Michael Mouzon-cross by Mr. Barr

1 did you rape my grandmother?"

2 A I don't think I said that way. I asked
3 him what -- I believe I remember asking him what
4 is going on and everything.

5 Q Is everything all right. Knowingly that
6 your grandmother had told you on the telephone
7 that Dennis had raped her, you did come home at
8 some point. You didn't stay out of town.

9 A Yes, I did come home.

10 Q And after you came home, you went straight
11 to Dennis' house to confront him about what your
12 grandmother told you.

13 A No, sir.

14 Q You didn't do that?

15 A No, sir.

16 Q How long was it after you got home that
17 you saw Dennis?

18 A It could have been some days.

19 Q Some days?

20 A Yes, sir.

21 Q Approximately how many days?

22 A Probably two. I think about two days.

23 Q Did you know where Dennis was at the time?

24 A Yes.

25 Q Your grandmother told you that Dennis had

Michael Mouzon-cross by Mr. Barr

1 raped her; on the telephone. And you got home
2 about two days later. I believe you were the
3 person being responsible for Dennis being at your
4 grandmother's house, right?

5 A Yes, sir.

6 Q And you got home about two days later, and
7 were concerned. You waited two days before you
8 confronted Dennis?

9 A Yes.

10 Q Now would not agree, Mr. Mouzon, that you
11 obviously was not that much concerned, because you
12 waited at least two days before you confronted
13 him. You would agree with that?

14 A Well I was not here at the moment. I
15 didn't get back to South Carolina until a couple
16 of days.

17 Q Well when you got back to South Carolina
18 in a couple of days as you said, you were
19 concerned. Did you consider what your grandmother
20 told you after you got back to South Carolina? Or
21 what you claimed she told you?

22 A Yes.

23 Q And would you not agree that at that time,
24 out of your concern, one of the first things in
25 your mind, was let me find out from this man that

Michael Mouzon-cross by Mr. Barr

1 I put in my grandmother's house, what in the world
2 has happened?

3 A Yes.

4 Q But now you waited several days before you
5 confronted him.

6 A Those several days was prior to the call
7 getting back home.

8 Q Prior to the call?

9 A Yes, when I got the call between the time
10 of the call and getting back home, it was a couple
11 of days.

12 Q Well when you got back home.

13 A Yes.

14 Q After you got home. And I know you were
15 anxious to find Dennis. Did you go looking for
16 him?

17 A No, sir, he was there.

18 Q He was where?

19 A At the house.

20 Q At the house where your grandmother was?

21 A Yes.

22 Q And you went to the house where he and
23 your grandmother was?

24 A Yes.

25 Q Did you call him out and say, "Look here,

Michael Mouzon-cross by Mr. Barr

1 man, you got to get out of here. You done raped
2 my grandmother." Did you tell him that?

3 A No, sir.

4 Q Did you tell him to leave?

5 A I don't think so.

6 Q You don't think so. You didn't even tell
7 him to leave. Now quite frankly, would you not
8 agree that the reason you didn't ask him to leave
9 is because you didn't believe the story, did you?

10 A Well I wouldn't say I didn't believe it.
11 But I couldn't say it happened.

12 Q Are you telling the ladies and gentlemen
13 of this jury that you believe a man had raped your
14 grandmother and you continued to let him stay in
15 the house with her? You didn't do that, did you?

16 A He was still there.

17 Q And you allowed him -- you put him there.

18 A Yes, sir.

19 Q And you could have taken him out? But you
20 allowed him to stay there.

21 A Yes, sir.

22 Q And you allowed him to stay there, because
23 you didn't believe her story. And that's just the
24 gospel truth, isn't it?

25 THE COURT: Just a moment. Is that a

Michael Mouzon-cross by Mr. Barr

1 question? He asked a question.

2 Q Is that the truth?

3 A Oh, is that the truth?

4 Q Yes.

5 A That I didn't believe it?

6 Q Yes.

7 A I wouldn't say I didn't believe it. I
8 said I didn't know whether that was the truth or
9 not, because I was not there.

10 Q Well did you try to get to the truth of
11 it? I mean it was something that would have
12 concerned you. I mean, after all, your
13 grandmother is 89 years old, being raped by
14 somebody you put in the house.

15 A I didn't do that much digging.

16 Q Pardon?

17 A I didn't really dig, I just asked both
18 parties.

19 Q Yeah. And then well it's time for me to
20 go home. Let me leave the rapist here with my
21 grandmother. You left him the house, didn't you?
22 Didn't you live him at the house?

23 A Yes, he was there.

24 Q And the reason that you left him at the
25 house, because you didn't for the first second

Michael Mouzon-cross by Mr. Barr

1 think---

2 MS. BARR: Judge, that question is an
3 objecting question.

4 MR. BARR: Your Honor, I'll move on.
5 Thank you.

6 Q Now you said he was in the military?

7 A Yes, sir.

8 Q Dennis?

9 A Yes.

10 Q Retired military?

11 A Yes.

12 Q Do you know how long -- well he's retired
13 from the military. You guys grew up as friends?

14 A Yes.

15 Q Pardon me?

16 A Yes.

17 Q And you're the grandchild. Which one of
18 Ms. Mouzon's children, well I think you said that
19 you are -- that JD is your father. JD Williams?

20 A Yes.

21 Q That you are her grandchild.

22 A Yes. My mother is her daughter.

23 Q Your mother is her daughter. What is
24 your mother's name?

25 A Shirley Boggen.

Michael Mouzon-cross by Mr. Barr

1 Q Shirley Boggen? Is she in the courtroom?

2 A No, sir.

3 Q Now at some point whether your concern or
4 your lack of concern, did you call your mother who
5 is your grandmother's daughter, and tell her what
6 you claimed that your grandmother told you?

7 A Yes.

8 Q Oh, you did?

9 A Yes, sir.

10 Q And your mother rushed down her to find
11 out what was happening?

12 A No, she didn't.

13 Q She didn't come either, did she?

14 A She didn't rush. She came, but she didn't
15 rush.

16 Q She came.

17 A Yes.

18 Q Now when she came, you don't know whether
19 or not Dennis was still at your grandmother's
20 house, do you?

21 A At that time?

22 Q Yes, sir.

23 A I can't remember after, no.

24 Q You just can't remember. Now you would
25 agree that with respect to the residence on

Michael Mouzon-cross by Mr. Barr

1 where you grandmother lived, you said that
2 she lived there. And at the time, the only other
3 people spending the nights would have been Dennis
4 and a cousin.

5 A Yes.

6 Q And her name is?

7 A Melissa.

8 Q Melissa. Now is this Melissa in the
9 courtroom today?

10 A No, sir.

11 Q Melissa is the other person spending
12 nights at the house with your grandmother?

13 A Yes.

14 Q And now and you knew Melissa was spending
15 nights with the grandmother.

16 A Yes.

17 Q And you knew according to you, your
18 grandmother told you that Dennis raped her.

19 A Yes.

20 Q Did she tell you that it occurred at night
21 or during the day?

22 A I don't remember what time.

23 Q You don't -- you don't remember what time
24 your grandmother told you that a man raped her?

25 A No, sir.

Michael Mouzon-cross by Mr. Barr

1 Q You knew Melissa was going to be staying
2 with your grandmother? You knew that.

3 A Not at that time, she was not staying
4 there.

5 Q You didn't tell Ms. Barr that she was
6 staying back and forth between your -- her house
7 and your grandmother's house? You didn't just
8 tell her that a few minutes ago?

9 A Yes. Come in and spend the night, and go
10 out.

11 Q So she was coming and going and staying
12 the night afternoon going out.

13 A Yes.

14 Q Now whether it was coming in, staying the
15 night or going out, I am sure that you went and
16 you called Melissa. And you said, "Melissa, did
17 you stay at grandmother's house last night?"

18 A I don't remember, no.

19 Q You don't remember doing that?

20 A No.

21 Q Do you remember contacting Melissa at all,
22 and saying "Melissa, what happened?"

23 A I don't remember contacting her. She was
24 there at the house.

25 Q She was at the house.

Michael Mouzon-cross by Mr. Barr

1 A Yes.

2 Q A witness. Or should have been if it
3 occurred, right?

4 A I imagine, yes.

5 Q And you are the grandson who put the man
6 there. And you didn't ask Melissa, "Melissa, what
7 do you know about this thing." You didn't ask her
8 that?

9 A I think we kind of sort of not much
10 discussion about it. She didn't talk to me about
11 it.

12 Q Well you didn't go to her?

13 A I tried.

14 Q Oh, you did? How did you try to contact
15 her?

16 A She was there.

17 Q She was there at the house?

18 A When I came home.

19 Q Oh, and you confronted Melissa, is that
20 right?

21 A Yes, I said, I don't know exactly what I
22 said, but I remember asking her what is going on.

23 Q What is going on? And she told you what
24 is going on.

25 A I can't remember word for word, yes.

Michael Mouzon-cross by Mr. Barr

1 Q Now when she told you what was going on, I
2 knew time was up on him then. I knew when she
3 told you that I know anything about Dennis raping
4 a grandmother, I know he had to go then. I know
5 you made up your mind to put him out, right?

6 A Who me?

7 Q Yes, sir---

8 A No, sir.

9 Q ---you. So wouldn't you agree that
10 whatever Melissa told you, if anything, it
11 certainly didn't make you decide it was time for
12 him go, did it? You allowed him to stay.

13 A Well I asked him to leave one time.

14 Q Oh, you did? When was that?

15 A Um, that was before this happened.

16 Q Oh, before this happened.

17 A Right.

18 Q I see and he refused to leave.

19 A I asked him did he want to. Was
20 everything all right.

21 Q Why were you asking him if everything was
22 all right?

23 A Just so. We always talk.

24 Q Hadn't he told you that your grandmother
25 was kind of getting a little bit on the fresh

Michael Mouzon-cross by Mr. Barr

1 side?

2 A No. He say she's talking at night and
3 getting up.

4 Q That's what he told you?

5 A I said if that's a problem, you don't have
6 to be there.

7 Q Mr. Mouzon, you put him at the house to
8 take care of your grandmother.

9 A Yes.

10 Q And you're telling the ladies and
11 gentlemen of the jury because the grandmother he
12 said was talking at night, you went and asked him,
13 do you want to leave because grandmother is
14 talking at night?

15 A Yes.

16 Q So in your mind the grandmother talking at
17 night was a sufficient reason for you to ask him
18 to leave?

19 A If it was a problem.

20 Q A problem? Now how would your grandmother
21 get to church?

22 A Either he would bring her, or I would take
23 her.

24 Q So all of this involvement that you
25 testified a few minutes ago about your grandmother

Michael Mouzon-cross by Mr. Barr

1 being in church or with the church, he was the one
2 taking her?

3 A Sometimes, yes.

4 Q Now do you remember the 22nd of February?
5 Do you remember what day of the week the 22nd was
6 on?

7 A No, sir.

8 Q You don't remember what day of the week it
9 was?

10 A No, sir.

11 Q What day of the week did your grandmother
12 tell you that Dennis raped her?

13 A I can't remember.

14 Q You can't remember that?

15 A No, sir.

16 Q You just blocked it out of your mind,
17 right?

18 A No, I just can't remember.

19 Q And one of reasons that you just don't
20 remember, is that you really didn't take it too
21 seriously, did you?

22 MS. BARR: Judge, I'm sorry. I didn't
23 hear counsel's question.

24 Q I said one of the reasons you don't
25 remember is because you didn't take it too

Michael Mouzon-cross by Mr. Barr

1 seriously, did you?

2 A No, I wouldn't say that. No, sir.

3 Q Oh, you did remember?

4 A I wouldn't say that. I wasn't thinking to
5 take it too serious. I know it was serious.

6 Which it was.

7 Q But you obviously didn't take it serious
8 enough to recall the date in your mind, in your
9 head, did you?

10 A No, not in my head. No.

11 Q Now let's talk about the home health
12 person. Have you ever met the home health person
13 that was supposed to be visiting with your mother,
14 your grandmother?

15 A Yes.

16 Q And what was her name?

17 A Oh lord.

18 Q How about Ms. Lewis?

19 A Yes.

20 Q So Ms. Lewis was the home health person
21 that was supposed to be visiting with your
22 grandmother. And did she visit every day?

23 A I think so, yes.

24 Q So at the time that this alleged rape
25 supposedly occurred, it was during the time that

Michael Mouzon-cross by Mr. Barr

1 Ms. Lewis would have been visiting your
2 grandmother every day?

3 A Yes.

4 Q Did your grandmother ever tell you whether
5 or not she discussed with Ms. Lewis, what you
6 claim that she told you about Dennis?

7 A No, I don't remember that.

8 Q You don't remember that?

9 A No, sir.

10 Q Now, Ms. Lewis, you would agree, had some
11 degree of responsibility towards your grandmother,
12 right?

13 A Yes.

14 Q Now do you know what she was paying for
15 that care?

16 A I think the state Medicare.

17 Q Who had arranged for it?

18 A I don't know.

19 Q Who would you say would be the person most
20 responsible for your grandmother during the time
21 that she was living at the house on

22 A It would be me and the nurse.

23 Q You and the nurse. Now the nurse was just
24 hired by the state to come by every so often?

25 A Yes.

Michael Mouzon-cross by Mr. Barr

1 Q But with respect to family, blood, kin, it
2 was you?

3 A Yes, sir.

4 Q But you don't remember how often the nurse
5 came?

6 A I think she came every day.

7 Q I see. Now I know knowing this
8 information that you claim your grandmother told
9 you about having been raped and the nurse going
10 there every day, I know you had some things to
11 talk about with Ms. Lewis, right?

12 A No, sir.

13 Q You didn't?

14 A No, sir.

15 Q You did say that she used to bathe your
16 grandmother. She obviously had to take her
17 clothes off to do that. And she did everything
18 else that your grandmother needed. You did say
19 that, didn't you?

20 A Yes.

21 Q Did you say that?

22 A Yes.

23 Q Now would you not agree that certainly if
24 your grandmother had been raped, after all she
25 hadn't had sex in 10 years. Ms. Lewis might have

Michael Mouzon-cross by Mr. Barr

1 some information that might be kind of critical.

2 You would agree with that, don't you?

3 A Yes.

4 Q And you thought about that, didn't you?

5 A Yes.

6 Q Did you confront Ms. Lewis and say

7 Ms. Lewis, what do you know?

8 A No, sir.

9 Q You didn't do it? And you didn't do it
10 because you wasn't concerned about it, because you
11 never believed for one second that it ever
12 happened.

13 MS. BARR: Objection, it is argumentative.

14 MR. BARR: I will rephrase.

15 THE COURT: The objection is sustained.

16 The jury is to disregard Mr. Barr's statement.

17 Q Now the home health nurse, do you know
18 where she is today?

19 A No, sir.

20 Q And when is the last time you saw her?

21 A Passing by. I haven't talked to her.

22 Just passing by.

23 Q You haven't talked to her?

24 A No.

25 Q Have you talked to her at all since this

Michael Mouzon-cross by Mr. Barr

1 story broke? At all?

2 A No. No, I don't recollect that.

3 Q Did you tell some family members to come
4 talk to her? Did you tell some other family
5 member to go talk to her?

6 A They was already taking to other family
7 members.

8 Q But now I know, inasmuch as, you regarded
9 Ms. Lewis as a person with a secondary
10 responsibility of your grandmother. I know when
11 this story came out, you went to Officer Lail, and
12 she investigated it. And then you told Officer
13 Lail all about Ms. Lewis, right?

14 A No, she came to my business.

15 Q Who came? Ms. Lail -- Officer Lail came
16 to your business?

17 A Yes.

18 Q Did you tell her about Ms. Lewis?

19 A I can't remember.

20 Q Did she ask you about who was taking care
21 of your grandmother?

22 A Could have been. I can't remember all
23 those questions.

24 Q Well on the 25th of February,
25 Ms. Priscilla Lewis, that's her first name?

Michael Mouzon-cross by Mr. Barr

1 A Yes.

2 Q Now on the 21st of February, did you have
3 a conversation, or do you recollect having the
4 conversation with Officer Lail about Ms. Priscilla
5 Lewis?

6 A I can't remember what questions she was
7 asking me at all or vaguely. But that's when she
8 asked me that and the answer I gave her. But to
9 replay it right now, I can't remember.

10 Q Have you ever had any problem with your
11 memory before?

12 A I went, I just frequently went to the
13 hospital because I had some problems with my head.

14 Q Head problems?

15 A Yes.

16 Q Oh. But you did at least even with your
17 head problems, you do have a recollection of
18 bringing Ms. Priscilla Lewis' identity to
19 Ms. Lail, as a person responsible for home health
20 care with your grandmother.

21 A If she had asked me that, I probably did.
22 Yes.

23 Q If she asked you?

24 A Yes.

25 Q But you don't remember her asking you?

Michael Mouzon-cross by Mr. Barr

1 A I don't remember a lot of the questions.

2 Q But if she had asked you, you would have
3 told her?

4 A Yes.

5 Q I see.

6 MR. BARR: Court's indulgence, Judge.

7 Q Mr. Mouzon, after you come back from your
8 out of town visit, where did you say you were?

9 A In Florida.

10 Q In Florida. And you were on business?

11 A Yes, I was working.

12 Q And when you got back home, did you have
13 dinner with Dennis on the 22nd?

14 A I can't remember.

15 Q You don't remember sitting down and eating
16 food with him and after you got back home?

17 A I'm -- where were we?

18 Q Now you were at your house.

19 A At my house?

20 Q Yes, sir.

21 A I could have been.

22 Q Could have been. After your grandmother
23 told you she had been raped by Dennis, and you
24 were away. And after you got back home and you
25 had dinner. You sat down and had dinner with

Michael Mouzon-cross by Mr. Barr

1 Dennis?

2 A I could have been. I am not exactly sure.

3 Q Could have been. Was your grandmother
4 there?

5 A I don't remember. I can't remember that
6 point.

7 Q You can't remember?

8 A No, sir.

9 Q Do you remember washing cars that day on
10 this 22nd, at the car wash?

11 A When the officer came?

12 Q No, sir, on the 22nd. You do have a car
13 wash, right?

14 A Yes, sir.

15 Q And do you remember having a car wash on
16 the 22nd, and then going home and having dinner
17 with Dennis?

18 A We had the car wash at another church, I
19 remember that.

20 Q Oh, you had it at another church.

21 A Yes, sir.

22 Q Well when you got to having the car wash,
23 at the other church, what did you do?

24 A I can't remember. I can only remember
25 certain things.

Michael Mouzon-cross by Mr. Barr

1 Q So right now you can remember the car wash
2 on the 22nd. Was Dennis at the car wash?

3 A At the other church?

4 Q Yes.

5 A Yes.

6 Q You were washing cars with him?

7 A Yes. He had brought my grandmother there.

8 Q He brought your grandmother to the car
9 wash on the 22nd?

10 A I don't remember the specific date they
11 were at the car wash, yes.

12 Q But it was clearly after you got back
13 home, right?

14 A Yes.

15 Q And that was clearly after you were out of
16 town on your business trip.

17 A Yes.

18 Q And that was clearly after according to
19 you, your grandmother called you and told you she
20 was raped.

21 A Yes.

22 Q You were at the car wash, and he brought
23 your grandmother there.

24 A Yes.

25 Q Was there anybody else riding with him to

Michael Mouzon-cross by Mr. Barr

1 your grandmother's?

2 A I can't remember if it was or was not.

3 Q Well now I know you were still concerned
4 about your grandmother's health and welfare at the
5 time that he brought her to the car wash. You
6 were, weren't you?

7 A Yes.

8 Q Now even though you didn't remember what
9 you did at the car wash, you do have a
10 recollection of your mother, or your grandmother
11 leaving the car wash at some time.

12 A Yes.

13 Q And of course when she left the car wash,
14 she didn't leave walking, did she?

15 A No, sir.

16 Q She left the car wash and went back home,
17 or went somewhere, but who did she leave with?

18 A She was riding with Dennis.

19 Q Riding with Dennis. Now did your
20 grandmother tell you while she was there with
21 Dennis, did she tell you anything about Dennis
22 raping her?

23 A No, sir.

24 Q Were you ever alone with your grandmother?

25 A Yes.

Michael Mouzon-cross by Mr. Barr

- 1 Q You were alone with her?
- 2 A Yes.
- 3 Q Outside of Dennis' presence?
- 4 A At that -- on that day?
- 5 Q Yes, sir.
- 6 A I wasn't alone with her on that day, no.
- 7 I thought you meant alone.
- 8 Q Was she washing cars?
- 9 A Who, her?
- 10 Q Yes, sir.
- 11 A No, sir.
- 12 Q What was she doing?
- 13 A Sitting in the car.
- 14 Q Whose car?
- 15 A In Dennis' car.
- 16 Q In Dennis' car?
- 17 A Yes, sir.
- 18 Q I know you didn't want her in there. You
- 19 didn't want her in there, did you?
- 20 A She said she was all right.
- 21 Q She said she was all right. And she told
- 22 you that.
- 23 A I remember asking her was she all right.
- 24 She said, yes.
- 25 Q Certainly didn't tell you anything about

Michael Mouzon-cross by Mr. Barr

1 having been raped a day or so earlier.

2 A Not at that time.

3 Q She didn't tell you she was raped that
4 night, did she?

5 A No, sir.

6 Q Are you married?

7 A Yes, sir.

8 Q Your grandmother has never lived with you
9 at your house, has she?

10 A No, sir.

11 Q And I know you've never considered having
12 her live with you?

13 A A time or two.

14 Q A time or two?

15 A Yes.

16 Q You considered it, but you decided against
17 it.

18 A Well my wife, she decided as long as
19 somebody is at the house with her, she didn't have
20 to move.

21 Q That someone was Dennis.

22 A At the moment. At the moment it was
23 Dennis.

24 Q At the moment and on up until the time the
25 police came and collected him, right?

Michael Mouzon-cross by Mr. Barr

1 A Yes.

2 Q Have you ever had any problems with your
3 grandmother?

4 A Problems, like?

5 Q Yes, sir, any kind of problems?

6 A Well everybody has got problems.
7 Unseemingly problems, but problems.

8 Q Just problems?

9 A Yes.

10 Q Did those problems stand between you and
11 perhaps having to come live with you?

12 A No.

13 Q What kind of problems did you have?

14 A Just normal like family problems.

15 Q Two more questions, Mr. Mouzon. Did you
16 have an occasion to have a discussion with Judge
17 Williams about your grandmother after this
18 incident? Willie Williams, the Magistrate from
19 Hemingway?

20 A Not to discuss this case that's going to
21 court.

22 Q Did you have some discussion with her
23 about your grandmother though?

24 A I can't remember other than that through
25 court.

Michael Mouzon-cross by Mr. Barr

1 Q Do you remember ever telling her that you
2 didn't believe your grandmother?

3 MS. BARR: Objection.

4 A I don't remember that.

5 MS. BARR: Objection.

6 THE COURT: Sustained.

7 MR. BARR: Thank you, judge. I have no
8 further questions.

9 Redirect Examination by Ms. Barr:

10 Q Mr. Mouzon, you were asked on cross
11 examination about the specific date of February
12 22nd 2009. And you were asked questions about an
13 incident at a car wash. Is it your testimony that
14 you have a specific recollection of Dennis Wright
15 bringing your grandmother to a car wash on
16 February 22nd 2009?

17 A I can't remember those dates, but I
18 remember they came in to the car wash.

19 Q Okay. So you remember the incident, but
20 you don't remember the specific date.

21 A Yes.

22 Q Is it possible that the incident at the
23 car wash could have happened before you were
24 notified about the rape?

25 A You know, I don't think it was. I was

Michael Mouzon-redirect by Ms. Barr

1 gone.

2 Q You were gone?

3 A Yes. I was out of town.

4 Q So you are certain that it happened after
5 your grandmother told you she was raped.

6 A After I got home, yes.

7 Q Would that have been after your
8 grandmother told you that she was raped?

9 A Yes, because she told me on the phone when
10 I was out of state. When I came home, they were
11 at the car wash.

12 Q And at that point and time, Mr. Wright
13 brought your grandmother to a car wash?

14 A Yes.

15 Q And you were there.

16 A Yes.

17 Q Why weren't the police -- why didn't you
18 call the police then and there?

19 A Because I didn't know what happened.

20 Q Now I am curious, you testified that you
21 and your wife made a decision that as long as
22 somebody was there with her, she was going to be
23 fine.

24 A Yes.

25 Q Would you agree with me that at her age,

Michael Mouzon-redirect by Ms. Barr

1 that it was challenging to care for her?

2 A For me?

3 Q Yes. For anybody to care for her full
4 time?

5 A Yes.

6 Q So if Dennis Wright were not there to care
7 for your grandmother while she lived in Lake City,
8 who would have been responsible for doing it?

9 A Probably me or another family member.

10 Q So if Dennis Wright were not living in
11 your house caring for your grandmother, the burden
12 would have been with you and your wife?

13 A Yes.

14 MS. BARR: That's all the questions I
15 have.

16 THE COURT: Anything further, Mr. Barr?

17 Recross Examination by Mr. Barr:

18 Q Now she said the burden would have been on
19 you and your wife. Now you didn't - you've never
20 considered your grandmother a burden, have you? I
21 mean you just, would it be fair to say that you
22 really wasn't listening to what Ms. Barr asked
23 you?

24 A If I was taking the question as a burden
25 and weight.

Michael Mouzon-recross by Mr. Barr

1 Q And weight.

2 A Actually me outside of my daily life.

3 Well maybe she was correct.

4 Q Did you consider it a burden?

5 A It wasn't easy.

6 Q It wasn't easy.

7 A What made it so difficult, care taking of
8 anyone is not easy.

9 Q Well I mean what made it so difficult with
10 your grandmother?

11 MS. BARR: Judge, I am going to object.
12 He is falling outside the scope of recross.

13 MR. BARR: Your Honor, I am only following
14 up on what she asked.

15 A I had a lot of things on my plate.

16 Q Just one other question. Inasmuch as, you
17 had a whole lot of things on your plate, your
18 grandmother has 9 children, you say?

19 A Yes.

20 Q Have you ever called any of them up and
21 said, "Come get grandmother?"

22 A Yes.

23 Q Which one?

24 A Most of them.

25 Q Most of them?

Michael Mouzon-recross by Mr. Barr

1 A Yes.

2 Q And most of the ones that you called, they
3 all know about these allegations, don't they?

4 MS. BARR: Judge, again, I am going to
5 have to object. This is outside the scope of
6 recross examination?

7 THE COURT: Objection sustained.

8 MR. BARR: I have no further questions.

9 THE COURT: Thank you. You may step down.
10 Ladies and gentlemen, we will break for lunch.
11 You will need to be back at 2:30. Have a good
12 lunch. Please do not discuss the case with anyone
13 or allow anyone to discuss it in your presence.

14 (Whereupon, At 1:15 p.m. court breaks for
15 lunch.)

16 THE COURT: You may bring the jury.

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

19 THE COURT: Ladies and gentlemen, welcome
20 back. Your next witness please.

21 MS. BARR: Please the Court, we would call
22 Dr. Kenneth Faile.

23 Dr. Kenneth Faile, being

24 first duly sworn, testified as follows:

25 Direct Examination by Ms. Barr:

Michael Mouzon-recross by Mr. Barr

1 Q Dr. Faile, good afternoon, sir.

2 A Thank you.

3 Q Now as you received an invitation by way
4 of subpoena to testify in this case?

5 A Yes, ma'am.

6 Q And, sir, if you would, kind of introduce
7 yourself to the ladies and gentlemen of the jury.
8 Tell us what it is that you do. Where you work.
9 And a little bit about your educational
10 background, if you would.

11 A My name is Dr. Kenneth Faile. I work for
12 McLeod Family Medicine. The Johnsonville Office.
13 We have there been there about 11 years. I did my
14 residency at McLeod Hospital in Florence. And
15 went to medical school in Charleston.

16 Q And what year did you graduate from
17 medical school?

18 A Medical school in 96. And been at McLeod
19 since then.

20 Q Do you have a family practice?

21 A Yes, ma'am.

22 Q So you treat a mirage of patients, if you
23 will?

24 A Yes, ma'am. Basically -- your basic
25 medical needs. High blood pressure, diabetes,

Dr. Kenneth Faile-direct by Ms. Barr

1 arthritis. Upper respiratory infections, just to
2 name a few.

3 Q And, sir, now is this the first time
4 you've ever had to testify in court?

5 A Yes, ma'am.

6 Q Okay. You have held your license since
7 1996, is that correct?

8 A Yes, ma'am.

9 MS. BARR: Judge, at this time we would
10 tender Dr. Faile as an expert in the field of
11 Family Medicine.

12 THE COURT: Mr. Barr?

13 MS. BARR: No objection.

14 THE COURT: He's an expert witness in that
15 field. Ladies and gentlemen, ordinarily witnesses
16 cannot offer opinions concerning matters. An
17 exception exists as to those folks who by reason
18 of their education, training and experience have
19 acquired some specialized knowledge of a
20 particular field. Those witnesses can offer
21 opinions provided that the opinions are offered in
22 accordance with the Rules of Evidence.

23 This witness is admitted as an expert
24 witness in the field of Family Medicine.

25 MS. BARR: Thank you, judge.

Dr. Kenneth Faile-direct by Ms. Barr

1 Q Dr. Faile, do you know Ms. Azalee Mouzon?

2 A Yes, ma'am.

3 Q And how is that you know her?

4 A I have been her family medicine physician
5 for several, several years.

6 Q About 8 or 9 years?

7 A Yes, ma'am. I have her chart record right
8 here. Since April of 2002.

9 Q Sir, how old is Ms. Mouzon?

10 A Actually just turned 90.

11 Q Do your records reflect a birthday? A
12 date of birth?

13 A Yes, 1920.

14 Q 1920. Now, sir, I'm interested in her
15 health. But in the time frame, in February of
16 2009, can you describe her general physical
17 health?

18 A As far as activity, the normal activity
19 you would think of a female in her mid to late
20 80's, she moved slow. And most careful. She
21 moved slowly. Just basic arthritis and leg
22 weakness. And I guess that's kind of what you're
23 asking?

24 Q Yes, sir. Did she suffer from illnesses
25 or ailments while she was under your care?

Dr. Kenneth Faile-direct by Ms. Barr

1 A She has looking at her chart here, she has
2 a history of high blood pressure. Arthritis, as I
3 patiented. And occasional sinus infections and
4 some anxiety. occasionally she's had some leg
5 pain and back pain and hip pain.

6 Q Leg pain, back pain and hip pain?

7 A Yes, ma'am.

8 Q Okay.

9 A Mainly from her arthritis.

10 Q Mostly from her arthritis?

11 A Yes, ma'am.

12 Q So would the arthritis be predominantly in
13 her lower extremity or all over?

14 A All over. Worse in her lower extremity.
15 I know standing, walking, moving from room to room
16 gives her a little bit of difficulty.

17 Q Okay. And you indicated that you kind of
18 advised her to limit her walking?

19 A Yes. The main thing I asked her to do if
20 she is going to move around her house, to use her
21 walker, use her cane, just as extra precaution to
22 make sure her legs don't give out on her; to
23 prevent her from falling and getting hurt further.

24 Q What about her ability to walk any
25 appreciable distances? Do you have any

Dr. Kenneth Faile-direct by Ms. Barr

1 information about that?

2 A I know that she can get around her house
3 from the bedroom to the bathroom. From the den to
4 the kitchen. And I would say she could probably
5 walk 20, 30 feet. At that point and time, she
6 probably would have to stop and rest. Hopefully
7 she is where she needs to be.

8 Q Now do you know whether or not when she is
9 able to walk the small distance that you
10 described, that she required some assistance of a
11 cane or a walker?

12 A She really does. And I highly recommend
13 that she use one, a cane or walker only as a
14 insurance policy in case her legs were to get weak
15 or she were to trip. She's got something to try
16 to brace her fall. And that's something that I do
17 worry about with Ms. Mouzon.

18 Q And would she have had the use or the
19 necessity for the use of a walking aid back in
20 February of 2009?

21 A Yes, ma'am. She's probably using a walker
22 or a cane well before that.

23 Q Well before that?

24 A Yes, ma'am.

25 Q Do you know whether or not sometimes you

Dr. Kenneth Faile-direct by Ms. Barr

1 have the older folks that have the toilet
2 facilities near their bed? Do you have any
3 information concerning whether she required that?

4 A I'd like to think that she may have a bed
5 side commode. I know at some point as she has
6 home health to help with her physical therapy and
7 things of that nature.

8 Q And would you describe her having had
9 home health as something that is medically
10 necessary for her age and condition?

11 A Yes. There have been some times where she
12 has physical therapy work with her again just
13 trying to maintain her mobility. Just so she can
14 do just basic things; get to the bathroom; get to
15 the kitchen; get to her bedroom.

16 Q Dr. Faile, what about her ability to live
17 independent and live on her own without the aid of
18 another person? Do you have an opinion as to
19 whether or not she could do that?

20 A A good question. Maybe for a very short
21 period of time. As far as getting to the stove,
22 getting to the water for the bathroom for the bath
23 tub, just basic things that we do, that we don't
24 think about it, it would be hard for her. Maybe a
25 day or two but for a longer period of time, I do

Dr. Kenneth Faile-direct by Ms. Barr

1 think that would make things a lot more difficult
2 for her.

3 Q Sir, would you agree with me that
4 providing care for someone who is in her physical
5 health and her age, can certainly be challenging
6 sometimes?

7 A Oh, absolutely.

8 Q Now, sir, at some point last year, were
9 you ever notified about your patient, Ms. Mouzon,
10 being raped?

11 A I was. I received a phone call from one
12 of the daughters to tell me what had happened.
13 Again, I have got her medical records.

14 MR. BARR: Objection to hearsay, Your
15 Honor.

16 MS. BARR: Well, Judge, I am not going to
17 ask about particulars. I am just asking whether
18 or not he was notified.

19 A I do have the---

20 MS. BARR: He has to tell us whether you
21 can answer that.

22 THE COURT: The objection is to what is
23 already testified to?

24 MR. BARR: No, sir, Judge. I was under
25 the impression he was about to tell what she told

Dr. Kenneth Faile-direct by Ms. Barr

1 him.

2 THE COURT: Pose another question, Ms.

3 Barr.

4 Q Let me ask you this. When was the first
5 time that you were notified that your patient had
6 been raped? The date. The first time.

7 A I know it was February of 09.

8 Q Okay.

9 A If you give me just a second to see if I
10 can get the date. 2/25/09.

11 Q February 25th 2009, is the first time your
12 records reflect you were notified about that?

13 A Yes, ma'am.

14 Q Now I won't ask you anymore about that
15 particular note.

16 A Yes, ma'am.

17 Q Subsequent to that, did you actually see
18 Ms. Mouzon in your office?

19 A I did.

20 Q And tell me the date you saw her, February
21 22, 2009?

22 A This is March 17th, 09.

23 Q March 17th?

24 A Yes, ma'am.

25 Q She was actually inside of your office?

Dr. Kenneth Faile-direct by Ms. Barr

1 A Yes, ma'am.

2 Q And what was the purpose of that
3 particular visit?

4 A At that point and time, she was having a
5 lot of anxiety, panic attacks, insomnia. She
6 described to me a lot of pain.

7 MR. BARR: Your Honor, may we approach the
8 bench?

9 THE COURT: Yes, sir.

10 MS. BARR: Hold on for us, Dr. Faile.

11 (Whereupon, the attorneys approach the
12 bench and confer with judge.)

13 THE COURT: Ladies and gentlemen of the
14 jury, I am going to have you to go to the jury
15 room for a few minutes. Please do not discuss
16 this case. I am going to talk to the lawyers a
17 few minutes.

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

20 THE COURT: Mr. Barr.

21 MR. BARR: Please the Court, Judge.

22 THE COURT: Yes.

23 MR. BARR: On July 30th, we filed, 2009,
24 we filed and served a Rule 5 Motion for Disclosure
25 pursuant to the South Carolina Rules of Criminal

Dr. Kenneth Faile-direct by Ms. Barr

1 Procedure on the State of South Carolina on the
2 Solicitor's Office. And, Judge, Paragraph No. 5,
3 of that Rule 5 Motion for a Discovery in effect
4 essentially says: The results or reports of
5 physical or mental examination of scientific tests
6 to include but not limited to polygraph examine,
7 copies thereof. And for this defendant, the
8 alleged victim, and other potential witnesses
9 which are in the possession, custody and control
10 of the state according to the Rules of Civil
11 Procedure. Or in the Rules of Criminal Procedure.

12 And, Your Honor, of course we would submit
13 that we were provided with a memo from Dr. Faile.
14 Which says, that this is a letter on behalf of my
15 client, Azalee Mouzon, who I have known and cared
16 for about 7 years. Patient is 88 years old.
17 African American female with a history of chronic
18 UTI and hypertension, arthritis and anxiety. In
19 my opinion her thought process, her ability to
20 remember and recall facts and her ability to
21 articulate these, I would consider her normal and
22 appropriate.

23 She does not have -- she does have a
24 history to mild anxiety. Mainly as it relates to
25 her long term standing insomnia. Of course,

Dr. Kenneth Faile-direct by Ms. Barr

1 Judge, what we are getting in to now is apparently
2 she was examined specifically after the alleged
3 incident took place. And my understanding of what
4 this Doctor, Dr. Faile is about to testify to, is
5 the result of that examination.

6 Your Honor, we would submit that any
7 information or any results of any tests or any
8 medical evidence, which goes beyond what has been
9 provided here, that the prosecution should not be
10 permitted to use that.

11 THE COURT: Ms. Barr.

12 MS. BARR: Judge, I don't think he's about
13 to testify what are in any reports.

14 THE COURT: What is he about to testify?

15 MS. BARR: He is going to testify to
16 statements she made to him in that March 17th
17 2009, visit. And, Judge, let me also just say.
18 Mr. Barr is correct in his Rule 5 disclosure. He
19 asked for any records relating to the victim. But
20 just because he asked for it, doesn't mean that
21 we're entitled to or required to produce it. We
22 have to produce it, as understand it, from Rule 5
23 scientific reports. Copies of any results or
24 reports for physical or mental examination. And
25 scientific tests or experiments or copies thereof,

Dr. Kenneth Faile-direct by Ms. Barr

1 in possession or control of the prosecution; one,
2 we would take the position that the medical
3 records of the victim does not come in the
4 province of that particular rule.

5 Second of all, those documents, those
6 items, aren't under the custody and control or
7 possession of the prosecution. Those are in the
8 custody, control and possession of the physician.
9 When he received that note from me that indicates
10 Dr. Faile's opinion about her ability to recall,
11 it says he's been treating her for 7 years. They
12 could have subpoenaed his records -- her records
13 from his office. But I am not asking him -- I
14 will not ask him the results of any reports or any
15 results of any physical examination that he
16 performed on the victim.

17 THE COURT: Mr. Barr.

18 MS. BARR: And I am certainly not seeking
19 to introduce anything to that effect in to
20 evidence.

21 MR. BARR: Well, Your Honor, I would just
22 simply ask that the State to follow the procedure
23 of questioning of that jury -- for the witness to
24 be questioned outside the presence of the jury
25 prior to the time.

Dr. Kenneth Faile-direct by Ms. Barr

1 THE COURT: On the limited area of
2 questions right now. Doctor, you said you were --
3 you were about to say she told you something or
4 complained of something?

5 A Yes, sir. When I saw her on the
6 March 17th 09, she did tell me she had been raped
7 or attacked. Her main problem that day was
8 increase in her anxiety and insomnia. And also
9 some pain from attack, which was mainly in her
10 back at the time.

11 MS. BARR: Well, Judge, that's all I was,
12 that's the only place I was going with that.

13 THE COURT: Anything else, Mr. Barr?

14 MR. BARR: Well, Judge, our objection
15 still remains particularly, If I heard the last
16 portion of the statement correctly, if I
17 understand, he was connected with some, some
18 diagnosis on his part that relates to the alleged
19 rape. And that's the portion of it we have the
20 objection to.

21 THE COURT: Well I overrule the objection.
22 I think the testimony is consistent with the
23 documents that are disclosed by the State.

24 MR. BARR: Your Honor, while the jury is
25 out in the interest of time, we would move in

Dr. Kenneth Faile-direct by Ms. Barr

1 limine, to prohibit the State from asking
2 Dr. Faile any questions her ability to remember.

3 THE COURT: Are you planning to ask him
4 questions about her ability to remember?

5 MS. BARR: Judge, I certainly plan to ask
6 him about the statement she gave, April 3rd, 2009,
7 her ability to recall and articulate facts.

8 THE COURT: That's in the report, as well?

9 MS. BARR: That's the one that we have,
10 yes.

11 MR. BARR: Judge, it would be our
12 position, first of all, that even though this is
13 in the statement, that Dr. Faile is incompetent
14 about his patient's ability to remember. That he
15 has been qualified as a family doctor. There is
16 no foundation laid whereby it could be determined
17 that he is in fact qualified to testify regarding
18 the patient's ability to remember. Moreover, Your
19 Honor, what this amounts to is bolstering the
20 credibility of a witness who has already
21 testified, whose credibility has not been
22 attacked. And it would be our position that in
23 order to allow Dr. Faile to testify regarding her
24 ability to remember at this point, would simply be
25 nothing more than bolstering this witness'

Dr. Kenneth Faile-direct by Ms. Barr

1 testimony.

2 THE COURT: What about that, Ms. Barr?

3 MS. BARR: Judge, I think the analysis
4 regarding bolstering is proper. And I don't
5 believe that defense counsel can consider it
6 bolstering. This doctor has treated her for 8 or
7 9 years. He had conversations with her many times
8 over that 8 or 9 year period of time. He's
9 certainly free as any lay person would be to
10 testify as to whether she had the ability to
11 recall while she was in his presence. I don't
12 think it is bolstering.

13 THE COURT: I'd overrule the Motion in
14 Limine. Of course, the foundation is to be set,
15 established before any witness can answer any
16 questions. Including an expert witness.

17 MS. BARR: Yes.

18 THE COURT: You know, the field of Family
19 Medicine is a fairly wide range of field. I am
20 sure the doctor sees plenty of people concerning
21 plenty of things. Considering his field of
22 expertise. So I deny that motion. We are going
23 to take about a 2-minute stretch.

24 MS. BARR: Yes, sir.

25 (Whereupon, the court takes a short

Dr. Kenneth Faile-direct by Ms. Barr

1 recess.)

2 THE COURT: Bring the jury back.

3 (Whereupon, the following takes place
4 within the presence of the jury.)

5 THE COURT: The jury is back. The
6 objection is overruled. You may proceed.

7 Q Thank you. Dr. Faile, let me go back and
8 make sure I am on track. You've indicated that
9 Ms. Mouzon was in your office on the March 17th
10 2009?

11 A Yes, ma'am.

12 Q And I think my last question to you was
13 what was the purpose of that particular visit.
14 Can you kind of just start back from there, so we
15 can make sure we picked up where we left off?

16 A She came in with increased problems with
17 her anxiety.

18 Q And hold on. I need you to use the
19 microphone. I need to make sure we can hear.
20 Here we go.

21 A She came in and had increased symptoms
22 with her anxiety and insomnia. And some back
23 pain.

24 Q And back pain?

25 A Yes, ma'am.

Dr. Kenneth Faile-direct by Ms. Barr

1 Q Did she complain of any other pain?

2 A She did have some abdominal discomfort as
3 well.

4 Q Did she tell you anything that would have
5 related to the reason why she was having increased
6 anxiety?

7 A She stated she was attacked and raped on
8 February 19th.

9 Q February 19th?

10 A 19th?

11 Q Yes, sir, Of 2009?

12 A Yes, ma'am.

13 Q She said that she was attacked and raped?

14 A Yes, ma'am.

15 Q Now do you specifically, and I know you
16 see a lot of patients.

17 A Yes, ma'am.

18 Q And I know you have seen her a number of
19 times. Do you specifically remember how she
20 appeared in your office that day?

21 A I do. She looked scared. Real nervous.
22 I spent most of the time trying to help calm her
23 down and help her relax. She definitely did not
24 look like what she---

25 Q Sir?

Dr. Kenneth Faile-direct by Ms. Barr

1 A She definitely did not look like she
2 normally did.

3 Q And if the rape happened February 19th of
4 2009, would that have been the first visit that
5 you saw here since February 19th 2009?

6 A Yes, ma'am.

7 Q And she was still that upset?

8 A Yes, ma'am.

9 Q What was your course of treatment, if any,
10 at that point, and your recommendation towards
11 that point?

12 A At that point and time, I treated her,
13 increased her anti-anxiety and insomnia with the
14 medicine Xanax. She did have a bladder infection.
15 So I did cover her for the bladder infection that
16 day as well.

17 Q How is that, you know, you indicated you
18 see a lot of patients, is that right?

19 A Yes, ma'am.

20 Q And you've indicated that you've seen her
21 a number of times.

22 A Yes, ma'am.

23 Q How is it that you remember how she
24 appeared on that visit, as opposed to all the
25 other times you have seen her over an 8 or 9-year

Dr. Kenneth Faile-direct by Ms. Barr

1 period?

2 A Usually when she comes in even when she is
3 feeling bad, she is really a talker. She does a
4 great job of telling you, I hurt here. I did
5 this. And she looked like a different person. I
6 was really having to ask some questions to get
7 some answers from her. Because normally it's
8 just like a regular conversation.

9 Q Okay.

10 A It was just a lot different than I had
11 ever seen her before.

12 Q You said something that was interesting.
13 You said normally when you talk to her, she gives
14 you information that you ask even if she is not
15 feeling so well.

16 A Yes, she does a real good job when she
17 comes in saying that she had some abdominal pain
18 about 4 days. Had a little bit of fever. It
19 does hurt when I have to urinate. While these are
20 great answers to the questions that I asked, to
21 help guide me to what her problems may be.

22 Q Now as a physician is it important to get
23 reliable information from your patient when you
24 are trying to treat them.

25 A Yes, ma'am.

Dr. Kenneth Faile-direct by Ms. Barr

1 Q And certainly to do that, you need to be
2 able to communicate with your patient and have the
3 patient communicate with you, is that right?

4 A Yes, ma'am.

5 Q Now during the time that you treated her,
6 and even including this date, was she able to
7 answer your questions appropriately?

8 A Yes, ma'am.

9 Q Did she seem to understand what you were
10 saying?

11 A Yes, ma'am.

12 Q Could you understand what she was saying?

13 A Yes, ma'am.

14 Q Was she able to kind of tell you about --
15 and don't tell me what she -- you can't tell me
16 what she said. Did she actually tell you what
17 happened to her?

18 A She said she was attacked and raped.

19 Q Now in the 7 or 8 year period of time that
20 you have treated her, how many times do you think
21 she visited you? More than 50 times she has
22 visited to your office?

23 A That's a pretty good guess.

24 Q And of course you are still treating her,
25 right?

Dr. Kenneth Faile-direct by Ms. Barr

1 A Yes, ma'am.

2 Q Have you had enough time since 2003, as
3 her physician, to have an opinion about her
4 ability in March of 2009, to remember certain
5 facts?

6 A Yes, ma'am.

7 Q What about her thought process in March of
8 2009, when you saw her?

9 A She was very clear spoken. Very easy to
10 understand her. When I asked the medical
11 questions she gave real good answers.

12 Q And, sir, after this incident was
13 reported, did your officer have communication with
14 the Williamsburg County Sheriff's Office about
15 this particular case?

16 A I believe so.

17 Q And did you issue a statement dated
18 April 3rd of 2009?

19 A Yes, ma'am, I believe so.

20 Q And were you specifically asked by the
21 investigator to render an opinion as to whether or
22 not Ms. Mouzon had the ability to recall facts and
23 articulate those facts?

24 A Yes, ma'am.

25 Q What was your opinion as to whether or not

Dr. Kenneth Faile-direct by Ms. Barr

1 she had the ability to recall facts and articulate
2 those facts?

3 A I feel she did communicate most of the
4 thoughts or ideas she had.

5 Q And how would -- and I sorry, do you have
6 a copy of that April 3rd 2009, note there?

7 A Probably somewhere.

8 Q Well I won't have you dig. If I can just
9 approach and you can let me know if I have the
10 same one.

11 A Yes, ma'am.

12 Q That's part of my notes now. But is this
13 the report that you generated?

14 A Yes, ma'am.

15 Q And how would you describe, did you
16 describe her ability to process information and to
17 remember and to recall? That's normally
18 appropriate?

19 A Yes, visibly I did take note. And her
20 thought process, her ability to recall facts, her
21 ability to articulate seemed normal and
22 appropriate for her.

23 MS. BARR: That's all the questions I
24 have. Answer any questions the court or the
25 defense has.

Dr. Kenneth Faile-direct by Ms. Barr

1 THE COURT: Mr. Barr.

2 Cross Examination by Mr. Barr:

3 Q Dr. Faile, you say you are Ms. Mouzon's
4 personal physician?

5 A Yes, sir.

6 Q And you have been for quite some time.

7 A Yes, sir.

8 Q And I believe you indicated when she came
9 to see you on March 27th?

10 A March 17th.

11 Q March 17th.

12 A Yes, sir.

13 Q She saw you on March 17th, and she
14 related to you that she had been attacked and
15 brutally assaulted.

16 A She told me she had been attacked and
17 raped.

18 Q And did you -- was she -- do you know how
19 she got to your office that day?

20 A Usually a family member would help get her
21 to my office.

22 Q Well do you know how she got there that
23 day?

24 A I know a family member was with her. I'm
25 assuming that she rode with him to my office.

Dr. Kenneth Faile-cross by Mr. Barr

1 Q But you don't know who the family member
2 was?

3 A No, sir. By name, I do not.

4 Q Now, I think that you indicated that she,
5 she stated to you that she had been raped.

6 A Yes, sir.

7 Q You wrote that in your notes.

8 A Yes, sir.

9 Q Could I see that for a second?

10 A Yes, sir.

11 MR. BARR: Thank you, sir.

12 A Yes, sir.

13 Q Doctor, prior to March 17th, when was the
14 last time you saw Ms. Mouzon?

15 A It was January 15th of 2009.

16 Q And January 5th?

17 A 15th.

18 Q 15th?

19 A Yes, sir.

20 Q Well before I get to that, now I think you
21 have got it written in your notes that she told
22 you that she had been raped on February 19th.

23 A That's what I have in my notes.

24 Q Of course, you wouldn't have any other way
25 of getting that in there, other than her having

Dr. Kenneth Faile-cross by Mr. Barr

1 told you that. You didn't see any other family
2 members?

3 A Well I did have her daughter call. I have
4 got that here. The first I knew about it, Emma
5 Barksdale, her daughter, called my office on
6 February 25th of 2009 to let me know what had
7 happened on February 19th of 2009.

8 Q What date was that now?

9 A This was on 2/25/09.

10 Q 2/25. I see. That would have been the
11 19th, or 20th. Approximately about 5 or 6 days
12 after she claimed that she had been raped.

13 A Yes, sir.

14 Q Do you know if she was examined by a
15 doctor?

16 A I do not.

17 Q Did you ask her whether or not she had
18 been examined by a physician after this so called
19 rape?

20 A When I saw her in my office?

21 Q Yes, sir.

22 A I did not. My main concern that day was
23 to try and help with some of the anxiety and panic
24 attacks that she was having.

25 Q And of course you don't know where they

Dr. Kenneth Faile-cross by Mr. Barr

1 were coming from, do you? If she had it?

2 A If she had it.

3 Q If she had anxiety.

4 A Oh, she definitely had anxiety. And
5 definitely had the panic attacks.

6 Q Well in fact, I believe she had anxiety
7 for quite some time.

8 A She had.

9 Q And you prescribed -- what medication was
10 she actually taking at the time she was in your
11 office on the 25th? On the 17th?

12 A Xanax.

13 Q She was on Xanax when she came in to your
14 office?

15 A Yes, sir.

16 Q And what is Xanax? What did you prescribe
17 Xanax for?

18 A To treat anxiety.

19 Q Panic attacks?

20 A Yes, sir.

21 Q I see. So she was having panic attacks
22 actually prior to the time that she claimed that
23 she was raped?

24 A I would describe it as generalized anxiety
25 disorder prior. And the day I saw her, that was a

Dr. Kenneth Faile-cross by Mr. Barr

1 true panic attack.

2 Q True panic attack?

3 A Yes, sir.

4 Q Well you don't know what brought that on.

5 A I was going on by what she had told me.

6 Q I see. That's what I am talking about.

7 You were going by what she had told you.

8 A And her daughter, Emma Barksdale.

9 Q Now of course, as I understand it, there
10 was -- do you know if she was ever examined by a
11 doctor after this alleged rape?

12 MS. BARR: Judge, that question has been
13 asked and answered.

14 MR. BARR: It hasn't been answered.

15 THE COURT: Do you know, sir?

16 Q Do you know that?

17 A To the best of my knowledge, I do not.

18 Q You don't know? And you didn't examine
19 her.

20 A No, sir.

21 Q And you didn't -- then you didn't ask
22 whether or not she had been tested for STD's or
23 venereal disease?

24 A What I said, by the time I saw her, to do
25 that type of examine, would have not shown

Dr. Kenneth Faile-cross by Mr. Barr

1 anything because the time had been so great. And
2 to even use the word vagina, those types of
3 medical terms, just seemed to make her anxiety a
4 lot worse. Her main concern that day was just a
5 mental standpoint trying to calm her down and help
6 her relax.

7 Q So in other words, the more she talked
8 about this thing in your opinion, the more upset
9 she seemed to get.

10 A She was just extremely anxious and having
11 panic attacks that day I saw her. And I knew the
12 best thing I could do to help her that day was
13 trying to help her relax and try to help her calm
14 down.

15 Q Well you suggested or at least said a few
16 minutes ago, that you felt like the more you
17 questioned her about it, you would do more damage
18 than good.

19 A I started to use some medical language to
20 describe the private area. And I could tell that
21 using those type of words made her feel
22 uncomfortable. So I kept most of my focus on
23 trying to help calm her down. Help her relax.
24 From a medical standpoint to help her calm down
25 and relax.

Dr. Kenneth Faile-cross by Mr. Barr

1 Q So then, and you don't know who she was
2 talking to prior to the time she came to your
3 office, do you? Or what they were talking about?

4 A Oh, that day?

5 Q Yes, sir.

6 A No, sir.

7 Q Dr. Faile, did you prescribe at some
8 point, Oxycontin, for Ms.?

9 A I will be glad to check. Oxycontin or
10 Oxybutynin?

11 Q Pardon me?

12 A Oxycontin or Oxybutynin?

13 O-X-Y-B-U-T-Y-N-I-N.

14 Q You prescribed Oxybutynin for her?

15 A Yes, sir.

16 Q When was that?

17 A This was 9/7/2010. Although she may have
18 been on it in the past.

19 Q No Oxycontin.

20 A No, sir. To the best of my knowledge, I
21 will be glad to flip and look through her chart
22 and look for it. But to the best of my knowledge,
23 no.

24 MR. BARR: Thank you, sir. I have nothing
25 further.

Dr. Kenneth Faile-cross by Mr. Barr

1 MS. BARR: Just a couple of questions.

2 Redirect Examination by Ms. Barr:

3 Q Dr. Faile, help us figure out, what is
4 Oxycontin?

5 A Oxycontin is a very strong pain medicine.

6 Q And I'm sorry. You said you had a patient
7 that you prescribed Oxybutynin?

8 A Oxybutynin. It's a medicine to help with
9 bladder control.

10 Q And that's what she was taking?

11 A Yes, ma'am.

12 MS. BARR: That's all I have, judge.

13 THE COURT: Anything further?

14 MR. BARR: No, sir.

15 THE COURT: You may step down. Ladies and
16 gentlemen, we have to take up some matters outside
17 of your presence. We are going to give you all
18 about a half hour break. It's 3:25. We will
19 break until 4 o'clock. You all do not have to
20 stay in the jury room, but if you leave, just
21 leave the building, and don't mill around in front
22 of the courthouse. Just be back in the courtroom
23 at 4 o'clock. Please do not discuss the case.

24 (Whereupon, the following takes place
25 outside the presence of the jury.)

Dr. Kenneth Faile-redirect by Ms. Barr

1 MS. BARR: We have got the issue of the
2 statement that was given by the defendant on
3 February 22nd. Your Honor, I think it's the
4 appropriate action to decide whether or not the
5 statement was given freely and voluntarily.
6 Judge, at this time, we would call Investigator
7 Pamela Jean Lail as to that issue.

8 PAMELA JEAN LAIL, after being duly sworn,
9 testified as follows:

10 THE COURT: Does the defendant take issue
11 regarding the voluntariness of the statement?

12 MR. BARR: Judge, if, of course, we
13 don't -- if the statement comes in, then I'm not
14 going to object to it. But I'm not going to
15 consent to portions of it. Nor will we consent to
16 a written statement, unless the statement has been
17 transcribed by a Court Reporter with appropriate
18 dictation and the appropriate punctuation. I have
19 read the statement. And the statement is very
20 misleading. Particularly as it relates to
21 punctuation. And that's one of the things that
22 concerned me.

23 Even if the statement, even if you rule
24 that the statement is voluntary, then we will
25 insist on a recorded statement, and not the

1 transcribed version that I have a lot of problems
2 with as far as correctness of it.

3 So if we were to consent to have the
4 statement admitted, it would be with the
5 understanding that the recorded statement be
6 admitted. And then the statement be admitted in
7 to court.

8 THE COURT: All right.

9 MR. BARR: Now, Judge, portions of the
10 statement that would be inadmissible for some
11 other reason other than that the State feels that
12 it is self-serving, then clearly I would
13 certainly would not object to having redacted once
14 the court determines that these are portions of
15 the statement that would be inadmissible for some
16 other reasons other than the State saying that
17 they are self-serving.

18 THE COURT: All right.

19 MS. BARR: Well, Judge, would it be easier
20 for counsel to say that we had no issue regarding
21 whether the statement was given freely and
22 voluntarily? If that's the case then I will need
23 her to testify. I can just use the transcript or
24 a copy for what the court is going to rule. If
25 the court is going to rule on portions of it

1 should be redacted. We could save ourselves 15
2 minutes of time.

3 MR. BARR: Judge, don't dispute the
4 voluntariness of it.

5 MS. BARR: All right.

6 THE COURT: Where is no dispute as to the
7 voluntariness of the statement is a Jackson Denno
8 hearing still required?

9 MS. BARR: I don't think so, judge.

10 THE COURT: Mr. Wright.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: Question him on voluntariness
13 issues as well, Mr. Barr. Do you agree that the
14 statement that was given to law enforcement was
15 given freely and voluntarily by you after you had
16 been advised of your constitutional rights;
17 including, the right to remain silent?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: This statement is a free and
20 voluntary statement.

21 MS. BARR: Judge, I have had the Miranda
22 Warnings Form marked for identification purposes
23 as Court's Exhibit No. 1. I have got the
24 transcription of the taped statement as Court's
25 Exhibit No. 2. And I will hand the Court that

1 copy.

2 THE COURT: Concerning this additional
3 issue raised by Mr. Barr that he wants the
4 statements published. He wants the audio of the
5 transcript.

6 MS. BARR: Judge, we have got the audio.
7 That's not going to be a problem. I think
8 typically raises a problem of how to make sure we
9 get that done, considering that it hasn't been.
10 The actual recorded statements having been
11 redacted. If the court determines that it should
12 be redacted. I think we just have some logistical
13 problems of how to get that. What I have
14 typically done in the past, is to agree with
15 counsel as to what portions come in, and what
16 portions don't come in.

17 I just typically record a second copy.
18 And I will just pause the record button so that
19 the portions that are objected to are not
20 translated in on the copy. But given that we
21 don't have the agreement as to whether it should
22 be redacted or portions need to be redacted
23 creates some problem in terms of how to do it.

24 THE COURT: What portion do you think
25 should be redacted?

1 MS. BARR: Judge, I have got a couple. I
2 can go to page and line.

3 THE COURT: All right.

4 MS. BARR: Page 5 starting at line 18.
5 When it says, he will verify that one night I hurt
6 my back at the car wash. And she asked to rub it.
7 And I said no, I don't want nobody touching it.
8 And she said, Michael, he won't even let me rub
9 his back. Then Michael said, the man knows what
10 he's talking about. He don't want nobody to touch
11 him. Judge, I think that evidence concerning what
12 Michael said is hearsay. And, Judge, also on page
13 12 starting on line 5; for example, she will wake
14 up and she would be lost. She would say she
15 didn't know where she was at. She accused Michael
16 of being her husband. And Michael's wife being
17 another woman and stuff like that. When I asked
18 Michael what does he mean by that. He said she
19 would do that from time to time. And, Judge, I
20 think, you know that is hearsay. It picks back up
21 on line 17 the same page. The nurse just said
22 something this morning. She seemed like she had
23 dementia. And, Judge, It would be clearly
24 hearsay. Line 24, when she starts talking about
25 the doctor being treated. She had called

1 something like that. And that is hearsay. And,
2 Judge, page 14 lines 1 through 11. And when he
3 talks about how Dennis reacted when he learned
4 about the rape. And I am looking at lines 1
5 through 11 and I think those are hearsay.

6 And page 15 line 5 where it picks up, I
7 called her mother. And her mother said, don't do
8 anything until Michael gets home. Comes back.
9 That way she will know who Michael is and will
10 act that way. I think that is hearsay when he
11 talks about what somebody else said. Judge, page
12 17 lines 5 through 10 when he talks about what
13 Michael said to him about the gowns. And what
14 Ms. Azalee said to Michael. I think that's
15 hearsay. Also the same thing, Judge, lines 17
16 through 25. The same page. Michael said, Mama, I
17 didn't care. What more can I do. Just here last
18 night. And it talks about what Michael said.
19 Judge, the same thing as it relates page 18, as
20 far lines 18 through 23. Where it said Michael
21 called and said Mama said. Michael was laughing
22 and said you know how Mama can be. Judge, that's
23 hearsay. Line 19, I am sorry, page 19 lines 10
24 through 13. When it said Ms. Hannah said,
25 "Ms. Azalee, you stop that now. Give him those

1 things. Let them go. I don't want any problems
2 with you." Same objection. Page 26, line 15
3 through 25. And again he's talking about what
4 Michael said. And it continues on to line 1 page
5 27. And, Judge, again the basis of my objection
6 is that it's hearsay. Inadmissible hearsay.

7 I may also add, page 52 lines 22 through
8 24. When he says "Ms. Azalee, let me ask you to
9 stop this. You know you are too old for that.
10 Same objection.

11 THE COURT: The copies that you give me
12 page 14 through 17, is not what you gave me.

13 MS. BARR: Uh-oh.

14 THE COURT: Mr. Barr, what do you say
15 about her seeking to redact?

16 MR. BARR: Judge, quite frankly, I got
17 lost. I am missing pages, I am missing pages 31
18 through 34. But in terms of what she just went
19 through, I was able to follow most of it. And
20 quite frankly, I would not oppose the redactions
21 that she has indicated. But I would like to go
22 back through it again just to be -- make certain
23 when I get to the pages. The missing pages.

24 THE COURT: You are missing 31 through 34?

25 MR. BARR: 31 through 34.

1 THE COURT: Do you want to copy the whole
2 thing again?

3 MS. BARR: I will copy the whole thing,
4 judge.

5 THE COURT: Because this is just not a
6 complete transcript. Pages 31 and 32 are here.
7 So I don't know whether this is page 33 or not.
8 But Mr. Barr can have these. If you can seemingly
9 be in agreement, you can have my 31, 32. This
10 might be 33. There is nothing at the top of it.
11 Let's see, I'll step out and take a break and
12 give Mr. Barr a chance to study what you have.

13 And give you a chance to copy what you
14 have to copy. And then we will see where we stand
15 about 5 minutes or so.

16 MS. BARR: Thank you, Judge.

17 (Whereupon, the court takes a short
18 recess.)

19 THE COURT: Do you all have an agreement
20 on what's to be redacted?

21 MR. BARR: Judge, I don't oppose what's
22 written up.

23 THE COURT: All right. And those would be
24 the items that were stated in the record?

25 MS. BARR: Yes, sir.

1 THE COURT: How do you plan to do that,
2 Ms. Barr?

3 MS. BARR: Judge, we have got someone from
4 the Sheriff's Office bringing over a clearer copy.
5 We will have a clearer copy. We will have Mr.
6 Harvin to redact those. But I guess while we are
7 waiting, if you want we can go ahead and call
8 Investigator Lail at the appropriate time seeking
9 to introduce the tapes.

10 THE COURT: Are you ready for the jury
11 then?

12 MS. BARR: Yes, sir.

13 MR. BARR: Yes, sir.

14 (Whereupon, the following takes place
15 within the presence of the jury.)

16 THE COURT: All right. The jury is back.
17 You may your next witness.

18 MS. BARR: Thank you, Judge. We would
19 call investigator Pamela Jean Lail.

20 Pamela Jean Lail, after being duly sworn,
21 testified as follows:

22 Direct Examination by Ms. Barr:

23 Q State your full name for the record.

24 A Investigator Pamela Jean Lail.

25 Q At this time, kind of introduce yourself

Dr. Kenneth Faile-redirect by Ms. Barr

1 to the Ladies and gentlemen of the jury. Tell us
2 where you work and what you do.

3 A I'm an Investigator with the Williamsburg
4 County Sheriff's Office.

5 Q And what does an investigator do? What
6 are your job responsibilities?

7 A Any follow up cases which include larceny,
8 burglary, robbery, assault, murder. Any type of
9 patrol matter that needs follow up investigation.

10 Q You are a certified police officer, is
11 that correct?

12 A That's correct.

13 Q And how long have you been in law
14 enforcement?

15 A I have been in the law enforcement area
16 for approximately 18, 19 years.

17 Q 18 or 19 years?

18 A Uh-huh. (Affirmative.)

19 Q How long have you been with the sheriff's
20 department?

21 A Williamsburg County it's going on
22 4 years.

23 Q Now let me just kind of back through the
24 dates that this was reported. When was the
25 sheriff's department notified about this incident

Investigator Lail-direct by Ms. Barr

1 concerning Ms. Azalee Mouzon?

2 A The dispatch time on the original report
3 was February 22nd, at I believe, at 8:03 p.m.

4 Q Now were you actually working at the time
5 that the incident was reported or was it somebody
6 else involved and actually taking the complaint?

7 A Deputy Alex Edwards and have Sergeant
8 Blunt, I have to correct myself. That was
9 6:03 p.m.

10 Q 6:03 p.m.

11 A When the call came in 18:03 military time.

12 Q Is that Deputy Edwards seated here at the
13 prosecution table?

14 A That's correct.

15 Q Who was this complaining, the initial
16 person making the call?

17 A The initial report was Ms. Azalee Mouzon,
18 as the complainant.

19 Q At some point, did you go and meet with
20 Ms. Azalee Mouzon?

21 A I did.

22 Q When did you actually meet her for the
23 first time?

24 A If I am not mistaking, that was on
25 February 23rd.

Investigator Lail-direct by Ms. Barr

1 Q Okay. Now do you have a recollection as
2 to what day of the week February 22nd was on?

3 A It was on a Sunday.

4 Q On a Sunday. So if the call came out at
5 6 o'clock p.m. that was a Sunday evening?

6 A That's correct.

7 Q Where did you meet Ms. Mouzon? Where was
8 she when you first met her?

9 A When I first met her, she was at a
10 relatives's house in the Johnsonville area.

11 Q When you all talked about the incident
12 being reported at her residence, where was her
13 residence at the time?

14 A . Which is Hemingway.
15 Which is in jurisdiction of Williamsburg County.

16 Q So it was reported on the 22nd? And you
17 initially made contact with her on the 23rd, on
18 that Monday?

19 A That is correct.

20 Q Did anyone from the sheriff's department
21 talk with her the day it was reported which would
22 have been on the 22nd?

23 A That would have been Sergeant Blunt and
24 Deputy Edwards. They made the initial contact
25 with the understanding that I would come out and

Investigator Lail-direct by Ms. Barr

1 meet the alleged suspect at the Sheriff's
2 Department.

3 Q We will talk about that in just a moment.
4 When you met with Ms. Azalee Mouzon, you said that
5 she was at a relative's home?

6 A That's correct.

7 Q Do you recall who all was with her when
8 you met with her and interviewed her?

9 A She was with, I want to say, one of her
10 daughters and either her granddaughter or a niece
11 named Melissa, if I am not mistaken.

12 Q A Melissa Mouzon?

13 A That's correct.

14 Q Do your records reflect whether or not you
15 spoke with a woman by the name of Edie Brooks?

16 A Not that I recall. I know that on the
17 initial report that was an individual that I
18 believe she would have been at residence the night
19 that the officer made the initial contact.

20 Q Yes, ma'am.

21 A And that could have very well been the
22 complainant according to what is here. Oftentimes
23 the officer will list the complainant as the
24 victim.

25 Q Now tell me about Ms. Mouzon's state of

Investigator Lail-direct by Ms. Barr

1 mind at the time that you spoke with her on Monday
2 the 23rd.

3 A Myself and Lieutenant Collins went to meet
4 with her. And my not meeting her prior until to
5 that day on the fact that she was very emotional.
6 And there were several times during this interview
7 that we taped, that we would have to stop and get
8 her to kind of compose herself.

9 Q And do you recall at some point during the
10 interview that you told her, you are going to have
11 to calm down or you are going to make yourself
12 sick?

13 A Yes, ma'am.

14 Q And what did she tell you?

15 A If I could reflect back on my, you know,
16 on her statements.

17 Q Is this your file here? I am sorry, did
18 I pick the wrong one?

19 A No, it is in the black folder.

20 Q You got it?

21 A And this is any transcribed copy of the
22 taped interview with Ms. Azalee Mouzon.

23 Q Of course, you explained to her why you
24 were there.

25 A Correct.

Investigator Lail-direct by Ms. Barr

1 Q And you were investigating an allegation
2 of sexual assault, Is that correct?

3 A That's correct.

4 Q And did she tell you that she was, we call
5 it sexually assaulted. Did she tell you what
6 happened to her?

7 A Yes, ma'am, she did. To begin with, I
8 established by asking her normal things that would
9 have been obvious to her; such as, her full name
10 and her date of birth. Things of that nature.
11 She had given me a correct date of birth.

12 Q She gave you a correct date of birth?

13 A Yes, she did.

14 Q What about her address?

15 A She did. She recalled that she resided at
16 . And that it was in the Donnelly
17 Section, which is correct.

18 Q Now based upon your investigation, did you
19 determine what the relationship was between Ms.
20 Mouzon and Dennis Wright?

21 A She told me that her grandson, Michael
22 Mouzon, that this was a young fellow that he had
23 grown up with. And that he was staying there at
24 the residence to help care for her. Carry her to
25 doctor's appointments so that she would not be

Investigator Lail-direct by Ms. Barr

1 there by herself at night.

2 Q I understand. Now and again, I have to be
3 careful how I ask you questions. And you have to
4 be careful how you answer them so that we don't
5 run afoul with the rules. But did she indicate
6 that she had been raped at some point during the
7 week prior to your interview?

8 A Yes, ma'am.

9 Q Did she indicate to you where it happened?
10 What part of the house it happened in? If It
11 happened in the house.

12 A She advised me that it was in the back
13 bedroom, which she had established was the area
14 Mr. Wright stayed in.

15 Q In his bedroom?

16 A That's correct.

17 Q Now I am curious. A lot of rape cases we
18 hear about a rape kit. Can you tell the ladies
19 and gentlemen of the jury, what a rape kit is?
20 What it is designed to show? And whether or not
21 one was submitted in connection with this case?

22 A Usually if there is a sexual assault
23 reported, we try to get the victim to get a sexual
24 assault examination done as soon as possible.
25 There is a 72-hour window. In other words, after

Investigator Lail-direct by Ms. Barr

1 72 hours the evidence is lost. No other potential
2 evidence. Other than the fact that there would be
3 washing, bathing. Even urinating. Anything that
4 would rid the body of any evidence. Washing their
5 hands, washing clothes. But usually we have to
6 try to have an examination done within 72 hours.

7 Q And that's kind of what Dr. Faile was
8 alluding to earlier when he said there was too
9 much time had gone by.

10 A That's correct.

11 Q Do you know if someone at the sheriff's
12 department actually called Lake City Community
13 Hospital and requested one and was given that
14 information?

15 A Well actually she was, to my knowledge,
16 sent over to Lake City ER for a sexual
17 examination. And so as a result of that, served a
18 subpoena on the hospital for the typical protocol,
19 to which is any medical records.

20 Q So she, after this was reported, she was
21 sent to Lake City Community Hospital to have a
22 rape kit done?

23 A That's correct.

24 Q And as part of your investigation, you
25 sent a subpoena to the hospital to get her medical

Investigator Lail-direct by Ms. Barr

1 records?

2 A That's correct.

3 Q Did you get any records as a result of
4 that subpoena?

5 A No, and I spoke with the nurse there to
6 verify what took place.

7 Q And what information did you get as to why
8 she didn't have any?

9 MR. BARR: Objection.

10 MS. BARR: It's not being offered for the
11 truth of the matter asserted.

12 MR. BARR: Your Honor, but it doesn't
13 contain evidence of the truth of matter asserted.

14 THE COURT: I am going to overrule the
15 objection.

16 Q What reason were you given as to why
17 there was no medical records for Ms. Mouzon going
18 on---

19 MR. BARR: We renew the objection. That's
20 exactly what it is.

21 THE COURT: Overrule the objection.

22 Q What information were you given as to why
23 medical records of Ms. Mouzon's visit to Lake City
24 Community Hospital?

25 A I was advised that triage nothing was

Investigator Lail-direct by Ms. Barr

1 done that night because of the 72 hours window had
2 lapsed. The 72 hour frame.

3 Q Now you indicated you sent a subpoena
4 there. Did you subpoena any of her medical
5 records?

6 A I did.

7 Q Some of the medical records you subpoenaed
8 related to Dr. Faile?

9 A That's correct.

10 Q And did you receive certain documents as a
11 result of that subpoena?

12 A I did.

13 Q Okay. Now did the sheriff's department
14 take any items in to evidence in connection with
15 this case?

16 A To my knowledge there was a comforter,
17 and the linen from the bed. Along with a
18 washcloth. Anything pertaining to the immediate
19 vicinity of the alleged assault.

20 Q Your voice is kind of leaving me a little
21 bit. I need to make sure you speak up for me.
22 You took some evidence. I think you said bedding
23 and wash cloths.

24 A That's correct.

25 Q Was any DNA evidence disclosed on those

Investigator Lail-direct by Ms. Barr

1 items?

2 A No, ma'am. We didn't expect there to be
3 any.

4 Q Why do you say that?

5 A Well according to what we were advised any
6 time there is anal penetration---

7 MR. BARR: Objection, Your Honor.
8 Hearsay. Moreover, she is not competent.

9 MS. BARR: Don't testify as to what you
10 were advised of.

11 THE COURT: Objection is sustained.

12 MS. BARR: Thank you, judge.

13 Q Was there any question that the defendant
14 lived with the victim at the time?

15 A No, ma'am.

16 Q You would presume that they would share
17 washcloths and laundry and things like that?

18 A Yes, ma'am.

19 Q And your investigation revealed they
20 had -- he had resided there with her for a couple
21 of months?

22 A That's correct.

23 Q Now you talked about your statement from
24 Ms. Mouzon on that Monday. On the day before,
25 which would have been that Sunday night, did you

Investigator Lail-direct by Ms. Barr

1 actually have a conversation with the defendant?

2 A I did.

3 Q Where did that conversation take place?

4 A At the sheriff's department.

5 Q Now was -- did he meet you all over there?

6 Did he agree to go with you all there? Would

7 there be an arrest? How did that work out?

8 A He had already been detained by Officer
9 Edwards and Sergeant Blunt from the scene. He was
10 transported to the sheriff's department.

11 Q Now was -- of course when you have
12 somebody who is accused of a crime, you have to
13 advise them of their Miranda Rights?

14 A Correct.

15 Q Now we hear a lot about that word, Miranda
16 Rights on TV. Kind of explain to the jury
17 specifically, I guess in the real world what that
18 means and what you are required to tell them.

19 A The constitution requires that they are
20 advised of their rights. And they are actually
21 called Miranda Rights. There are 5 parts to that
22 right. Our protocol with the sheriff's department
23 is that the individual is advised and there is a
24 No. 6 and No. 7. "Do you understand the rights I
25 have explained to you. You shall verbally

Investigator Lail-direct by Ms. Barr

1 acknowledge or acknowledge by signing on Section
2 6. And having these rights in mind, do you wish
3 to talk to us now." And he acknowledged that and
4 signed it and verbalized it.

5 Q I am going to show you what's been marked
6 has Court's Exhibit No. 1. Mr. Barr, do you have
7 an objection to that document?

8 MR. BARR: No.

9 Q I am going to hand you what has been
10 marked as Court's Exhibit No. 1. Is that the
11 Miranda Form that you went over with Mr. Wright?

12 A Yes, ma'am.

13 MS. BARR: Judge, I understand the defense
14 has no objection. So, judge, we would at this
15 time, we would move it as State's Exhibit No. 1.

16 THE COURT: Any objection?

17 MR. BARR: No objection.

18 THE COURT: It's admitted.

19 (Miranda Form marked as State's Exhibit
20 No. 1 into evidence.)

21 Q Now that is the actual form you had him
22 sign?

23 A That is correct.

24 Q What is the date and time on that form?

25 A February 22nd 09, at 8:44 p.m.

Investigator Lail-direct by Ms. Barr

1 Q And you all were in the sheriff's office,
2 correct?

3 A That's correct.

4 Q Other than you and the defendant, Dennis
5 Wright, who else was in the room?

6 A Deputy Edwards.

7 Q Alex Edwards. Anybody else?

8 A No, ma'am.

9 Q And I am going to ask you some general
10 questions, and then I am going to specifically go
11 to the rights form. Was he threatened in any way
12 in order to get a statement?

13 A No, ma'am.

14 Q Did you all, I am being a little bit
15 suspicious, but I have to ask. Did you abuse him
16 or withhold water or bathroom or anything from him
17 to get him to talk?

18 A No, ma'am.

19 Q Did he seem to understand what you were
20 asking?

21 A Yes, ma'am.

22 Q Did he give appropriate questions?
23 Appropriate responses, I guess, to your questions?

24 A Yes, ma'am.

25 Q Was there any doubt in your mind that he

Investigator Lail-direct by Ms. Barr

1 knew what you were asking?

2 A No, ma'am.

3 Q He didn't appear to be under the influence
4 of alcohol or drugs or anything like that?

5 A No, ma'am.

6 Q Now for the record, you talked about all
7 the five parts to the Miranda Waiver form. Kind
8 of read for us if you will, what all you would
9 have told him as requested on that form?

10 A Basically what we do is, read it to them
11 verbatim individually. And It is a Miranda
12 warning. The constitutional requires whereby I
13 inform you, Number 1, you have the right to remain
14 silent. Anything you say can be used against you
15 in a court of law. You have the right to talk to
16 a lawyer and have him present with you when
17 questioned. If you cannot afford to hire a
18 lawyer, one will be appointed to represent you
19 before being questioned if you wish. You can
20 decide at any time to exercise these rights, and
21 not answer any questions or make any statements.
22 Do you understand each of these rights that I have
23 explained to you. And we asked him to acknowledge
24 verbally their answer and then write it and
25 initial there. And we check their answer. No. 7

Investigator Lail-direct by Ms. Barr

1 having these rights in mind, do you wish to talk
2 to us now.

3 Again we asked him. Verbally
4 acknowledged, and write it and initial it. And
5 under Waiver of Rights, oftentimes we ask them
6 individually to they read it out loud or we read
7 it. And they will acknowledge they have
8 understood it.

9 Q Okay.

10 A And under Waiver of Rights and it's
11 basically a summary of 5 parts of the Miranda. It
12 says, "I have read the above statements of my
13 rights. And I understand each of those rights. I
14 waive those rights, and I am willing to make a
15 statement and answer questions. I do not want a
16 lawyer at this time. I understand what I am
17 doing. No promises have been made to me, or
18 pressure or coercion of any kind has been used
19 against me by anyone."

20 And if they agree with that paragraph, and
21 there is voluntariness of his rights, they would
22 acknowledge by their signature. At the bottom two
23 lines for any witnesses and room, would have been
24 myself and deputy Alex Edwards.

25 Q Now does a part of that Miranda waiver

Investigator Lail-direct by Ms. Barr

1 form, does it require him to read certain parts of
2 it out to you?

3 A It does. And it is totally left up to him
4 if he would like for any of it to be explained
5 further or if he has any questions.

6 Q Okay. A quick question. At the time he
7 gave this interview, how old was he?

8 A I want to say, I am not positive.

9 Q When is his birthday?

10 A He was about 48 or 49. I am not exactly
11 positive. Date of birth is .

12 Q Your interview was given on February 22nd,
13 and he would have been 49 years old, is that
14 right?

15 A 48, 49.

16 Q Was the interview recorded?

17 A It was.

18 Q Did you ask him how long he had been
19 caring for her?

20 A I did. And according to his statement, I
21 want to say he moved in with Ms. Mouzon in
22 November.

23 Q November of 2008?

24 A That's correct.

25 Q Now did you tell him about the charges by

Investigator Lail-direct by Ms. Barr

1 Ms. Mouzon that he had raped her?

2 A I did.

3 Q Did you all talk about the specific night
4 of Thursday, the 19th?

5 A We did.

6 Q Did he tell you that anything happened
7 between himself and Ms. Mouzon on the 19th of
8 February 2009?

9 A He did.

10 Q Tell me what he said.

11 A He described and I would like to look at
12 my statement to know exactly what he said, or his
13 statement.

14 Q And you can just kind of give us a general
15 sense of it.

16 A Basically he told me he was asleep. He
17 was in the back bedroom.

18 MR. BARR: Your Honor, I am going to
19 object. My understanding that the state has in
20 fact, the state has identified and determined it
21 is a voluntary statement. And it would be
22 cumulative to have the statement put in to
23 evidence and then allow her to testify regarding
24 what the statement says.

25 MS. BARR: Judge, I haven't moved it in

Investigator Lail-direct by Ms. Barr

1 evidence. He is free to do that if he wants.

2 THE COURT: She has not moved it into
3 evidence.

4 MR. BARR: All right, thank you, Judge.

5 THE COURT: Overrule the objection. You
6 may proceed.

7 Q As it relates to Thursday night February
8 19th of 2009. Well let me start this. Wait. Let
9 me back up a little bit. The transcribed
10 statement is what 65, 66 pages long in fact.

11 A It is 68.

12 Q And so there was a lot of back and forth?
13 Is that right? Is that fair to say?

14 A That's fair to say. Uh-huh.
15 (affirmative.)

16 Q Now when you narrowed him down to Thursday
17 night the 19th, tell me essentially what happened
18 between him and Ms. Mouzon.

19 A Well to summarize it, he said that she
20 jumped on top of him.

21 Q He said what now?

22 A He said that she jumped on top of him.

23 Q And did what?

24 A She jumped on top of him and he tried to
25 push her off. And just didn't, although I had not

Investigator Lail-direct by Ms. Barr

1 meet her, I had gotten pretty good detail from
2 Sergeant Blunt and Officer Edwards who were on the
3 scene. And they described---

4 Q Don't tell me what they said. We heard
5 the testimony about her physical condition.

6 A Correct.

7 Q Let me ask you this. Did he indicate
8 whether or not he was awake or asleep when she
9 supposedly jumped on him?

10 A He said he was asleep.

11 Q And what did he say made him wake up?

12 A When she jumped on top of him.

13 Q And did he tell you anything about where
14 her head was in relationship to his body?

15 A He did mention that. When I continued to
16 question him, he said that he recalled her head
17 being near his stomach area.

18 Q Did you ask him specifically if he engaged
19 in oral sex and vaginal sex with the victim?

20 A I did. I tried to detail him to find out
21 exactly when I made my questions. Although he
22 said it may have happened.

23 Q He said it may have happened?

24 A That's correct.

25 Q What explanation or excuse, I should say,

Investigator Lail-direct by Ms. Barr

1 did he give to you as to why he couldn't be
2 certain whether or not he had sex with her, if
3 that is what you want to call it? What
4 explanation did he give to you?

5 A He was asleep.

6 Q So it could have happened or it could not
7 have happened?

8 A Yes, ma'am.

9 Q Now I am curious. You interviewed him at
10 8:44 p.m. on Sunday night?

11 A That's correct.

12 Q What did he list as his home address?

13 A , Hemingway.

14 Q So he listed that as his home address on
15 Sunday night.

16 A That's correct.

17 Q And he indicated this incident happened on
18 Thursday night?

19 A That's correct.

20 Q And if you can, kind of, don't read
21 anything. Look at page 51. Specifically line 18,
22 and see if it refreshes your collection in terms
23 of whether or not he stated to you why he didn't
24 simply get away from her if she supposedly pounced
25 on him, or whatever his story was.

Investigator Lail-direct by Ms. Barr

1 A You want me to summarize this?

2 Q Yeah. Did he -- I mean you, I am sure you
3 would have asked him well why is it that she
4 jumped on top of you, and how did you let it go
5 that far. Did he give you an explanation for
6 that?

7 A Well basically he said that, I asked had
8 she ever done anything like that before. And he
9 said that she's always trying to hug me. And he
10 had previously told me that she oftentimes comes
11 into the room and asks if he wants something to
12 eat. "It didn't surprise me, she is the
13 grandmother type."

14 Q Now what did he call her? How did he
15 refer to her? He call her mama?

16 A If I am not mistaken, yes. He stated that
17 she would come to the corner of the bed, and I
18 would say, "Mama, please get out." And I would
19 turn the lights on. I mean, and then I said I
20 don't know, I don't know the context prior to
21 the -- the page prior to this.

22 Q That's fine.

23 A But I questioned him. I said so you mean
24 like I am like jumping on you? Which that was the
25 indication I had; is that, you're alleging that

Investigator Lail-direct by Ms. Barr

1 she would jump on the bed on top of him. So I
2 wanted to clarify that.

3 Q Investigator Lail, you've see Ms. Mouzon.
4 You saw her in court today, right?

5 A Yes.

6 Q Does she kind of look like pretty much
7 like how she looked a year and a half ago when you
8 interviewed her?

9 A Yes.

10 Q Does she look like she can jump on top of
11 anything?

12 A No.

13 Q Is this the first time when you have
14 investigated someone charged with raping an
15 elderly person?

16 A No, ma'am.

17 Q Is it fair to say it is difficult for
18 somebody to come out and just admit that?

19 A Yes, ma'am, very. On both sides.

20 Q On both sides.

21 A Yes, ma'am. The victim as well as the
22 alleged suspect.

23 Q It is difficult for the victim and the
24 alleged suspect.

25 A That's correct.

Investigator Lail-direct by Ms. Barr

1 Q When Ms. Mouzon was talking to you did she
2 seem ashamed or embarrassed about what happened?

3 A She was very embarrassed.

4 Q Now Mr. Barr had asked Michael Mouzon
5 earlier about an incident at the car wash. And
6 going out to dinner and stuff on February 22nd.
7 If he was at the jail on the 22nd, could he have
8 gone to the car wash and gone out to dinner and
9 all that stuff?

10 A I don't know what he did earlier that day,
11 but at 8:44 he was at the sheriff's department.
12 And I know at 6:15, he was well at the sheriff's
13 department. I don't know what transpired prior to
14 6:00 o'clock that afternoon.

15 Q Now what happened to him after he gave you
16 a statement?

17 A He was escorted over to the detention
18 center.

19 Q And he was booked in to jail.

20 A That's correct.

21 Q Can you tell me what he was charged with?

22 A He was charged with criminal sexual
23 conduct first degree. And abuse of a vulnerable
24 adult.

25 Q Now the abuse of a vulnerable adult, tell

Investigator Lail-direct by Ms. Barr

1 us about that charge. Tell us why is it that you
2 charged him with that offense.

3 A Well according to the Statute for South
4 Carolina, we have to establish number 1, that this
5 was a victim or a vulnerable adult. And a lot of
6 times that would be based upon their age,
7 physical, physical being at that time. There may
8 be some older age or even a mental or neurological
9 condition. Anything that would, you know, cause a
10 person to need assistance or medical care.

11 Q And you had determined that because of the
12 age of the victim and her physical condition that
13 the charge for or abuse of a vulnerable adult
14 would be as to the rape charge.

15 A And one of the other elements that an
16 individual as a caretaker become familiar with
17 that person.

18 Q Did you talk with Michael Mouzon?

19 A I did.

20 Q Do you have a copy of your supplemental
21 reports up there with you?

22 A I do.

23 Q Do you know when you talked with him?

24 A That was on February 27th.

25 Q The 27th, was it in person or by phone?

Investigator Lail-direct by Ms. Barr

1 A In person.

2 Q What about Emma Barksdale? We heard
3 Dr. Faile talking about her. Did you speak with
4 her as well? And I am looking at your
5 supplemental report 2/23/09?

6 A If I have a supplemental. If there is a
7 supplemental report. I did speak directly to her.

8 MS. BARR: may I approach the witness?

9 Q Does that indicate you spoke with her
10 daughter, Emma?

11 A That is correct. She has the Power of
12 Attorney for Ms. Mouzon.

13 Q Her daughter Emma has Power of Attorney
14 for her?

15 A That's correct.

16 Q Now we've heard about the home health care
17 provider. Obviously you can't talk about what
18 they said, but did you speak with them as well?

19 A I did.

20 Q Now did you speak with them? How did you
21 get that information as to who they were? Where
22 did you get that from?

23 A From Mr. Mouzon.

24 Q From Mr. Mouzon? Michael Mouzon? Is that
25 correct?

Investigator Lail-direct by Ms. Barr

1 A That's correct. Also Ms. Mouzon herself
2 informed me the night nurse would come visit in
3 the morning.

4 MS. BARR: I beg the court's indulgence.

5 Q You indicated that you spoke with her
6 daughter, Emma Barksdale. Was that over the phone
7 or was that in person? And I am sorry. I have
8 your supplemental with me.

9 A If I am not mistaken, I spoke with her
10 over the telephone.

11 Q Over the telephone. Do you have a
12 specific recollection of speaking with any of
13 Ms. Mouzon's children personally, regarding these
14 allegations?

15 A Other than the grandson, I do not recall
16 directly. Other than the Power of Attorney over
17 the telephone, but I do not recall meeting any of
18 them, nor interviewing any of them, other than
19 Melissa who is a relative approximately 22, 23
20 years old.

21 MS. BARR: Investigator Lail, I believe
22 that's all the questions I have. Please answer
23 any questions opposing counsel may have.

24 THE COURT: Mr. Barr.

25 Cross Examination by Mr. Barr:

Investigator Lail-direct by Ms. Barr

1 Q Investigator Lail, you said you spoke with
2 Ms. Lewis?

3 A If I am not mistaken I did, yes, sir.
4 Home Health Care.

5 Q And when you spoke with Ms. Lewis, did you
6 ask her whether or not when this incident
7 supposedly happened, Ms. Mouzon told her about it?

8 A If I am not mistaken, I did. And she
9 advised me that she, "quote/unquote had said, "He
10 bothered her," but not directly that he had raped
11 her.

12 Q Now Ms. Mouzon told you when you took her
13 statement, saying that, you got that in front of
14 you.

15 A Uh-huh. (affirmative.)

16 Q She told you that when this happened, she
17 told Ms. Lewis about it, didn't she?

18 A That's correct.

19 Q But now Ms. Lewis did not tell you that
20 Ms. Mouzon told her that, did she?

21 A Not in the same words.

22 Q Did Ms. Lewis tell you that Ms. Mouzon
23 told her that she was raped?

24 A No, Ms. Lewis did not tell me that.

25 Ms. Mouzon had said that she had told Ms. Lewis

Investigator Lail-cross by Mr. Barr

1 that something had happened. Although Ms. Lewis
2 had said that Ms. Mouzon said he was bothering her
3 was exactly.

4 Q Officer Lail, you're a good investigator.
5 Now I know you followed up on that.

6 A You can only follow up so far. I mean her
7 mind, bothering me, might be touching me.

8 Q You mean to tell me, you're investigating
9 a rape, a sexual assault with aggravated force,
10 and you did not follow up with the witness and
11 distinguish between touching and rape?

12 A She had already established that for me.

13 Q Established what?

14 A That he had put his penis inside of her
15 anally and vaginally.

16 Q That's what she told you. That's what
17 Ms. Mouzon told you. Well did you ask Ms. Lewis,
18 say, "Ms. Lewis, Ms. Mouzon, told me that the
19 defendant put his penis inside of her." Did you
20 ask her that?

21 A I don't know my exact words. I just told
22 you what she told me.

23 Q You didn't ask her that, did you?

24 A I don't recall. I didn't before she gave
25 any statements when she and I...

Investigator Lail-cross by Mr. Barr

1 Q Well look in your notes. You've got your
2 notes in front of you, right?

3 A I do.

4 Q Well look at your notes and see if you
5 asked her that.

6 A I can refer to that. Would you like me to
7 summarize that?

8 Q No, ma'am. I would like you to read it to
9 me in black and white just how you asked it.

10 MS. BARR: Judge, again, I tried not to
11 object. But at some point when he started talking
12 about the specific words that Ms. Lewis said to
13 the investigator, I think we are creating hearsay
14 problems. I would certainly object to every
15 specific word that Ms. Lewis told the
16 investigator. I think it's clearly hearsay. So
17 clearly he's asking her to read everything
18 requested by Ms. Lewis. I would have a problem
19 with.

20 MR. BARR: Your Honor, I am not asking her
21 to read. I just -- he's charged with first degree
22 criminal sexual conduct, abuse of a vulnerable
23 person. And that's a far cry from touching
24 somebody. That's her explanation of it. I want
25 to hear whether somebody told her that.

Investigator Lail-cross by Mr. Barr

1 MS. BARR: Judge, I would object going any
2 further than this on the basis of hearsay.

3 THE COURT: And the question is what did
4 you ask -- did you ask Ms. Lewis or something to
5 that effect. You may answer.

6 A Read all of this?

7 Q Well let's just keep it simple. You
8 didn't ask her anything about rape, did you?

9 A I can tell you what she advised me.

10 Q No, ma'am. I want to know what you asked
11 her.

12 A I don't have that in my notes.

13 Q And you don't have it in your notes
14 because you didn't ask her.

15 A I can tell you what she responded to me,
16 and that's what I recorded.

17 Q Well let me ask you this much. You were
18 investigating a first degree rape, were you not?

19 A That's correct.

20 Q And you weren't investigating shooting
21 marbles in the playground. You were investigating
22 a rape.

23 A That is correct.

24 Q Well what -- did you ask her about it?
25 You didn't ask her about the rape.

Investigator Lail-cross by Mr. Barr

1 A Mr. Barr, you are asking me for----

2 Q I am asking you for the truth.

3 A Well I am trying to give it to you. When
4 I met with her on the 24th,---

5 MS. BARR: Judge, again. I would object.

6 MR. BARR: I'll withdraw the question,
7 judge.

8 Q You talked to Mr. Mouzon, the grandson.

9 A I did.

10 Q On the telephone.

11 A No, I met with him in person.

12 Q You met with him in person. You met with
13 him on -- you met with him on February 22nd 2009?

14 A That's correct.

15 Q And you had a conversation with him.

16 A That's correct.

17 Q And you had a conversation with him about
18 what his grandmother had told him.

19 A That's correct.

20 Q And do you deny that he told you that his
21 grandmother said that she was touched?

22 A Well according to her: "Dennis touched
23 me."

24 Q Did she say anything in there about Dennis
25 having sexual intercourse with her?

Investigator Lail-cross by Mr. Barr

1 A Not those exact words, no.

2 Q Did she say anything about him having anal
3 sex with her?

4 A Are you asking me?

5 Q Yes, ma'am. I am asking you.

6 A Well are you asking me did he say she told
7 him that?

8 Q Yes, ma'am.

9 A Then, no.

10 Q Now I know you were investigating, and you
11 are still investigating a rape, are you not?

12 A That's correct.

13 Q And of course the whole purpose of
14 investigating this rape is to get to the bottom of
15 this situation, is it not?

16 A That's correct.

17 Q And are you telling the ladies and
18 gentlemen of this jury that as an investigator
19 investigating criminal activity in Williamsburg
20 County for 18, 19 years, you never got around to
21 asking the magic words about the rape?

22 A To the grandson?

23 Q Yes, ma'am. About what the grandmother
24 told him.

25 A I did. And I recorded what she said to

Investigator Lail-cross by Mr. Barr

1 him.

2 Q Well what did he say about the rape in
3 there? In your statement?

4 A She did not come right out and tell her
5 grandson that someone had raped me.

6 Q Didn't come right out and tell him.

7 A No, sir, she didn't.

8 Q Well you were sitting right here in the
9 courtroom early this morning, were you not?

10 A I was.

11 Q And you heard the grandson say that she
12 told him that she was raped. Now didn't you hear
13 that?

14 A And I think his perception of what his
15 grandmother was telling him---

16 Q Your perception---

17 A ---his bothering me versus I have been
18 raped.

19 Q So are you telling the ladies and
20 gentlemen that in terms of the discrepancy between
21 what his grandmother supposedly, is just a matter
22 of perception between touching and rape?

23 A I think it's probably very difficult for
24 her to talk about what happened to her.

25 Q Very difficult?

Investigator Lail-cross by Mr. Barr

1 A Yes, sir.

2 Q Very difficult. I see. It wasn't
3 difficult today when she got on the witness stand.

4 MS. BARR: Judge, now that's
5 inappropriate. He can't comment on the evidence.

6 THE COURT: The objection is sustained.
7 The jury is to disregard the comment.

8 Q You took a statement from her, did you
9 not?

10 A I did.

11 Q And in your statement did she tell you
12 that she had sexual intercourse with him?

13 A She did.

14 Q Now what made it so much easier for her to
15 tell you that than for her to say that some other
16 time?

17 A A different environment. She doesn't know
18 me on a personal level.

19 Q So that's the environment you have got
20 over there at the sheriff's department?

21 A No, I never said I interviewed her at the
22 sheriff's department.

23 Q Well where did you interview her?

24 A I said that I went to her daughter's
25 residence in Johnsonville. That was no one but

Investigator Lail-cross by Mr. Barr

1 her daughter, her niece, myself and agent Collins
2 where she interviewed.

3 Q Where did you interview the defendant?

4 A The sheriff's department.

5 Q Sheriff's department. You got a long
6 interview, a long statement, right?

7 A Yes, sir.

8 Q Defense marked only. Defense Exhibit No.
9 2. You're familiar with it, aren't you?

10 A I am.

11 Q You've told and testified in great detail.
12 You testified in great detail regarding this
13 Defense Exhibit No. 2. Now what is this 6 or 7
14 page piece of paper?

15 A This is the interview that was taken on
16 February 22nd, at 8:00 p.m. of Dennis Wright.

17 Q Dennis Wright at the jail. In a good
18 environment.

19 A At the sheriff's department.

20 Q At the sheriff's department.

21 A There was nobody in the room but myself
22 and Deputy Edwards.

23 Q I see. And he answered every last one of
24 your questions.

25 A The majority or so.

Investigator Lail-cross by Mr. Barr

1 Q Which one he didn't answer?

2 A I can't recall that.

3 Q You can't recall. But It would be in
4 here, wouldn't it?

5 A Yes, sir.

6 Q And you want that officer to know what is
7 there?

8 A Yes, sir. With tape and a transcription
9 from the tape.

10 Q Now tell me this much. Anywhere in here
11 in this 6 or 7 pages, incidentally you wrote the
12 warrant and you signed the warrant for the
13 defendant, didn't you?

14 A That's correct.

15 Q And you told Ms. Barr that you charged him
16 with CSC first offense, and abuse of a vulnerable
17 adult. You even explained to him why you charged
18 him with that, didn't you?

19 A That's correct.

20 Q So would it be fair to say that you are
21 pretty much familiar with the law as it relates to
22 CSC first?

23 A Yes, sir.

24 Q As well as abuse of a vulnerable adult?

25 A That's correct.

Investigator Lail-cross by Mr. Barr

1 Q I see. Sexual assault accompanied by
2 aggravated force. What is that? CSC first?

3 A That's correct. Exigent circumstance of
4 aggravated circumstances.

5 Q Not aggravated coercion, but aggravated
6 force.

7 A I would have to look at the statute to get
8 the exact word, Mr. Barr.

9 Q You would have to read it again.

10 A I don't want to.

11 Q But now are you pretty much sure that's
12 what it is.

13 A Yes, sir.

14 Q That's what you charged him with. Tell me
15 where in this statement that you have spoken so
16 articulately to Ms. Barr about, does the defendant
17 say that he committed a sexual battery on
18 Ms. Mouzon? Is that in here?

19 A That doesn't have to be in the statement,
20 no, sir.

21 Q That's not what I asked you.

22 A No, sir.

23 Q So it's not in here.

24 A No, he did not say that.

25 Q And equally true, there is nowhere in here

Investigator Lail-cross by Mr. Barr

1 where this gentleman, in the 6 or 7 page statement
2 that you and Ms. Barr just got through talking
3 about. There is nowhere in there where he said
4 that he placed his penis in Ms. Mouzon's vagina,
5 did he?

6 A Those exact words, no, sir.

7 Q And there is nowhere in there where he
8 said he placed his penis in her anal cavity, is
9 there?

10 A Those exact words, no, sir.

11 Q In fact, do you remember, where you in the
12 courtroom earlier today, when Ms. Mouzon was on
13 the witness stand?

14 A I was.

15 Q Did you hear her -- incidentally I know
16 when you take your notes, you know, when you do
17 your incident reports, you're probably trying to
18 be as thorough as you can, don't you?

19 A I try to.

20 Q I mean, you're looking for details when
21 you're doing the report. One little detail could
22 mess up everything, couldn't it?

23 A It could.

24 Q "Grabbed my tongue and went to kissing
25 me." Where in this Ms. Mouzon's statement that

Investigator Lail-cross by Mr. Barr

1 she gave to you, that's not in that statement, is
2 it?

3 A I do not recall that, no.

4 Q Were you surprised as I was when you heard
5 her say that?

6 A I wasn't surprised. I just didn't recall
7 it.

8 Q You knew it wasn't in there. You knew
9 today was the first time you heard that, didn't
10 you?

11 A That's the first time I heard it.

12 Q In fact, got on the floor, or got up off
13 the floor after they were -- after she -- after he
14 had raped her. Off the floor. That was a
15 surprise to you to, wasn't it?

16 A Not really, because any time a rape
17 victim, oftentimes it takes months for them to
18 recall certain issues they recall.

19 Q Well let's look at it this way. You would
20 admit that there is nothing about any sex or rape
21 on the floor in that statement, is there?

22 A I don't recall that. She said that he
23 pushed her down. I was thinking it was on the
24 bed.

25 Q You were thinking because that's what she

Investigator Lail-cross by Mr. Barr

1 said. It was on the bed, wasn't it?

2 A To my knowledge.

3 Q That's why you got the bed linen.

4 A That's correct.

5 Q Now you told the ladies and gentlemen of
6 this jury today that well as an investigator it
7 really didn't make a difference because there was
8 not really -- really no forensic value in
9 collecting up any samples from what was in the
10 house. Did you say that today?

11 A I didn't say that.

12 Q I didn't hear you say that earlier. When
13 Ms. Barr asked you about whether or not there were
14 any -- I thought I heard you say well the
15 defendant was living in the house.

16 A That's correct.

17 Q And using washcloths. And therefore, his
18 DNA would have probably been in the house. Did
19 you say that?

20 A Some of the shared things, yes. But what
21 I was referring to and I was stopped. Is that the
22 washcloths she had had her bowel movement at the
23 time of the assault.

24 Q Well speaking---

25 A And that would have been washed out along

Investigator Lail-cross by Mr. Barr

1 with any evidence.

2 Q Speaking of the bowel movement, on today,
3 were you surprised to hear about that today? The
4 bowel movement?

5 A Again that doesn't surprise me with a rape
6 victim, Mr. Barr.

7 Q Well but I mean, you never heard a word
8 about any bowel movement. You took her statement,
9 and she never told you anything about any bowel
10 movement, did she?

11 A Not in my statement.

12 Q Not in your statement. And you took the
13 statement from her.

14 A I did.

15 Q I know she didn't tell you that. But you
16 heard it today.

17 A Yes, sir.

18 Q You weren't surprised by it though, were
19 you?

20 A Not really. I told her before that.

21 Q Now in fact do you remember coming to
22 court and let me show you an affidavit. Take a
23 look at this signed affidavit.

24 A Okay.

25 Q Do you remember that affidavit?

Investigator Lail-cross by Mr. Barr

1 A I remember the court hearing.

2 Q Well I mean it is a sworn statement by
3 you.

4 A Uh-huh. (affirmative.) Yes, sir.

5 Q And that sworn statement by you was used
6 to get a court order signed by Judge James. Take
7 a look at that. Now you don't deny that is the
8 sworn statement that you gave and was used by you.

9 A That's correct.

10 Q To get Judge James to sign an order
11 ordering him to submit to samples of DNA testing.

12 A That's correct.

13 Q And in fact, you don't deny that at that
14 hearing, I was the one that said, "Even if you get
15 the samples, they may not have any evidentiary
16 value." But you say well not so. We still need
17 it, did you not?

18 A And we still have to try.

19 Q And you still have to try.

20 A That's right.

21 Q So you thought that there was evidentiary
22 value with respect to the items that they took
23 from the house, didn't you?

24 A And we still have to. And I would do that
25 again.

Investigator Lail-cross by Mr. Barr

1 Q I know you would. And you took the cover.
2 You took the quilt. You took the bed linen. You
3 took the washcloth that she said she washed with.
4 You took every single thing from the house that
5 you could take in 4 or 5 bags, didn't you?

6 A Yes, sir.

7 Q And not only that, you got the pubic hair
8 samples. And you also got DNA samples from the
9 defendant, didn't you? And you balled it all up,
10 and you sent it off to sled.

11 A The buccal swabs were sent. Yes, sir.

12 Q Now did you not do that?

13 A Yes, sir.

14 Q And the reason for doing that, is that you
15 believe that there was forensic evidence, at least
16 the possibility of forensic evidence that could
17 corroborate that the Mr. -- the defendant had
18 earlier sexual intercourse with Ms. Mouzon, didn't
19 you?

20 A Well this protocol is taken in any
21 criminal sexual conduct. And yes, we attempt to
22 locate any evidence or to eliminate any evidence.

23 Q Or to eliminate.

24 A That's right.

25 Q Absolutely. And You got it all together.

Investigator Lail-cross by Mr. Barr

1 And you got -- did you get the hair samples too?

2 A We took buccal swabs from Ms. Mouzon from
3 as well Mr. Wright.

4 Q Now let me ask you this much. The bed
5 linens you got, who collected the bed linens?

6 A Sergeant Blunt and Deputy Edwards.

7 Q Did you all just go in the house and look
8 in the closet and see how many clothes this guy's
9 got in there? Get them out. You didn't do that,
10 did you?

11 A No, as a matter of fact, those items were
12 collected on the scene through consent to search
13 and I was not there. I was at the sheriff's
14 department waiting on Mr. Blunt.

15 Q I see. So you weren't there when they
16 were collecting it.

17 A Correct.

18 Q You said it was officer Edwards. This
19 young officer, Officer Edwards, he was the one who
20 collected it.

21 A Sergeant Blunt.

22 Q Now with respect -- who told him to
23 collect what? You weren't there, so you don't
24 know who told him to collect what.

25 A Sergeant Blunt was the senior officer.

Investigator Lail-cross by Mr. Barr

1 MS. BARR: Judge, can she be allowed to
2 finish her response before counsel interrupts her?

3 MR. BARR: I'm sorry, Ms. Barr. I will
4 give her all day long.

5 MS. BARR: I appreciate that.

6 MR. BARR: I'll do that.

7 Q Ms. Blunt, do you know where she is?

8 A I don't know if she is on duty. I don't
9 know if she is in the hallway. I don't know, sir.

10 Q Well now to the best of your knowledge,
11 you are in charge of this investigation, are you
12 not?

13 A That's correct.

14 Q Well based on what you know, just what you
15 know. Who collected the items from the house that
16 you sent to sled?

17 A Sergeant Blunt and Deputy Edwards.

18 Q And Deputy Edwards. Now of course they
19 are not trained to just go there and pick up
20 anything. They're trained to talk to somebody
21 and collect something that has some material
22 value.

23 A They did confer with you over the
24 telephone.

25 Q Oh, they did?

Investigator Lail-cross by Mr. Barr

1 A They did. Sergeant Blunt did. And I
2 recall telling her how to square the spread and
3 the sheets to fold them to maintain any evidence.
4 And it was packaged and taken to the police
5 department prior to coming to court.

6 Q Officer Lail, this bed linen that
7 supposedly when, as you -- when Ms. Mouzon was
8 supposedly had this bowel movement, this bed
9 linen, that linen was also collected?

10 A As far as I know.

11 Q Now that's, you talk about stain remover.
12 That's pretty tough to get rid of all. For a
13 forensic expert you almost need a whole day to do
14 that, right?

15 A Uh-huh. (Affirmative.)

16 Q Ma'am?

17 A I don't know.

18 Q But you all collected it and sent it to
19 sled.

20 A That's correct.

21 Q There was a cloth that you talked about
22 that was collected at that time too?

23 A That's correct.

24 Q Now of course and I know you can't testify
25 regarding the results of the chemical analysis.

Investigator Lail-cross by Mr. Barr

1 But all of those items have been analyzed for --
2 they have been analyzed for hair samples, for
3 sperm, for trace. They have even analyzed for
4 anything that would indicate any kind of sexual
5 activity that may have been gone on. Any kind of
6 vaginal fluid, body fluid of either the defendant.
7 Or because you have his sample and obviously you
8 have got hers. They were analyzed for all that,
9 were they not?

10 A I would assume.

11 Q Ma'am?

12 A I would assume. How do they do that, I
13 don't know.

14 Q Well the scientific part of it you don't.
15 But you make sure that they get there.

16 A Uh-huh. (affirmative.) That's correct.

17 Q Now do you know the individuals in this
18 case who did the scientific examination?

19 A I would have that in my report.

20 Q Is Ms. McGill one of them?

21 A Excuse me?

22 Q Ms. McGill?

23 A Once they send it to sled, I don't know
24 their protocol as far as that.

25 Q But anyhow they will be able to tell us

Investigator Lail-cross by Mr. Barr

1 all about that.

2 A Yes, sir.

3 Q Now incidentally inasmuch as, Ms. Mouzon
4 told you that when this incident supposedly
5 happened she told Ms. Lewis. Now we know that
6 happened, don't we?

7 A Yes.

8 Q Now so you interviewed Ms. Lewis who
9 obviously in this case, when you went to see her,
10 you knew she was a crucial witness, right? The
11 first lead that you got?

12 A Uh-huh. (Affirmative.)

13 Q The first person that she would have
14 spoken to. In fact she said that as soon as it
15 happened she told them.

16 MS. BARR: Objection to counsel
17 testifying.

18 MR. BARR: I'll rephrase the question.

19 Q Now, do you have Ms. Lewis' statement?

20 A I have what she told me, but I did not
21 record it.

22 Q You didn't record it?

23 A No.

24 Q Do you know of any other person that
25 Ms. Mouzon claimed that she told this thing to,

Investigator Lail-cross by Mr. Barr

1 what had happened, other than Ms. Lewis?

2 A And when she said she told again, you're
3 wanting me to say that she told me that he raped
4 her. There was no language was made to law
5 enforcement.

6 Q Do you have any others? Do you have her
7 statement?

8 A I have---

9 Q Can I see the statement?

10 A What I testified to a few minutes ago.
11 There is no transcribed statement from Ms. Lewis.

12 Q There is a transcribed statement from
13 Ms. Mouzon. That's the one I am looking for.

14 A Right there.

15 Q Where is that statement?

16 THE COURT: Ladies and gentlemen of the
17 jury, let's stand for a minute. All right.

18 Q I can't find what I am looking for. I
19 will find it later. But Ms. Lewis' statement, do
20 you have her statement?

21 A Again, I did not take a statement from
22 her.

23 Q You did not take a statement from her?

24 A No, I talked to her. And I put in my
25 reports that I did not take a statement from her.

Investigator Lail-cross by Mr. Barr

1 Q You said you put the content of your
2 conversation. Now if I am not mistaken, did your
3 investigation disclose that Ms. Lewis was the home
4 nurse going to see Ms. Mouzon every day?

5 A She was one of the nurses, yes, sir.

6 Q And you wrote in your incident report, but
7 you didn't take a statement from her. But you
8 wrote in your incident report the contents of your
9 conversation with her?

10 A Basically yes, sir.

11 Q Where is that in your incident report?

12 A Let me clarify we are not talking about a
13 registered nurse.

14 Q Yes, ma'am. I understand that. She's
15 probably just an aid. But nowhere did you write
16 in your incident report regarding the content of
17 the information.

18 A The paragraph begins on 2/24/09, with
19 Dr. Faile.

20 Q Where is that now?

21 A That is in this paragraph.

22 Q Dr. Faile.

23 A And up on the paragraph this was on
24 February 24th 09.

25 Q Now is that regarding Ms. Lewis?

Investigator Lail-cross by Mr. Barr

1 A That's correct on 2/24/09. The issue home
2 aid in Home Health Care in Georgetown where Ms.
3 Lewis is employed.

4 Q But other than that, you don't have a
5 statement for Ms. Lewis?

6 A No. It says I spoke to Ms. Edwards a
7 director of home aid. She advised---

8 MS. BARR: Judge, I am sorry.

9 Q Don't read it. But no statement from
10 Ms. Lewis?

11 A Other than what I've got in my report.

12 Q All right. Ms. Gloria Hannah and Georgia
13 Rhames during the course of your investigation,
14 you interviewed them too.

15 A That's correct. That's the two ladies
16 that live right next door to Ms. Mouzon.

17 Q Did you learn anything significant from
18 them?

19 MS. BARR: Objection, Judge. It calls for
20 hearsay.

21 MR. BARR: I intend to have them here
22 tomorrow.

23 Q Did you learn anything significant from
24 them? I am not asking you to tell me what you
25 said. Yes, ma'am, nothing significant?

Investigator Lail-cross by Mr. Barr

1 A Not really. Not anything pertaining to
2 this alleged incident.

3 Q Nothing pertaining to the alleged
4 incident, huh? I am not asking you to tell me
5 what they said. But they did relate information
6 to you about these two people, didn't they?

7 A They discussed it with them, yes, sir.

8 Q Ma'am?

9 A They discussed it with them.

10 Q You've got it written right here in your
11 incident report.

12 A Yes, sir. They knew both of them. As a
13 matter of fact, Mr. Wright would take all three of
14 these patients for dialysis and any medical
15 treatments they needed.

16 Q Uh-huh. (Affirmative.) Now they live
17 right next door. There is plenty of -- when
18 was -- what date was it that the allegation --
19 that the rape was supposedly took place? What
20 date was it?

21 A The 19th.

22 Q The 19th. I see.

23 A It was reported on the 22nd.

24 Q And it was reported on the 22nd. By who
25 did you say it was reported by?

Investigator Lail-cross by Mr. Barr

1 A According to the initial report, they
2 listed the victim and complainant as the same.
3 Although there was another lady at the residence
4 with Sergeant Blunt.

5 Q Now you all don't, the records that were
6 you sheriff's department, you all keep pretty
7 goods records, right?

8 A Yes, sir.

9 Q You keep good records. And as far as you
10 now they are pretty accurate, right?

11 A As far as I know.

12 Q Ma'am?

13 A As far as I know.

14 Q As far as you know. You don't keep any
15 false records, or misleading records, do you?

16 A No, sir.

17 Q Now I'll ask you again. Supposedly based
18 on your records, who reported this incident to the
19 sheriff's department?

20 A Again, based on the report, the
21 complainant listed as the same as the victim.

22 Q I see. So that would Ms. Mouzon.

23 A That's correct. As far as who called it
24 in, I don't know that. I can't answer that.
25 That's something I don't know.

Investigator Lail-cross by Mr. Barr

1 Q Well now you said the complainant. I mean
2 who else is the complainant? How else did it get
3 in there?

4 A Well again, I can say that it's the
5 victim and the complainant on this report. As far
6 as who picked up the phone and called 911, I don't
7 know that. You would have to speak with one of
8 responding officers.

9 Q Are you suggesting to us that the person
10 who called it in, is different from who the
11 complainant over here?

12 A That's possible.

13 Q And why do you say that?

14 A Well maybe the officer didn't get the
15 individual's correct information at the house, or
16 follow up information. But he did have the
17 victim. So it was the victim and complainant.

18 Q And it is just as possible that what is
19 written there is to the dead truth, isn't it?

20 A The allegation.

21 Q Well I'm talking about the fact that it
22 was called in and it was made by the complainant.

23 A He should have, yes.

24 Q Three or four days later?

25 A Which is not uncommon. No, sir.

Investigator Lail-cross by Mr. Barr

1 Q Now you say it is not uncommon. Are you
2 suggesting to us, Officer Lail, and of course you
3 might say this based on your experience; that when
4 you start investigating allegations of criminal
5 sexual conduct, are they all the same?

6 A Absolutely not.

7 Q They're not all the same, are they?

8 A No, sir.

9 Q So some wait 4 or 5 days in one case.
10 Just because they do that, that don't mean that in
11 the next case somebody is going to do the same
12 thing, is it?

13 A You can have people waiting 15 years
14 before reporting it.

15 Q And 15 minutes.

16 A That's correct.

17 Q But now, of course, well let's, court's
18 indulgence just a second, judge. Do you remember
19 Ms. Mouzon testifying about having called her
20 daughter? She said she went into the bathroom
21 after the incident supposedly occurred. And came
22 back and called somebody. Do you remember that?

23 A It was a call made from her daughter. And
24 I am not sure if it was that night or the
25 following night. There was a conversation, and

Investigator Lail-cross by Mr. Barr

1 she stated to me that her mother was very, like
2 she was whispering.

3 Q You didn't hear her say she called
4 somebody?

5 A That same night?

6 Q In fact, did she not -- I believe she said
7 that she told, she said she told Mr. Dennis, she
8 said that he wasn't leaving. Do you remember what
9 she said?

10 MS. BARR: Judge, again I hate to object.
11 Because obviously what the victim said in court,
12 that speaks for itself. And instead he is asking
13 her to comment on witness' testimony. That's
14 pitting witnesses. We have to object to this line
15 of questioning.

16 MR. BARR: Judge, I simply asked her --
17 well asked her what the line of questioning was as
18 to her testimony.

19 THE COURT: Objection sustained.

20 Q Officer Lail, there is just about two more
21 questions. Does Ms. Mouzon have a medical alert
22 bracelet?

23 A Not that I am aware of.

24 Q Did you ask her whether she has got one?

25 A I don't recall asking her that, no. If I

Investigator Lail-cross by Mr. Barr

1 did, I do not recall putting that in my notes.

2 Q But you never asked her.

3 A I do not recall asking her. And I recall
4 seeing it in her statement.

5 Q Do this for me. Can you find out for me?
6 Because later on, I might decide to call you and
7 ask you if she had one. All right. In the event
8 that I should decide not to do that, would you let
9 this officer know whether she has got one?

10 A I would do that.

11 MR. BARR: Thank you. I have nothing
12 further, judge.

13 THE COURT: Ms. Barr.

14 MS. BARR: A few questions on redirect.

15 Redirect Examination by Ms. Barr:

16 Q Investigator Lail, do you have copies of
17 Ms. Mouzon's statement in front of you?

18 A I do.

19 Q Now Mr. Barr asked you questions about
20 what she told you and what she didn't tell you and
21 all this other stuff. If you would, please turn
22 to page 3 of her statement, line 18. Did she
23 tell you where the -- how the defendant was
24 positioned on the bed when she came in?

25 MR. BARR: Objection. Your Honor, even

Investigator Lail-redirect by Ms. Barr

1 though she may have prefaced it with the question
2 that I asked, I did not ask her anymore about any
3 position on the bed. She's gone beyond the scope
4 of cross examination.

5 MS. BARR: Judge, he got in to all this
6 stuff---

7 THE COURT: Wait a minute. That's
8 voluntary argument. The objection is overruled.

9 Q Did Ms. Mouzon's take -- did Ms. Mouzon
10 tell you anything about the position of the
11 defendant when he came in her room where -- how he
12 was?

13 A Starting at line 18, I said, when you were
14 rubbing him, was he was laying on his stomach?
15 Were you rubbing his back? And she answered yes.

16 Q He was on his stomach, is that right?

17 A That's correct.

18 Q Now in her statement, did she tell you
19 that he tried to force her to have oral sex?

20 A That's correct.

21 Q Did she tell you that he penetrated her
22 vagina?

23 A I don't think those exact words were used.

24 Q Let me have you look at your notes from
25 your interview. Your supplemental report

Investigator Lail-redirect by Ms. Barr

1 indicated that you interviewed him on 2/23/09. Do
2 you have that with you?

3 A I do.

4 Q Did she say he had sex? Did he put his
5 penis in her vagina? And let me kind of---

6 A She stated that he then engaged in sexual
7 intercourse with her.

8 Q Your voice is leaving me.

9 A She stated that he then engaged in sexual
10 intercourse with her, penal/vaginal. And then he
11 engaged in intercourse with her anally.

12 Q Now you indicated that she stated that he
13 engaged in intercourse with her. Penal/vaginal,
14 correct?

15 A That's correct.

16 Q And intercourse anally, correct?

17 A That's correct.

18 Q Now when you talk about she said he
19 engaged in intercourse, are those the words that
20 you used, or are those specific words that she
21 used?

22 A And again, that's my words.

23 Q Based on what she told you.

24 A That's correct.

25 Q So she didn't use the word intercourse

Investigator Lail-redirect by Ms. Barr

1 with you, in other words.

2 A No.

3 Q She didn't use the word penal/vaginal, did
4 she?

5 A No.

6 Q She didn't use anal intercourse. Those
7 are -- that's how you paraphrase what she said.

8 A That's correct.

9 Q Now whether or not she told you her bowels
10 moved after this. No question that she told you
11 those things.

12 A That's correct. She told me she went in
13 the bathroom and washed herself off.

14 Q One quick question and I will be done.
15 You indicated you have investigated sexual assault
16 cases before. Is that right?

17 A That's correct.

18 Q Involving both children and adults.

19 A That's correct.

20 Q Now people use different words to describe
21 sexual acts, don't they?

22 A Sure.

23 Q Somebody might say he was messing with me,
24 right? You heard that before?

25 A That's correct.

Investigator Lail-redirect by Ms. Barr

1 Q Somebody might say he was touching me,
2 right?

3 A That's correct.

4 Q Somebody might say he was bothering me.

5 MR. BARR: Objection, Your Honor. There
6 is no foundation for this. She's just calling on
7 the witness for speculation.

8 THE COURT: Objection sustained as to
9 leading the witness.

10 Q During the course of your investigating
11 victims of sexual assault, is it usual or unusual
12 for them to characterize the sexual assault
13 differently?

14 A Absolutely.

15 Q It just depends on their age and their
16 conditions?

17 A And what they're familiar with. What's
18 familiar to them.

19 Q Now you heard Ms. Mouzon testify that she
20 called a penis a peeny, did you hear her say that?

21 A That's correct.

22 MS. BARR: Judge, that's it. That's all I
23 have. Thank you.

24 Recross Examination by Mr. Barr:

25 Q Now let me make sure I am clear on

Investigator Lail-redirect by Ms. Barr

1 something. Now you're not suggesting that Ms.
2 Mouzon told you in her statement that she had a
3 bowel movement.

4 A I can only reflect what was in her
5 transcribed statement. I can paraphrase it.

6 Q Is there anywhere in her transcribed
7 statement that she said she had a bowel movement?

8 A Not that I recall. She said she went to
9 the bathroom and washed up.

10 Q Now on this issue of penis versus
11 whatever, you did ask the lady what happened, did
12 you not?

13 A I did.

14 Q Well tell me what exactly what she told
15 you, and don't paraphrase it if you don't mind,
16 please, ma'am.

17 MS. BARR: Judge, I'm sorry. Outside the
18 scope of redirect.

19 THE COURT: Yes. Ladies and gentlemen, I
20 will have you go---

21 MR. BARR: I will withdraw the question.

22 THE COURT: Anything further of this
23 witness? You may step down, ma'am. Ladies and
24 gentlemen, that will do it for this day. I need
25 you back at 10:00 o'clock tomorrow morning.

Investigator Lail-recross by Mr. Barr

1 Please do not discuss the case.

2 (Whereupon, at 5:26 p.m. jury is
3 dismissed.)

4 THE COURT: I want to put on the record
5 that as I told counsel at the side bar, the court
6 grants the state's motion to correct the
7 indictment alleging that he committed the offense
8 of criminal sexual conduct in the second degree.
9 That's a scrivener's error. It is clearly
10 intended to be first degree. Based on all the
11 other language of the indictment, I grant the
12 motion to make that correction. Again we will be
13 out of here until 10 o'clock tomorrow morning.

14 (Whereupon, the trial commences on
15 Wednesday October 13, 2010 at 9:30 a.m.)

16 THE COURT: You may bring the jury.

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

19 THE COURT: We have all the jury back.
20 Good morning. We had another case for a little
21 bit this morning. That's why we had you all wait
22 while we did that. We are now ready to proceed
23 with this case. Ms. Barr, your next witness.

24 MS. BARR: We would call Deputy Alex
25 Edwards.

1 Deputy Alex Edwards, being first duly
2 sworn, testified as follows:

3 Direct Examination by Ms. Barr:

4 Q Sir, let get you to state your full name.

5 A Alex Edwards.

6 Q And tell the Ladies and gentlemen of the
7 jury, where you work?

8 A The Williamsburg County Sheriff's Office.

9 Q And what do you do for the Sheriff's
10 Office?

11 A I'm an investigator.

12 Q Now how long have you been employed with
13 the Sheriff's Office?

14 A Since 2007.

15 Q Are you a certified police officer?

16 A Yes, ma'am, I am.

17 Q Now Deputy Edwards you were working back
18 on February 22, 2009, is that correct?

19 A Yes, ma'am.

20 Q And you were one of the first officers who
21 responded to a call regarding the sexual assault
22 involving Ms. Azalee Mouzon, is that right?

23 A Yes, ma'am.

24 Q And who was with you from the agency when
25 you responded to investigate that?

Deputy Edwards-direct by Ms. Barr

- 1 A Staff Sergeant Richardson.
- 2 Q And you met with Ms. Mouzon on that day?
- 3 A Yes, ma'am.
- 4 Q Where did you meet with her?
- 5 A I met with her at .
- 6 Q That would have been her home address?
- 7 A That's correct.
- 8 Q And who was with her as you recall when
- 9 you met her?
- 10 A Edie Mae Brooks.
- 11 Q I am sorry?
- 12 A Edie Brooks.
- 13 Q Ms. Edie Brooks?
- 14 A Yes, ma'am.
- 15 Q What about Melissa Mouzon, was she there
- 16 as well?
- 17 A I don't recall.
- 18 Q Now when you arrived at her home,
- 19 approximately what time did you get there?
- 20 A About 6:18.
- 21 Q 6:18 in the evening?
- 22 A Yes, ma'am.
- 23 Q You can't tell me what she said at this
- 24 point, but kind of describe for me Ms. Mouzon's
- 25 state of mind, if you will. How was she acting?

Deputy Edwards-direct by Ms. Barr

1 A She was acting very upset at the time I
2 was trying to question her. It was hard for me to
3 get anything out of her. It took approximately a
4 bit for me get her statement.

5 Q And at some point you were able to get a
6 statement from her, is that right?

7 A Yes, ma'am.

8 Q And did you request permission to search
9 her house, took certain things from the house?

10 A Yes, ma'am.

11 Q And did she give you her permission to do
12 that?

13 A Yes, ma'am, she did.

14 Q Now when you were originally arrived at
15 her home, was the defendant Dennis Wright there?

16 A No, ma'am.

17 Q Where was he?

18 A He was located next door.

19 Q Is it

20 A Yes, ma'am.

21 Q Now after you got a statement from
22 Ms. Mouzon and after you took certain things out
23 of the house, did you then go to talk with Mr.
24 Wright?

25 A Yes, ma'am.

Deputy Edwards-direct by Ms. Barr

1 Q And that was at address?

2 A Yes, ma'am.

3 Q Did you ask him whether or not he would
4 accompany you to the Sheriff's Department?

5 A Yes, that is correct.

6 Q Did you tell him why you wanted him to go
7 to the sheriff's department?

8 A When I made contact with Mr. Wright, I
9 questioned him about the assault. But I didn't
10 state what time the assault happened. I just
11 asked him to come down to the Hemingway Police
12 Department.

13 Q Did he do that voluntarily?

14 A Yes, ma'am, he did.

15 Q Now you said the Hemingway Police
16 Department. Was it the Hemingway Police
17 Department that the statement was taken, or was it
18 the sheriff's department?

19 A It was taken at the sheriff's department.
20 He was just detained actually there. He was
21 transported to the Williamsburg County Sheriff's
22 Department.

23 Q Now you were acting under of direction of
24 Investigator Lail, is that correct?

25 A Yes, ma'am, that is correct.

Deputy Edwards-direct by Ms. Barr

1 Q Which is the chief investigator.

2 A Yes, ma'am.

3 Q And of course you were in court yesterday
4 when she testified.

5 A Yes, ma'am.

6 Q About the statement.

7 A Yes, ma'am.

8 Q Now he eventually got to the Sheriff's
9 Department. You as well as Investigator Lail,
10 were you all the only ones in the room with him?

11 A Yes, ma'am.

12 Q Were you there the entire time that he
13 gave a statement?

14 A Yes, ma'am.

15 Q And that statement was recorded, is that
16 correct?

17 A Yes, ma'am.

18 Q Now did you record, as far as you know,
19 did you record everything that was said that day
20 between you and Investigator Lail and Dennis
21 Wright?

22 A Yes.

23 Q Now I hand you what has been marked for
24 identification purposes as State's Exhibit No. 4.
25 And 4-a. Does this appear to be the actual audio

Deputy Edwards-direct by Ms. Barr

1 tape of the interview of Dennis Wright?

2 A Yes, ma'am.

3 Q What is the date on that, please, sir?

4 A February 22nd 2009.

5 Q Is that Investigator Lail's writing?

6 A Yes, ma'am.

7 MS. BARR: Judge, we have what has been
8 marked as State's Exhibit No. 4-a. Which is the
9 audiotape, and a portion of the redacted,
10 basically the hearsay grounds. And we would move
11 State's Exhibit No. 4-a in evidence at this time.

12 THE COURT: Mr. Barr.

13 MR. BARR: Judge, I do have an objection
14 under your previous ruling.

15 THE COURT: It's a matter of record. It's
16 in the record.

17 (Audio Tape marked State's Exhibit No. 4-a
18 into evidence.)

19 Q Sir, just to kind of let the jury know
20 what happened. There was a portion of time in
21 that statement that he was advised of his Miranda
22 Warnings?

23 A Yes, ma'am.

24 Q And that took about 15 minutes, I
25 suppose?

Deputy Edwards-direct by Ms. Barr

1 A Approximately, yes, ma'am.

2 MS. BARR: Judge, we would publish this at
3 this time.

4 THE COURT: You may.

5 (Whereupon, playing tape.)

6 MS. BARR: Judge, Can we take a quick
7 break? I think that is all the tape I am going to
8 play.

9 THE COURT: Do you want me to have them go
10 to the jury room?

11 MS. BARR: Please, maybe 5 minutes.

12 THE COURT: Ladies and gentlemen, please
13 go to the jury room. Please do not discuss the
14 case. We will take 5 or 10 minutes.

15 (Whereupon, the court takes a short
16 recess.)

17 (Photographs marked state's Exhibit Nos. 5
18 through 7 for id.)

19 THE COURT: You may bring the jury.

20 (Whereupon, the following takes place
21 within the presence of the jury.)

22 THE COURT: You may continue.

23 MS. BARR: Thank you, Judge.

24 Direct Examination by Ms. Barr:

25 Q Deputy Edwards, I have a couple of

Deputy Edwards-direct by Ms. Barr

1 questions to follow up after we listened to the
2 statement. Now we hear a male voice on that tape.
3 Kind of soft spoken. I didn't hear it too loud.
4 Was that your voice on there?

5 A Yes, ma'am.

6 Q And it struck me as kind of curious. Tell
7 me a little bit about the tone of that
8 interrogation and the interrogation, the technique
9 that was used by Investigator Lail.

10 A With a regular tone of voice, there was no
11 hostile environment whatsoever. Investigator Lail
12 and myself just asked Mr. Wright a few questions
13 about the alleged incident, as far as time frame,
14 matters relating to, pertaining to the case.

15 Q Now you indicated earlier in your
16 testimony that you are a certified police officer.

17 A Right, yes, ma'am.

18 Q And do they train police officers there on
19 how to conduct an interrogation?

20 A Yes, ma'am.

21 Q And do you have -- are you trained to have
22 different techniques based on the person you are
23 interviewing?

24 A Yes, ma'am. That is correct.

25 Q Are there sometimes where during the

Deputy Edwards-redirect by Ms. Barr

1 course of your interrogation you go over after the
2 person you are trying to get information from, in
3 terms of being confrontational with them, being
4 ugly, not ugly? I shouldn't say, but
5 confrontational and aggressive?

6 A No, ma'am.

7 Q Are there other types of techniques where
8 you use or do you kind of just sit back and let
9 the person talk all he or she wants to?

10 A We try to stay focused on the matter and
11 reason while doing the interrogation. We try to
12 make sure that we keep attention.

13 Q Your goal is to try to get as much
14 information as possible?

15 A Yes, ma'am.

16 Q You want to keep him talking.

17 A Yes, ma'am.

18 Q Now do you have a copy of that transcribed
19 statement up there with you?

20 A Yes, ma'am.

21 Q And that's what some 66 or 67 pages, is
22 that correct?

23 A Yes, ma'am.

24 Q All right now rather than rewind it, and
25 fast forwarding and so forth through the tape.

Deputy Edwards-redirect by Ms. Barr

1 Let me kind of go through some questions that are
2 asked for you about the interview that was
3 conducted that day. I need to first of all, let
4 me understand you. Mr. Wright keeps referencing
5 his pastor. And he talked about Michael. Is he
6 talking about Michael Mouzon, the victim's
7 grandson?

8 A Yes, ma'am.

9 Q That was his pastor?

10 A Yes, ma'am.

11 Q Now of course he said that he had known
12 Michael Mouzon since childhood, is that correct?

13 A Yes, ma'am, that's correct.

14 Q Now, let me get you to turn to page 5 of
15 the transcript of that statement, please, sir.
16 And I call your attention to line 16. Let me know
17 when you are with me.

18 A Yes, ma'am, line 16.

19 Q Now you all specifically started off by
20 asking Mr. Wright whether or not Ms. Mouzon ever
21 touched you. Touched him, I am sorry. You all
22 asked him that question at any very beginning,
23 right?

24 A Yes, ma'am.

25 Q What was his response from the first time

Deputy Edwards-redirect by Ms. Barr

1 you asked him that question?

2 A Well he stated that Ms. Azalee touched him
3 during the interrogation.

4 Q Now the first time you all asked him the
5 question, his response was, "No, no, no.
6 Ms. Azalee never touched me."

7 A Yes, ma'am, that correct.

8 MR. BARR: Your Honor, may I we approach
9 the bench?

10 THE COURT: Yes, sir.

11 (Whereupon, the attorneys approach the
12 bench and confer with judge.)

13 Q Now so he initially told you starting on
14 page 5 of a 67-page statement that Ms. Azalee
15 never touched me.

16 A Yes, ma'am, that's correct.

17 Q Now at some point, we can tell from the
18 tape, you all, you and Investigator Lail started
19 asking him specifically whether or not on that
20 Thursday night if anything inappropriate happened
21 or he exposed himself or anything of sexual nature
22 had ever happened between him and Ms. Azalee, is
23 that right?

24 A Yes, ma'am.

25 Q You all asked him that over and over?

Deputy Edwards-redirect by Ms. Barr

1 A Yes, ma'am.

2 Q Let me get you to turn to page 31 for me.

3 Let me know when you are there.

4 A Yes, ma'am. On page 31.

5 Q Now just to kind of refresh your memory,

6 go to line 13 and let me know when you there.

7 A Yes, ma'am.

8 Q Now he says about half way through the

9 interview that's the first time he stated that she
10 jumped on him supposedly, right?

11 A Yes, ma'am, that's correct.

12 Q So we have got a 67 page statement and we

13 are on line 31, and that's the first time he ever
14 mentioned it about half way through the interview,
15 is that right?

16 A Yes, ma'am.

17 Q Turn to page 25 for me. Starting on line

18 3. Do you recall his statement about the incident
19 that happened at the car wash between himself, his
20 grandmother, Ms. Azalee, and Michael Mouzon?

21 A Yes, ma'am.

22 Q What did he say about what happened? What

23 Michael said to Ms. Mouzon. Didn't he say

24 something about Michael had strong words for her?

25 A Yes, he did.

Deputy Edwards-redirect by Ms. Barr

1 Q Told her he wasn't going to be running
2 back and forth for her?

3 A Yes, ma'am, that's correct.

4 Q Now just kind of go down to line 19.
5 Mr. Wright also says that Ms. Azalee stated that
6 her grandson told her she could go somewhere and
7 die?

8 A Yes, ma'am, that is correct.

9 Q We already established that on page 5,
10 very early on in the interview, before you all
11 could even get to Miranda. He says Ms. Azalee
12 never touched me, right?

13 A Yes, ma'am.

14 Q And he established that half way through
15 the interview, page 31, when he first mentioned
16 something happening between him and Ms. Azalee on
17 Thursday night, the 19th, right?

18 A Yes, ma'am, that's correct.

19 Q Now go to the very end of page 32, if you
20 will, looking at line 24. Let me know when you
21 get there.

22 A Page 32.

23 Q 32 line 24. All the way to the end.

24 A I am there.

25 Q Now read that last sentence to yourself,

Deputy Edwards-redirect by Ms. Barr

1 not aloud, and we will finish up at the top of
2 line 33. Let me know when you've down that.

3 A Yes, ma'am. I've completed reading that
4 passage.

5 Q Now did he tell you all something about he
6 don't want anybody touching him -- the only person
7 he wants -- or the only one that touches him is
8 his minister?

9 A Yes, ma'am, that's correct.

10 Q And he was talking about Mr. Mouzon.

11 A That's correct.

12 Q And you've kind of heard him say over and
13 over again during the course of that interview
14 that Ms. Mouzon jumped on him. You heard him say
15 that.

16 A Yes, ma'am, that's correct.

17 Q And he actually at one point used the term
18 pounced. She pounced on him?

19 A Yes, ma'am. That is also correct.

20 Q Now to page 38 for me. Were there parts
21 of the interview that he stated that he rolled off
22 of Ms. Mouzon, Ms. Azalee?

23 A Yes, ma'am, that's correct.

24 Q That's mentioned on page 38, is that
25 right?

Deputy Edwards-redirect by Ms. Barr

1 A Yes, ma'am, it is.

2 MR. BARR: Your Honor, I am going to
3 object at this point. Because I think the
4 question calls for a conclusion on behalf of the
5 witness. It calls for a conclusion perhaps
6 regarding matters that ordinarily are within the
7 kinds of things that she certainly has not laid a
8 foundation. He's given an opinion on. But he has
9 given a conclusion about what is perhaps would be
10 a part of the statement, and we would object to
11 that.

12 THE COURT: Objection is sustained.

13 MS. BARR: Your Honor, as to the
14 conclusion?

15 THE COURT: Objection sustained.

16 Q Now at some point during the course of the
17 interview, we could hear Investigator Lail saying
18 things like well, "I am trying to help you out.
19 And she initiated it." Is that correct? Do you
20 recall her saying that?

21 A Yes, ma'am, that's correct.

22 Q Was that also a part of your interview
23 technique in terms of trying to get him to talk?

24 A Yes, ma'am. We were trying to gather
25 enough information about that case that night.

Deputy Edwards-redirect by Ms. Barr

1 Q Now by the time you were a part of this
2 interview, you had already conducted an interview
3 of the victim, Ms. Mouzon, right?

4 A Yes, ma'am, at the scene.

5 Q And of course you told me earlier that you
6 had Ms. Mouzon's permission to search the house,
7 right?

8 A Yes, ma'am.

9 Q That was her residence. She owned it.

10 A Yes, ma'am.

11 Q And you talked about getting certain items
12 from the residence that you thought may have some
13 evidentiary value.

14 A Yes, ma'am.

15 Q Now two of the things that you received
16 from the residence that day were the washcloths.
17 The two washcloths, is that correct?

18 A Yes, ma'am, that is correct.

19 Q I am going to hand you what has been
20 admitted as State's Exhibits 2 and 3. Were those
21 washcloths taken to sled and analyzed by sled, the
22 State Law Enforcement Division in Columbia?

23 A Yes, ma'am, that is correct.

24 Q And obviously from those reports we see
25 there is no semen found in either one of those

Deputy Edwards-redirect by Ms. Barr

1 pieces of evidence, is that right?

2 A Yes, ma'am, that correct.

3 Q Now did you or someone at the sheriff's
4 department when you all were out interviewing
5 Ms. Azalee, did you all take any pictures of the
6 bedroom?

7 A Yes, ma'am, that is correct.

8 Q I am going to hand you now what has been
9 marked for identification purposes as State's
10 exhibits 5, 6 and 7. And ask if you recognize
11 those particular exhibits, and what is depicted in
12 those exhibits.

13 A Yes, ma'am, I do recognize them.

14 Q How is it that you recognize it?

15 A These are pictures that were taken at the
16 location of the bedroom. Myself and Sergeant
17 Blunt started processing the scene. Again we were
18 looking for any evidence. Before we touched
19 anything or remove anything from out of the room,
20 we took pictures. We didn't disturb anything. We
21 collected it.

22 Q When you talk about bedroom, you are
23 talking about the bedroom that Mr. Wright was
24 staying in at Ms. Azalee's house?

25 A Yes, ma'am, that is correct.

Deputy Edwards-redirect by Ms. Barr

1 Q And do those pictures reflect how the
2 bedroom appears when you all came there to talk
3 with her?

4 A Yes, ma'am.

5 MS. BARR: Judge, we would move State's
6 5, 6 and 7 into evidence at this time.

7 THE COURT: Any objection?

8 MR. BARR: Yes, sir. Materiality and
9 relevance, Judge. Your Honor, my understanding
10 they came to the house several times from the time
11 they claim this incident supposedly took place.
12 And there is nothing to indicate that the rules
13 have been changed, have been moved or anything of
14 that nature. We would object under materiality
15 and relevance.

16 THE COURT: Ms. Barr, response?

17 MR. BARR: Judge, I would submit that the
18 room in which the rape allegedly occurred, the
19 photographs of that room are always relevant. And
20 counsel is arguing that the depiction of the room
21 as it appears after the rape goes to weight of the
22 evidence, not its admissibility.

23 THE COURT: Admitted over objection.

24 (Photographs marked as State's Exhibit
25 Nos. 5, 6, 7 into evidence.)

Deputy Edwards-redirect by Ms. Barr

1 Q Now Deputy Edwards, I have got a couple
2 more questions and then I finish up with you. It
3 appears from these photographs that the room is
4 relatively tidy?

5 A Yes, ma'am.

6 Q Now when you all came out there to
7 interview Ms. Mouzon, you testified that
8 Mr. Wright was not there.

9 A Yes, ma'am. He was not at the scene.

10 Q And do you know whether or not he had
11 removed any of his personal items from the home
12 before you got there?

13 A I know that when we were processing these
14 pictures---

15 Q Yes, sir.

16 A ---his personal belongings were not at the
17 residence.

18 Q Were not at the residence at the time.

19 MR. BARR: Judge, we would move to publish
20 these exhibits at this time, Judge.

21 THE COURT: All right.

22 MS. BARR: Deputy Edwards, I believe
23 that's all the questions I have. Please answer
24 the questions the court or defense counsel my
25 have.

Deputy Edwards-redirect by Ms. Barr

1 Cross Examination by Mr Barr:

2 Q Deputy Edwards, with respect to the
3 photographs that you just identified and what went
4 in to evidence, when were those photographs taken?

5 A February 27th 2009.

6 Q February 22nd?

7 A Yes, sir.

8 Q And this alleged incident that supposedly
9 occurred, the alleged rape, when is it the
10 prosecution's contention that that occurred?

11 A I don't recall the exact time frame.

12 Q I am asking you, you indicted this man
13 for first degree criminal sexual conduct. And
14 abuse of a vulnerable person. Now when are you
15 claiming that he committed those acts?

16 A We didn't get the call until February 22nd
17 2009, when we responded out there.

18 Q Well forget about when you got the call.
19 When are you claiming he did it?

20 A I don't recall. We were still doing our
21 investigation.

22 Q Still doing an investigation. It's pretty
23 late to be doing an investigation. There's a jury
24 here. We are trying the case now. And you got
25 him on trial. And you can't tell me when you

Deputy Edwards-cross by Mr. Barr

1 claim it took place?

2 A The time frame in reference to the assault
3 was between Thursday and Sunday.

4 Q When was?

5 A Between that Thursday and that Sunday.

6 Q Between that Thursday. And What date?

7 A It was on the 22nd, when we responded out
8 there to . Where Ms. Azalee made
9 law enforcement; acknowledged what happened.

10 Q So quite frankly, starting from the 22nd,
11 when you supposedly got this call, you don't
12 remember what took place if anything prior to the
13 22nd?

14 A No, sir. That's when we got the call.

15 Q In fact you don't even know, you can't
16 tell me now when it is being alleged that the
17 alleged rape took place. You just said you
18 didn't know.

19 A Yes, sir, that is correct.

20 Q Now with the respect to the pictures you
21 have got there, they were taken on the 22nd. Were
22 they taken by you?

23 A Yes, sir.

24 Q And at the time that you say you took a
25 statement, who else was present?

Deputy Edwards-cross by Mr. Barr

1 A Staff sergeant Caressa Blunt.

2 Q Now whatever it is depicted in the
3 photographs, do you know how long the room was in
4 the configuration it was prior to the time that
5 you got there?

6 A No, sir.

7 Q Do you know whether or not I had gone by
8 there and put my clothes in there and took them
9 out?

10 A No, sir.

11 Q You don't know that, do you?

12 A No, sir. I can't testify to that.

13 Q So now with respect to evidentiary value
14 or with respect to what you took in the
15 photograph, you have no idea about anything as it
16 may have existed at any time, other than the 22nd
17 of February?

18 A That's correct.

19 Q Now Ms. Barr showed you State's Exhibit
20 No. 2 and State's Exhibit No. 3. And I am going
21 to let you take a look at them again. You know
22 what they are. Sled reports.

23 A Yes, sir.

24 Q Now how long did you say you have been
25 with the sheriff's department?

Deputy Edwards-cross by Mr. Barr

1 A Since 2007.

2 Q 2007. How long have you been an
3 investigator?

4 A Approximately 2 months now.

5 Q 2 months?

6 A Yes, sir.

7 Q Are you new on the job?

8 A Yes, sir. I'm under the direction of
9 Investigator Collins and Investigator Lail.

10 Q Under the direction of Lieutenant Collins.

11 A Yes, sir.

12 Q And Investigator Lail.

13 A Yes, sir.

14 Q Now being under the direction of,
15 particularly in this instance, of Lieutenant
16 Investigator Lail. Ms. Barr asked you earlier
17 about Officer Lail consistently telling that
18 Mr. Dennis Wright that, "I am trying to help you."
19 Do you remember that?

20 A Yes, sir.

21 Q And you said that that is police
22 technique. That's what they teach you all at
23 sled. Is that correct?

24 A Yes, sir. We have numerous ways that we
25 can use techniques found in the constitution.

Deputy Edwards-cross by Mr. Barr

1 There are certain ways that we can normally
2 approach a suspect, to talk to a suspect. We
3 can't, of course, we can't threaten and try to
4 raise our voice.

5 Q Well you are not suggesting she is using
6 those techniques not approved by sled in the
7 course of this investigation, are you?

8 A Normal conversation.

9 Q Normal conversation.

10 A Yes, sir.

11 Q Now when she told him that she was trying
12 to help him, how was she trying to help him?

13 A She was trying to gather enough
14 information, include or exclude in reference to
15 the case.

16 Q Now are you telling me that it was your
17 impression that Officer Lail kept pumping
18 Mr. Wright and suggested to him that I am trying
19 to help you? Do you know what -- well let me ask
20 you this much. And listen to me carefully. You
21 would agree help for this man based on where he is
22 now, would be a freed man. That would be some
23 good help. Would you agree with that?

24 A From his standpoint?

25 Q Pardon me?

Deputy Edwards-cross by Mr. Barr

1 A From his standpoint?

2 Q And your standpoint. And she did tell him
3 that she was trying to help him.

4 A She was trying to gather all the evidence
5 about the truth of what happened.

6 Q She did tell him that she was trying to
7 help him. Now you heard the tape. Didn't she
8 say that?

9 A Yes, sir.

10 Q And you would agree that helping him would
11 be getting out of all this mess. That would be
12 some good help, wouldn't it?

13 A She was trying to help him along as far as
14 his case.

15 Q The question was, do you agree that
16 helping him to get out of all of this? You can
17 agree or disagree.

18 A From your standpoint, it would.

19 Q It would certainly be the kind of help
20 that I would want, and probably the one that you
21 would want too, wouldn't it?

22 A Yes. You would want a trial, wouldn't
23 you?

24 Q I know it. So the fact of the matter is,
25 Officer Lail really wasn't trying to help him, she

Deputy Edwards-cross by Mr. Barr

1 was trying to make a case against him, wasn't she?

2 A She was trying to get the facts and
3 matters of what happened that night.

4 Q Do you deny that he was a suspect in
5 custody? You all took him down there in
6 handcuffs. Now are you telling us that you
7 weren't trying to make -- telling the ladies and
8 gentlemen of this jury that you weren't trying to
9 make -- telling the ladies and gentlemen of this
10 jury that you were not trying to collect evidence
11 and make a case against him?

12 A We were questioning him at the time the
13 incident happened. This was prior to the suspect
14 being taken in to custody.

15 Q You are not going to admit that you just
16 lied to him, are you? You are not going to admit
17 that, are you? But you would agree that that's
18 probably what you were doing is lying to him,
19 weren't you? You were not trying to help him,
20 you were trying to hook him. Now are you going to
21 admit it or deny it?

22 A Hook him? What do you mean by hook him?

23 Q Collect evidence to convict him. That's
24 what I mean.

25 A We were trying to get to the truth.

Deputy Edwards-cross by Mr. Barr

1 Q Trying to get to the truth. Well let me
2 ask you this much. You heard him tell Officer
3 Lail in his statement, that somewhere in his
4 statement where he told you and Officer Lail that
5 Ms. Mouzon had tried to touch his privates. You
6 ever tell her that?

7 A Yes, sir, that's correct.

8 Q Now I tell you what, it would seem to me
9 that you would agree that that would be the kind
10 of evidence, something that you would want to
11 follow up on, asking questions about that,
12 wouldn't it?

13 A Yes, sir.

14 Q Now did you go ask, and of course, as I
15 understand it, this was supposedly right after
16 whatever physical contact occurred, right after it
17 occurred. So that would have been important,
18 wouldn't it?

19 A Yes, sir.

20 Q Now did you go and did you find
21 Ms. Hannah, and ask her whether or not that was
22 true?

23 A That would be Investigator Lail. After
24 she filed the incident report. She was following
25 the investigation after that.

Deputy Edwards-cross by Mr. Barr

1 Q I see.

2 A She heard Deputy Collins saying this to
3 the witnesses.

4 Q So you didn't do?

5 A No, sir.

6 Q You heard him say it to her. You did
7 hear it, right?

8 A Yes, sir.

9 Q You said you were in the room?

10 A Yes, sir, that's correct.

11 Q And you didn't hear it?

12 A Yes, I heard it.

13 Q But you didn't follow up on it?

14 A No, sir. I was a road deputy at the time.

15 Q You were what now?

16 A Road deputy.

17 Q Oh, you were a road deputy?

18 A Yes, sir.

19 Q You weren't really an investigator.

20 A No, sir.

21 Q Well what were you doing there?

22 A I was filing the initial police report.

23 Q Oh, I see.

24 A And I also was helping to assist

25 Investigator Lail as best I could.

Deputy Edwards-cross by Mr. Barr

1 Q Well you asked him some questions. Did
2 you ask anything?

3 A Yes, sir.

4 Q I heard your voice on there.

5 A Yes, sir, that's correct.

6 Q Now you actually asked him, and do you
7 remember telling Officer Lail at any point,
8 Officer Lail, don't promise him that we are trying
9 to help him, because you know we are not doing
10 that. I didn't hear you say that on there, did
11 you?

12 A No, sir, we did not.

13 Q Now if you didn't say that, you must have
14 condoned what she was saying. You must have
15 thought it was all right for her to tell him that
16 we are trying to help you. You had already had
17 him sign a statement saying look, you have got a
18 right to have a lawyer present.

19 A Yes, sir, that is Miranda.

20 Q You have got a right to remain silent.

21 A Yes, sir.

22 Q If and when you want a lawyer, we will get
23 one for you at no cost to you. You told him that
24 before you started questioning him. Right?

25 A Yes, sir, that was protocol.

Deputy Edwards-cross by Mr. Barr

1 Q You wanted him to give you a statement.

2 A Yes, sir.

3 Q Did he give you a statement?

4 A Yes, sir. Freely and voluntarily.

5 Q Did he at any time ever refuse to give you
6 a statement?

7 A No, sir.

8 Q Did he at any time ever refuse to answer
9 one question that you asked him?

10 A No, sir.

11 Q Now Ms. Barr asked you a few minutes ago
12 about whether or not or when he said something
13 about she touched him. Did you ever -- Officer
14 Lail ask him whether or not the woman touched him?

15 A Yes, sir, she did.

16 Q Did you ask him that?

17 A Yes, sir. Investigator Lail asked him
18 that question.

19 Q And did he answer the question?

20 A Yes, sir.

21 Q Now you would agree, officer, even though
22 based on what you told me, you have got some
23 limited experience as an Investigator. You're a
24 road man. But now even with that limited
25 experience, of course, you have collected more

Deputy Edwards-cross by Mr. Barr

1 since you have been on this job.

2 A Yes, sir.

3 Q This gentleman was as responsive and
4 cooperative in answering your questions as any
5 defendant you ever interrogated, wasn't he?

6 A Yes, sir, he was cooperative during the
7 investigation.

8 Q Very cooperative. Let me ask you about, I
9 started to ask you about these exhibits here, as
10 to Exhibit No. 2 and 3, which are the sled reports
11 that you are familiar with.

12 A Yes, sir.

13 Q Now if I understand it correctly, were you
14 the first officer that interviewed Ms. Mouzon?

15 A That is correct.

16 Q The first man on the scene?

17 A Yes, sir, that's correct.

18 Q You got the first story from her?

19 A Say it again.

20 Q You got the first story from her
21 regarding what took place?

22 A Yes, sir.

23 Q When did she tell you that this incident
24 occurred?

25 A Thursday.

Deputy Edwards-cross by Mr. Barr

1 Q What day?

2 A I believe it was the 19th.

3 Q The 19th?

4 A Yes, sir.

5 Q Look at your report again.

6 A On Thursday.

7 Q And that's your report?

8 A Yes, sir.

9 Q And the incident happened on Thursday?

10 What date?

11 A She reported on the 22nd, which would be a
12 Thursday.

13 Q The incident happened on Thursday evening,
14 the 22nd? You don't have the 22nd, in there, of
15 February?

16 A Yes, sir.

17 Q It looks like the 22nd to me.

18 A Yes, sir, it is.

19 Q Now later on up here you said she told you
20 that it happened on February 19th?

21 A Yes, sir.

22 Q Now even with your memory, you will admit
23 that it is somewhat of a mild inconsistency,
24 wouldn't you?

25 A Yes, sir.

Deputy Edwards-cross by Mr. Barr

1 Q It might be best to question her and get a
2 supplemental report. Wouldn't you say, so she
3 could clear that up?

4 A Yes, sir. Investigator Lail can do that.

5 Q Well but that is your report.

6 A Yes, sir.

7 Q And you took it.

8 A Yes, sir.

9 Q And that's an obvious inconsistency. Now
10 I want to know whether or not you questioned the
11 woman further to clear it up as to when the
12 incident supposedly took place.

13 A Yes, sir. That is passed, and goes to the
14 investigation division. The Chief Investigator.

15 Q Passed over to investigation. And did you
16 tell Officer Lail, look, Officer Lail, we've got
17 two different stories here. She is claiming it
18 happened on the 19th, and saying it happened on
19 the 22nd. This is what I wrote down right here.
20 You need to type this up. Did you tell Officer
21 Lail that?

22 A No, sir.

23 Q You didn't tell her?

24 A No, sir.

25 Q Now when you went on the 22nd, I think

Deputy Edwards-cross by Mr. Barr

1 that is the day you got your initial call.

2 A Yes, sir.

3 Q And of course you don't know where the
4 call came from, do you?

5 A It came from 911 dispatch.

6 Q And you don't know who made the call to
7 911.

8 A No, sir. Not exactly. I know contact was
9 with Ms. Brooks.

10 Q Ms. Edie Mae Brooks, back here? The lady
11 in the red? Sitting up. She's sitting on the
12 first seat over here. You made contact with her
13 at the residence?

14 A I can't recall exactly if that was her or
15 not.

16 Q You can't recall? Well take a look at
17 your report. You've a got a time lapse in there
18 where I believe you are claiming. Is this a part
19 of your report?

20 A Yes, sir.

21 Q That's yours.

22 A Yes, sir. I spoke to Ms. Brooks. But I
23 can't recognize her visible at the time.

24 Q I see. You don't remember, you can't look
25 at her and identify her as somebody that you

Deputy Edwards-cross by Mr. Barr

1 talked with?

2 A No, sir.

3 Q But you did talk with her.

4 A Yes, sir.

5 Q Let's talk about these sled reports. Now,
6 as far as you know, were there any items collected
7 from Ms. Mouzon's residence and sent to sled that
8 wasn't collected by you?

9 A Not as I am aware of. No, sir.

10 Q You collected everything that went to sled
11 to be analyzed.

12 A I collected everything that my first staff
13 Sergeant Blunt collected, and all the items that
14 were expected to be collected by Investigator Lail
15 through the phone. Because she was the on call
16 investigator.

17 Q By Investigator Lail through the telephone
18 you said?

19 A Yes, sir.

20 Q And the other items that were collected
21 after that. Would you have knowledge of that?

22 A No.

23 Q So when these items, whatever it was you
24 collected, Officer Lail was not present.

25 A No, sir, she was not.

Deputy Edwards-cross by Mr. Barr

1 Q Now as far as you know, she didn't come
2 back and collect those.

3 A I can't answer that. I would be surmising
4 about that. After the report was filed and
5 everything, the dispatch comes to the
6 investigation.

7 Q Do you know what is done in the trace
8 department at sled?

9 A I am familiar.

10 Q What is done at the trace department?

11 A They collect DNA evidence.

12 Q DNA evidence?

13 A Yes, sir.

14 Q What kind of evidence are they looking
15 for?

16 MR. BARR: Judge, I object to that.

17 MS. BARR: Your Honor, I asked him whether
18 he knows.

19 MR. BARR: May I state my objection?

20 Judge, I would submit that the appropriate person
21 to ask would be somebody at sled and not this
22 witness. I don't think this witness is competent
23 to testify what they do at sled.

24 THE COURT: Objection sustained.

25 Q You have never had any training regarding

Deputy Edwards-cross by Mr. Barr

1 how it is analyzed at sled.

2 A No, sir. Not as far as how it is
3 analyzed. No, sir.

4 Q And you never had any training regarding
5 who you would look for when you go a crime scene.

6 A Yes, sir, we have had training in that.
7 Yes.

8 Q I know you have. Now when you go to a
9 crime scene and look for evidence, you do look for
10 evidence that you can take to the trace
11 department, don't you?

12 A Yes, sir, that's correct.

13 Q And when you collect evidence from the
14 trace department, you're looking for things like
15 fibers, hair samples, and things like that.

16 A Yes, sir.

17 Q And quite frankly, these things are
18 ordinarily things you cannot see with the human
19 eye, can you? Most of the time.

20 A Yes, sir, that's correct.

21 Q Most of them are microscopic. In fact
22 most of the time people don't know even know that
23 they are there, do they?

24 A Yes, sir, that is correct.

25 Q And that's why you collect those items, to

Deputy Edwards-cross by Mr. Barr

1 have those items sent to be analyzed by sled, to
2 make a determination as to whether or not the
3 items contain something of evidentiary value.
4 That's why you collect them.

5 A Yes, sir.

6 Q Now based on what was told to you by
7 Ms. Mouzon regarding this alleged rape, did you
8 get all the items that you saw, that she told you
9 about, that was related to this alleged incident?

10 A Yes, sir. At the crime scene. Yes, sir.

11 Q You got everything?

12 A Yes, sir.

13 Q Now you mentioned on direct examination
14 Mr. Dennis' clothes. Did you know what he was
15 wearing the night or the evening or the day or
16 whenever this thing alleged occurred, do this know
17 what type of clothing he was wearing?

18 A No, sir, I don't recall that.

19 Q You don't know?

20 A No, sir, I can't recall that.

21 Q I see. So as far as his clothing, you
22 don't know what you got. Whether you got his
23 clothes or somebody else's?

24 A When you say his clothes, he was wearing?

25 Q Yes.

Deputy Edwards-cross by Mr. Barr

1 A I can't remember exactly what he was
2 wearing.

3 Q You got exactly what Ms. Mouzon told you
4 to get, right?

5 A In reference, we collected bed linen and
6 washcloths.

7 Q Well I mean you didn't just go around the
8 house and start checking around the place and
9 start collecting whatever you wanted to get. You
10 collected what she told you to get, didn't you?

11 A No, sir. We got confirmation through the
12 phone by Investigator Lail in Mr. Wright's room
13 what we were collect. We did not go through the
14 house and pick up things or anything like that.
15 No, sir.

16 Q Well you don't know if you got the right
17 things or the wrong things or what.

18 A We got confirmation through the phone from
19 Investigator Lail.

20 Q She wasn't there.

21 A No, sir, she wasn't. She was contacted by
22 phone through the on call investigator. She told
23 us what the evidence we needed to collect in the
24 room in reference to the assault case.

25 Q Is that how you are trained to do it when

Deputy Edwards-cross by Mr. Barr

1 you are trained by sled and you are on a forensic
2 scene? That you talk to somebody on the telephone
3 and let them tell you what to collect at a crime
4 scene. Are you trained to do it like that?

5 A What do you mean, trained how?

6 Q Is that how you are trained to collect
7 evidence? Based on what somebody told you on the
8 telephone?

9 A Our normal protocol is you are looking for
10 the best evidence at the time when you arrive at
11 the scene. A sexual assault case, you collect
12 those items.

13 Q I see. So what you are looking for is
14 evidence of a sexual assault? Sir?

15 A Yes, sir, that is correct. That's the
16 complaint we got.

17 Q Now you would agree with me with respect
18 to the efficiency of the sheriff's department, you
19 all do the best you can do with respect to finding
20 anything that you could possibly find, that would
21 be relating to a sexual assault based on what she
22 told you, didn't you?

23 A Yes, sir, at that time.

24 Q And you would also agree that based on
25 these reports that you sent to sled, you didn't

Deputy Edwards-cross by Mr. Barr

1 find not one iota of anything at all, that even
2 related to a sexual assault. No pubic hair, no
3 sperm, no evidence of bowel movement. No
4 anything, did you?

5 A According to the report, no, sir.

6 Q You started it off saying you collected
7 it. So the simple fact of the matter is, the
8 report is just based on what you sent to them. So
9 the fact of the matter, you didn't find not one
10 thing to corroborate an allegation of rape, did
11 you?

12 A According to the sled report, said
13 negative.

14 Q Negative. That means you didn't find
15 anything. Now you don't know of anything else you
16 didn't send to sled, do you?

17 A No, sir, I am not aware of anything more.

18 Q Are you aware of anything, anything in
19 this case that corroborates an alleged rape, other
20 than the statement of Ms. Mouzon?

21 A I am only familiar with the Ms. Mouzon's
22 statement that she gave me.

23 Q The question was, are you aware of any
24 other evidence that she got at the sheriff's
25 department that she collected during the course of

Deputy Edwards-cross by Mr. Barr

1 this investigation, that substantiates or
2 corroborate allegations of a rape other than this
3 lady's statement?

4 A No, sir. I am not familiar with it, no,
5 sir.

6 Q Now if you had it, you would probably have
7 known about it, wouldn't you?

8 A Yes, sir.

9 Q Well you ain't got it. It doesn't exist,
10 that's what that means, when I say you ain't got
11 it. If it had existed, you would have had it.
12 Because you would have brought it to court,
13 wouldn't you?

14 A Yes, sir.

15 Q And you would have used it as prosecution
16 evidence to prosecute him, wouldn't you?

17 A Yes, sir.

18 Q And you are still going to tell the ladies
19 and gentlemen of this jury that you all were
20 telling him something that wasn't true, because
21 you were trying to help him? Are you still going
22 to say that?

23 A We were trying to get to the point of what
24 happened in reference to Ms. Mouzon's complaint.

25 Q Trying to get to the truth. The statement

Deputy Edwards-cross by Mr. Barr

1 that you obtained from Dennis, do you still have
2 it in front of you?

3 A Yes, sir, that is correct.

4 Q Now Ms. Barr asked you about some language
5 on page 25. At line 19.

6 A Yes, sir.

7 Q He said, "I can go somewhere and die."

8 A Yes, sir, that's correct.

9 Q Now this is a statement being made by
10 Dennis, was it not?

11 A Yes, sir.

12 Q Now who is he referring to in that
13 statement?

14 A Ms. Mouzon.

15 Q Who?

16 A Ms. Mouzon.

17 Q Ms. Mouzon. She is a he?

18 A I am sorry. Mr. Mouzon. I'm sorry.

19 Q Mr. who?

20 A Mr. Mouzon.

21 Q Mr. Mouzon?

22 A Yes, sir.

23 Q What Mr. Mouzon?

24 A Michael Mouzon.

25 Q Mr. Michael Mouzon. That's a he? Now who

Deputy Edwards-cross by Mr. Barr

1 is I?

2 A Mr. Wright referenced to himself as I.

3 Q Pardon me?

4 A Mr. Wright is referenced to himself as I.

5 Q He was referring to himself, or was he
6 quoting something that was said by Ms. Mouzon?

7 A No, no.

8 Q In the very next line, doesn't he say, and
9 I said, "Mama." You see that in there?

10 A Yes, sir, he said that.

11 Q And then he quoted somebody else. He was
12 talking about Ms. Mouzon. Or he said that's what
13 he told her. Now Ms. Mouzon asked you a few
14 minutes ago about a statement that Mr. Wright,
15 Dennis made, regarding touching him. And the only
16 person that he wanted or he permitted to touch
17 him was his preacher. And his preacher at that
18 time was reverend, Michael. You did know that,
19 right?

20 A Yes, I did know that was his pastor. Yes,
21 sir.

22 Q And I am not trying to get in to your
23 business or anything, but do you attend church?

24 A Yes, sir, I do.

25 Q What denomination?

Deputy Edwards-cross by Mr. Barr

1 A Methodist.

2 Q Methodist. I know you may have had an
3 occasion where your minister prayed for you. And
4 placed his hand on your head?

5 A Yes, sir.

6 Q You had that happen to you?

7 A Yes, sir.

8 Q Nothing unusual about that, is it?

9 A No, sir.

10 Q In fact, that's what you want them to do.
11 Now, court's indulgence. I have just got about
12 three more questions. Maybe two. Now, officer,
13 with respect to the questions that I have asked
14 you today, do you think I have asked you anything
15 misleading?

16 A No, sir.

17 Q Are you confused in any way about any
18 answers given to the questions that I have asked
19 you?

20 A No, sir. I gave my answers to the best of
21 my ability.

22 Q And the answer to the questions that you
23 have given me, is not the result of any ambiguity
24 or any misunderstanding of any question that I
25 have asked you; that you have given truthful

Deputy Edwards-cross by Mr. Barr

1 answers based on the questions that I have asked?

2 A Yes, sir. I tried my best to do that.

3 Yes, sir.

4 MR. BARR: Thank you, sir. I have nothing
5 further.

6 THE COURT: Anything further on redirect?

7 MS. BARR: Just a few questions.

8 Redirect Examination by Ms. Barr:

9 Q Sir, do you know the day of the week that
10 you all came out and you interviewed Ms. Azalee
11 Mouzon the first time?

12 A Yes, ma'am, that was on a Sunday.

13 Q That was on a Sunday.

14 A Yes, ma'am.

15 Q So that would have been February 22nd
16 2009?

17 A Yes, ma'am.

18 Q And you actually prepared a report. You
19 brought a report based on the initial complaint.

20 A Yes, ma'am.

21 Q And your report is dated, February 22nd
22 2009?

23 A Yes, ma'am.

24 Q And if I may, judge, just approach the
25 witness right quick. When you first talked to

Deputy Edwards-redirect by Ms. Barr

1 Azalee Mouzon, she told you that this happened on
2 what day?

3 A February 19th 2009.

4 Q And that's on the 3rd or 4th sentence of
5 your report?

6 A Yes, ma'am, that's correct.

7 Q And later on, when you were kind of
8 expounded a little bit, you recorded that she told
9 you that it happened, not just on a specific date,
10 but that specific day of the week, is that right?

11 A Yes, ma'am.

12 Q What day of the week did she tell you this
13 happened on?

14 A Thursday.

15 Q Thursday night. Now you have in your
16 report 2/22/09?

17 A Yes, ma'am.

18 Q Now is that your report? You wrote that?

19 A Yes, ma'am.

20 Q Okay. Now this interview took place on
21 the 22nd, which is a Sunday?

22 A Yes, ma'am.

23 Q Thursday, no question that Thursday was
24 the 19th, is there?

25 A No, ma'am, there's not.

Deputy Edwards-redirect by Ms. Barr

1 Q What is that, just a typo?

2 A Yes, ma'am.

3 Q Your typo, not hers?

4 A Yes, ma'am.

5 Q Did she ever at any point and time tell
6 you this happened on a Sunday?

7 A No, ma'am.

8 MS. BARR: That's all the questions I
9 have.

10 THE COURT: Anything further?

11 Recross Examination by Mr. Barr:

12 Q A typo. Did you read this before you put
13 your name to it? You did read it, didn't you?

14 A Yes, sir.

15 Q You don't sign your name to anything that
16 is not correct, do you?

17 A No, sir. I try not to. I try to catch
18 those errors. Anything like that.

19 Q You try to do a real good job at the
20 sheriff's department, right?

21 A Yes, sir.

22 Q Not overlook things.

23 A I try to do the best I can.

24 Q The simple fact of the matter is, even
25 though Ms. Barr kind of came along and helped you

Deputy Edwards-recross by Mr. Barr

1 a little bit.

2 A She asked me questions that goes to the
3 report.

4 Q Why do you think she was doing that?

5 MS. BARR: Objection, Your Honor. That's
6 an improper question.

7 MR. BARR: I'll rephrase the question.

8 Q Now you don't deny that on this piece of
9 paper that you wrote or at least you say you wrote
10 the incident happened on (Thursday, parenthesis
11 February 22nd 2009) Closed parenthesis. Evening
12 in Mr. Wright's bedroom. Quote/unquote.

13 A Yes, sir. I typed that.

14 Q Preceding that phrase, Ms. Mouzon then
15 said that this incident. Now that sounds pretty
16 clear to me, doesn't it? is that clear to you?

17 A Yes, sir.

18 MR. BARR: Thank you, sir. I have nothing
19 further.

20 THE COURT: You may step down. Ladies and
21 gentlemen we will break for lunch and be back at
22 2:30. Please do not discuss the case.

23 (Whereupon, At 1:14 p.m. jury goes to
24 lunch.)

25 THE COURT: I have note from one juror,

Deputy Edwards-recross by Mr. Barr

1 Carl Scott, says, "I happen to know the
2 defendant's family. I just found this out today.
3 Forgive me. I am very sorry." Carl J. Scott.
4 What says the state?

5 MS. BARR: Judge, we would ask that the
6 juror be polled by the court as to whether or not,
7 he has knowledge of the defendant's family. And
8 interview him as to whether he could be a fair and
9 impartial juror. I may have problem with him
10 remaining on this jury. I don't have any problem
11 excusing him and using my peremptory challenges in
12 the likelihood of him having knowledge of the
13 defendant's family. I would have to exercise one
14 of those challenges or ask that he be removed for
15 cause.

16 THE COURT: Mr. Barr.

17 MR. BARR: Judge, I don't have any
18 objection to him being voir dired.

19 THE COURT: Call Mr. Carl Scott to come
20 in for a moment, please.

21 (Whereupon, Mr. Carl Scott comes into the
22 courtroom.)

23 THE COURT: Mr. Scott, we got your note
24 that you have discovered today that you know the
25 defendant's family. Can you explain the nature of

1 your knowledge of the defendant's family?

2 THE JUROR: I happened to know today when
3 I went for lunch, a young lady called my name when
4 I was leaving the courtroom, and I happen to know
5 the lady. And when I went to lunch, that's how I
6 find out I knew his family. But I never knew him.
7 So, I, you know, I figured I better come and say
8 something to somebody.

9 THE COURT: And this person that you spoke
10 with during lunch, this is someone that you know
11 well or not that well, or how was it?

12 THE JUROR: I know her pretty well. They
13 bought a mobile home from us a few years back.
14 But like I said, as far as anything other than
15 that, that's about it.

16 THE COURT: And do you think that fact
17 would affect your ability to be fair and impartial
18 juror.

19 THE JUROR: Based on the case, I think I
20 could be fair and impartial on that.

21 THE COURT: Is the fact that you know
22 someone from the defendant's family, would that
23 prevent you from giving the state or the defendant
24 a fair trial?

25 THE JUROR I don't think it would bother

1 me as far as that's concerned.

2 THE COURT: Okay. If you will stand
3 outside the door there just for a second.

4 (Whereupon, the juror steps out of the
5 courtroom.)

6 MS. BARR: I beg the court's indulgence.
7 Judge, I would be curious to know whether this
8 individual spoke to him during the lunch break in
9 the courtroom. I would be curious to know his
10 name and whether they are in court today.

11 THE COURT: Is the person who spoke to
12 Mr. Scott in the courtroom? Please stand for a
13 minute. And, ma'am, what is your name?

14 MS. SINGLETARY: Marilyn Singletary.

15 THE COURT: Marilyn Singletary. What was
16 the nature of your conversation with Mr. Scott?

17 MS. SINGLETARY: Just speaking and talking
18 about his work. What he is doing now. General
19 talk. What is he doing. And what he has been up
20 to.

21 THE COURT: And what relation are you to
22 Mr. Wright?

23 MS. SINGLETARY: He is my nephew.

24 THE COURT: And how would Mr. Scott know
25 to make a connection between you and Mr. Wright?

1 MS. SINGLETARY: I told him he was my
2 nephew.

3 THE COURT: You told him that during
4 lunch?

5 MS. SINGLETARY: Yes, sir.

6 THE COURT: And why did you see fit to
7 mention that to a juror?

8 MS. SINGLETARY: He asked me what I was
9 doing here.

10 THE COURT: And did you, he said something
11 about someone buying a mobile home.

12 MS. SINGLETARY: Some years ago he was
13 doing work for me concerning where I purchased
14 that mobile home from him. He cleaned and he came
15 and assisted me with setting up the mobile home.

16 THE COURT: How well do you know
17 Mr. Scott?

18 MS. SINGLETARY: Well I know him. I
19 haven't seen him really.

20 THE COURT: Thank you. Ms. Barr?

21 MS. BARR: Judge, I would ask that after
22 that juror be excused.

23 THE COURT: Mr. Barr?

24 MR. BARR: Your Honor, I haven't heard any
25 single contact other than what was said at lunch.

1 Obviously, the court should decide what to do.

2 THE COURT: It often occurs where in a
3 county such as this where so many of us know one
4 another, that it may occur that a person knows the
5 individual on trial or knows a family member. And
6 speaking to the jury as I spoke, this would not
7 allow anyone to discuss the case with them, or
8 discuss the case in their presence despite that
9 many times people would nevertheless, just stumble
10 upon information that might have an impact upon
11 their ability to serve in the case. And so I
12 don't question anyone's motives at all. And Mr.
13 Scott speaking to Ms. Singletary responding to his
14 question that her nephew is the person that who is
15 on trial. And who he is going to sit in judgment
16 as far as guilt or innocence. Accept that just
17 being an innocent conversation. The question is
18 whether or not the fact that his relationship with
19 Ms. Singletary might cause him to want to be in
20 favor of her nephew. And given the fact whether
21 or not that the state had known that information
22 during jury selection whether the state would have
23 selected him as a juror. Which is virtually
24 impossible for jurors for the state to know who
25 knows who during the jury selection process.

1 Because many times the defense doesn't disclose
2 witnesses and the state has no way of knowing who
3 and may have some relationship with the defense
4 witnesses.

5 Of course Ms. Singletary is not listed as
6 a witness, is she?

7 MR. BARR: No, sir.

8 THE COURT: The fact of the matter is we
9 have two alternates. And the reason we have
10 alternates is so that if something should happen
11 during the course of a trial of the case and one
12 juror could be removed and an alternate be seated.

13 Of course Mr. Scott came up at the
14 beginning of the week and wanted to be excused
15 from jury service, because he didn't think that he
16 could sit for long periods of time. And could not
17 endure the rigors of a trial given his medical
18 condition. Of course, I told him we would take
19 breaks if necessary, and just do the best he
20 could. And he has done well. But I think given
21 all concerns and to be certain that we have a jury
22 that both the state and the defense have
23 confidence. The confidence as being a fair and
24 impartial jury. We will take Mr. Scott off he
25 jury and seat the alternate whoever that might be.

1 Of course in the process of selecting an
2 alternate there is more than one. In a civil
3 case, the first alternate generally moves up. In
4 a criminal case, I believe it is supposed to be by
5 lot. Even though in many instances we have just
6 picked the first alternate to the next up. What
7 says Mr. Barr, who steps up?

8 MR. BARR: I think we drew lots one time,
9 I don't have a, judge, problem with the first
10 person.

11 THE COURT: Ms. Barr?

12 MS. BARR: Judge, It has been my
13 experience for the clerk to draw straws all over
14 again, since we are involved in a trial, where
15 they have got come up.

16 THE COURT: Say that it?

17 MS. BARR: That the clerk draw whatever
18 name from the two alternates, and that person then
19 move in.

20 THE COURT: By lot?

21 MS. BARR: Yes, sir.

22 THE COURT: More than one then by ballot
23 to serve in the place of the discharged juror, is
24 14-7-15 -- 14-30. Typically refers to drawing
25 them by lot. So the clerk will draw by lot who

1 the alternate will be.

2 THE CLERK: No. 127 James M. Morris.

3 THE COURT: James who?

4 THE CLERK: Morris.

5 THE COURT: There is a 50 percent chance

6 it would be the same guy. The same Mr. Hammond.

7 It didn't turn out that way. So it's going to be

8 Mr. Morris. If you will ask Mr. Scott to step

9 back out here.

10 (Whereupon, Mr. Scott comes back in the

11 courtroom.)

12 THE COURT: Thank you for your patience.

13 We are going to seat one of the alternate jurors

14 in your stead. Based on the fact that it has come

15 to your knowledge that you know the family, and

16 you decided it was significant enough to bring it

17 to my attention.

18 THE JUROR: Yes.

19 THE COURT: I appreciate you doing that.

20 And after conferring with everyone, and since we

21 have two alternates.

22 THE JUROR: Yes, sir.

23 THE COURT: We will use one of them.

24 THE JUROR: Okay.

25 THE COURT: Now the instruction for

1 remainder of the jury panel is that they are to
2 call back after 6 o'clock? Or let them go?

3 MS. BARR: Call back after 6.

4 THE COURT: We might do one more case
5 tomorrow if we get that far. You will need to
6 call the hotline after 6 to find out whether or
7 not you have to come back tomorrow or have to come
8 back. But you are free to go right now. You are
9 free to go.

10 THE COURT: Thank you, very much. You may
11 bring the jury.

12 (Whereupon, the following takes place
13 within the jury.)

14 THE COURT: Mr. Morris, you are now part
15 of the regular panel. You can sit right there.
16 That one or the next one. And, Mr. Staggers, if
17 you will take that one right there. I am
18 appointing you to serve as the foreperson of the
19 jury. As the foreperson, you will serve as the
20 spokesperson for the jury. You will have the
21 responsibility of presiding over the jury
22 deliberations, and completing the verdict form
23 representing the unanimous verdict of the jury
24 when we reach that phase of things. Very good.
25 Continuing on with the state's case, Ms. Barr.

1 MS. BARR: Judge, at this time the state
2 rests.

3 THE COURT: Ladies and gentlemen, that is
4 the state's case. We just had you to come in.
5 But we have got to have you go right back out,
6 because I need to take up some matters with the
7 lawyers before we begin further. So please go to
8 the jury room. It won't be long.

9 (Whereupon, the following takes place
10 outside the presence of the jury.)

11 THE COURT: That's the state's case. Any
12 matters of law by the defense or the state?

13 MS. BARR: None from the state, Your
14 Honor.

15 MR. BARR: Judge, we would respectfully
16 move for a directed verdict of not guilty based
17 upon the insufficiency of the evidence. And that
18 is based on the state's failure to at least
19 present some evidence from which the jury might
20 reasonably conclude that there is some proof on
21 the defense.

22 Judge, we would just concede that with
23 respect to criminal sexual conduct in the first
24 degree that the allegations or at least the
25 condition of the allegation, the evidence would

1 support perhaps would be sufficient on the issue
2 of sexual battery. I am a little bit shaky under
3 the aggravated force. I just don't -- as I
4 recollect the testimony, I think there was some
5 testimony from the victim regarding her legs being
6 placed up.

7 I am not sure at what point that took
8 place or what point she claimed that it took
9 place. But be that as it may, we would certainly
10 for the record take the position that the evidence
11 on the issue of aggravated force is not sufficient
12 to take that the issue -- to take the charge of
13 CSC first to the jury.

14 Now the next motion -- our motion for a
15 directed verdict as to the offense of the abuse of
16 a elderly person. And of course the first issue
17 is the way the indictment is drawn up. And I
18 don't have the indictment in front of me. But the
19 indictment actually alleges a violation or
20 alleging a penalty and not the substantive act
21 itself.

22 And of course I am sure the prosecution is
23 going to argue in the body of the indictment, they
24 have alleged that they believe the evidence of the
25 offense of the abuse of a vulnerable adult. But

1 for the record, judge, it would be our position
2 that perhaps and this could have been an issue we
3 would have raised earlier as it relates to the
4 indictment. But certainly as it relates to proof,
5 we certainly don't think we would be derelict.
6 But clearly at least insofar as setting out the
7 statute, and I think that statute is 43-35-85.
8 Subsection B what is alleged in the indictment.
9 And that section of that statute provides
10 penalties.

11 MS. BARR: Your Honor, as it relates to
12 the first count of the indictment, criminal sexual
13 conduct in the first degree, the applicable
14 statute provides that a person is guilty of
15 criminal sexual conduct first degree if the actor
16 engages in a sexual battery with the victim with
17 the aggravating circumstances. And there is an
18 aggravating circumstance. And what we have
19 alleged here is that the defendant used aggravated
20 force to accomplish the sexual battery.

21 Judge, we would submit the testimony of
22 Ms. Mouzon stating that the defendant grabbed her
23 legs and pushed her legs over his shoulder. And
24 when he did that, that she there in a lot of pain.
25 She was hurting as a result of that. After he did

1 that, he penetrated her. Your Honor, I think that
2 the court has to consider all the circumstances;
3 including, the physical condition of the victim
4 and the defendant at the time.

5 Your Honor, under the old assault and
6 battery of a high and aggravated nature offense,
7 which was in effect at the time this happened, the
8 court would consider the ages of the victim and
9 the defendant in determining whether sexual
10 battery did occur. And of course consider the
11 physical condition and disparity in the size and
12 the physical condition of the victim and the
13 defendant at the time that the battery occurred.

14 So, Your Honor, we would submit as it
15 relates to the sexual battery and aggravated force
16 that there has been sufficient evidence at this
17 time to move for that to go to the jury. And have
18 the jury determine what weight that they give it.
19 And to the extent they determine if there is
20 enough evidence to support the charges.

21 In addition, Judge, under Count 2 in the
22 abuse of a vulnerable adult, it alleges in the
23 indictment that the defendant did in Williamsburg
24 County during February 15th 2009, and
25 February 22nd 2009, did knowingly and willfully

1 abuse the victim, a vulnerable adult, by forcibly
2 committing a sexual assault upon her in violation
3 of 43-35-85. And, Your Honor, I'm looking at
4 43-35-85. And although it is titled, Penalty,
5 Subsection B in reference to the indictment it
6 says that a person who knowingly abuses a
7 vulnerable adult is guilty of a felony. And then
8 it provides the penalty. So it clearly is the
9 next step that deals with the fact that the
10 allegation of violation, and what the applicable
11 penalty is.

12 Judge, the preceding statute, I am sorry,
13 43-35-10 defines what is meant by abuse, what is
14 meant by vulnerable adult. And, Judge, the
15 statute provides that a vulnerable adult is a
16 person 18 years of age or older who has a physical
17 or mental condition which substantially impairs a
18 person to adequately provide for his or her own
19 care or profession. This includes a person who is
20 impaired with the ability to adequately provide
21 personal care or profession because of the
22 infirmity of age, included but not limited to
23 organic brain damage and a physical, mental or
24 emotional function.

25 Clearly, judge, the evidence has been that

1 the victim in the case was incapable of providing
2 for her own means. She was 88-years-old at the
3 time this incident is alleged to have occurred.
4 Her physician testified that she would have needed
5 care. There is testimony from her grandson that
6 she would require the care of home health.
7 Including a failure to make a proper assessment.
8 Further, in Section 43-35-10 defines physical
9 abuse as the intention including allowing to
10 inflict physical abuse upon a vulnerable adult by
11 an act or failure to act. Physical abuse includes
12 but limited to slapping, hitting, kicking, biting,
13 choking and burning. Actual or physical sexual
14 battery as defined by 16-3-651.

15 And so, Judge, I would submit that given
16 the evidence that the victim, at least, in my view
17 of the evidence, includes a vulnerable adult. As
18 by statute commonly. And there is another sexual
19 assault and attempted sexual assault, we would
20 submit there is sufficient evidence for both
21 counts to go to the jury for the jury's
22 consideration.

23 THE COURT: Taking the evidence in the
24 light most favorable to the state, I deny the
25 motion. The criminal sexual conduct in the first

1 degree is a sexual battery accomplished through
2 the use of aggravated force. Aggravated force
3 means the use of physical force or physical
4 violence of a high and aggravated nature. And
5 violence of a high and aggravated nature has
6 clearly been defined as violence occurring under
7 circumstances of aggravation which could include
8 the committing a serious bodily injury. A great
9 disparity between the ages and the physical
10 conditions of the parties or the difference in
11 sexes. And under the particular circumstances of
12 this case whereas, it might not have constituted
13 aggravated force, if you were dealing with a
14 gymnast, some fine tuning acrobatics involved.
15 Given the facts presented in this case if believed
16 by the jury, would constitute an aggravated force
17 upon the victim, if the jury were to believe the
18 victim's testimony. And of course, the testimony
19 of the victim need not be corroborated in order
20 for the jury to find and believe as a fact.

21 Secondly, as it relates to the
22 exploitation charge, I find that the indictment
23 would proper establish the abuse of a vulnerable
24 adult if the jury believes the testimony in the
25 case. I deny the motion.

1 MR. BARR: Judge, at this time, I would
2 respectfully request that the court advise the
3 defendant concerning to take or not take the
4 witness stand in his own defense.

5 THE COURT: I would be happy to do that.
6 If he will step forward and be sworn.

7 (Whereupon, the defendant is sworn.)

8 THE COURT: Mr. Wright, we have reached
9 the stage of the trial or soon reached the stage
10 in the trial, we are at the stage of the trial now
11 where you have a right to present your defense.

12 Now you have the right to claim the
13 protections afforded you by the 5th Amendment to
14 the Constitution of the United States. This
15 amendment states that no person can be compelled
16 in any criminal case to be a witness against
17 himself. And this means that you cannot be
18 required to testify. And you however, you have
19 the right to testify if you would like to. But no
20 one can make you testify. Or can require you to
21 testify. This is a personal right and only you
22 can waive that right. If you decide to testify,
23 you will be subject to the rules that govern all
24 other witnesses. And you may examined and cross
25 examined on any relevant issue in this case.

1 In addition, if you have a conviction
2 involving dishonesty or false statement, or you
3 could have been convicted of a crime for which you
4 could have gotten more than one year in jail and I
5 determine that the probative value of the evidence
6 outweighs it's prejudicial effect to you, the
7 solicitor then would be able to introduce your
8 record to attack your credibility.

9 If you decide to testify it must be a
10 free, voluntary and intelligent decision on your
11 part. Having fully understood and having fully
12 been explained the protections given you by the
13 5th Amendment as well as the consequences of your
14 decision to testify, if you decide not to testify,
15 then I will give the jury instructions which say
16 that they cannot; that the fact that you did not
17 testify cannot be given consideration whatsoever,
18 and that there is to be absolutely no prejudice to
19 you because you did not testify. Whether or not
20 you testify is left entirely up to you. You know,
21 you can certainly talk with Mr. Barr and Ms.
22 Singletary, or any other family friend or anyone
23 else you would like to talk to. But the final
24 decision will be left entirely up to you. Do you
25 understand that?

1 THE DEFENDANT: Yes, I do, sir.

2 THE COURT: Do you understand all that I
3 have just explained to you?

4 THE DEFENDANT: Yes, I do.

5 THE COURT: And have you talked to
6 Mr. Barr about whether or not you should testify?

7 THE DEFENDANT: Yes, sir.

8 THE COURT: And do you need to talk with
9 him anymore about that?

10 THE DEFENDANT: No, sir.

11 THE COURT: Have you made a decision as to
12 whether or not---

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Do you wish to testify?

15 THE DEFENDANT: No, sir.

16 THE COURT: Have you had enough time to
17 make up your mind as to whether you want to
18 testify?

19 THE DEFENDANT: Yes, I have, sir.

20 THE COURT: You decided not to testify?

21 THE DEFENDANT: Yes, sir.

22 MR. BARR: Thank you, judge.

23 THE COURT: Do you have other witnesses
24 that you are going to put up, Mr. Barr?

25 MR. BARR: Yes, sir.

1 THE COURT: Well let's take a 2 minute
2 stretch and then bring the jury in and press on.

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

5 THE COURT: Mr. Wright, if you are
6 presenting other witnesses for your own defense,
7 you are not locked in to not testifying if you
8 decide at any point and time prior to the close of
9 your defense case that you want to testify, you
10 can do that.

11 THE DEFENDANT: I understand, sir.

12 THE COURT: Very good. You may bring the
13 jury.

14 (Whereupon, the following takes place
15 within the presence of the jury.)

16 THE COURT: Ladies and gentlemen, you
17 have now heard the state's case. It is now the
18 defense's turn. Mr. Barr.

19 MR. BARR: Please the court, Judge.

20 THE COURT: Yes, sir.

21 MR. BARR: The defense calls Ms. Edie Mae
22 Brooks.

23 THE COURT: Ms. Brooks, if you will come
24 forward.

25 Edie Mae Brooks, being first duly sworn,

1 testified as follows:

2 Direct Examination by Mr. Barr:

3 Q Ms. Brooks, if you would, please, ma'am, I
4 am going to ask you to speak up and speak into
5 that microphone for the court and the ladies and
6 gentlemen of the jury. As well as, so the Court
7 Reporter can hear your testimony. State your full
8 name for the record, please.

9 A My name is Edie Mae Brooks.

10 Q And, Ms. Brooks, where do you live?

11 A , Hemingway, South
12 Carolina.

13 Q Are you married? Single?

14 A Single.

15 Q And do you have any children?

16 A Yes, I do.

17 Q How many children do you have?

18 A Five.

19 Q Boys, girls?

20 A Four boys. And one daughter, she is
21 deceased. But I have four boys.

22 Q What are their ages?

23 A In their 30's and 40's.

24 Q So they are all grown children?

25 A Yes..

Edie Mae Brooks-direct by Mr. Barr

1 Q Do you work now?

2 A Well I babysit right now.

3 Q Now you say you live in Palmetto Estates.
4 That's not in the same neighborhood as Ms. Azalee
5 Mouzon, is it?

6 A No.

7 Q Are you related to Ms. Mouzon?

8 A Yes, I am.

9 Q And what is the degree of that kinship?

10 A She's my aunt.

11 Q And so you're mother or either your father
12 was her brother or sister?

13 A No, my mother.

14 Q Your mother.

15 A Yes.

16 Q Now, Ms. Brooks, how often do you see Ms.
17 Mouzon?

18 A Not too often. I see her as much as I
19 can. Not that often.

20 Q Do you at any time help with her care?

21 A Sometimes, I hear -- well sometimes I do.
22 Because when I hear from her at times; yes, I do
23 that for her.

24 Q Now did you have an occasion to see her at
25 some point between February 19th and February

Edie Mae Brooks-direct by Mr. Barr

1 22nd?

2 A Well, I really don't recall the date, but
3 I know she had called me that Saturday.

4 Q What Saturday was that now?

5 A Right after that incident took place with
6 her.

7 Q Right after the incident was reported,
8 everybody heard about it.

9 A Yes.

10 Q Now she called you.

11 A Uh-huh. (Affirmative.)

12 Q To talk to you?

13 A Yes.

14 Q Did she talk to you about this incident?

15 A Yes, she did.

16 Q What did she tell you?

17 A She told me that he had had sex with her.
18 But he didn't get in her, because she pushed him
19 off before he could get into her vagina.

20 Q That's what she told you?

21 A Yes, sir.

22 Q And in terms of your own interaction
23 with -- so what she told you was she did not
24 actually remember any penetration between her and
25 Mr. Wright.

Edie Mae Brooks-direct by Mr. Barr

1 A Yes, sir.

2 Q Now have you had occasion with Ms. Mouzon
3 where you have been to her house and talked with
4 her?

5 A Yes, sir. What happened, she had called
6 me that Saturday night. She was really
7 frightened, upset. She said she had something to
8 tell me. So I told her to tell me. But she would
9 never tell me. She said I can't tell you over the
10 phone. But she said if you come to the house,
11 then I will tell you what happened. And that's
12 when I got up Sunday morning to get dressed to go
13 to church. And I stopped by the house and talked
14 with her before I went to church. And that's when
15 she told what had happened to her.

16 Q Now have you ever had interaction with her
17 where she appeared to be disoriented?

18 A Well sometimes, yes.

19 Q Describe it for us please.

20 A Well sometimes she will remember
21 sometimes, and sometimes she won't.

22 Q When you say remember sometimes, give us
23 some examples.

24 A Sometimes she forgets. And sometimes she
25 remembers.

Edie Mae Brooks-direct by Mr. Barr

1 MS. MOUZON: I know what that man done to
2 me. And if you let him go.

3 THE COURT: Ladies and gentlemen, I am
4 going to have you step to the jury room for just a
5 minute. We will be at ease.

6 (Whereupon, the court takes a short
7 recess.)

8 THE COURT: Let's bring the jury back.

9 Q Ms. Edie, right before we broke, you told
10 us what -- you indicated what Ms. Mouzon had told
11 you. Now when you also indicated that you, from
12 time to time you had the opportunity to visit with
13 Ms. Mouzon at her house.

14 A Yes, sir.

15 Q And have you visited with her within the
16 last say for instance, within a month of this
17 incident?

18 A Yes.

19 Q Now at any time when you visited with her,
20 have you noticed any conduct on her part that
21 appeared to you to be unusual?

22 A Yes.

23 Q Would you describe it for us please?

24 A Yes. After that she became real nervous.
25 Like scared and upset.

Edie Mae Brooks-direct by Mr. Barr

1 Q And you noticed this within the last 12
2 months?

3 A Yes.

4 Q Now in addition to being nervous and
5 upset, has she ever given you any reason during
6 that particular period of time, to be concerned
7 about whether or not she had a full appreciation
8 for things as they ought to be? Or give you the
9 impression that she was perhaps thinking of doing
10 some things out of the ordinary?

11 A No.

12 Q But now she did -- so you've never had a
13 situation where her memory seemed to have not
14 been there?

15 A Well yeah, sometimes that happens, you
16 know. She might forget things sometimes, you
17 know, but not all the time. Sometimes she does.
18 We all forget at times.

19 Q Yes, ma'am. Now when you say forget
20 things, in her case, are there any particular
21 times when you noticed she had forgotten things
22 you thought she could remember?

23 A Yes, sir. Well she might put something
24 down, and, you know, don't go right back to it.
25 Don't remember where she put it.

Edie Mae Brooks-direct by Mr. Barr

1 Q Now you say you are related to---

2 A Yes, sir.

3 Q ---Ms. Mouzon?

4 A Uh-huh. (Affirmative.)

5 MR. BARR: Thank you, ma'am. I have no
6 further questions.

7 MS. BARR: I get a crack at you.

8 Cross Examination by Ms. Barr:

9 Q How are you doing, Mr. Brooks?

10 A Okay.

11 Q Now of course you are a new great
12 grandmother, is that right?

13 A Uh-huh. (affirmative.)

14 Q You had a great grandson born on
15 yesterday?

16 A Yes.

17 Q And that's why you were out of court on
18 yesterday.

19 A Yes.

20 Q Now I usually don't ask a woman this, but
21 how old are you?

22 A 62.

23 Q 62 years old?

24 A Uh-huh. (Affirmative.)

25 Q I notice that when Mr. Barr was asking you

Edie Mae Brooks-cross by Ms. Barr

1 about the ages of your children, you kind of
2 hesitated, because you don't remember them all?

3 A I don't remember all the ages.

4 Q That's fine. We've all been forgetting
5 things here and there. Is that fair to say?

6 A Yes.

7 Q Now when you talk about your aunt,
8 Ms. Mouzon, she at the time this happened, was
9 about 88 years old, right?

10 A Yes.

11 Q And despite her age, she got around okay
12 in terms of going to church and that sort of
13 thing?

14 A Yes.

15 Q She loved to go to church, didn't she?

16 A Yes.

17 Q And it would have been unusual for her not
18 to go to church.

19 A Right.

20 Q You all would have been concerned that maybe
21 something wrong with her, she wasn't feeling good
22 or something for her not to go to church.

23 A Right.

24 Q Now you indicated and let me to try to
25 help you out with the dates. If the police came

Edie Mae Brooks-cross by Ms. Barr

1 out there to take a report on Sunday February 22,
2 2009, you would have talked to her on the phone
3 that Saturday before?

4 A Uh-huh. (Affirmative.)

5 Q I need you to say yes or no for the court
6 reporter.

7 A Yes.

8 Q So that would have been Saturday, February
9 21st, when you would have talked with her on the
10 phone, and she said I got something to tell you.

11 A Yes.

12 Q Now when she said I got something to tell
13 you, she was kind of whispering a little bit,
14 wasn't she?

15 A Yes.

16 Q Like she didn't really want to talk too
17 loud.

18 A Right.

19 Q Maybe he didn't want somebody in the house
20 to hear her?

21 A Yes.

22 Q And you were trying to get her to tell you
23 what was wrong, but she said I can't tell you over
24 the phone.

25 A Yes.

Edie Mae Brooks-cross by Ms. Barr

1 Q So the next morning you came to her house,
2 right?

3 A Yes.

4 Q And she was still kind of nervous and kind
5 of upset even then.

6 A Yes, she was.

7 Q And when she came to the house and you
8 asked what happened. She said, "Dennis raped me,"
9 didn't she?

10 A Yes.

11 Q Now of course you know we are all grown
12 here. But you didn't actually go and ask her
13 whether he went all the way in her, or half the
14 way in her, or just went to the opening or her
15 vagina or rectum. I mean you didn't go in to that
16 deep a conversation.

17 A No.

18 Q You would not have out of respect for her.

19 A No, I would not.

20 Q Now, in addition to her telling you that
21 she was raped, she told you her bottom was hurting
22 her, didn't she?

23 A Yes, she did.

24 Q When she said her bottom, she was talking
25 about her vagina and her rectum.

Edie Mae Brooks-cross by Ms. Barr

1 A Yes.

2 Q Now when you heard about this for the
3 first time you went and you started telling some
4 folks about it, didn't you? I mean, it concerned
5 you enough where you told one of the pastors.

6 A Yeah, I told the pastor. I only told the
7 pastor though, I didn't tell anyone else.

8 Q Right.

9 A She didn't really want me to tell a lot of
10 people what was going on.

11 Q Would it be fair to say that she was
12 ashamed and embarrassed that she was talking to
13 you?

14 A Yes.

15 Q So you went and told one of the pastor's
16 and the pastor told one of her family members. I
17 believe her granddaughter, Ms. Melissa Mouzon.

18 A Yes.

19 Q And you had gone back to the house later
20 on that day, right?

21 A Yes.

22 Q She didn't go to church that Sunday on the
23 22nd, did she?

24 A No, she didn't.

25 Q You all came back to the house. You came

Eddie Mae Brooks-cross by Ms. Barr

1 back with -- Melissa eventually came over there,
2 right?

3 A Yes, Melissa came.

4 Q Did pastor -- did the vicar?

5 A Pastor/vicar.

6 Q Did she come too?

7 A Yes.

8 Q So Melissa the granddaughter said, "No, we
9 got to come clean."

10 A Yes.

11 Q Is that right?

12 A Yes.

13 Q Now when you came back the second time,
14 by this time, Dennis had come back to the house,
15 didn't he?

16 A Yes.

17 Q He was trying to get his stuff out of the
18 house, wasn't he?

19 A Yes. He had come to get his.

20 Q And at that time your aunt said, "No, no,
21 no, wait a minute, you are not taking a thing out
22 of the house."

23 A Yes.

24 Q Said you are going to wait until the
25 police get here.

Edie Mae Brooks-cross by Ms. Barr

1 A Yes, she told him not to take it out of
2 the house.

3 Q And she went and put her hand and told
4 him, "No, you are not taking a thing out of this
5 house." Didn't she?

6 A Yes.

7 Q And at that point she was concerned that
8 he was going to try to get away, wasn't she?

9 A Yes.

10 Q And you told her, "No auntie, don't worry
11 about it. Let him go."

12 A Uh-huh. (affirmative.)

13 Q We are going to get the police.

14 A Yes.

15 Q When he came over there to get his stuff,
16 he had some folks with him?

17 A Yes, he had some---

18 Q One of the neighbors.

19 A The neighbors, yes.

20 Q Did a couple of the ladies come over
21 there?

22 A Two of them I think, had come. I am not
23 sure. He had come to get his clothes.

24 Q And you said, "No aunt, don't worry about
25 it. Let him get his stuff."

Edie Mae Brooks-cross by Ms. Barr

1 A Yeah, I told her let him go ahead and take
2 it. And let the police handle it.

3 Q Let the police take it from here on out.

4 A Yes.

5 Q Do you remember whether or not he went in
6 the room and got his stuff?

7 A Yes.

8 Q He did?

9 A Yes.

10 Q Of course this was before the police
11 actually came out.

12 A Right, yes.

13 Q Now--

14 A He said he was going to the laundromat to
15 wash his clothes.

16 Q Huh? He said he was going to the
17 laundromat?

18 A Uh-huh. (Affirmative.)

19 Q To wash some clothes?

20 A To wash some clothes.

21 Q Sunday afternoon?

22 A Yes.

23 MS. BARR: I beg the court's indulgence.

24 That's all the questions I have. Thank you,

25 ma'am. Wait a minute. Hold on.

Edie Mae Brooks-cross by Ms. Barr

1 THE COURT: Ms. Brooks, I'll tell you when
2 it's time to get up. Mr. Barr, any more
3 questions?

4 Redirect Examination by Mr. Barr:

5 Q Ms. Brooks, I want to make sure I am clear
6 on something. Did you say it was on the 21st of
7 February when Ms. Mouzon called you?

8 A Well I am not sure of the date, but I know
9 she had called me that Sunday.

10 Q She called you on a Sunday.

11 A Uh-huh. (Affirmative.)

12 Q That's when she had the conversation with
13 you.

14 A Yeah, she called me that Saturday. I am
15 not sure of the date.

16 Q But she called you on a Saturday?

17 A Uh-huh. (affirmative.)

18 Q What time of day was it, do you remember?

19 A It was at night, because she had called me
20 and she was crying. She said she had something to
21 tell me.

22 Q Now did she tell you whether or not Dennis
23 was at the house?

24 A Yes.

25 Q And where did she tell you he was?

Edie Mae Brooks-redirect by Mr. Barr

1 A He was in the room.

2 Q In whose room?

3 A His room.

4 Q So he wasn't in the room where she was.

5 A No.

6 MR. BARR: Thank you, ma'am. I have
7 nothing further.

8 THE COURT: Hold on a moment, I'll tell
9 you when to go.

10 MS. BARR: Judge, we will let her go.
11 Thank you.

12 THE COURT: All right, ma'am.

13 Dorothy Hannah, after being duly
14 sworn, testified as follows:

15 Direct Examination by Mr. Barr:

16 Q Ms. Hannah, is your name Dorothy or
17 Gloria?

18 A Gloria.

19 Q Gloria, I'm sorry about that. Now, Ms.
20 Hannah, you live in Hemingway?

21 A Yes, sir.

22 Q And do you live near Ms. Mouzon?

23 A Yes, sir.

24 Q How far do you live from her?

25 A From here to there.

Dorothy Hannah-direct by Mr. Barr

1 Q So you don't live -- almost next door to
2 her.

3 A Yes, sir. Next door.

4 Q So you see her on a regular basis.

5 A Sometimes.

6 Q Do you ever go over to her house?

7 A No, sir.

8 Q And she ever come over to your house?

9 A Yes, sir.

10 Q Did you have occasion to go to her house
11 in February of 2009?

12 A Yes, sir.

13 Q And was anybody with you when you went to
14 her house?

15 A Dennis.

16 Q And was anybody else with you and Dennis?

17 A No.

18 Q What did you go to her house for?

19 A Because Michael had called and asked me to
20 go over with Dennis to get his clothes.

21 Q Michael, the grandson, had called you and
22 asked you to go over to her house with Dennis?

23 A Yes.

24 Q Or go over to Ms. Mouzon's house with
25 Dennis.

Dorothy Hannah-direct by Mr. Barr

1 A Yes.

2 Q Do you remember what day it was that that
3 took place?

4 A She said that Thursday. Ms. Azalee told
5 me that Thursday she had called Melissa. Melissa
6 didn't come until that Sunday. And when the
7 officer came to the house and asked did Mr. Wright
8 live there, and I told him no. And so when the
9 officer---

10 Q He came to your house?

11 A He came to my sister's house.

12 Q Uh-huh. (Affirmative.)

13 A And when he came he asked to speak to
14 Dennis. And Dennis asked him what was going on.
15 And he said an incident. He say, I want you to---

16 MS. BARR: Objection, judge, to anything
17 he said.

18 Q Well let's not say what he said. But he
19 told -- when he left the house, did he leave
20 Dennis there?

21 A The officer?

22 Q Yes, ma'am.

23 A No.

24 Q He took Dennis with him.

25 A Yes.

Dorothy Hannah-direct by Mr. Barr

1 Q Now did you have occasion to go over to
2 Ms. Mouzon's house with Dennis?

3 A Yes.

4 Q Tell us what happened then.

5 A When I went over there to take Dennis to
6 Ms. Mouzon's house, she was crying. And also
7 there was some other guys there working on the
8 roof of her house.

9 Q Yes, ma'am.

10 A So some of them related to her, came in
11 and asked her what happened. And I asked her did
12 she want to go home with them. And she said, "No
13 everything will be all right." So when Dennis got
14 ready to go inside the room to get his clothes,
15 she was angry. She grabbed at him. And I
16 hollered, I said, "No."

17 Q You said she grabbed at him.

18 A She grabbed like this.

19 Q Now did you tell Ms. -- do you see this
20 lady right here, Ms. Lail? Did you tell her that
21 Ms. Mouzon grabbed at Dennis' private area?

22 A Yes.

23 Q You told her that?

24 A Yes, I did. That's when she grabbed
25 below.

Dorothy Hannah-direct by Mr. Barr

1 Q You saw that?

2 A Yes, I did.

3 Q With your own eyes?

4 A Yes, I did.

5 Q Did she say anything when she did that?

6 A She told him that he wasn't going to leave
7 there.

8 Q Uh-huh. (Affirmative.)

9 A And he wasn't going to get his clothes.

10 Q Did she say why?

11 A No, she didn't tell me, because I asked
12 what was going on, and she didn't tell me.

13 Q Now Dennis was going to move out of her
14 house, wasn't he?

15 A Yes, sir.

16 Q And he had been planning it for quite some
17 time, hadn't he?

18 A Yes, sir.

19 Q Do you know whether or not she approved of
20 him moving?

21 A No, I don't.

22 Q You don't know?

23 A I don't know.

24 Q Have you ever had an occasion or during
25 that week did you ever see Dennis and Ms. Mouzon

Dorothy Hannah-direct by Mr. Barr

1 together at any other time?

2 A Yes.

3 Q Where did you see them?

4 A We were together that Friday, that
5 Saturday. Because they had something at the
6 church called Cornerstone, and we all was there.

7 Q And you say who?

8 A Ms. Mouzon, Dennis, me, my sister Dorothy.

9 Q Now you didn't travel with Dennis and Ms.
10 Mouzon to the church, did you?

11 A Yes, I did.

12 Q You rode with them?

13 A I rode in the car with them.

14 Q And who drove?

15 A Dennis.

16 Q And who else was in the car?

17 A My sister Dorothy and Ms. Mouzon.

18 Q And Ms. Mouzon.

19 A Yes.

20 Q Now when Ms. Mouzon was in the -- what
21 time did you leave to go to the church?

22 A I don't remember that.

23 Q Do you remember what time the church
24 function was?

25 A I think it started ever since that

Dorothy Hannah-direct by Mr. Barr

1 morning.

2 Q And what time did you all get there?

3 A I don't remember that.

4 Q How did you get in with Dennis?

5 A Because Dennis lived next door to us, and
6 we moved Dennis to the church.

7 Q So---

8 A We were going to the same church.

9 Q So you went and he picked you up at your
10 house? Or you went over there?

11 A He picked me up from my sister's house.

12 Q And when he picked you up was Ms. Mouzon
13 in the vehicle with him?

14 A Yes.

15 Q Was she in the front or the back?

16 A She was in the front.

17 Q Now was Ms. Mouzon acting in any way
18 unusual at the time?

19 A No, we had choir practice at the house.

20 Q At the house?

21 A At my sister's house.

22 Q Who did the choir practice?

23 A Ms. Mouzon.

24 Q And who else?

25 A Me and my sister.

Dorothy Hannah-direct by Mr. Barr

1 Q And where was Dennis?

2 A In the kitchen eating.

3 Q Did Mr. Mouzon say anything to you about
4 having been raped by Dennis?

5 A No, sir.

6 Q And she didn't act in any way unusual to
7 you?

8 A No, sir.

9 Q Was she crying?

10 A No, sir.

11 Q Did she seem sad?

12 A No, sir.

13 Q And you say you had choir rehearsal?

14 A Yes, we did.

15 Q Now when the choir rehearsal was over, how
16 did you get home?

17 A We were at my sister's house. We never
18 left there. Ms. Mouzon walked to her house.

19 Q From?

20 A My sister's house. Dorothy's house.

21 Q So Dorothy's house is not far from
22 Ms. Mouzon's house?

23 A No, walking distance.

24 Q And do you know where Dennis went?

25 A He went back to Ms. Mouzon's house.

Dorothy Hannah-direct by Mr. Barr

1 Q But he drove.

2 A He walked over there.

3 Q What happened to the car?

4 A The car was in our yard.

5 MR. BARR: Thank you, ma'am. Would you
6 answer any questions Ms. Barr has for you?

7 Cross Examination by Ms. Barr:

8 Q Good afternoon, Ms. Hannah. Do you still
9 live at the same address?

10 A No, ma'am.

11 Q Where were you, at ?

12 A Yes, ma'am.

13 Q So the day the police came out, Dennis
14 came to your house, right?

15 A Yes, ma'am.

16 Q The police had actually saw him at your
17 house. Caught him -- took him from your house.

18 A Yes, ma'am.

19 Q Did he ever spend the night at your house?

20 A No, ma'am.

21 Q And how long have you known him?

22 A I just knew him by going to the church.

23 Q He used to run errands for you?

24 A Yes, ma'am.

25 Q Take you different places?

Dorothy Hannah-cross by Ms. Barr

1 A Yes, ma'am.

2 Q He was your ride so to speak?

3 A Yes, ma'am.

4 Q Now did you all plan to get an apartment
5 or anything together?

6 A No, ma'am, no apartment.

7 Q What about a house?

8 A Well a house.

9 Q You and Dennis?

10 A No, me and Dennis and my sister. We were
11 going to get the house and rent the house out.

12 Q So the three of you all were going to get
13 a house together.

14 A Yes, ma'am.

15 Q Now do you remember talking with
16 Investigator Lail back on February 27th?

17 A Yes, ma'am.

18 Q And of course you told her something about
19 when Dennis came and picked up his clothes, right?
20 You told her what you knew about that situation,
21 right?

22 A I told them when Dennis went to
23 Ms. Mouzon's to pick up his clothes what happened.

24 Q Now the first thing you told the
25 investigator was that Ms. Mouzon supposedly

Dorothy Hannah-cross by Ms. Barr

1 grabbed his private part.

2 A It wasn't a supposedly thing, because I
3 was there. I see that.

4 Q But didn't at some point during that
5 interview she asked you to kind of clarify that.
6 Do you remember her asking that?

7 A I did clarify everything she asked me.

8 Q And then did she actually touch him or did
9 she grab at him? Do you remember her asking
10 that?

11 A I told her that she grabbed at him, yes.

12 Q Right. At him, not touched him, right?

13 A I did not tell her that she touched him.

14 Q Right. And you're not saying that today,
15 are you?

16 A No, because I didn't see her touch him. I
17 seen her grab at him.

18 Q She didn't want him to take anything out
19 of that house, right?

20 A No.

21 MS. BARR: That's all.

22 THE COURT: Anything further, Mr. Barr?

23 Redirect Examination by Mr. Barr:

24 Q Was it your impression that she was
25 grabbing at him to impede his, giving somebody a

Dorohy Hannah-redirect by Mr. Barr

1 hug, or grabbing at his penis area?

2 MS. BARR: I object to leading.

3 THE COURT: Objection is overruled.

4 Q Answer the question, please, ma'am.

5 A Yes, she grabbed below at his penis.

6 Q And that's what you told this officer
7 right here.

8 A Yes. Because this was in our front room,
9 at the door. And she was asking me questions, and
10 I told her the truth. And she was supposed to get
11 back to us. And she never got back to us.

12 Q Never came to you see you anymore.

13 A No.

14 Q Thank you, ma'am.

15 THE COURT: Ms. Barr.

16 MS. BARR: Judge, I don't have anything
17 else from her.

18 THE COURT: Step down. You may call your
19 next witness.

20 MR. BARR: The defense calls Ms. Dorothy
21 Rhames.

22 Dorothy Rhames, after being duly sworn,
23 testified as follows:

24 Direct Examination by Mr. Barr:

25 Q Ms. Rhames, how old are you? Well wait a

Dorothy Rhames-direct by Ms. Barr

1 minute. I'm learning today maybe you shouldn't
2 ask women how old they are. But if you don't
3 mind.

4 A I am 71-years-old.

5 Q 71?

6 A Yes.

7 Q Have any children?

8 A I have one daughter.

9 Q And how old is that daughter?

10 A She is 47-years-old.

11 Q Are you married or single?

12 A I was married, but I am, you know, not
13 married now.

14 Q Ms. Rhames, you live in Hemingway.

15 A

16 Q That's almost next to where Ms.
17 Azalee Mouzon lives.

18 A Yes.

19 Q How long have you know Ms. Azalee Mouzon?

20 A Well I have known Ms. Azalee since we
21 moved on that street.

22 Q And how long has that been?

23 A Since 1957.

24 Q Since 1957.

25 A Yes.

Dorothy Rhames-direct by Ms. Barr

1 Q Do you see her on a pretty regular basis?

2 A Yes.

3 Q Do you all talk from time to time?

4 A Yes.

5 Q You're not on dialysis, are you?

6 A Yes, I am.

7 Q Is she also -- is she a dialysis patient?

8 A Who?

9 Q Ms. Azalee.

10 A No.

11 Q No dialysis. And do you know Dennis
12 Wright?

13 A I know Dennis from the church. Michael
14 went and got him and bring him back down to the
15 church.

16 Q I see. So Michael went and got him and
17 brought him back.

18 A Yes.

19 Q And when you say Michael, you are talking
20 about this Michael over here. Ms. Azalee's
21 grandson. That's who you are talking about?

22 A Yes, sir.

23 Q Now is Michael your pastor or who is your
24 pastor?

25 A My pastor.

Dorothy Rhames-direct by Ms. Barr

1 Q Michael is.

2 A Yes.

3 Q I see. And Ms. Azalee, is she a member of
4 the same church you are a member of?

5 A Yes, she is a member of the same church.

6 Q Now, Ms. Rhames, you said, you have known
7 Ms. Azalee since 1950.

8 A We moved there in 1957, where I live now.
9 My mother and my father and myself and my two
10 sisters.

11 Q Now did you see -- you were not at the
12 church the afternoon that Ms. Hannah said that you
13 all were at choir rehearsal. Were you there?

14 A No, we was at choir rehearsal at my house
15 that Saturday after we came back from the
16 motorcycle car wash.

17 Q So at the car wash you went to -- you went
18 to your house.

19 A Yes.

20 Q And that's where you did the choir
21 rehearsal.

22 A Yes.

23 Q And who was there?

24 A Me, my sister, Ms. Azalee, and another
25 lady.

Dorothy Rhames-direct by Ms. Barr

1 Q Was Michael there?

2 A No. There was nobody there but Dennis.

3 And he was asleep in the den near the kitchen.

4 Q And did you have any conversation with Ms.

5 Azalee that day?

6 A No, we talked. We always.

7 Q And did she appear to be unusual to you?

8 A No, the same. You know, always the same.

9 Then she asked Dennis to lead the prayer. And

10 Dennis said, "No, just leave me alone."

11 Q Ms. Azalee asked Dennis to lead the

12 prayer?

13 A Yes. And then Dennis walked out of the

14 house. And that's when she started singing. And

15 then she started singing, walking. You know, what

16 we do at practice.

17 Q Now have ever noticed any behavior by Ms.

18 Azalee that you thought was somewhat

19 inappropriate?

20 A What was the question?

21 Q Have you ever noticed any behavior on her

22 part that you thought was somewhat inappropriate?

23 Unusual?

24 A No, not that way.

25 Q How about before?

Dorothy Rhames-direct by Ms. Barr

1 A Well, way before.

2 Q What did you notice?

3 MS. BARR: Objection, Judge, relevance.

4 THE COURT: Objection is sustained.

5 Q Did you ever noticed Ms. Azalee treat her

6 son Michael as a husband?

7 MS. BARR: Objection, Your Honor.

8 A Do you want me to answer that?

9 MR. BARR: No, ma'am. Wait until the
10 Judge rules.

11 THE COURT: What was the objection?

12 MS. BARR: Relevance.

13 MR. BARR: Judge, we can press on.

14 THE COURT: Objection is overruled.

15 Q Have you ever seen her mistaking Michael
16 for her husband?

17 A Yes.

18 Q And what caused you to believe that she
19 was mistaken Michael for her husband?

20 A Because she said that---

21 MS. BARR: Hearsay, Judge.

22 THE COURT: Objection sustained.

23 Q Was it something she said?

24 A That Michael was her husband---

25 THE COURT: Just a moment, ma'am. Pose

Dorothy Rhames-direct by Ms. Barr

1 another question. Rephrase that question.

2 Q When you took, did you notice anything she
3 did?

4 A Yes, she fight him.

5 Q You don't know why she was fighting him,
6 do you?

7 A Because she said he was in the bed with
8 his woman. His woman should not be in the bed.
9 And that's her bed in her house.

10 Q And what woman was she referring to?

11 A His wife.

12 Q Now Ms. Azalee didn't get along with
13 Michael's wife.

14 A You're right. She didn't ever like
15 Michael's wife?

16 MS. BARR: Objection hearsay, Judge.

17 THE COURT: Objection is sustained. It's
18 not relevant whether or not she liked Michael's
19 wife.

20 Q There was a time when Michael lived with
21 Ms. Azalee, was there not?

22 A Yes.

23 Q And did you know her then?

24 A Yes.

25 Q And do you know of your own knowledge how

Dorothy Rhames-direct by Ms. Barr

1 Michael started living with her?

2 A She put him out.

3 Q She put him out?

4 A Yes.

5 Q Would you not agree, Ms. Rhames, based on
6 your knowledge of the situation, Ms. Azalee wanted
7 more attention from Michael, didn't she?

8 MS. BARR: Object as to leading.

9 THE COURT: Ask the question again.

10 MR. BARR: I will rephrase the question,
11 Judge.

12 Q You did have an opportunity to observe the
13 two of them together.

14 A Yes.

15 Q And based on your knowledge of that
16 relationship, do you think or do you know whether
17 or not Ms. Azalee wanted to see more of her son --
18 grandson?

19 A Yes.

20 Q And why do you say that?

21 A Because when things happen, she always
22 call me and ask me what Michael is doing. Nobody
23 but Michael.

24 Q Nobody but Michael?

25 A Right.

Dorothy Rhames-direct by Ms. Barr

1 Q But Michael wasn't there, was he?

2 A Michael wasn't there.

3 Q Instead of being there himself, he went
4 and got Dennis, and brought Dennis there, didn't
5 he?

6 A Yes.

7 Q Did the family approve -- do you know
8 whether she approved of that?

9 MR. BARR: Objection, Judge.

10 THE COURT: She said she didn't know.

11 Q Did Mr. Dennis -- did Dennis ever come
12 over to your house?

13 A Yes, all the time.

14 Q All the time?

15 A Uh-huh. (affirmative.)

16 Q You all got along pretty good?

17 A Yes.

18 MR. BARR: Thank you, ma'am. Would you
19 answer any questions Ms. Barr might have for you?

20 Cross Examination by Ms. Barr:

21 Q Ms. Thames, have you ever been to Ms.
22 Azalee's house?

23 A Many times.

24 Q During this time, Dennis was your ride
25 back and forth to dialysis?

Dorothy Rhames-cross by Mr. Barr

1 A Yes.

2 Q And, of course, the day the police came
3 out to investigate this, they got Dennis from your
4 house?

5 A Yes.

6 Q You actually took Dennis to the Hemingway
7 Police Department, didn't you?

8 A No, I did not.

9 Q Did your sister take him?

10 A No, I did not.

11 Q But since that time, you know he was
12 arrested that night, right?

13 A No, I did not know he was arrested that
14 night. Because when the officer came there and
15 asked for -- did Mr. Wright live there, my sister
16 told him no, he don't live there, but he was
17 there.

18 Q So you don't know whether or not he was in
19 jail that night?

20 A The officers came and asked him, did he
21 want to speak to them. And question him about a
22 matter.

23 Q I understand that.

24 A And he say that he would take Dennis
25 downtown and question him. And Dennis would come

Dorothy Rhames-cross by Mr. Barr

1 back home. For us to follow him down there. We
2 did follow him down there. We thought that he was
3 coming home.

4 Q And that's fine, Ms. Rhames. I want to
5 just make sure you understand my question. And
6 you can respond however you want to. If you would
7 just please answer my question, I would appreciate
8 it. You know that he went to jail that night. He
9 didn't come back, right?

10 A Yeah, he didn't come back that night.

11 Q And he stayed in jail a period of time,
12 right?

13 A Yes.

14 Q You didn't have your ride anymore, right?
15 To dialysis.

16 A No, I didn't. But the church.

17 Q Were you in the courtroom when Ms. Hannah
18 testified just now?

19 A Yes.

20 Q She talked about getting a house; that she
21 was going to get a house with Dennis and somebody
22 else. Was she talking about you?

23 A Yes.

24 Q So all three of you all were going to get
25 a house.

Dorothy Rhames-cross by Mr. Barr

1 A Yes.

2 Q Is he still a friend of yours?

3 A Yes.

4 Q You would certainly want to help him if
5 you could, wouldn't you?

6 A Yes, but I wouldn't lie for him.

7 Q I understand that. Do you characterize
8 him as a good friend?

9 A Do what?

10 Q Would you characterize him as a good
11 friend of yours?

12 A No, I would characterize him as a son of
13 mine.

14 Q Son of yours?

15 A Yes.

16 Q Did your son tell you this story about Ms.
17 Azalee jumping on the bed on top of him? Did he
18 tell you that?

19 A No, he didn't tell me until he was in
20 jail.

21 Q Oh, he told after he got to jail?

22 A Right.

23 Q That she jumped on top of him?

24 A Right. But he didn't tell me that that
25 night.

Dorothy Rhames-cross by Mr. Barr

1 MS. BARR: I understand. Thank you,
2 ma'am.

3 THE COURT: Anything further of this
4 witness?

5 MR. BARR: No, sir, judge.

6 THE COURT: You may step down.

7 MR. BARR: Defense rests. May we approach
8 the bench?

9 THE COURT: Yes.

10 (Whereupon, the attorneys approach the
11 bench and confer.)

12 THE COURT: Ladies and gentlemen of the
13 jury, we have heard the defense's case. Any
14 reply by the state?

15 MS. BARR: No, Your Honor. Thank you.

16 THE COURT: Ladies and Gentlemen, that
17 means you have heard all the testimony in the
18 case. What remains is for the lawyers to give
19 their closing arguments. And for me to give you
20 the charge on the law. And for you all to
21 deliberate and decide the case. It is sort of an
22 unwritten policy in the state not to give a case
23 after 4 o'clock. If we were to attempt to do all
24 that today, you would get the case probably about
25 6 o'clock. We are not going to stay the night.

1 We are going to cut you all loose, and have you
2 come back at 10 tomorrow morning, and pick it up
3 at that time.

4 Please do not discuss the case. Have a
5 good evening. We will see you all tomorrow
6 morning at 10 a.m.

7 (Whereupon, the jury is dismissed at
8 4:20 p.m.)

9 THE COURT: Any matters of law at this
10 time?

11 MS. BARR: Not from the state, Judge.

12 MR. BARR: No, sir.

13 THE COURT: Any request of charge by
14 either side?

15 MS. BARR: Judge, I think the standard
16 ones. I think specifically, Judge, we would of
17 course want -- I know the court is going to define
18 the statute that relates to CSC first degree, and
19 abuse of a vulnerable adult. I assume the court
20 is also going to charge the definition of a
21 vulnerable adult. And the definition of physical
22 abuse under the vulnerable adult statute. Of
23 course, I am sure the court will also define
24 aggravated force. And what is meant by force of
25 aggravated -- I'm sorry, physical force of a high

1 and aggravated nature.

2 In the extent that the jury can consider
3 the ages of the parties, the condition with
4 respect to the parties and difference in gender.
5 Judge, I think that I would probably also
6 respectfully request the court charge the law as
7 it relates to sexual battery; being that, any
8 intrusion however slight is sufficient to
9 constitute sexual battery. If it is in the
10 vaginal or anal cavity of the victim. That's all
11 I can think of right now, Judge.

12 THE COURT: All right. Any requests to
13 charge by the defense?

14 MR. BARR: Your Honor, can we -- I know
15 you will charge criminal intent.

16 THE COURT: All right.

17 MR. BARR: I think for the record, I don't
18 know -- I don't -- we move for a directed verdict
19 on the close of the evidence. For the record, I
20 would make that motion.

21 THE COURT: Do you renew the motion that
22 made at the end of the state's case?

23 MR. BARR: Yes, sir.

24 THE COURT: I deny the motion under the
25 same ruling I previously made. I think the

1 charges are fairly straightforward in this.
2 Nothing too unique other than crafting a charge of
3 a vulnerable adult. We have that. We will break
4 camp on this one until 10 tomorrow morning. Do
5 you want me to charge the jury about a statement
6 of a defendant? The jury must find -- the jury
7 must find beyond a reasonable doubt that the
8 statement---

9 MR. BARR: Yes, sir.

10 THE COURT: ---was freely and voluntarily.

11 MR. BARR: Yes, sir.

12 MS. BARR: And, judge, we would object to
13 that charge simply because the defendant advised
14 the court whether or not it was stipulated. That
15 the statement was freely and voluntarily given.
16 He testified that he did. So I would ask that the
17 court not charge that, that that be used as any
18 other evidence in the case given the stipulation.

19 THE COURT: How about it, Mr. Barr?

20 MR. BARR: Judge, I think like anything
21 else, even though it's stipulation, it goes to
22 weight. It's not necessarily show. I think the
23 jury is entitled to find particularly as jurors
24 having heard the statement given by the defendant,
25 so I would certainly take the position that that

1 charge would be appropriate.

2 THE COURT: During your cross examination
3 of the witnesses in addition to the stipulation,
4 didn't you ask him particularly, "Edwards, didn't
5 he answer every question freely and voluntarily?
6 Didn't he cooperate fully?" And despite that, you
7 still want the jury to disregard the statement if
8 they find he had given it freely and voluntarily?

9 MR. BARR: Yes, sir.

10 THE COURT: We will ponder all of that
11 overnight. And figure it out by the time we have
12 the jury tomorrow. All right. We will take a
13 minute or two and get ready to do a few guilty
14 pleas before leaving. All the evidence is in. We
15 are going to have the defendant remanded over
16 night until the case is over.

17 (Whereupon, the trial commences on
18 Thursday October 14, 2010 at 9:30 a.m.)

19 THE COURT: Anything from the State or the
20 Defense before we bring the jury in?

21 MS. BARR: Nothing from the State.

22 MR. BARR: Nothing from the defense.

23 THE COURT: Bring them on.

24 (Whereupon, the following takes place
25 within the presence of the jury.)

1 THE COURT: Good morning. Ladies and
2 gentlemen, we have the closing argument.
3 Ms. Barr.

4 MS. BARR: Thank you. May It Please the
5 Court. Ladies and gentlemen of the jury, good
6 morning. Let me begin this morning by thanking
7 you all for your services this week. It's not
8 quite over. But thank you for the commitment that
9 you have shown to the case.

10 I'm going to tell you sometimes when I've
11 tried cases here in this courtroom, I've had
12 situations where sometimes jurors get bored.
13 Particularly when they are listening to evidence
14 that seems to go on and on and on. And I notice
15 sometimes that jurors wander off. I've had even a
16 couple of them go to sleep on me. But I have
17 noticed during this trial that you all have been
18 extremely attentive jury, and I want to thank you
19 all so much for that.

20 Now there will be three parts to the
21 closing arguments. I get to go first, and kind of
22 tell you about the law of the case. And Mr. Barr
23 gets to follow me and kind of argue his point.
24 And then I get one more shot at a second closing
25 argument, if you will. But let me just take this

1 opportunity, if I may, to kind of briefly explain
2 to you what I think the judge is going to tell you
3 about the law in the case. You all have two
4 separate charges to consider. You have got to
5 deliberate and consider each of them. The first
6 charge is criminal sexual conduct in the first
7 degree.

8 Let me explain to you how the law defines
9 criminal sexual conduct in the first degree. A
10 couple of things you have to have. You have to
11 have what they call sexual battery. Sexual
12 battery could be a number of things. It can be
13 oral sex. It can be intercourse into a woman's
14 vagina. Or intercourse into a woman's anus. So
15 the state in the case in which an individual is
16 charged with criminal sexual conduct, has to show
17 a sexual battery. We would submit today that the
18 testimony of the victim is that he entered her
19 vagina and her rectum is proof that the sexual
20 battery occurred in this case.

21 Now let me go ahead and put it out there.
22 Because I'm sure Mr. Barr as good a lawyer that he
23 is, he's going to come up here and he's going to
24 argue the point, well I don't know if a sexual
25 battery occurred, because he had one of the

1 victims testify that he didn't put it all the way
2 in me, or he didn't put it in me. I was fighting
3 him off. Let me explain how the evidence of a
4 sexual battery is clear in this case. You don't
5 have to show the criminal prosecution on this type
6 of case, and I am sorry to be blunt about it. But
7 this is one of those trials we kind of have to be
8 blunt about things. You don't have to show that
9 the defendant put his penis all the way up in her.
10 That's not necessary.

11 The judge is going to charge you that any
12 intrusion into the vaginal cavity or the rectum of
13 the victim, any, no matter how slight it is, is
14 enough for you to conclude that a sexual battery
15 occurred. What evidence do we have to corroborate
16 that he did in fact penetrate her. No matter
17 whether he went to the opening, all the way the
18 opening or what. And one, we have her testimony.
19 Two, we have statements from that same niece who
20 came and said, well yeah, I talked with her that
21 Sunday. And she said her rectum was hurting.

22 Now, folks, your rectum is not going to be
23 hurting unless something went up in there. Or
24 went close to getting up there. That's clear. We
25 have the testimony from her physician months later

1 that she was still hurting. And, folks, that
2 coupled with her testimony is clearly enough
3 evidence from which to conclude a sexual battery
4 occurred. The second thing that the state has to
5 show in a case of this sort, when an individual is
6 charged with criminal sexual conduct in the first
7 degree, that this defendant committed aggravated
8 force upon her to accomplish a sexual battery.

9 Now I will just tell you about the
10 evidence as far as that is concerned. When we
11 talk about aggravated force, there are certain
12 degrees of rape. And I know that for probably all
13 of you all this is kind of an educational
14 experience for you. But there are certain degrees
15 of rape. If for example, two people are on a
16 date, and things kind of get out of hand, and the
17 man goes a little bit too far, and the only thing
18 that the woman really says is no, I am not sure.
19 You know, I think we better stop. I think you
20 better stop, and he continues, that's some form, a
21 lesser form, of course, but that may be some form
22 of criminal sexual conduct or rape. And that's a
23 lesser charge.

24 Here the evidence is substantially
25 greater. The case is substantially more serious.

1 Because, see, he didn't just rape, he took all of
2 her dignities from her. And he put her legs up,
3 knowing she had all of these physical conditions,
4 a broken leg in the past and arthritis. You heard
5 the testimony. And he grabbed my legs, and he
6 held my legs up. That thing hurt me so bad.

7 MR. BARR: Your Honor, objection. I think
8 the state is entitled to open on the law, and not
9 argue facts. And I think that with all due
10 respect, the prosecutor is arguing facts not the
11 law.

12 THE COURT: Ms. Barr.

13 MS. BARR: Judge, I would submit that we
14 are able at this point to argue how the facts in
15 the case relates to the law.

16 THE COURT: Argue according to the rules,
17 you may proceed.

18 MS. BARR: Yes, sir. Now that's how we
19 get from just simple date rape. Some of you have
20 heard the phrase, to what we have here, is clearly
21 aggravated force. Now you all have a second
22 charge to consider. You have to consider just as
23 significantly as you did the first. The second
24 charge is abuse of a vulnerable adult. Now the
25 judge is going to tell you what it means and how

1 the law classifies a vulnerable adult. And a
2 vulnerable adult is somebody who because of their
3 physical condition or because of their advanced
4 stage, that particular person is entitled to a
5 little more protection under the law.

6 And, clearly there can be no question here
7 that Ms. Azalee based on her age and based on her
8 physical condition and the fact that she had
9 people from home health to come in and care for
10 her from day in and day out. She's clearly a
11 vulnerable adult. Now the law for a vulnerable
12 adult says it's illegal to abuse a vulnerable
13 adult. So the law has decided to recognize that
14 if you get up in that age of life, you know, you
15 need some special protection. But the law defines
16 physical abuse of a vulnerable adult if you to hit
17 the person, you assault the person, if you slap
18 the person and you bite the person. Or it is
19 important that you know this part. Or if you
20 commit a sexual assault or a sexual battery or if
21 you attempt, if you attempt to commit a sexual
22 assault or a sexual battery.

23 And so, folks, we would certainly urge you
24 all to consider that particular charge as well
25 given the evidence in the case.

1 I am going to say one more thing and then
2 I am going to sit down. It is equally important
3 that the judge will charge you that in a case in
4 which a defendant is charged with criminal sexual
5 conduct, that the testimony of the victim as to
6 the sexual assault doesn't have to be
7 corroborated.

8 Mr. Barr, we have tried many cases
9 together. But he's going to get up here and say,
10 "Oh, there is no DNA. Oh, there is no eye
11 witness. Oh, there is medical evidence." But
12 these are serious charges and you we are saying we
13 don't need DNA, and we don't need an eye witness.
14 I think our general assembly had it right. They
15 understand rape cases. Those people, those same
16 people, they are not going to rape people in
17 public. By the very nature of the crime, it is
18 going to happen in private. There aren't going to
19 be eye witnesses all the time or any, if any.

20 You know if a victim is living with the
21 defendant, there might be a delay in the time it's
22 reported. So that's why it's so important that
23 you all understand and you all know, that you
24 don't need all these other things he's going to
25 come up here and suggest to you. The only thing

1 you need in this case is to convict this
2 defendant; is to be personally convinced that
3 Ms. Azalee was telling the truth when she got up
4 here. I submit that she was. And I look forward
5 to speaking with you all again. Thank you.

6 THE COURT: Mr. Barr.

7 MR. BARR: Please the court, Judge, Madam
8 Solicitor. Ladies and gentlemen, I also want to
9 take this opportunity to thank you on behalf of
10 Mr. Dennis Wright for your prompt attendance. For
11 your jury service. For your prompt participation.
12 And just like Ms. Barr I have also noticed that
13 you have been very attentive in listening to the
14 testimony in this case, and as well as to the
15 considering the evidence that has been presented
16 in the case.

17 I have tried cases. I'll never forget, I
18 tried a case in Florence, South Carolina one time.
19 And during the closing arguments one of the jurors
20 apparently disagreed with what I was saying. And
21 she actually turned her chair around, and started
22 looking at the wall. That's a true story. So in
23 other words, she was just -- she wanted to let me
24 know that she wasn't paying attention to what I
25 had to say. Her mind was made up. And see that's

1 one of the things that you remember when I said
2 earlier in my opening remarks. That one of the
3 things that we try to look at when we are
4 screening you all, when we try to find people
5 based on your profile, that would sit down and
6 listen to the evidence presented in the case, and
7 take the law as his honor gives it to you, and
8 come back with a verdict based on the evidence and
9 the law together, and come back with a verdict
10 that speaks the truth. I believe you will do that
11 in this case, because I believe you are qualified
12 to do it.

13 And I want to go ahead at this point,
14 while I am thinking about it, Ms. Barr is
15 absolutely right. She is absolutely right. I am
16 going to talk about the lack of corroboration i
17 this case. And I am going talk to about it to
18 begin with, and I am going to end with it. Now
19 His Honor may very well tell you that in a CSC
20 case, the testimony of the alleged victim does not
21 have to be corroborated.

22 But, ladies and gentlemen, I tell you that
23 with respect to determining whether or not it has
24 been proven to you beyond a reasonable doubt, you
25 might want some corroboration. In other words,

1 you might something to substantiate what they
2 claim has happened, other than just a blanket
3 allegation by an alleged victim. Now I would want
4 it.

5 Now there are some laws that apply in this
6 case that Ms. Barr didn't tell you about. And I
7 am going to tell you about them, because his honor
8 is going to tell you that what I'm about to tell
9 you now, is just as important as the law that she
10 read off of that piece of paper. One of the laws
11 that his honor is going to tell you about first of
12 all, would be the presumption of innocence. And
13 he will tell you, and I know he is going tell you
14 that right now from the beginning of this trial
15 until such time as you believe in your collective
16 wisdom, that is, all 12 of you agree the defendant
17 is presumed not guilty. That's the law. Right
18 now he is presumed to be not guilty. And the
19 burden is on the prosecution to prove his guilt to
20 you and to prove it beyond a reasonable doubt
21 before you can find him guilty. Corroboration or
22 not. That's the prosecution's burden. Dennis
23 Wright didn't even have to be here today. He
24 doesn't have to prove anything. Just like he
25 didn't have to give a statement to the police. He

1 didn't have to. He is presumed under the law to
2 be not guilty.

3 Now not only is he presumed to be not
4 guilty, ladies and gentlemen, but with respect to
5 proving his guilt, the prosecution is required to
6 prove his guilt to you beyond a reasonable doubt.
7 Now you tell me that the uncorroborated assertion
8 of Ms. Mouzon convinces you beyond a reasonable
9 doubt that a rape took place? Now I want to talk
10 about the circumstances of it in just a few
11 minutes. And let me just say that with respect to
12 what Ms. Barr has told you, she is absolutely
13 right.

14 Now you know what is good for the goose is
15 good for the gander. Under our rules, she is
16 entitled to open on the law. In other words, she
17 is entitled to come to you and explain to you and
18 tell you what the law is that's applicable to this
19 case. And only the law. And after she has done
20 that, just as where we are now, I have a right to
21 come and make my argument regarding the entire
22 case. But also under our law and just as
23 important, I won't have an opportunity to come
24 back to you and speak to you again, after Ms. Barr
25 comes back to you and tells you why she believes

1 that the evidence in this case is such that you
2 ought to find that they have proven the defendant
3 guilty beyond a reasonable doubt. They haven't
4 done it. They haven't done it.

5 Now if you want to look at the evidence,
6 His Honor, is going to tell you that the only
7 evidence that you are to consider is what comes
8 from this witness stand. Measured by the
9 credibility of the person who takes this witness
10 stand, and such pieces of documentary evidence or
11 demonstrative evidence or any other kind of
12 evidence that is presented.

13 Now what is the evidence in this case?
14 What's the evidence? Now I invite you, ladies and
15 gentlemen, State's Exhibit No. 3, now if you
16 listen to the testimony, if you recall, the
17 officer collected from the bedroom where Dennis
18 Wright lived. He went to the scene pursuant to
19 instructions given to him by Officer Lail. He
20 collected the bed linen. He asked Ms. Mouzon what
21 she wearing. He collected her clothing. She went
22 to the bathroom. And if you remember her
23 testimony, she said when I got through, or when he
24 got through, I went straight to the bathroom and
25 took a washcloth and I cleaned myself. Collected

1 all those items. And put them together. Forensic
2 purposes and sent them off to sled to be analyzed
3 for evidence of a sexual assault.

4 They found none. Nothing. And not one
5 iota of a thing. Nothing. Even though Ms. Mouzon
6 mentioned it for first time in this courtroom.
7 I'd never heard it before. She didn't tell
8 Officer Lail that in her statement; that she
9 talked about having a bowel movement. Now, ladies
10 and gentlemen, use your good common sense. Now if
11 you have a bowel movement on some linen, I didn't
12 hear a soul come in this courtroom and say, "Well,
13 we cleaned some linen."

14 I heard some talk about some allegations
15 from Ms. Brooks and Mr. Wright several days later,
16 about taking some clothes to the laundry or
17 something. His clothes. But I am talking about
18 if there was evidence, and if it did happen, then
19 this is where it should have been. Ain't no doubt
20 about it. You can use Tide, super premium
21 whatever you want to use. I'm telling you that
22 with that kind of material there should have been
23 something. There should have been something.
24 Uncorroborated, yes, I want corroboration. This
25 man is on trial for his very life. He's looking

1 at going to jail. And you tell me we don't want
2 corroboration, yes, we do. We understand that the
3 law says is it possible. But now the evidence
4 still has to convince. Are you satisfied, ladies
5 and gentlemen?

6 His Honor is going to instruct you. And
7 here is more law. His Honor is going to instruct
8 you that after he tells you what the law is, and
9 after you consider the evidence or lack of
10 evidence, if you are not firmly convinced of the
11 defendant's guilt, if you are not firmly
12 convinced, in other words, if you think that there
13 is a real possibility that he might not be guilty,
14 your obligation is to find him not guilty. That's
15 what reasonable doubt is. Not every doubt. Not
16 just an imaginary. But you must not, if you
17 think that there is a real possibility at the end
18 of the day.

19 And, ladies and gentlemen, I submit to you
20 now, no forensics. The only other thing that you
21 have got, I distinctly remember that there were
22 three photographs. I only see one here. These
23 are photographs of the defendant's bedroom. Now
24 you tell me what evidentiary purpose when you look
25 at this, how does this assist you in deciding

1 whether or not Dennis Wright raped Ms. Mouzon?

2 How do you, and when you look at it, and when you
3 go to your jury room, you will be able to look at
4 it.

5 Now you know I'm not going to tell law
6 enforcement how to do their job. But under our
7 law, if you have got investigators and if you have
8 to the police, their job is to guard and collect
9 evidence to come back and prove the case. That's
10 their job. Now here, this is sum total of it
11 right here. And of course here you have got
12 Mr. Wright's statement. Now I don't know what
13 evidentiary purpose or evidentiary value you will
14 find in that. You will have that when you go to
15 your jury room. But here is the case right here.

16 The only thing left is Ms. Mouzon's
17 testimony. And I am going to talk about that in a
18 moment. But now this is the sum total of it right
19 here. And they come here with this here, and tell
20 you to take this here and find him guilty. My
21 Lord, who in the world wants to be found guilty on
22 this evidence? I asked this officer yesterday.
23 Where is he. I don't know where he is this
24 morning. I saw him earlier this morning. I said,
25 look, what if anything you got. And he sat there

1 and said nothing. I don't have a thing. Now,
2 ladies and gentlemen, you call it as it was. I
3 don't have a thing else. Now if that's not
4 guilty, I don't want to hear it. And I don't want
5 to see it.

6 Moreover, and let me tell you how the
7 system works. I've been in this system a long
8 time. And I tell you what, the best thing going.
9 I love it. If I could have done anything else
10 with my life, if I could go and come again, I
11 would do it all over again. When I spoke to you
12 the first time, the first day of court, I said
13 look, I hope as jurors, if you don't -- nothing
14 else happens, that you will take something away
15 from this jury service. Your experiences as jury
16 service that you will be able to use for yourself
17 or maybe share it with your friends or relatives.

18 Now if you notice the police officer
19 yesterday, and I'm not talking -- am talking
20 about the investigator, the young man. The young
21 black fellow who got on this witness stand. Said
22 well I am just new on the job. Well I can
23 understand that. His credibility is to be judged
24 too, because he took this witness stand. And
25 anybody who gets on this witness stand, you are

1 entitled to judge their credibility, their
2 believability. You know a lot of times to get
3 people to admit their bias, I will ask them
4 something that I know they know the answer to, and
5 know all 12 of you know the answer to.

6 Then I asked yesterday, I said, look,
7 tell me what Officer Lail was telling Dennis
8 Wright; that we are trying to help you. We want
9 to help you. Was she really trying to help him or
10 was she trying to sink him? I never could get him
11 to admit the truth. And the simple truth of the
12 matter is, she was trying to collect evidence to
13 convict him. Even though she was constantly
14 telling him oh, we are trying to help. And my
15 lord, she had pushed him for 67 long pages. When
16 they collected them the first time, they said,
17 look we want to ask you some questions. Now what
18 am I suggesting to you? We have something called
19 Miranda. And if I recall, it was mentioned in
20 this case. Because it was determined that
21 Mr. Dennis gave a voluntary statement to the
22 police. And you heard the statement.

23 One of the things that happened before
24 that statement was taken said, "Look, you have a
25 right to have a lawyer present." But they really

1 don't want you to have a lawyer present. They
2 want to get that by you as quick as they can, so
3 they can get and put the squeeze on you. Because
4 they know if you have a lawyer present, nine times
5 out of 10, I don't allow my client to give a
6 statement to the police.

7 Well, you know, a servant can't serve two
8 masters. How are you going to serve two masters?
9 If you are trying to help me, and you work for the
10 police, help me. Turn me loose. Take these
11 handcuffs off and let me go if you are trying to
12 help me. They weren't trying to help nobody.
13 They're trying to get information out of him
14 before you can get to a lawyer. You are entitled
15 to have a lawyer present.

16 Now when you get -- in this case they went
17 and collected it. Said look, we want to talk to
18 you. They knew right then they were going to
19 carry him to jail. And that's what they did. But
20 bring him back to the house, nothing. You wind up
21 in jail. Now I am not criticizing law enforcement
22 for doing their job. In this case, I might level
23 a little criticism because of maybe not doing well
24 enough. Ladies and gentlemen, I tell you that
25 especially Officer Lail with all the experience

1 she has got, that is going to come to court and
2 have somebody charged with an offense as serious
3 as rape, then she needs to try to collect some
4 evidence to bring to court to convince a jury, and
5 to convince them beyond a reasonable doubt that
6 the person is guilty. That's her duty and her
7 responsibility.

8 And It just hadn't been done. That's why
9 they took the young man and put him up here to
10 talk about the statement. And if you notice, he
11 wasn't the one really doing the questioning. It
12 was Officer Lail doing the questioning. The
13 questioning of Dennis Wright was being done by
14 her. And even told her from the very beginning,
15 no, no, no, this didn't happen. She kept on
16 pushing. She kept on pushing.

17 And then finally she wants to say, she
18 trounced on him. That's an advocate. That's an
19 advocate. That's how we describe things that
20 took place. I don't care whether she was
21 trounced, leaped, jumped or sprung whatever. The
22 thing about it is, he claimed that she got on his
23 bed. And he rolled her off of him.

24 Now let me tell you something. I don't
25 want to speculate about. And believe it or not,

1 the prosecution doesn't have to prove motive. You
2 know, I am old enough now, and I know you all are
3 too. Because when we started selecting this
4 jury, I wanted to make sure that we got people on
5 this jury that is old enough and lived long enough
6 to understand how things go.

7 And look at the jury. We have got no
8 children on here. No children. Now if you're in
9 a situation where, and I looked at, and I've tried
10 to figure this thing. But, ladies and gentlemen,
11 I tell you that if you want to know the specifics
12 of what really happened, you would probably have
13 to be there. I am convinced of that. That's why
14 the law requires proof beyond a reasonable doubt.
15 That's why the law put the burden on the
16 prosecution to bring that proof and present it to
17 you. That's why the law says that the defendant
18 can remain silent and he doesn't have to do
19 anything. We are going to put the burden on the
20 state to come and prove, if you want to find
21 somebody guilty, let them put the burden on the
22 state to do that.

23 Now, I don't know what -- I don't know why
24 this lady would tell the story that she told. And
25 we're not responsible for explaining it, or

1 justifying it. The only thing that I am concerned
2 with is that they are responsible for explaining
3 or justifying it. The only thing that I am
4 concerned with is that the allegation was made,
5 and I defending a young man now, who is in a lot
6 of trouble. But now there is something that
7 bothers me about this case. And it really bothers
8 me. And I will tell you about it, and you think
9 about it and see whether or not the experience you
10 have got as grown people and older people, whether
11 that bothers you. Now Ms. Mouzon said look, I
12 have got nine children. Nine children.
13 Apparently, she is in the care and custody of her
14 grandson Reverend Mouzon. She called him Mike.
15 Now if you remember his testimony according to
16 him, when this allegation first surfaced, because
17 see, I believe if it wasn't for Ms. Brooks and the
18 granddaughter, I have forgotten her name; who came
19 by the house, made a run several days later and
20 called the police, I believe we wouldn't be in
21 this courtroom today. I don't believe we would.
22 Because see according to the grandson, the
23 grandmother told him that Dennis touched me. Now
24 Ms. Barr is going to come along and say, well, you
25 know, touching an elderly person, touch means

1 rape. Well I don't care what they say about that.
2 But there is no question about it, he admitted
3 that she told him that Dennis had touched her.
4 But now, ladies and gentlemen, he didn't believe
5 that anymore than the rest of them believed it.
6 He came home, he talked to the grandmother, and he
7 talked to Dennis. And you know what he said,
8 Dennis you just carry on just like how you have
9 been carrying on. Now there is a whole lot going
10 on here today in this courtroom with this elderly
11 woman. What you can believe what she says, and
12 what you can disbelieve.

13 I genuinely believe with every ounce of
14 energy in me, that if any of them thought that
15 allegation was true, Dennis would have been gone.
16 And I might have been running behind him with my
17 gun. I can't say what I might not do. I
18 certainly wouldn't be having a car wash, and say,
19 "Bring my grandmother to the car wash." I know I
20 wouldn't be doing that. And I wouldn't say,
21 continue living in the grandmother's house because
22 nobody believes it. Nobody took her serious. So
23 whatever happened, it is to the extent that even
24 the nine children wherever they are, didn't
25 believe it, because certainly he didn't believe

1 it. If they had believed it, they would have
2 called someone and said look, this man down here
3 raped my mom. Or raped by grandmother. Come get
4 him. But that didn't happen.

5 And that's even when the allegation was
6 made, if you look at the indictment. And His
7 Honor is going to tell you that the indictment is
8 not evidence. But the indictment is the charging
9 paper that I talked about that brings this whole
10 matter to court. The indictment says sometime
11 between February 19th and February 20th. Well my
12 lord, if somebody raped you, you ought to be at
13 least be able to get the date right.

14 Officer Lail testified that she told me
15 that it happened on the 19th. The officer got on
16 the witness stand yesterday and in his own
17 statement, in one statement on two different
18 dates. Now if I got a rape, I ought to at least
19 know whether or not it happened on the 19th, 20th
20 or the 21st. You aren't going to tell somebody --
21 I'm ashamed to tell somebody. Well it happened
22 between the 19th. My lord, this elderly woman, if
23 she was raped, somebody should have took her to
24 the doctor. Somebody. And there would be
25 something.

1 How in the world do you get this
2 89-year-old woman who ain't had sex since corn
3 days, and you can't find a bruise, scratch or
4 something? My lord. It doesn't work that way. I
5 don't care what Ms. Barr comes up. Ladies and
6 gentlemen, proof beyond a reasonable doubt. Proof
7 beyond a reasonable doubt.

8 She's absolutely right. Her testimony
9 does not have to be corroborated. But that
10 testimony, if it's the testimony alone, that
11 testimony alone ought to convince you beyond a
12 reasonable doubt. And if it doesn't, His Honor
13 will instruct you if you listen to the law, your
14 obligation is to find the defendant not guilty.
15 That's the law in South Carolina. That is the law
16 in South Carolina.

17 Ladies and gentlemen, I am going to take
18 my seat. And I am going to sit down. And when
19 Ms. Barr starts her closing arguments, I am going
20 to be on pins and needles. But I know that
21 whatever she has got to say, I have got to rebut.
22 But unfortunately under our system, I am not going
23 to be able to do that. I am not going to be able
24 to do that. But now I am going to ask you, and I
25 am going to implore you, it's very unfortunate

1 that this lady is 89-years-old. And it's very
2 unfortunate she is emotional. She showed some
3 emotion. I noticed when she was on the witness
4 stand, she ain't cracked a tear. And I know that
5 she done went through this thing with these police
6 officers lord knows umpteen times. They didn't
7 come in here and just walk off the street and walk
8 in here. No, it doesn't work that way. You know
9 better than that.

10 But don't be taken in by emotions, 89, 90
11 or whatever. Don't be taken in by that. Be taken
12 by the oath that you have taken to discharge your
13 duties and responsibilities as reasonable jurors
14 who have listened to the evidence in the case or
15 lack of evidence. And make a decision based on
16 the evidence and the law as His Honor gives it to
17 you. And in this case, Ladies and gentlemen, it's
18 the lack of evidence. It's the lack of evidence.

19 Remember I am not asserting that the law,
20 And I'll listening very carefully. I am not
21 asserting that the law does not provide that a
22 person can be convicted just on the testimony. I
23 am not saying that that can't happen. But in this
24 case, based on what you know about the evidence or
25 lack of evidence, is that warranted in this case?

1 I don't know why she said what she did. Quite
2 frankly, I think she wanted Michael with her
3 living in the house. That's what I believe. I
4 sure do. I sure do.

5 I know one thing for sure. If any of that
6 family thought that Dennis Wright might have been
7 from New York, got here from New York, a retired
8 veteran and brought him here to help take care,
9 not only to help take care of this mother, but
10 also to help him with his preaching ministry.
11 You've got witnesses who came up here and said:
12 "Look we've been interacting with him. We also
13 interact with, I'm talking about Ms. Rhames and
14 Ms. Hannah. See we even went to choir rehearsal
15 together. Ms. Barr is going to say well, she
16 called Ms. Edie Brooks and was whispering up.
17 My lord. According to Ms. Brooks, this gentleman
18 was in some other room somewhere else. She wasn't
19 whispering to keep him from hearing.

20 I don't know how that got up there. But I
21 know one thing, if somebody rapes me, I am not
22 going to be having them driving me around all over
23 town. And do know what Kadabra is? Lord have
24 mercy, the last thing I am going to do is having
25 them pray over me. Now according to the

1 uncontradicted testimony, she asked him at choir
2 rehearsal to come pray for us. Does that sound
3 like somebody had raped somebody? My lord. We
4 know better. It just didn't happen. And I'm
5 asking you as jurors to listen to Ms. Barr. And
6 remember what the evidence in this case or lack of
7 evidence. Then His Honor will instruct you on the
8 law.

9 Ladies and gentlemen, I am asking you to
10 find Dennis Wright not guilty. Because the burden
11 is on the prosecution. And they just have not
12 proven it. Have not proven it. Thank you.

13 MS. BARR: In my 15 years of being a
14 lawyer, I can count on one hand the number of
15 times that I've agree with the other lawyer on the
16 other side. We usually never agree, which I am on
17 one side, and Mr. Barr is on the other side. But,
18 you know, I can honestly say, I share his outrage
19 in this case. Some of the things I hear about the
20 lack of support, the family system of Ms. Azalee.
21 It's unbelievable. It really is.

22 When you raise 9 children, and you suffer
23 the loss of one and you survive the death to a
24 husband, and you got 8 kids. And you've got all
25 those grandchildren and only one. And all of

1 those children you have got only one of them in
2 the courtroom? That's something that is foreign
3 to me, because family is so important.

4 Folks, I don't care who is in the
5 courtroom. And I don't care who is not in the
6 courtroom. Because lady justice is going to speak
7 no matter who is sitting here. And if this case
8 doesn't cry out for justice, I don't what case
9 would. I just don't know what case will. You
10 know I think of all the people that should be here
11 who are not. And I think about, you know, one day
12 Ms. Azalee is gone on how many people are going to
13 be hollering and screaming and passing out at her
14 funeral. But it is what it is. Which is the
15 reason why the very same lack of support system
16 she had, is the reason why she was the perfect
17 victim. Because he wasn't worried about anybody
18 coming and protecting her. That's why she was the
19 perfect victim. He could do anything he wanted to
20 do with her. He knew that. He lived with her.
21 He knew her family members. He knew who was
22 there, and who wasn't.

23 My God folks, when she is raped, she calls
24 the person who is closest to her. She calls her
25 grandson Michael. And what happens? Nothing.

1 Nothing happens. Then after she tells Michael, I
2 think I heard Ms. Brooks say yesterday, she called
3 her granddaughter Melissa on Thursday and Friday.
4 And she didn't come until Sunday. Nothing
5 happens.

6 Well let's see, the home health care
7 worker, she comes in every day. Sits for an hour
8 with her every day. What does Ms. Azalee do? She
9 tells her, Dennis is bothering me. What happened?
10 Nothing. How many people does she have to tell
11 before somebody does something? What else would
12 you have her do? What else could she have done?

13 Every turn and every single turn, her
14 cries for help were ignored. She came back and
15 told law enforcement, she told them she was raped.
16 You know sometimes and I guess in some families
17 when you get people up in age, and maybe they move
18 a little slower than they did before. Maybe,
19 they, you know, become more of a burden. It's
20 easier just to ignore the situation. And there
21 was testimony that her family members said, that
22 you know, it's a burden to keep up with her.

23 We heard testimony that she likes to play
24 her music. She says up all night. She likes to
25 cook all the time. Have to taking her back and

1 forth to the doctor. Folks, when you are an adult
2 and you are trying to raise your own family,
3 sometimes you just don't want to be bothered with
4 old people. That's just a reality. People think
5 that way. Nobody said she was a burden.

6 Now I look at somebody that age, and I
7 think it's a blessing that God gave them a gift of
8 life. It's a blessing. It ain't a blessing for
9 somebody. Ms. Azalee said somebody told her, "I
10 am tired of running back and forth with you. I
11 have got my own life. I'm trying to work on my
12 marriage. I'm not running back and forth to this
13 house with you. I wish you would go somewhere and
14 die." That's blood. Are we really surprised when
15 she is getting that kind of information, that this
16 was unreported for so long? Brought in off the
17 street. Don't have no kind of training about
18 taking care of an elderly person. No kind of
19 medical training. No kind of degrees, nothing.
20 He's not even paid a salary.

21 Now usually if you get paid to do
22 something, you at least try to do it right,
23 because we are getting a paycheck. He didn't even
24 have a paycheck. This man is brought off the
25 street. I guess he didn't have anywhere to go.

1 He didn't have a home address. Wasn't working a
2 job anywhere. Apparently he didn't have a
3 girlfriend or a family. So he just comes because
4 it's convenient. I don't have to take care of
5 her. I've got somebody to stay with her at night.
6 Just throw her off on him.

7 Now is Mr. Barr surprised? You know, you
8 heard from Ms. Brooks. God bless her. Mr. Barr
9 is absolutely right, if it wasn't for her, we
10 probably wouldn't be here. So, you know, I am
11 sorry if I offend anybody, but I remembered the
12 grandson testified in court. But see I talked to
13 him and all before. I have read Mr. Wright's
14 statement. I talked to the grandmother and all
15 before. I knew he was a pastor. But, you know,
16 when I was asking him questions about what he did,
17 do you all remember he said? I am a business
18 owner, and I have a part-time job.

19 What do you do. Well, you know,
20 part-time, I don't work a 9 to 5. I thought a
21 pastor, that's something to be proud of. Just
22 come out and say it, but he never did. He never
23 did. And I was like okay, I'll just file that
24 away. I just thought it was odd. And then when
25 Mr. Barr started cross examining him about how he

1 knew Dennis and what he did when he found out
2 about Dennis. Then when I played the tape during
3 Officer Edward's testimony, it dawned on me.

4 Now, folks, let me tell you, everybody in
5 church is not a christian. I thought about it,
6 how is that going to look when you are pastor,
7 you're pastor, you're bringing this man in to care
8 for your grandmother, who has turned around and
9 raped her. It's the same man you've got
10 ministering in your church. How is that going to
11 look to the congregation? Maybe that's why all
12 this stuff was kind of sweep under the rug. It
13 doesn't look to good. Because your congregation
14 is going to start thinking, if you can't take care
15 of your house, you are not going to be able to
16 take care of this church.

17 So that's why all of that was kind of
18 swept away. That's why grandma has got Dennis
19 there. Dennis you just keep on doing what you are
20 doing. Now when we get the officers to come in
21 and interrogate him, Mr. Barr is glad about that
22 statement. The investigators wanted him to tell
23 his story. And whatever his story was, let me
24 hear it; let me hear it all. And, you know, let
25 me tell you the interesting thing about that

1 statement. Let me say this first. I love
2 criminal law shows. I love Law and Order. Perry
3 Mason is the reason I became a lawyer. Because
4 when I was a child, I used to see how Perry Mason
5 would have these people on the witness stand.
6 And he was such a great lawyer. He would go
7 after them and go after them. What would you
8 have at the end of the show? Open down. We got
9 them to do the big confession at the end of the
10 show.

11 And I used to look at that as a child at
12 the time. I said, I'm going to break them down,
13 get a confession. Let me tell you, real life,
14 that don't happen every day. And that rarely
15 happens in real life. And I think the worse thing
16 in the world is for a man to come out and admit to
17 another person, that I raped a child or I raped an
18 old lady. That's hard to get those words out of
19 your mouth. You're not going to have that happen
20 too often. Regardless of what you see on TV,
21 stuff like that just doesn't happen here.

22 Law enforcement knows that. They're
23 trained to know that. You know, they know that.
24 You just don't get up with stuff like that. Nobody is
25 going to come out and admit that. But see what

1 they are doing is trying to keep them talking,
2 keep them talking. Analoging details. Trying to
3 get as much details from them.

4 My boss Ronnie Sabb told me, you can get a
5 person to talk details. And if they talk, talk,
6 talk, and you may not get all the truth, but you
7 are going to get a part of it. You see, this
8 defendant over here, I can talk my way out of
9 anything. Talk a little too long and a little too
10 fast. Sometimes the lord works in mysterious
11 ways. Sometimes even in the face of all those
12 lies, the lord will slip up in there and loose
13 your tongue. And before you know it, some of that
14 truth will just start coming out.

15 Let me tell what I meant by what I said.
16 When he was taken in to custody, the only thing
17 that the Deputy Edwards told him, "Listen we got a
18 complaint about an assault from Ms. Azalee Mouzon.
19 We would like you to come down to the police
20 station. And we would like you to answer some
21 questions for us." Okay. See at this point he's
22 thinking, they want to talk to me about an
23 assault. I can talk my way out of that. I ain't
24 worried about that. So page 5 of his statement,
25 this 6 or 7 page statement. They just come out

1 and well, did you throw yourself on Ms. Mouzon.
2 Oh, no, no, no, no, no, no, no. Uh-uh, Ms. Azalee
3 ain't never touched me. The only person that I
4 let touch me is Michael. Ms. Azalee ain't never
5 touched me. That's page 5. That's right at the
6 beginning.

7 Now what if they had just stopped there?
8 What if the police had just stopped right there?
9 And the only thing he said was no, she never
10 touched me. That would be that statement ended,
11 nothing happened. But see if you just listen to
12 that, you think nothing inappropriate ever
13 happened. You all heard the tape, about 30
14 minutes in. Now by this time you already know,
15 the police already told him, this is a complaint
16 about sexual assault.

17 For the first time ever, the lights
18 started to come on, he's like, well, you know,
19 she -- I was laying on my bed asleep. I was all
20 tired, because she kept me up for two days,
21 playing her music loud. And cooking at 2 or 3
22 o'clock in the morning, and then she came and
23 jumped on me. Now, folks, nobody believes that
24 that woman came and jumped on top of him. Come on
25 now. Just like she hasn't had sex, like Mr. Barr

1 said, in coon age, that women ain't jumped on
2 nothing in 20 years. But see just like when the
3 police started to gather evidence in this case,
4 and at this point, a lot of times in terms of what
5 is taken from houses, they don't know whether
6 there is going to be evidence or not. They just
7 have to take it. That's their job. And if there
8 is evidence that can be used, fine. If it's not
9 fine. That took it, But see just like they
10 thought there might be some DNA evidence that they
11 could use, he was aware huh, he's thinking in the
12 back of his mind, when he is being interrogated,
13 there might be some DNA evidence. I have got to
14 be able to explain that how my DNA might be on
15 something.

16 Let's see, I was laying in my bed
17 sleeping. The next thing I know, she came and
18 jumped on me. See at one point, he said she
19 pounced on him. I think at another point he said
20 she lunged on him. This is an 88-year-old woman
21 who walks with a walker. See he had to explain.
22 Because see, the more they questioned him about
23 some details, the more he volunteered. When they
24 started asking, did you have the oral sex with
25 her. And he started thinking well, well all I

1 know is, I woke up, I thought I heard him say
2 first he woke up and she pounced on him. And then
3 at some other part of the statement he said, all I
4 know is I woke up, and her head was down there on
5 my stomach. Again, I can't say I did it. I can't
6 come that far and say it. But, you know, if
7 something happened, if oral sex did happen, it
8 might have happened that way, but it was because I
9 was unwilling. She came and she forced herself on
10 me. That's a bunch of garbage. That's an
11 absolute bunch of garbage. But what he was doing
12 at this point, it doesn't take a rocket scientist
13 to figure out what's going on.

14 He was down at the police station. He
15 knew what he had done. He imagined I would submit
16 to you, at some point we would be getting in this
17 courtroom. Not really knowing whether or not any
18 DNA was on there. Just in case, he didn't wash
19 it out that Sunday afternoon right before the
20 police got there, he had to offer you an
21 explanation. That's the best he could do.

22 You know, when I talk about oftentimes you
23 get little gifts in a case like this. How
24 sometimes the lord will use someone. Folks, I
25 listened to that statement over and over again.

1 And I counted 1, 2, 3, 4, 5, 6, 7, 8, 9 times he
2 said I rolled off her. Nine times. Now how in
3 the world are you going to roll off of somebody
4 you ain't on top of?

5 So when Mr. Barr gets up here and talks
6 about, all you have got is her word, and that
7 ain't enough you got his word. You don't just
8 have to believe her. Believe some of what he
9 tells you. If that is not proof positive, that he
10 assaulted this woman, I don't know what is. Those
11 are his words. Now he wants you to kind of
12 believe Ms. Rhames and Ms. Hannah, say that Ms.
13 Mouzon hadn't told them anything about being raped
14 or anything. Those are his friends. Those are
15 people he's in the house with.

16 The old woman got up here and said, "I
17 love him like a son." You don't think Ms. Azalee
18 can hear that? I mean, what is he going to go
19 tell his best friend and woman who loves him like
20 a son, "Yes, Dennis raped me." She told the
21 people she loved and trusted and cared about. And
22 those people got up here and told you. She is an
23 elderly lady. You know, how embarrassing it has
24 got to be for her to get up here. And older lady
25 now with only one man her whole life, to get up

1 here in this open courtroom, with all these
2 people, and say that if it were not true.

3 Now Mr. Barr asked the question, and it's
4 a very good question. Why would she say that?
5 Let me tell you why she would say that. I'll tell
6 you exactly why she said that, because it
7 happened. At her age, 90-years-old, because this
8 is the down side of her life. She is preparing
9 herself one day to meet her maker. You mean to
10 tell me the same God that's she's hoping to see in
11 heaven, she's going to put her hand on the bible
12 and swear to him and lie about that?

13 I'm kind of at a loss for this shotgun
14 approach by the defense. You know, they told you
15 one point to have you believe, well Ms. Azalee
16 wanted him gone. Then she wanted him to stay.
17 Then she wanted -- she don't want Michael there,
18 she kicked him out. Now she wants him to come
19 back. Which is it?

20 And I have to tell you now, usually in
21 rape cases, I hear two defenses. One, it didn't
22 happen. Or two, it happened but it was
23 consensual. But this is a new one for me. The
24 victim attacked me. This is a new one. But
25 folks, when asking yourself, you know, about all

1 this, sled reports and so forth, sled reports said.
2 there was no semen found. Nobody ever testified
3 he ejaculated. And yes, she testified that when
4 he went up her rectum her bowels moved. Folks,
5 now this happened on a Thursday night. Do you
6 think people are just going to keep stuff like
7 that laying around the house until Sunday? Of
8 course things were washed. Of course.

9 MR. BARR: Objection, Your Honor. There
10 is no evidence---

11 THE COURT: We heard your argument, Mr.
12 Barr. No argument. The objection is overruled.

13 MS. BARR: Let's use our common sense. If
14 he didn't penetrate her in her rectum, why would
15 she have had to go and say her bowel movement, and
16 had to go to the bathroom and wash herself up?
17 We all know what happened. At the end of the day,
18 folks, sometimes all we are left with is our
19 privacy, our self respect, and our dignity. And
20 for him to take that away from her, this tender
21 age in her life, that's simply inexcusable. She
22 was strong enough and brave enough to get up here
23 and stand up for herself. Tried to get her
24 dignity back. You all stand up and tell him no,
25 what you did was wrong. And you will be held

1 accountable for it. You find him guilty of both
2 charges. Thank you so much.

3 THE COURT: Mr. Foreman and Members of the
4 Jury, you have heard the testimony and the
5 evidence and arguments of the state and the
6 defendant. I will now explain to you the law that
7 applies to this case. Under the constitution and
8 laws of South Carolina, you are the finders of the
9 facts in this case. I do not have the right to
10 pass upon them or to even express any opinion I
11 may have as to them, because this is a matter
12 solely for you the jury to determine.

13 And as jurors then, it is your duty to
14 determine the value, the weight and the truth of
15 the evidence presented during this trial. You are
16 also the judges of the credibility; that is, the
17 believability of the witnesses who have testified
18 in this case. And in passing upon their
19 credibility, you may take into consideration, many
20 things; such as, the demeanor or the manner of
21 testifying. Whether the witness had reason to be
22 biased or prejudiced. Whether a witness' testimony
23 was contradicted on the one hand or supported or
24 corroborated on the other hand.

25 You may believe a small portion of a

1 witness' testimony and disregard the larger or
2 vice versa. And you may believe one witness
3 against many or many against one. All of these
4 things you will consider, bearing in mind that you
5 should give the defendant the benefit of any
6 reasonable doubt. It becomes your duty as jurors
7 to analyze, and to evaluate the evidence and to
8 determine that evidence which convinces you of its
9 truth.

10 Now as the trial judge, it is my
11 responsibility to preside over the trial of this
12 case. And also to rule upon or pass upon the
13 admissibility of the evidence offered during this
14 trial. You are only to consider the testimony
15 which had been presented from this witness stand,
16 together with any exhibits which have been made a
17 part of the record in this case, and any
18 stipulation of counsel made into the record.

19 In this case the parties stipulated that
20 the defendant gave voluntary statements to law
21 enforcement. I have the additional duty to charge
22 you the law applicable to this case. And as the
23 presiding judge, I am the sole judge of the law of
24 this case. And it is your duty as jurors to
25 accept and apply the law exactly as I state it to

1 you. And then reach your verdict.

2 And finally I charge you in this regard,
3 that you should not be concerned with what you
4 think the law ought to be, but what I charge you
5 the law is. The fact that the defendant was
6 arrested, charged and indicted in this case, is
7 not evidence in this case. And cannot be
8 considered by you as evidence of guilt in this
9 case. Not does it create any presumption or
10 inference of guilt. This indictment is simply a
11 formal written instrument, which contains the
12 charges made against the defendant. The
13 indictment is a formal document by which this case
14 is brought in to this court.

15 The defendant has pled not guilty to this
16 Indictment. And that plea puts the burden on the
17 state to prove the defendant guilty. A person
18 charged with committing a criminal offense in
19 South Carolina is never required to prove himself
20 innocent. I charge you that it is an important
21 rule of the law that the defendant in a criminal
22 trial no matter what the seriousness of the charge
23 may be, will always be presumed to be innocent of
24 the crime of which the indictment was issued
25 unless guilt has been proven by evidence

1 satisfying you of that guilt beyond a reasonable
2 doubt.

3 This presumption of innocence does not end
4 when you begin your deliberations. But it
5 accompanies the defendant throughout the trial
6 until you reach a verdict of guilt based on
7 evidence satisfying you of that guilt beyond a
8 reasonable doubt. The presumption of innocence is
9 like a robe of righteousness placed about the
10 shoulders of the defendant and which remains with
11 the defendant until it has been stripped from the
12 defendant by evidence satisfying you of the
13 defendant's guilt beyond a reasonable doubt.

14 The presumption of innocence is not a mere
15 legal theory. It is not just a legal phrase. It
16 is a substantial right from which every defendant
17 is entitled unless you the jury are satisfied from
18 the evidence of the defendant's guilt beyond a
19 reasonable doubt. The State must prove the
20 defendant guilty beyond a reasonable doubt. So
21 what is a reasonable doubt in the law? A
22 reasonable doubt is a doubt which makes an honest,
23 sincere, conscientious juror in search of the
24 truth to hesitate to act. Proof beyond a
25 reasonable doubt must therefore be prove of such a

1 convincing character that a reasonable person
2 would not hesitate to rely and act upon it in the
3 most important of his or her own affairs.

4 Proof beyond a reasonable doubt can also
5 be described as proof that leaves you firmly
6 convinced of the defendant's guilt. There are
7 very few things in this world that we know with
8 absolute certainty. In criminal cases the law
9 does not require proof that overcomes every
10 possible doubt. If based on your consideration of
11 the evidence you are firmly convinced that the
12 defendant is guilty, then you must find him
13 guilty. On the other hand if you think there is a
14 real possibility that he is not guilty, you must
15 then give him the benefit of the doubt, and find
16 him not guilty.

17 In order to establish criminal liability,
18 criminal intent is required. For example, the
19 mental state required to prove -- required to be
20 proven by the state for the particular crime of
21 the purpose, intent, knowledge, recklessness or
22 criminal negligence. Criminal intent must be
23 proven by the state beyond a reasonable doubt.
24 Criminal intent is always a matter that must be
25 determined by the jury from the circumstances

1 surrounding the situation. There is no way to
2 prove intent to a mathematical certainty. There
3 is no way medical science can dissect a person's
4 brain and determine what the person had in mind.
5 But the law says that criminal intent may be
6 inferred from the circumstances shown to have
7 existed. This is how you make a determination of
8 whether or not the element requiring intent is
9 present.

10 It is not necessary to establish intent by
11 direct and positive evidence. But intent may be
12 established by an inference in the same way as any
13 other fact, taking into consideration the acts of
14 the parties, and all the facts and circumstances
15 of the case. Criminal intent is a mental state.
16 A conscious wrongdoing. It is up to you to
17 determine what the defendant intended to do based
18 on the circumstances shown to have existed.

19 Criminal intent can arise from the action
20 or a failure to act. It may arise from
21 negligence, recklessness or an indifference to
22 duty. Or to consequences that is considered by
23 the law to be an equivalent to criminal intent.

24 Now I instruct you and I emphasize that
25 the fact that the defendant did not testify is not

1 a factor to be considered by you in any way in
2 your deliberations, and in your consideration on
3 the question of the guilt or the innocence of the
4 defendant. It must not be considered by you in
5 any manner whatsoever. A defendant has the
6 constitutional right to remain silent. And the
7 assertion of this right must not be considered by
8 you in your deliberations.

9 So I repeat, under your oath you are to
10 draw no conclusion whatsoever from the fact that
11 the defendant in this case did not testify. The
12 fact that this defendant did not testify should
13 not even be discussed in the jury room. The
14 burden of proof as I have stated to you, is on the
15 state. The defendant is not required to prove
16 himself -- to prove his innocence. The burden of
17 proof remains on the state to prove guilt beyond a
18 reasonable doubt.

19 The defendant is charged with criminal
20 sexual conduct in the first degree. The first
21 element in which the state must prove beyond a
22 reasonable doubt is that the defendant engaged in
23 a sexual battery with the victim. A sexual
24 battery is sexual intercourse, anal intercourse,
25 or any intrusion however slight of any part of a

1 person's body, or any object into the genital or
2 anal opening of another person's body, except
3 when the intrusion is accomplished for medically
4 recognized treatment for diagnostic purposes. If
5 you find that the state has not shown beyond a
6 reasonable doubt that a sexual battery occurred,
7 you would stop deliberating and your verdict would
8 have to be not guilty. If you find that a sexual
9 battery did occur, you must decide whether the
10 state has proven beyond a reasonable doubt that
11 the defendant used aggravated force to accomplish
12 the sexual battery.

13 Aggravated force means the use of physical
14 force or physical violence of a high and
15 aggravated to overcome the victim. The state must
16 also prove a circumstance of aggravation. The
17 circumstances of aggravation include the
18 infliction of serious bodily injury. A great
19 disparity between the ages and the physical
20 conditions of the parties, a difference in the
21 genders of the parties. And the taking of
22 indecent liberties or familiarities with a female
23 through the use of force.

24 Under the laws of the State of South
25 Carolina, the testimony of an alleged victim of an

1 of an act of criminal sexual conduct need not be
2 corroborated. The defendant is charged with abuse
3 of a vulnerable adult. A person is guilty of this
4 crime when he knowingly and willfully abuses a
5 vulnerable adult. Knowingly means to act with
6 knowledge or to act conscientiously. Willfully
7 means that an act was not done by accident, but
8 was done knowingly or intentionally. Abuse means
9 physical abuse. Physical abuse means
10 intentionally inflicting or allowing to be
11 inflicted, physical injury on a vulnerable adult
12 by an act or a failure to act. Physical abuse
13 includes but is not limited to hitting in an
14 actual or attempted sexual battery.

15 A vulnerable adult means a person 18 years
16 of age or older, who has a physical or mental
17 condition which substantially impairs a person
18 from adequately providing for his or her own care
19 or protection. This includes a person who is
20 impaired in their ability to adequately provide
21 for the person's own care or protection because of
22 the infirmities of aging, included but not limited
23 to organic brain damage, advanced age and physical
24 or mental or emotional disfunction.

25 The state must prove beyond a reasonable

1 doubt that the defendant knowingly and willfully
2 abused the alleged victim in this case, and that
3 the alleged victim was a vulnerable adult at the
4 time of the alleged abuse. If you find that the
5 state has not met this burden, you must find the
6 defendant not guilty of the charge of the abuse of
7 a vulnerable adult.

8 The indictment in this case alleges two
9 different offenses against the defendant. One
10 being first degree criminal sexual conduct, and
11 the second being the abuse of a vulnerable adult.
12 Each charge alleges a separate and distinct
13 offense. You must decide each charge separately
14 on the evidence and the law applicable to it,
15 uninfluenced by your decision as to any other
16 charge. The defendant may be convicted or
17 acquitted on any or both of the offenses charged.

18 And you will be asked to write a separate
19 verdict of guilty or not guilty for each charge.
20 And, Mr. Foreman and members of the jury, you
21 have been selected by the state and the defendant
22 to be fair and impartial jurors. It is your duty
23 then under your joint deliberations to determine
24 the truth in this case, giving the defendant the
25 benefit of every reasonable doubt on each and

1 every issue. And from the facts which you
2 determine to be true, you take and apply the law
3 which I have just given to you and thus arrive at
4 a verdict which speaks the truth of this case.
5 I've told you the standard you have to apply to
6 the charges of first degree criminal sexual
7 conduct and abuse of a vulnerable adult.

8 I will give you a copy of these
9 instructions in written form. And during your
10 deliberations, you may refer to the instructions
11 to guide your decision making. You must consider
12 the instructions as a whole and not follow some
13 and ignore others. Please return the instructions
14 to the court at the time the verdict is rendered.
15 You have heard the evidence and now you have heard
16 the law. Whatever your verdict as to each charge,
17 Mr. Foreman, you will indicate by checking guilty
18 or not guilty on the verdict form.

19 There is no significance in the order in
20 which to state these possible verdicts. Simply
21 one must be stated first. You then sign and date
22 the verdict form. Remember that although the
23 foreperson is the only juror who signs this
24 verdict, it is not his alone. The verdict has to
25 be a unanimous verdict as to each charge.

1 Mr. Foreman, you are not authorized to write or
2 sign the verdict until -- the verdict form until
3 all of you have agreed as to what the verdict
4 should be.

5 Ladies and gentlemen, I am going to ask --
6 I am going to send you your jury room. Everyone
7 except the alternate juror, Mr. Hammett. But do
8 not begin to discuss the case until you have
9 received a copy of this jury charge, the verdict
10 form and the exhibits. Once you have received
11 these things, that will be your signal to begin
12 your deliberations. Once you begin your
13 deliberations, you will deliberate until you have
14 reached a verdict. At which time you will knock
15 on the door, and advise the bailiff to bring you
16 out to receive your verdict.

17 Ms. Williams, the clerk, has ordered lunch
18 for you. And in any event you deliberate through
19 the lunch hour, you will stay together in the jury
20 room and deliberate until you reach a verdict.
21 And lunch will be brought to you. Now out of the
22 jurors other than Mr. Hammett, if any of you are
23 incapable of continuing with deliberations for any
24 reason, please let me know at this time if you
25 cannot continue. Sick, otherwise, if you can't

1 continue. Mr. Hammett, All the first 12 jurors
2 are in good shape. If you will proceed with
3 deliberations. They will go to the jury room.
4 You stay right there.

5 Ladies and gentlemen, you may go to the
6 jury room now and wait for the verdict form and
7 instructions and exhibits as your signal to begin
8 your deliberations. Mr. Foreman, you may
9 proceed.

10 (Whereupon, the following takes place
11 outside the presence of the jury.)

12 THE COURT: Any additions or exceptions to
13 the charge?

14 MR. BARR: No, sir.

15 THE COURT: If nothing else, you may check
16 the exhibits and they can have at it.

17 (Whereupon at 11:55 a.m. jury commences
18 deliberations.)

19 (Whereupon, the alternate is excused.)

20 THE COURT: The jury has reached a
21 verdict. I want to caution everyone that there
22 are to be no outbursts one way or the other.
23 Bring the jury.

24 (Whereupon, at 12:35 jury reaches a
25 verdict.)

1 THE CLERK: Mr. Foreman, have you reached
2 a verdict?

3 MR. FOREMAN: Yes, we have.

4 THE CLERK: Is it unanimous?

5 THE FOREMAN: Yes.

6 THE COURT: Madam clerk, you may publish
7 the verdict. The defendant will stand.

8 THE CLERK: The State versus Dennis Lee
9 Wright. We the jury by unanimous consent, find
10 the defendant Dennis Lee Wright as to the charge
11 of first degree criminal sexual conduct, guilty.
12 As to the charge of abuse of a vulnerable adult,
13 guilty. If these are your verdicts, so say you
14 all. Please let it be known by raising your right
15 hands.

16 (Whereupon, all jurors affirm.)

17 THE CLERK: Thank you.

18 THE COURT: Any additional polling
19 requested, Mr. Barr?

20 MR. BARR: No, sir.

21 THE COURT: Any post-trial motions?

22 MR. BARR: Yes, sir.

23 THE COURT: We will hear them now.

24 MR. BARR: Your Honor, please, the
25 defendant would respectfully move for a judgment

1 in arrest of a verdict. Based on the ground that
2 the verdict is against the weight of the evidence.
3 And we would move for judgment in arrest of a
4 verdict, or in the alternative for a new trial.

5 THE COURT: Ms. Barr.

6 MS. BARR: Your Honor, clearly the jury
7 has considered all of the evidence. They came in
8 and they followed the case. We would submit that
9 the evidence is sufficient for which this jury
10 could conclude the defendant was in fact guilty as
11 charged. We would respectfully request that that
12 motion be denied.

13 THE COURT: It was a matter for jury to
14 determine. The victim testified that she was
15 sexual assaulted by the defendant. Clearly she
16 was a vulnerable adult. Clearly based on the
17 verdict, the jury found that the victim's
18 testimony to be, and the other evidence to prove
19 guilt beyond a reasonable doubt. And I support
20 the jury's verdict. I deny the motion.

21 Mr. Wright, if you will come forward for
22 sentencing. Ladies and gentlemen, it then
23 becomes my duty to impose a sentence. You have
24 no role in the sentencing process. But that is
25 what we are going to do now. Ms. Barr.

1 MS. BARR: Your Honor, may I speak to
2 Ms. Mouzon?

3 THE COURT: Yes, ma'am, Ms. Mouzon.

4 MS. MOUZON: Judge, I want the folks to
5 know what he done. I am a christian. And I don't
6 run out in the streets since my husband died. And
7 he did that. He done terrible things to me. I
8 just don't want to bring it out the things he did.
9 But I appreciate you. He done them things. I
10 wouldn't lie. I'm child of God. I try to treat
11 everybody right. I love people. And he did that
12 to me. And I wouldn't lie on him. And I think he
13 need to pay for it. I thank you. Everybody.

14 MS. BARR: Thank you very much.

15 THE COURT: Thank you very much. You are
16 a strong woman. You can -- she can sit right
17 there.

18 MS. BARR: Judge, I don't know whether or
19 not any of the victim's family want to say
20 anything to the court. To the extent they wanted
21 to, obviously it might be time to do that. Extend
22 the opportunity to them.

23 THE COURT: Anyone from the victims's
24 family want to say anything? I will be happy to
25 hear from you. Come right up. State your name.

1 MR. MOUZON: James Mouzon. I am the older
2 son. I live in Forsake, New Jersey.

3 THE COURT: Forsake, New Jersey. Yes,
4 sir.

5 MR. MOUZON: My wife recently died. After
6 she passed, I decided to come down here and live
7 with her and try to take care of her. I wasn't
8 here at the time this happened. I appreciate it,
9 and I thank the jury for reaching that verdict.
10 You did the right thing. I thank you, Your Honor.
11 And I thank all the rest of you for being so nice
12 to my mother. I love my mother. She is honest.

13 THE COURT: Thank you, sir. Ms Barr.

14 MS. BARR: Judge, of course, knows and
15 you have presided over several sexual assault
16 cases that I have prosecuted. And they are always
17 difficult. Judge, I have got to say this is the
18 most difficult case that I have ever prosecuted.
19 Ms. Azalee has been included in my spirit for the
20 last couple of days. It has been tough. But,
21 Judge, let me tell you, I met with her for the
22 first time in April of last year. A month or two
23 after this happened. And everything that the
24 woman testified to on the stand, was the exact
25 same thing she told me there.

1 And there has never been a doubt in my
2 mind that she was telling the truth. She was
3 honest about what happened to her. And, Judge, we
4 certainly trust that the court will impose a
5 sentence that is appropriate given everything that
6 the Court has heard. The only other thing that I
7 would add is, it looks like the defendant had a
8 criminal record for a weapon's offense back in
9 1998. This looks like some sort of federal
10 charge. He was convicted. Assuming he was
11 arrested in 98, or excuse me, was convicted in
12 2003. And, judge, I think he has a driving under
13 suspension. That's the extent of his record.

14 THE COURT: Mr. Barr.

15 MR. BARR: This defendant is 48-years-old.
16 He is an honorably discharged veteran of the
17 United States Military. I am not aware he has any
18 criminal record or perhaps driving offenses. I am
19 not aware of any in that regard. I have consulted
20 with him. He tells me he testified to his
21 criminal record.

22 THE COURT: Do you have a disposition on
23 any those things, Ms. Barr?

24 1998, United States, USM weapon offense.
25 Agency is SCUSM Columbia.

1 MS. BARR: Is that the Marine Corps there?

2 THE COURT: I guess U.S. Marines.

3 Disposition says convicted. Sentence jail time 44
4 days. Time served. FBI, Clarksburg, West
5 Virginia. Is that your situation?

6 THE DEFENDANT: No, sir. I am a school
7 teacher. Here is my FBI report, background report
8 right here.

9 THE COURT: And the subject name, Dennis
10 Wright. The Social Security number is

11 . Which is the Social Security number
12 that's on the indictment papers. And South
13 Carolina ID number . Date of birth.

14 . Is that your date of birth?

15 THE DEFENDANT: Yes, it is, sir.

16 THE COURT: Well---

17 THE DEFENDANT: If I had a record, sir, I
18 wouldn't be able to teach. And that's what I did.

19 THE COURT: Well you have a driving under
20 suspension in Myrtle Beach.

21 THE DEFENDANT: Yes, sir. They claim that
22 I didn't pay property taxes. I have a letter
23 that's in my car in my trunk. Or I mean in the
24 glove compartment, that will explain that. They
25 restored my license for property taxes.

1 THE COURT: We are not going to worry much
2 about these two things anyway.

3 MS. BARR: Yes, sir.

4 THE COURT: It's a matter of information.
5 Anything else from the state?

6 MS. BARR: No, sir.

7 MR. BARR: I have nothing.

8 THE COURT: Mr. Wright.

9 THE DEFENDANT: Well, sir, I didn't do
10 anything wrong. I did nothing wrong. And the
11 family knows it's a history of things that are
12 said that are not true. It will all come in time.
13 I did nothing wrong.

14 THE COURT: You are not going to be able
15 to convince me that you are not guilty. The case
16 was a case for the jury to decide. Twelve folks
17 who have listened. Have been here since Monday.
18 Today is Thursday. They listened to all of the
19 evidence. The jury has spoken. The jury has
20 decided guilt. We are here for sentencing. And
21 of course the offenses that you have been
22 convicted of are very serious offenses. Criminal
23 sexual conduct in the first degree under our law
24 is a most serious offense. It's a offense which
25 carries a felony punishable by imprisonment of not

1 more than 30 years according to the discretion of
2 the court. And abuse of a vulnerable adult is
3 punishable by up to 5 years in prison. And you
4 have the opportunity to say or tell me anything
5 you want to.

6 THE DEFENDANT: Yes, sir.

7 THE COURT: I will hear. What do you say?

8 THE DEFENDANT: Like I said, sir, I didn't
9 do anything. I just wanted to leave. As I said,
10 all I did what was asked by the grandson. If I
11 had done something wrong, the grandson right there
12 would say something. I talked with her children.
13 And they said, "We believe mama is dreaming." I
14 was the one that said I was going to call the
15 police when the whole thing came about, but the
16 family said, "Don't, because we believe mamma is
17 dreaming.

18 I went on with that until Sunday night, I
19 was arrested. Had I done something wrong, I would
20 have been right next door. Had I done something
21 wrong, I wouldn't still be taking her back and
22 forth to doctors and stuff. I didn't do anything
23 wrong. Had I done something wrong, I would have
24 never got out on bond.

25 THE COURT: Anything further?

1 THE DEFENDANT: No.

2 THE COURT: Mr. Wright, you have been
3 convicted by the jury. All 12 have unanimously
4 agreed that you are guilty of both of these
5 offenses. The jury verdict stands. You have now
6 been convicted of a most serious offense. For
7 criminal sexual conduct, the sentence is that you
8 be committed to the State Department of
9 Corrections for period of 20 years. For abuse of
10 a vulnerable doubt, the sentence is that you be
11 committed to the State Department of Corrections
12 for a period of 5 years.

13 MR. BARR: Concurrent sentences?

14 THE COURT: The sentences are concurrent.

15 -----End of Requested Transcript of Record-----

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C-E-R-T-I-F-I-C-A-T-E

I, Margaret T. Sullivan, Court Reporter, for the Third Judicial Circuit of the State of South Carolina, do hereby Certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the Court of General Sessions on October 11th-15th 2010, in Williamsburg County, Kingstree, South Carolina.

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

4-17-11
DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 10-03-11

FORM 5 **12 CP45 40 3**

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

County of WilliamsburgDennis Lee Wright 343201

Full name and prison number (if any) of Applicant

v.

State of South Carolina

APPLICATION FOR
POST-CONVICTION RELIEF12 JUL 31 PM 3:23
CLERK OF COURT
WILLIAMSBURG
COUNTY, S.C.

FILED

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention Lee Correctional institution 990
WISACKY Hwy Richland 252 Bishopville, SC 29010
2. Name and location of Court which imposed sentence Williamsburg
County Court General Sessions Court
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
(a) 2009-GS-45-199
(b)

A CERTIFIED TRUE COPY

Carolyn F. Williams
CAROLYN F. WILLIAMS
CLERK OF COURT
WILLIAMSBURG COUNTY

WILLIAMSBURG
COUNTY SC
CLERK OF COURT

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) Oct 14, 2010
- (b) 20 years
- (c) 5 yrs Concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty N/A
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere N/A
7. Did you appeal from the judgment of conviction or the imposition of sentence?
yes
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Appealed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Filed July 11, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. NO. 2012-UP-408
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) Prosecutorial Misconduct
- (b) Ineffective Assistance of Counsel
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE page (3A)
- (b) SEE page (3A)
- (c) _____
12. Prior to this application have you filed with respect to this convictions:
- (a) any petition in a State Court under South Carolina Law? N/A
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
- (d) any other petitions, motions or applications in this or any other Court? NO
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. N/A
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. _____
- ii. _____
- iii. _____
- iv. _____

(c) the disposition thereof:

i.

ii.

iii.

iv.

(d) the date of each such disposition:

i.

ii.

iii.

iv.

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i.

ii.

iii.

iv.

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i.

N/A

ii.

iii.

(b) the proceedings in which each ground was raised:

i.

ii.

iii.

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:

(a) Not available for direct Appeal
 (b) _____
 (c) _____

17. Were you represented by an attorney at any time during the course of:

(a) your arraignment and plea? YES
 (b) your trial, if any? YES
 (c) your sentencing? YES
 (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
 (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
NO

18. If you answered "yes" to one or more parts of (17), list:

(a) the name and address of each attorney who represented you:

i. Charles David Barr
319 W. Main St Kingstree S.C. 29556
 ii. Elizabeth A. Franklin Best
Division of Appellate Defense Columbia, S.C. 292
 iii. Breen Steven
Division of Appellate Defense Columbia, S.C. 292

(b) the proceedings at which each such attorney represented you:

i. 17 A, B, C above
 ii. 17 D above
 iii. 17 D above

19. State clearly the relief you seek in filing this application:

Vacated and remanded for a
New Trial

20. Are you now under sentence from any other court that you have not challenged?

NO

STATE OF SOUTH CAROLINA

County of Williamsburg

VERIFICATION

I, Dennis Wright 343201

, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

[Signature]

SWORN to and subscribed before me this 27
day of July 2012.

[Signature] (L.S.)
Notary Public

My Commission Expires: 11-4-2015

Prosecutorial Misconduct

Solicitor Vouched for Witness stating:
 ("At her Age 90 years old, because this is the claim side of the
 She is preparing herself one day to
 meet her maker you mean to tell
 me the same God that she is
 going to see in Heaven, She is going
 to put her hand on the Bible and
 swear to him and lie about that")

This is improper Vouching for a
 witness in a Case where there is
 Absolutely No physical Evidence that
 a Crime ever happened or took place
 SEE: pg 363 Line 7-12

This is improper Vouching as it brings
 religion into trial as proven the truth
 to the facts

11b

Charles Barr

Ineffective Assistance of Counsel

When Solicitor Vouched for Witness

SEE: pg 363 Line 7-12

Counsel failed to object to improper Vouching as to bring in religion to prove a fact there by failing to preserve for Appellate court review

This is a violation of defendants 6th and 14th admendment rights

(11c) failed to call expert witness

"Neg DNA" based on witness testimony
DNA testing would have shown Nothing happened

DNA Expert needed to explain to Jury
this also being a violation of defendants
6th and 14th Admendment rights

3A

STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Dennis Lee Wright, #343201,

Case No. 2012-CP-45-403

Applicant,

v.

RETURN

(Appointment of Counsel Requested)

State of South Carolina,

Respondent.

The Respondent, making its Return to the application for post-conviction relief, filed July 31, 2012, would respectfully show this Court:

I.

The Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted at the July 2009 term of the Williamsburg County Grand Jury for Criminal Sexual Conduct – 1st Degree and Abuse of Vulnerable Adult (2009-GS-45-199). Charles David Barr, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Clifton Newman. On October 14, 2010, Applicant was found guilty of Criminal Sexual Conduct – 1st Degree and Abuse of Vulnerable Adult. Judge Cothran sentenced Applicant to twenty years imprisonment for Criminal Sexual Conduct and five years for Abuse of Vulnerable Adult; with the sentences to be served concurrently.

A timely notice of appeal was filed. The South Carolina Court of Appeals affirmed the lower court's conviction. State v. Dennis Wright, Op. No. 2012-UP-408 (S.C. Ct. App. filed July 11, 2012). The Remittitur was sent on July 27, 2012.

Attached herewith and incorporated herein are the records of the Williamsburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, Applicant's appellate records, and the trial transcript. The Respondent reserves the right to amend this Return upon receipt of any relevant materials.

II.

In his current Application, the Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Prosecutorial Misconduct; and
 - a. "Solicitor vouched for witness stating: "At her age 90 years-old, this is the down side of her life. She is preparing herself one day to meet her maker. You mean to tell me the same God that she is going to see in Heaven, she is going to put her and on the Bible and swear to him and lie about that."
2. Ineffective assistance of counsel.
 - a. "Counsel failed to object to improper vouching as to bring in religion to prove a fact there by failing to preserve for Appellate Court review. This is a violation of defendants 6th and 14th admendment (sic) rights."
 - b. "Failed to call expert witness. Neg DNA based on witness testimony DNA testing would have shown nothing happened. DNA expert needed to explain to Jury this also being a violation of defendants 6th and 14th admendments (sic) rights."

Any claims not specifically enumerated in the post-conviction application or amendments will be opposed by the State at an evidentiary hearing, and the State will seek summary dismissal of vague or general claims at an evidentiary hearing. S.C. Code §17-27-50. All amendments should be made well in advance of an evidentiary hearing by counsel of record. Rule 11, SCRCRCP.

III.

In a post-conviction relief action, the Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where the application alleges ineffective assistance of counsel as a ground for relief, the Applicant must

prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, 104 S.Ct. 2052, 2064, 80 L.Ed.2d 674, 692 (1984); Butler, 334 S.E.2d 813.

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Strickland, 466 U.S. 668. The Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

The reviewing court applies a two-pronged test in evaluating allegations of ineffective assistance of plea counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, the court measures an attorney's performance by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 386 S.E.2d at 625, citing Strickland. Second, counsel's deficient performance must have prejudiced the Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

The Respondent submits that the Applicant cannot satisfy either requirement of the Strickland test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that the record does not conclusively refute. Accordingly, the Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 305 S.E.2d 247 (1983).

IV.

The Respondent submits that Applicant's claim of "Prosecutorial Misconduct" should be summarily dismissed for failure to state a claim cognizable under the Post-Conviction Procedure

Act, S.C. Code Ann. § 17-27-10 to -160 (2003). An Applicant may commence a post-conviction relief action on the following grounds:

1. That the conviction or the sentence was in violation of the Constitution of the United States or the Constitution or laws of this State;
2. That the court was without jurisdiction to impose sentence;
3. That the sentence exceeds the maximum authorized by law;
4. That there exists evidence of material facts, not previously presented and heard, that requires vacation of the conviction or sentence in the interest of justice;
5. That his sentence has expired, his probation, parole or conditional release [was] unlawfully revoked, or he is otherwise unlawfully held in custody or other restraint; or
6. That the conviction or sentence is otherwise subject to collateral attack upon any ground of alleged error heretofore available under any common law, statutory or other writ, motion, petition, proceeding or remedy.... S.C. Code Ann. § 17-27-20 (1976).

Even if the facts alleged by the Applicant are true, these facts do not support a cognizable claim for post-conviction relief under any of the statutory grounds. The allegations presented by Applicant raises direct appeal issues that are procedurally barred by S.C. Code Ann. § 17-27-20(b) (1985). Post-conviction relief is not a substitute for a direct appeal. Simmons v. State, 264 S.C. 417, 215 S.E.2d 883 (1974). A post-conviction relief application cannot assert any issues that could have been raised at trial or on direct appeal. Ashley v. State, 260 S.C. 436, 196 S.E.2d 501 (1973). The Applicant could have raised this issue at trial or on appeal. His failure to do so has waived these allegations as grounds for relief. Therefore, the Court should summarily dismiss this allegation.

V.

Each and every allegation contained within the application not hereinbefore either expressly admitted, qualified or explained is hereby denied.

V.

WHEREFORE, having made its Return, the State requests that an evidentiary hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. McINTOSH
Chief Deputy Attorney General

SALLEY W. ELLIOTT
Senior Assistant Deputy Attorney General

MEGAN E. HARRIGAN
Assistant Attorney General

By: Megan E. Harrigan
ATTORNEYS FOR RESPONDENT
Office of the Attorney General
Post Office Box 11549
Columbia, South Carolina 29211
Telephone: (803) 734-3737

January 15, 2013.

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF WILLIAMSBURG	)	
	)	
	)	2012-CP-45-0403
	)	
DENNIS LEE WRIGHT, 343201,	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** in the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

**Dennis Lee Wright, #343201
Lee Correctional Institution
990 Wisacky Highway
Bishopville, SC 29010**

DATED this 15th day of January, 2013.

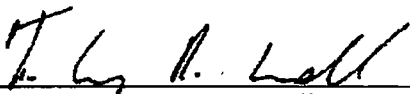

Lauren Meara, Legal Assistant
For Respondent

STATE OF SOUTH CAROLINA	)	
	)	
COUNTY OF WILLIAMSBURG	)	IN THE COURT OF COMMON PLEAS
	)	THIRD JUDICIAL CIRCUIT
Dennis Lee Wright	)	
Applicant,	)	CASE NO. 2012-CP-45-00403
v.	)	
	)	AMMENDMENT TO APPLICATION
State of South Carolina,	)	FOR POST CONVICTION RELIEF
Respondent.	)	

The Applicant, by and through his Attorney, F. Casey D. Cornwell, Esquire, would amend his Application for Post Conviction Relief filed on July 31, 2012, by adding the following specific allegations to his original allegation of ineffective assistance of counsel.:

1. Ineffective assistance of trial counsel for failure to properly prepare and investigate, specifically, but not limited to the following claims:
 - a. Failure to review and explain the complete discovery materials to Applicant prior to trial.
 - b. Failure to conduct an independent investigation into the evidence and witnesses that formed the State's case against Applicant
 - c. Failure to question witnessess whose testimony was vital to client's defense. Specifically Failure to cross examine the victim.

Respectfully submitted,


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This 19 day of September, 2013.

1 THE STATE OF SOUTH CAROLINA

2 County of Williamsburg

3

4 Dennis Wright,
Plaintiff

PCR Hearing
2012-CP-45-00403

5 vs.

6 The State of South Carolina,
Defendants

April 13, 2015
Sumter, S.C.

7

8 Before the Honorable George C. James, Jr.,

9 Judge.

10

11

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

13 F. Casey Dale Cornwell,
Attorney for Plaintiff

14

15 Daniel F. Gourley,
Attorney for Defendants

16

Margaret T. Sullivan,
Court Reporter

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1 THE COURT: This is the matter of Dennis
2 Lee Wright against the State. 2012-CP-45-403.

3 Mr. Cornwell is here representing Mr. Wright.

4 Mr. Gourley is here for the State. And Mr. Barr is
5 present. Are we ready to forward, Mr. Cornwell?

6 MR. CORNWELL: Your Honor, actually if we
7 may approach before we get started.

8 THE COURT: Okay. Let me get his packet
9 here.

10 (Whereupon, attorneys approach and confer
11 with judge.)

12 THE COURT: I have the transcript of
13 record of the trial before the Honorable Judge
14 Newman. Mr. Barr was present for the defendant at
15 the trial representing him, and Kimberly Barr was
16 the solicitor. I have the complete file.
17 Mr. Cornwell, you want to tell me a little bit about
18 before you call your first witness.

19 THE PLAINTIFF: Excuse me, sir, can I
20 address the court? We were here the 30th of May---

21 THE COURT: Wait just a second. Raise
22 your right hand.

23 THE PLAINTIFF: Sir, I am not ready to
24 proceed forward.

25 THE COURT: Raise your right hand.

1 (Whereupon, the Plaintiff is sworn.)

2 THE COURT: Go ahead.

3 THE PLAINTIFF: On the 30th of May, we
4 were here for PCR in front of Judge Cothran. He
5 informed Casey Cornwell to come to Lee County, and
6 bring the exculpatory material evidence that I have
7 now. I want to introduce it now. I want to
8 introduce it now, because he said he wanted to place
9 expert services with it. I want to place this into
10 evidence, but I am not going to forward because I
11 need expert services so it will stand up on appeal.
12 This is discovery material that was not shown during
13 the trial, or talked about during the trial.

14 Kimberly Barr states in the transcript on
15 page 121 she says: Second of all, those documents,
16 those items, aren't under the custody or control and
17 possession of the prosecution. Then she goes on and
18 states, they could have subpoenaed these records
19 themselves. Charles Barr failed to instruct---

20 THE COURT: What were the records?

21 THE PLAINTIFF: The records were, the
22 sled reports that you yourself, sir, did a scrivener
23 motion for; with Ms. Azalee Mouzon said she wiped
24 her private areas with these things. Williamsburg
25 County took them into evidence. And they did not

1 put them upon a Motion of Discovery that they had
2 these items. It showed that there was absolutely
3 nothing on anything. And I need expert services to
4 present that to the court. And Judge Cothran said
5 to present it. Come here today and present it. He
6 gave Casey Cornwell a year to do this, and he has
7 not done it. I will be prejudiced if these things
8 are shown by an expert. I need expert services to
9 explain the theory of transfer and exchange to show
10 that nothing happened to that woman.

11 Second, their State's expert witness
12 Dr. Faile, Mr. Cornwell said he had Dr. Faile's
13 records, and he doesn't, because Mr. Barr didn't
14 have them. Ms. Barr, she didn't even list him on
15 her Motion of Discovery. Ask him to explain the
16 extrinsics fraud. He cannot, because he has no
17 records of his own. Second, sir, here is the Motion
18 of Discovery right here. I would like to present to
19 the court.

20 THE COURT: Here's what we are going to
21 do, Mr. Wright. You've got a lawyer and he's going
22 to tell me things. You don't get to represent
23 yourself and he represent you. Don't interpret me
24 when I'm talking. Do you understand that?

25 THE PLAINTIFF: Yes, sir.

1 THE COURT: Now you sit down.

2 Mr. Cornwell, explain the situation about being
3 given some time by a judge to get material from Lee
4 County. Because I know nothing about what he's
5 talking about. But is there material that you
6 haven't gotten that is available to be gotten?

7 MR. CORWELL: No, Your Honor. And
8 Mr. Wright is kind of confused as to what happened
9 with those proceedings. I was told that if It was
10 necessary, a possible expert or expert professional
11 services. He wants me to get this evidence of a rag
12 or something.

13 THE COURT: What was the charge?

14 MR. CORWELL: It was a rape charge, Your
15 Honor.

16 THE COURT: In Williamsburg County.

17 MR. CORNWELL: Yes. But there was no DNA
18 evidence introduced as far as I knew, so there was
19 no need for expert services to analyze DNA evidence.
20 And that's why I told Mr. Wright over and over and
21 over again, but he just doesn't listen to me or
22 doesn't understand. I'm not sure which one, Your
23 Honor. Our relationship has been contentious from
24 the start.

25 THE COURT: Are you his first PCR counsel?

1 MR. CORNWELL: Second.

2 THE COURT: Who was the first?

3 MR. CORNWELL: I can't recall, Your Honor.

4 MR. GOURLEY: I believe it was

5 Mr. Brooks, Your Honor, but I'm not 100 percent.

6 But I can check.

7 THE COURT: Was Mr. Brooks released by
8 Mr. Wright, or did Mr. Brooks get relieved on his
9 own motion?

10 MR. GOURLEY: Your Honor, if I may just
11 pull the file and look very briefly.

12 THE PLAINTIFF: Sir.

13 THE COURT: -No, sir. I'll talk to you in
14 just a second.

15 MR. GOURLEY: Your Honor, It looks like
16 Mr. Wright had actually Nance appointed
17 February 14th of 2013, from the Florence County bar.
18 And then it appears that an order substituting
19 counsel was done by Your Honor on March 28th 2013,
20 for Mr. Cornwell. So Mr. Brooks apparently was not
21 involved, Your Honor.

22 THE COURT: Mr. Wright.

23 THE PLAINTIFF: Yes, sir. Here is the
24 transcript right here where Judge Cothran told him
25 to come to Lee County. He's claimed that he had

1 Dr. Faile---

2 THE COURT: You're going to have slow
3 down.

4 THE PLAINTIFF: Yes, sir.

5 THE COURT: Because if you want to explain
6 something to me, you're going to have explain it,
7 and not just talk because you're upset. Okay. So
8 a transcript of what?

9 THE PLAINTIFF: A transcript of the
10 proceeding, sir. And I am not upset either. I'm
11 sorry, I have a breathing problem. A transcript
12 of---

13 THE COURT: Slow down.

14 THE PLAINTIFF: Sir?

15 THE COURT: Just slow down.

16 THE PLAINTIFF: It says that so much as I
17 need, submit a list of what you think he needs to
18 deal with, and if you can agree on the list and if
19 you if can prove that Charles Barr didn't have these
20 things, place them with the court. So get expert
21 services. Here are the transcripts right here, sir.

22 THE COURT: A transcript of what?

23 THE PLAINTIFF: Of the PCR hearing that we
24 had.

25 THE COURT: So you all had a hearing?

1 THE PLAINTIFF: No, we didn't have a
2 hearing. We just came before the court. Now see,
3 the DNA stuff, the scrivener motion was requested by
4 you yourself in Williamsburg County. It says that
5 the sheriff had it, and here sled reports right
6 here, based on the washcloth and based on what she
7 said. Now she says she wiped herself. Therefore,
8 she has to be on a cloth.

9 I need expert services, sir, as Judge
10 Cothran stated, to prove the theory of transfer and
11 exchange. I don't have to be on the cloth, but she
12 does. And she's not. Also she was transported to
13 Lake City ER room the night she says she was damaged
14 anally and vaginally. I have the Lake City ER
15 paperwork right here where she wasn't seen. And I
16 also have a test and exam done 2/26/09 by a
17 Dr. Johnson himself that states, nothing happened to
18 her, and that we need expert services to present
19 this so it will stand upon appeal.

20 I am not going to abandon any of my
21 issues. These issues prove that I am innocent. And
22 here is Ms. Barr's Motion of Discovery returned to
23 us. She states in the record that she doesn't have
24 these things in her possession. But these items,
25 they have everything to prove that I was innocent

1 within the first four days. With the DNA results,
2 they knew I was innocent with 6 months but they
3 still proceeded.

4 Now, sir, if I can as Judge Cothran said,
5 present these to the court along with what
6 Mr. Cornwell has for them to go over it, we can
7 have expert services.

8 THE COURT: Anything else before I ask
9 Mr. Cornwell some questions?

10 THE PLAINTIFF: Yes, sir. They claimed
11 that the woman was in her right mind, and they hid
12 that fact that she had dementia delirium since 2002.

13 THE COURT: She has what?

14 THE PLAINTIFF: Dementia delirium with
15 nighttime hallucinations since 2002, and they hid
16 that. The physical and medica exam---

17 THE COURT: Where did you it from?

18 THE PLAINTIFF: A private investigator.

19 THE COURT: Who?

20 THE PLAINTIFF: Carl Lowenstein and Ernie
21 Jarrett himself.

22 THE COURT: Ernie Jarrett is a lawyer.

23 THE PLAINTIFF: Yes, sir. But what he
24 did, he investigated a fee dispute, which you
25 adjudicated, sir. And you said I filed paperwork

1 late, I did not.

2 THE COURT: I'm not getting into that.

3 I'm not getting in to your fee dispute.

4 THE PLAINTIFF: I understand, sir. But
5 that's where these things came from okay. And like
6 I said, I have it right here. The police report
7 states, it says, this woman is in her right mind.
8 But Dr. Faile did a mental status test on her.

9 THE COURT: Said she was in her right
10 mind?

11 THE PLAINTIFF: Yeah, they said she's in
12 her right mind, but she's had dementia since 2002.
13 And this is in February. And in April, lead by
14 Dr. Faile states that there is nothing wrong with
15 this woman in her history, but he left out the fact,
16 it says, her dementia is worsening. How can it be
17 worsening if she never had it. Had the jury known
18 these things, it would have made a difference in the
19 outcome of the trial.

20 THE COURT: Hand those to the officer and
21 let me see them. You can have a seat, Mr. Wright.
22 Mr. Cornwell.

23 MR. CORNWELL: And, Your Honor---

24 THE COURT: Wait just a second.

25 MR. CORNWELL: I'm sorry.

1 THE COURT: No, you can stand up. I just
2 want to ask you a question. I know what I am going
3 to ask you. He says, when I mean, Mr. Wright says
4 there was type of testimony or evidence or
5 indication that the victim wiped herself with a rag
6 or a washcloth.

7 MR. CORNWELL: That's correct.

8 THE COURT: Would that rag not have had at
9 least her DNA on it?

10 MR. CORNWELL: Yes, Your Honor. And as
11 I've explained to Mr. Wright, if it had her DNA on
12 it, it would only prove that she used it to wipe
13 herself. It wouldn't prove anything. Furthermore,
14 from my understanding, I don't think DNA evidence
15 was introduced at the trial. So it was awash. I
16 mean there was no need for expert services, because
17 the evidence was never---

18 THE COURT: What if there had been another
19 male's DNA on it?

20 MR. CORNWELL: That evidence wasn't
21 introduced. And from what I understand, that
22 washcloth was not entered. I just -- I've been
23 trying to talk to Mr. Wright about this, and we
24 raised those issues in this amended PCR complaint.
25 Everything he said I put in the amended PCR

1 complaint, for the failure to investigate fully the
2 facts of the case.

3 THE COURT: What I wanted him to hand me
4 is what he was holding up, not all this stuff.
5 Okay. Because here's what we're going to do.
6 You're going to represent yourself or Mr. Cornwell
7 going to represent. It ain't going to be both. You
8 understand me?

9 THE PLAINTIFF: Yes, sir.

10 THE COURT: Mr. Wright?

11 THE PLAINTIFF: Yes, sir. May I speak?

12 THE COURT: No, sir. Mr. Cornwell, he's
13 saying that you didn't investigate the dementia
14 angle.

15 MR. CORNWELL: Your Honor, I raised that
16 issue in my amended PCR complaint. One of the main
17 issues was whether or not the lady was in her right
18 state of mind, coherent, or able to recall events
19 fully.

20 THE COURT: You're prepared to go forward
21 on that?

22 MR. CORNWELL: Yes, Your Honor. Because
23 she was put on the stand, and that was the main
24 issue. That was the main defense in the case. And
25 she was never cross examined on it.

1 THE COURT: Okay.

2 MR. CORNWELL: So that was not, you know,
3 that was the basis of my ineffective assistance of
4 counsel.

5 THE COURT: Was it failure to explore the
6 fact that she might have been able to mentally or
7 she had some dementia.

8 MR. CORNWELL: Right.

9 THE COURT: Have you seen all this
10 material that was handed to the officer that was
11 handed to me?

12 MR. CORNWELL: Yes, Your Honor.
13 Mr. Wright complained that he hadn't received or
14 Mr. Barr's complete file. And I got that file for
15 him. I got everything that Mr. Barr had. Mr. Barr
16 handed me all those documents in a big box. I took
17 them to see Mr. Wright as he wanted. And when I
18 brought them to him, he left the room. I mean it's
19 just---

20 THE COURT: Who left the room?

21 MR. CORNWELL: Mr. Wright. I mean, he
22 just has no interest in communicating with me at all
23 about his case. Everytime I've gone to see him---

24 THE COURT: Put your hand down.

25 MR. CORNWELL: Everytime I've gone to see

1 him, all he does is actually sit there and talk.
2 Insult me basically. You know, which lead me to
3 believe he may have some mental health issues. But
4 he claims he's not. So I don't know how to proceed
5 with him.

6 At some point he's going to want to take
7 the stand. I don't know what he's going to say,
8 because I haven't been able to talk to him about his
9 case. It's just been a very contentious
10 relationship, and he doesn't listen to anything I
11 say, any advice I give. Everything I say he says is
12 wrong. Even though we're on the same page.

13 THE COURT: Here's what we'll do today.
14 I'm going to allow. We're going to go forward on
15 what we have. And if the hearing develops to the
16 point where Mr. Wright or Mr. Cornwell or even
17 Mr. Gourley as an officer of the court, convinces me
18 that there is an unexplored issue, we'll adjourn
19 the hearing and we'll get back together if there are
20 other issues to explore. Does that suit you,
21 Mr. Cornwell?

22 MR. CORNWELL: That's fine by me, Your
23 Honor.

24 THE COURT? Mr. Gourley.

25 MR. GOURLEY: Yes, Your Honor.

1 THE COURT: There is one lawyer for the
2 defendant and it is -- excuse me, the applicant and
3 that is Mr. Cornwell. You will not be making
4 arguments of your own Mr. Wright. Mr. Cornwell will
5 be advancing your arguments. Do you understand
6 that?

7 THE PLAINTIFF: Can I address the court?

8 THE COURT: One more time, and that will
9 be it, aside from witness testimony.

10 THE PLAINTIFF: Well first of all, sir,
11 we're not ready to go forward because I don't have
12 the expert that was asked, requested. Second of
13 all, he doesn't know anything about the case. SCDC
14 informed me to ask you to call them and ask when he
15 came. He cancelled the meetings. He came the 7th
16 of April. And the judge told him to come back the
17 30th of May 2014.

18 So what he's telling you, is not the
19 truth, okay. And the next thing, he doesn't have
20 anything. He has nothing. As I said in the
21 transcript last time, that if had these items of
22 exculpatory material evidence, which I'm not going
23 to abandon my issues, he should have presented them
24 to the court. He has nothing. In the transcript of
25 the initial interview, she states that she wiped

1 herself after she was attacked by me. There should
2 be something on the cloth. The State is going to
3 say that 80 percent of the cases don't have DNA, and
4 they're right. But she has to be on the cloth
5 because of transfer and exchange. Had the jury
6 known that and explained by expert services.

7 THE COURT: Well did you not just hear me
8 say that I saw issues that remain to be explored,
9 this record will be held open and we would have
10 another hearing on those unexplored issues?

11 THE PLAINTIFF: Yes, sir.

12 THE COURT: What's wrong with that?
13 What's wrong with proceeding it in that fashion?
14 With it in that fashion?

15 THE PLAINTIFF: Because I don't have any
16 experts for it. And the physical and medical and
17 scientific forensic that exonerates me.

18 THE COURT: What I'm telling you is, if it
19 appears to me those issues need to be explored, I
20 will order those experts to be retained and we'll
21 go forward on those issues later. Does that not
22 suit you?

23 THE PLAINTIFF: Fine, sir.

24 THE COURT: First witness, Mr. Cornwell.

25 MR. CORNWELL: May it please the court,

Dennis Wright-Direct by Cornwell

1 Your Honor, I would like to put Mr. Wright on the
2 stand.

3 THE COURT: Come on up, Mr. Wright. You
4 are still under oath. Face Mr. Cornwell, you will
5 be testifying as he and Mr. Gourley ask you
6 questions.

7 Dennis Wright, Being
8 previously sworn, testified as follows:

9 THE COURT: Mr. Cornwell.

10 MR. CORNWELL: Please the court, Your
11 Honor.

12 THE COURT: Yes, sir.

13 Direct Examination by Mr. Cornwell:

14 Q. Mr. Wright, do you know why you are here
15 today?

16 A. Yes, I do, for you cheat to me.

17 THE COURT: Step down. Have a seat.

18 Mr. Wright, I am going to explain to something to
19 you for your own good and we're going to take a
20 15-minute break. Have a seat, and I don't want you
21 to say anything. In response to your lawyer's
22 question, do you know why you're here. You said
23 yes, so you can cheat me. Is that what you said?

24 THE PLAINTIFF: Sir, yes, sir.

25 THE COURT: I want you to understand

Dennis Wright-Direct by Cornwell

1 something and this is for your benefit. One of the
2 things that I must take into account on these cases
3 is the believability of witnesses. And in taking
4 into account the believability of a witness, I
5 determine how they act on the witness stand. Do you
6 understand that?

7 THE PLAINTIFF: Yes, sir.

8 THE COURT: We'll take 15 minutes. Take
9 him back. When I come back out, just have him
10 seated back in the courtroom at 11 o'clock.

11 (Whereupon, court takes a break.)

12 THE COURT: Go ahead, Mr. Cornwell.

13 Direct Examination by Mr. Cornwell:

14 Q. Mr. Wright, I just wanted to continue
15 where we left off. You do know why we're here
16 today.

17 A. Yes, sir.

18 Q. And you do know what a post conviction
19 relief is, right?

20 A. Yes, sir.

21 Q. What were you convicted of Mr. Wright?

22 A. A CSC, a criminal sexual conduct, with
23 another charge dealing with a vulnerable adult.

24 Q. That's correct. And who was your attorney
25 at that time?

Dennis Wright-Direct by Cornwell

1 A. Charles David Barr of Kingstree.

2 Q. Is he in the courtroom today?

3 A. Yes, he is.

4 Q. Do you recall how many times you were able
5 to met with Mr. Barr before you guys went to trial?

6 A. I mostly do, sir.

7 Q. How many times did you meet with him?

8 A. One time. A consultation visit 31st July
9 09, as stated by Ernie Jarrett in his investigative
10 notes.

11 Q. So it's your testimony you only met with
12 Mr. Barr once before you guys went to trial.

13 A. Yes, sir.

14 Q. And in that meeting did you guys discuss
15 your case and go over the evidence?

16 A. No, sir.

17 Q. So you never had an opportunity to review
18 your discovery before trial?

19 A. No, sir.

20 Q. And you never got to talk to Mr. Barr
21 about your case before trial?

22 A. No, sir.

23 Q. Did you guys even speak about what would
24 happen at a trial and how that would be conducted?

25 A. No, sir.

Dennis Wright-Direct by Cornwell

1 Q. Does he talk to you about possible
2 witnesses and what kind of testimony he would be
3 asked -- talking to you and questions he would ask
4 you on the stand. Did you guys discuss that sort of
5 thing?

6 A. No, sir. And I was given no notice of a
7 trial either.

8 Q. That was my next question.

9 A. I'm sorry.

10 Q. Were you given the notice -- any notice
11 before you were brought to trial?

12 A. Me, no, sir. And witnesses, no, sir. I
13 have statements from witnesses here that said they
14 were notified the night before, or just a few hours
15 before.

16 Q. And how did you find out that you were
17 going to trial?

18 A. Sir, I showed at roll call. I was sitting
19 in the back of the courtroom with one of my cousins,
20 and the courtroom was assembled. The next thing I
21 know, Mr. Barr waved me forward. And I asked I
22 said, yes, sir. He said your trial starts now.

23 Q. And so you guys picked a jury that day and
24 went to trial.

25 A. A jury was picked, yes, sir.

Dennis Wright-Direct by Cornwell

1 MR. CORNWELL: I beg the court's
2 indulgence.

3 Q. Now before you guys went to trial, did
4 Mr. Barr talk to you about having an investigator or
5 anything of that matter?

6 A. No, sir.

7 Q. And to the best of your knowledge or your
8 recollection, do you know if Mr. Barr investigated
9 the case or what steps he took to investigate the
10 case?

11 A. The only step that he took, he took DNA
12 analysis with Lieutenant Scott standing right there.

13 Q. And that, is that, do you mean that they
14 DNA from you?

15 A. Yeah, from me. That was the condition of
16 the bond that the Honorable Judge James set. I had
17 to do DNA.

18 Q. Yes.

19 A. And when I got here, I wrote sled and got
20 the results.

21 Q. And they swabbed your cheek and
22 everything.

23 A. Yes, sir.

24 Q. Now was there any other steps taken to
25 investigate the case that you were aware of?

Dennis Wright-Direct by Cornwell

1 A. No, sir. None.

2 Q. And you say that you weren't notified.

3 Was your family notified about your trial?

4 A. The only thing that anybody knew is when
5 they said your trial starts now, I called people.
6 One person that I went and talked to was Lasondra
7 Lewis, one of the 3 home care nurses that Ms. Azalee
8 had. And when she came to court, she was told to
9 leave. She wasn't needed. Ms. Lasondra Lewis is
10 the witness that I wasn't even there.

11 THE COURT: How do you spell her first
12 name?

13 A. Lasondra. L-A-S-O-N-D-R-A. You will see
14 that found in the incident report dated 2/23/09.
15 0901544. And if, sir?

16 THE COURT: I just needed to spell her
17 first name.

18 A. And if you look at the incident report---

19 THE COURT: Go ahead, Mr. Cornwell. If
20 you want him to continue, that's fine. But you can
21 ask him another question if you are prepared.

22 Q. I'll move on to the next question. And
23 who asked her to leave that day?

24 A. Mr. Barr. And on his witness list, it's
25 got that her address is unknown. But if you look in

Dennis Wright-Direct by Cornwell

1 the incident report, you'll see it right there,
2 Tupperware Road.

3 Q. Now let's move on to the conducting of the
4 trial. Do you recall what happened during that
5 trial very well?

6 A. Yes, I do, sir.

7 Q. Do you recall the testimony of the victim,
8 Ms. Azalee?

9 A. Yes, I do, sir. She was lead through
10 testimony by Kimberly Barr without an objection.

11 Q. And she got on the stand and was asked
12 questions by the State. Is that what you're
13 referring to?

14 A. Yes, sir.

15 Q. And after the State finished their
16 questioning, Mr. Barr had an opportunity to cross
17 examine her, isn't that correct?

18 A. Yes, sir.

19 Q. Did he do that?

20 A. Mr. Barr said, walked up to her and said
21 no questions from Ms. Azalee. And I had a list of
22 questions to ask Ms. Azalee; such as, I gave her a
23 Med-Alert necklace thing.

24 Q. And he didn't ask those questions.

25 A. No, he did not. He asked her not one

Dennis Wright-Direct by Cornwell

1 question.

2 Q. Now the basis of your defense in that
3 case, do you recall what it was?

4 A. We never talked about trial strategy.

5 Q. Did Mr. Barr say anything about the victim
6 having dementia?

7 A. Mr. Barr said nothing about it. It was
8 hidden.

9 Q. Did you discuss that with Mr. Barr the
10 fact that she had dementia, in your meeting?

11 A. Sir, we never had a meeting. We had a
12 consultation visit. But I do have an Exhibit No. 1,
13 that's dated 2/27/09 that Mr. Barr says came from
14 him. According to Ernie Jarrett that said, history
15 of dementia and also same accusations against the
16 grandson.

17 Q. You're referring to Ms. Azalee of accusing
18 someone else.

19 A. There's a history of it, yes, sir.

20 Q. Now I know you guys only met one time, and
21 it was a consultation. But do you recall speaking
22 about trial strategy or anything to do with your
23 case besides just an initial consult?

24 A. There was never a conversation like that.

25 Q. And that was the only time you met before

Dennis Wright-Cross by Gourley

1 trial.

2 A. That was the only time, sir.

3 Q. He never came to see you at your house, or
4 never called or phone conversation or anything like
5 that to discuss your case?

6 A. I got a call from Mr. Barr when the DNA
7 results were finished. And he said does it surprise
8 you. I said no. He said why not. I said I didn't
9 do anything. I said it should show that this woman
10 is not quite there. Based on his note of a history
11 of dementia and the fact that she did have dementia
12 since 2002. And then she also claimed other people
13 have harmed her.

14 MR. CORNWELL: I don't have any more
15 questions for you, Mr. Wright. Answer any
16 questions that the AG's office might have.

17 THE COURT: Mr. Gourley.

18 MR. GOURLEY: Thank you, Your Honor.

19 THE COURT: Let me clarify one thing. No,
20 I have got it written down. Go ahead.

21 MR. GOURLEY: Thank you, Judge.

22 Cross Examination by Mr. Gourley:

23 Q. Mr. Wright, do you recall discussing any
24 kind of defenses to the charges with Mr. Barr?

25 A. No, sir.

Dennis Wright-Cross by Gourley

1 Q. Did you give Mr. Barr any kind of
2 witnesses or leads to look in to?

3 A. Yes, I did, sir.

4 Q. Who were they, do you recall?

5 A. He has a witness list. It was Mike
6 Mouzon.

7 THE COURT: You've got to go slow so I can
8 get these names.

9 A. Ernie Mouzon.

10 THE COURT: Who was the first one?

11 A. Michael, sir.

12 THE COURT: How do you spell that last
13 name?

14 A. M-O-U-Z-O-N-E, sir.

15 THE COURT: Michael Mouzon. And the next
16 one.

17 A. Ermie Mouzon. That's his wife.

18 THE COURT: Spelling.

19 A. E-R-M-I-E Mouzone. Lasondra Lewis,
20 Priscilla Lewis, Dorothy Rhames, Gloria Hannah,
21 Gasheem Mouzon.

22 THE COURT: How do you spell that name?

23 A. G-A-S-H-E-E-M, sir.

24 THE COURT: G?

25 A. G or J either one.

Dennis Wright-Cross by Gourley

1 THE COURT: Spell it again.

2 A. J-A-S-H-E-E-M.

3 THE COURT: And the last name?

4 A. Mouzon. And Shirley Bogan. All are
5 residents of the same address. Harmon Street,
6 sir.

7 Q. I'm sorry, Mr. Wright, can you spell the
8 last person, please, sir.

9 A. Shirley Bogan. That's my daughter. And
10 there was another daughter staying there by the name
11 of Queenie Mouzon.

12 Q. Now, Mr. Wright, do you recall that
13 Mr. Barr did call some witnesses in your defense,
14 right?

15 A. Mr. Barr called witnesses and I have their
16 statements here. He called them the day of, and
17 two hours before he put them on the stand.

18 Q. And that was Eddie Mack Brooks, right?

19 A. Edie Mae Brooks was a State witness that
20 he called after the State rested; that gave
21 testimony against me, where expert services could
22 have been called to booster the defense.

23 Q. And he called Dorothy Hannah, correct?

24 A. No, he called Dorothy Rhames. And that's
25 Gloria Hannah.

Dennis Wright-Cross by Gourley

1 Q. Gloria Hannah is who he called. And
2 Dorothy Rhames as you stated.

3 THE COURT: He called both of them, sir.

4 A. Yes, sir.

5 THE COURT: Gloria and Dorothy?

6 A. Yes, sir. And I have statements from them
7 that they weren't able to give full testimony.

8 Q. And Mr. Michael Mouzon testified for the
9 State, right?

10 A. Yes.

11 Q. Mr. Wright, you gave a statement in this
12 case, didn't you?

13 A. I gave a statement. I interviewed for an
14 hour and 30 minutes. It was cut down to 29 minutes
15 and redacted all, front to back, back to front.

16 Q. But you agree that that statement was
17 voluntarily given?

18 A. The statement was voluntarily given, yes,
19 it was. But it was not played the correct way.
20 See I was told that my transcript would be played
21 the 1 hour and 30 minutes---

22 Q. Yes, sir.

23 A. ---but it wasn't. Then I was told that
24 nobody will believe you over a State expert, Dr.
25 Faile. But Mr. Barr had no expert to testify for

Dennis Wright-Cross by Gourley

1 me. Then Mr. Barr said I had a criminal record, and
2 I don't. I'm a teacher.

3 MR. GOURLEY: That's all I have,
4 Mr. Wright, thank you.

5 THE COURT: Redirect?

6 MR. CORNWELL: No, Your Honor.

7 THE COURT: You can step down for the time
8 being, sir.

9 MR. CORNWELL: Your Honor, actually one
10 quick question.

11 THE COURT: Yeah, you can have a seat.

12 MR. CORNWELL: Sorry about that.

13 THE COURT: He wants to ask you a couple
14 more questions.

15 Redirect Examination by Mr. Cornwell:

16 Q. During the conducting of the trial, do you
17 recall an outburst by the victim?

18 A. Yes, sir. When Edie Mae Brooks, the State
19 witness got that Charles Barr told to testify that
20 can help me, she was asked about the state of mind
21 about Ms. Mouzon. And what she did was stand up and
22 start screaming and yelling and stuff like that, and
23 court would stop for 30 minutes.

24 THE COURT: Who stood up and screamed?

25 A. Ms. Mouzon. She was yelling, ain't

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1 nothing wrong with my mind. They're lying on me.

2 THE COURT: This is Ms. Mouzon?

3 A. Yes, sir.

4 THE COURT: Okay.

5 A. And that right there was a dementia
6 outburst. And also when Kimberly Barr did her
7 closing, she vouched using religious language,
8 saying that her age of 90, because this is the down
9 side of her life. She's preparing herself to meet
10 her maker. You mean to tell me the same God that
11 she's going to see up in heaven, she's going to put
12 her hand on the bible and lie about that?

13 The State cannot vouch for a witness using
14 religion as truth. That's up for the jury to do,
15 but that was done. Also she introduced some
16 nonsense about assault and battery with a high and
17 aggravated nature, a lesser charge. Mr. Barr didn't
18 ask Mr. -- Judge Newman to say anything about that.

19 Q. Mr. Wright we've got to kind of stay on
20 track here. Let me ask the question.

21 THE COURT: You can complete that thought.

22 A. Okay. The assault and battery with a high
23 and aggravated nature, I was not charged for that.
24 But Kimberly Barr introduced that. And she didn't
25 offer none of the exculpatory material evidence that

Dennis Wright-Cross by Gourley

1 was gained by her. Now had Mr. Barr asked
2 Mr. Newman to give jury instructions on that, you're
3 talking about a 10-year charge versus a 30-year
4 charge.

5 THE COURT: Assault and battery of a high
6 and aggravated nature?

7 A. That's what was introduced during the
8 trial. Because Ms. Mouzon said I hurt her leg, or
9 words to that effect.

10 THE COURT: So you're saying that Mr. Barr
11 should not have pursued the assault and battery of a
12 high and aggravated nature, or he should have?

13 A. He, what Mr. Barr should have done was ask
14 the judge to include that.

15 THE COURT: I thought you just said that
16 you didn't like the judge doing it, because Mr. Barr
17 didn't ask him to.

18 A. No, he should have gave jury instructions
19 about that. Mr. Barr should have asked the judge
20 to do that. And the religious voucher, that's
21 something that the constitution, there's no
22 religious test for public trust. It's a separation
23 of church and state. The constitutional violations
24 are 1, 6, 8 and 14. Had we had done these things,
25 the outcome of the trial would have been different.

Dennis Wright-Cross by Gourley

1 And as far as the outburst if Mr. Barr would have
2 asked for the mistrial, the outcome would have
3 different. I have statements from witnesses---

4 Q. Go to my next question---

5 A. ---that that happened, but it's not in the
6 transcript.

7 Q. That was my next question, Mr. Wright.

8 THE COURT: He's going to ask you a
9 question.

10 Q. When the outburst occurred, did your
11 attorney object?

12 A. Mr. Barr said nothing. Judge Newman, went
13 to the left out of the room. The jury was still
14 sitting there. Mr. Barr got up and went to the back
15 of the courtroom.

16 Q. So he did not ask for a mistrial.

17 A. He did not.

18 MR. CORNWELL: No further questions.

19 THE COURT: Recross?

20 MR. GOURLEY: No, Your Honor.

21 THE COURT: Is there anything else you
22 want to tell me, sir?

23 A. Yes, sir. Mr. Barr, I only met with one
24 time. That was verified by the South Carolina bar.
25 Also by when I went to Mr. Barr and asked him, when

Dennis Wright-Cross by Gourley

1 he told me your trial starts now, I said, sir, you
2 did no investigation. You called no witness. You
3 didn't do anything. And what he said was, he said,
4 don't worry about it. I got it. See that guy right
5 over there, that's my man on the jury. That's what
6 he said. And I told Mr. Barr, if you got yours, she
7 got hers.

8 THE COURT: Anything else?

9 A. I'm innocent. And I have all the
10 documentation that I'm innocent, sir. And I wasn't
11 ready to go forward, because I still needed the
12 stuff that I requested, and I'm not going to abandon
13 any of my issues on that.

14 THE COURT: Any follow up questions,
15 Mr. Cornwell?

16 MR. CORNWELL: No, Your Honor.

17 THE COURT: Mr. Gourley?

18 MR. GOURLEY: No, sir.

19 THE COURT: Thank you, sir. You can step
20 down. Mr. Cornwell, any additional witnesses?

21 MR. CORNWELL: No, Your Honor.

22 THE COURT: Mr. Gourley, your witness.

23 MR. GOURLEY: Yes, Your Honor. We'd call
24 Mr. Barr to stand, please.

25 Charles David Barr, being first

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1 duly sworn, testified as follows:

2 THE COURT: Mr. Gourley.

3 MR. GOURLEY: Thank you, Your Honor.

4 Direct Examination by Mr. Gourley:

5 Q. Mr. Barr, were you appointed or retained
6 in this case?

7 A. Retained.

8 Q. How many times did you meet with
9 Mr. Wright before trial?

10 A. I know I met with him several times after
11 he got out of jail. I had him interviewed first by
12 somebody else when he was in jail. And then I went
13 over and interviewed him. But we met several times
14 before the trial.

15 Q. And then he obviously got out on bond?

16 A. Yes, sir.

17 Q. Did you have any communication with him
18 while he was out on bond?

19 A. I most certainly did.

20 Q. Did you file for Rule 5 and Brady motions?

21 A. Yes, sir.

22 Q. And did you review that with Mr. Wright?

23 A. I reviewed it with him, and I provided him
24 copies of it.

25 Q. Did Mr. Wright seem to understand your

Charles Barr-Direct by Gourley

1 discussions about the case?

2 A. Mr. Wright, he was in the army for 15
3 years. He seemed to be a pretty intelligent fellow
4 to me. He seemed to understand.

5 Q. Did he ask you questions about State's
6 evidence and the things of that nature?

7 A. We looked at the discovery material. And
8 I'm sure that in terms of preparing for it, we got
9 to a point where we filed a speedy trial motion,
10 because we were ready to go.

11 Q. Did you all discuss Mr. Wright's version
12 of events regarding this case?

13 A. Mr. Wright's version of events were
14 spelled out in his statement. He and I looked at
15 that. He had an explanation or his explanation as
16 to why he said some of things he said. And it's
17 written right there in his statement.

18 Q. And what specifically are you referencing
19 regarding his statement?

20 A. Pardon me?

21 Q. What are talking about in his statement?

22 A. The most damning thing in this statement
23 was where he knowledged to the investigator that he
24 may have penetrated Ms. Mouzon. And it's written in
25 black and white right in his statement.

Charles Barr-Direct by Gourley.

1 Q. Okay. And with that in mind, did you all
2 discuss any kind of defenses to these charges or
3 anything like that?

4 A. The object is always to create doubt. And
5 of course quite frankly, I've never been one to
6 advocate putting the defendant on the witness stand.

7 Q. Yes, sir.

8 A. But in Mr. Wright's case he wanted to
9 explain what happened. And quite frankly, once the
10 lady testified, it was -- her testimony was
11 powerful.

12 Q. I noticed you didn't cross examine the
13 victim in this case. Is there a specific reason?

14 A. Yes, sir. I most certainly. I did not
15 cross examine her, because I felt like given her
16 direct testimony, she had been very persuasive. I
17 didn't see where there were inconsistencies in her
18 testimony. I had a statement that she had given
19 previously. She did not contradict herself on the
20 witness stand. She didn't contradict herself on the
21 witness stand. She did not contradict herself by
22 any prior inconsistent statement. She was very, she
23 was emotional. She testified in detail to a
24 description of how she claimed Mr. Wright forcibly
25 raped her. I wanted -- I was glad to see her go.

Charles Barr-Direct by Gourley

1 Q. Mr. Barr, there was no DNA evidence
2 recovered in this case, correct?

3 A. No, sir.

4 Q. And you cross examined the investigators
5 on that issue, right?

6 A. Well quick frankly, I thought that would
7 be one of the things that in this case if the jury
8 decided not to believe her, then it would be because
9 of the lack of evidence, of DNA evidence, to confirm
10 that Mr. Wright did have sex with her. But
11 apparently, It wasn't -- I think, quite frankly as a
12 trial lawyer, I think the lady's testimony was more
13 compelling than not having that evidence. And they
14 believed her.

15 Q. But you certainly pointed out multiple
16 times.

17 A. Well it's right in the the trial
18 transcript.

19 Q. What was the State's evidence in this
20 case, do you recall? Other than the victim's
21 testimony, statement.

22 A. I don't recall all the stuff that -- they
23 didn't have -- I don't think they had a whole lot of
24 evidence. But the lady's testimony was the most
25 powerful. That was their principal evidence.

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1 Because there were no witness. So there weren't a
2 lot of things that they could actually use. We had
3 initially contemplated, I think there was some
4 question in this development of Mr. Wright as to
5 whether or not they could put him there at the time
6 that they claimed the assault actually took place.

7 So we initially filed notice of alibi.
8 But it turned out that the evidence once we looked
9 at everything, it was consistent in terms of the
10 time line. And of course this was with Michael,
11 the boy's, I mean the old woman's grandson, as well
12 as, I can't remember whether or not his wife could
13 confirm that. But I think there were other people
14 connected with Mr. Wright's church that would have
15 been able -- that would have confirmed that, and I
16 think even Mr. Wright himself; that at that time the
17 two of them were alone.

18 Q. And Michael Mouzon, the victim's grandson,
19 actually testified that the victim had told him that
20 she had been raped. Or touched is I think the
21 nuance that you pointed out in cross examination,
22 not had been raped. Correct?

23 A. I spoke to Michael before the trial. And
24 I have known him for a long time, but if am not
25 mistaken, according to Mr. Wright, he was supposed

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1 to be a witness. And when I say witness, as I said,
2 there were no actual eye witnesses.

3 Q. Yes, sir.

4 A. But in terms of familiarity with the
5 grandmother, and also as far as the person who had
6 seen them together most, I think it would have been
7 Michael.

8 Q. Mr. Barr, shifting to the DNA experts, did
9 you ever contemplate getting an expert to look into
10 the DNA?

11 A. I felt like the DNA issue was outside. I
12 mean, I don't know an expert would have -- I don't
13 know know what he would have found. But without,
14 the burden of proof is on the prosecution. And in
15 this case, quite frankly, with what Mr. Wright had
16 acknowledged in his own statement, I didn't want to
17 run, I didn't even consider taking a risk of, I
18 mean, you can't believe everything that people tell
19 you. And I'm not going to take -- if they don't
20 have the evidence; that is, the forensic evidence, I
21 am sure not going out and looking for it for them.
22 In a situation where it's clearly a critical issue
23 in the case; especially, in a rape case, that's
24 always a critical issue. And that's something they
25 didn't have in this case.

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1 Q. And Dr. Kenneth Folly testified that there
2 was no rape kit.

3 A. Dr. Faile. He, I can't remember. I
4 remember he wrote a letter or something, but I can't
5 remember.

6 Q. Did you feel like you had any basis to
7 object to the solicitor's closing arguments
8 regarding the religious remarks?

9 A. Quite frankly, I don't even remember
10 specifically what she said.

11 Q. Okay.

12 A. I don't remember her making any
13 inflammatory remarks concerning from the standpoint
14 of what would have been considered improper.

15 MR. GOURLEY: I Beg the court's
16 indulgence, Your Honor.

17 THE COURT: All right.

18 Q. Mr. Barr, do you recall the victim out
19 crying during the trial?

20 A. No, sir, I sure don't. I recall her
21 crying at one point, when she got into a graphic
22 description of exactly how, when the woman started
23 describing how she claimed Mr. Wright was hurting
24 her, when he was penetrating her, and she was
25 begging him to stop. I recall her crying. And I

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1 know that created an issue in the courtroom then.

2 But I don't specially remember anybody -- it could

3 have happened, but I don't remember that.

4 Q. And you don't recall her making any

5 outbursts at any point during the trial?

6 A. I sure don't.

7 MR. GOURLEY: Your Honor, I believe that's

8 all the questions I have.

9 THE COURT: Mr. Cornwell.

10 MR. CORNWELL: I beg the court's

11 indulgence.

12 THE COURT: Yes, sir.

13 Cross Examination by Mr. Cornwell:

14 Q. You said you were able to meet with

15 Mr. Wright several times?

16 A. Uh-huh. (affirmative.)

17 Q. And during those meetings, did you guys go

18 over his discovery?

19 A. We most certainly did. Anytime as soon

20 as the discovery comes in to my office, the first

21 thing I do is send it to the client, along with a

22 letter, an appointment letter. I have been doing

23 that 35, 36 years.

24 Q. Now do you have any documentation or notes

25 in your file on those meetings or dates of those

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1 meetings?

2 A. I've given you -- I've given Mr. Wright my
3 file, a copy of my file 3 or 4 times. And I've
4 given it to you. I've given it to a bunch of other
5 people. I don't know how many times. Whatever you found
6 in the file is what I've got in there. I know, and
7 I've seen some notes regarding information
8 concerning Mr. Wright in the file. But I don't
9 know, I know one of them is from a time when he was
10 in jail. But I don't remember specifically seeing
11 anything else. Quite frankly I haven't looked at it
12 that close.

13 Q. Now Mr. Gourley had mentioned mental
14 health issues. Did you have concerns with when
15 speaking with Mr. Wright, if he understand
16 everything that was going on? Any issues at all
17 with that?

18 A. Well when we were in court the last time,
19 I think his mental health was an issue. It seemed
20 not to be an issue now. But it certainly wasn't an
21 issue at that time.

22 THE COURT: When you say at that time, you
23 mean the trial?

24 A. Yes, sir. Mr. Wright seemed as I said, I
25 had his history. He had been employed. He was in

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1 retirement. I think he had served a distinguished
2 amount of time in the, I know, at least 15 years or
3 more in the military. He wasn't out on any kind of
4 discharge or anything; drove a nice car, which he
5 drove to office several times, a BMW. I think it
6 was a BMW. But I didn't have any concerns about
7 Mr. Wright's mental capabilities.

8 Q. Now did you guys, you mentioned alibi
9 witnesses. Did you guys discuss the potentials of
10 having an alibi witnesses? You said you filed a
11 notice. Did you get to talk to those, any specific
12 witnesses who would have been alibi?

13 A. Well we, after it became clear that
14 Mr. Wright; that they would have been able to put
15 Mr. Wright at the scene at the time, we didn't
16 pursue that. But you have to give written notice if
17 you're going to. So you want to make sure that was
18 done. And this was done down the road, a long way
19 down the road.

20 Q. Now, I beg the court's indulgence. I
21 lost my train of thought. Now Ms. Azalee, you had
22 some, one of your -- the thrust of your defense was
23 that she had problems with recall. Was there a
24 reason why you didn't cross examine her to try to
25 flesh that out?

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1 A. Yes, sir.

2 Q. And why was that?

3 A. Well just because you have a notion in a
4 trial that there is a possibility that something
5 might happen, that don't mean that you always run
6 the risk. Because it's been my experience that
7 9 times out of 10, when you open up a can that you
8 don't know what's in it, you wind up getting hurt by
9 it. Now if I was going to make an error, I was
10 going to error on the side of where I knew I was, as
11 opposed to allowing something to come up that would
12 have caused me more harm or done more damage than
13 good. And under the circumstances, I just, as I
14 said, I saw no reason to think that in keeping her
15 on the witness stand any longer than she has been on
16 there, would have been helpful for us.

17 And If I'm not mistaken, I believe I may
18 have argued that to the jury in terms of one of the
19 reasons why we chose not to cross examine the
20 alleged victim. The thing about it from a trial
21 standpoint, in a lot of instances when the State has
22 put up a good witness, and you know that they have
23 put up a good witness, and you can feel where you
24 are in the trial. You know they put up a good
25 witness, you can get more evidence in, regarding

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1 that witness and that witness' testimony, by
2 closing. And sometimes I must say to the extent
3 that the solicitor allows you to go a little further
4 than you ordinarily or the rules require you to go,
5 that's just, you know, that's just taking advantage
6 of what you've got in a situation and trying to use
7 it the best of your ability. There's a lot of it is
8 just calculation.

9 Q. Now were you able to flesh that issue out
10 through other witnesses perhaps, during the course
11 of the trial?

12 A. There were no witnesses that actually saw
13 what took place at the time that this thing
14 supposedly took place. Now Mr. Wright had an
15 avalanche of people starting, I think, he wanted --
16 probably wanted to call everybody in his church.
17 None of which from the standpoint of relevancy or
18 having material or testimony that would be
19 admissible on the issues of court. Mr. Wright's
20 character was not an issue. The woman's character
21 wasn't an issue. All of the people who went with
22 them to the church and were familiar with them with
23 what -- and how they interacted at the church and
24 he -- how he called her mother and all. You know
25 that -- Mr. Wright's perception of who the witnesses

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1 are, you can't just bring people into court and
2 just for the sake of bringing them because you think
3 that like you, and they're going to say something
4 good about you.

5 Now there were -- the people that to the
6 extent that they had relevant and material
7 information, in this case the State's witness list
8 crisscrossed some of people that we would have
9 wanted there. The woman, Edie Brooks, she's a
10 former client of mine. I knew that woman a long
11 time. I knew her much longer than I felt the
12 prosecution knew her. I've dealt with a long
13 time. I felt like if there was anything good to be
14 said, the woman I think Mr. Wright meant, Lasondra
15 Lewis, I sent that woman home before Kimberly Barr
16 got to talk to her. Because what she had and I can
17 't remember the specifics of it, but I made a
18 determination that should have been a better witness
19 for them then she was for us, or that she would have
20 been for us. So I released her from the subpoena
21 and sent her at the back door. I told her to go
22 back to Hemingway.

23 Q. Now and I guess I should be more specific.
24 I was specifically talking about the issue of the
25 alleged victim's mental state, her ability to

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1 recall. Were you able to address that issue through
2 other witnesses or talk to other family members
3 about whether that was difficult?

4 A. The witnesses we called, that I called, I
5 think dealt primarily with that issue. I think
6 Mr. Wright had said that the woman grabbed his penis
7 or something at one point. And I know that we had,
8 we had a -- that that was supposed to -- one of the
9 women were supposedly had witnessed this taking
10 place. I can't remember which one it was. One of
11 the ones we called. But I'm not sure she confirmed
12 it. I am not sure she confirmed it when she
13 testified. I don't remember whether she did or not.
14 I know Dennis told me that, I think one of them had
15 witnessed, and I think he said he complained to
16 Michael about it. But Michael didn't recall it
17 either.

18 Q. Now did you investigate the issue of
19 whether or not she had dementia and how that
20 affected her memory? And did you investigate that
21 issue by talking to people in her family?

22 A. No, sir. Not as far beyond the witnesses
23 that were familiar with her. The women didn't
24 appear to have any dementia to me.

25 Q. Did you look into past allegations she had

Charles Barr-Cross by Cornwell

1 made against other people?

2 A. I wasn't aware of any past allegations
3 that she suffered from any dementia.

4 Q. Now in regards to Mr. Wright, there was a
5 mention of a statement that he gave early. Now did
6 you get an opportunity to go over that statement?

7 A. I most certainly did.

8 Q. And it was redacted for trial, wasn't it?

9 A. If I am not mistaken, I heard the -- it
10 was a recording. I can't remember whether it was
11 redacted or not, but the statement itself was not
12 entered into evidence.

13 Q. Right.

14 A. Wright testified. He was cross examined
15 on the statement. So as far as the redaction, I
16 don't think redaction was an issue when it came to
17 that statement. I just don't remember redaction
18 being a part of what---

19 Q. I'm speaking of a recording they played
20 during trial, that recording was redacted. It
21 wasn't the full interview.

22 A. I don't remember.

23 Q. So you didn't sit down with the State when
24 they going through that process.

25 A. If the statement was played; was put in

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1 evidence, I heard the statement before it came into
2 evidence. I would have never allowed a statement to
3 be played or any evidence to be presented of a
4 recording they I hadn't listened to, prior to the
5 time the evidence is presented in the courtroom.

6 THE COURT: All right.

7 Q. Thank you. I beg the Court's indulgence.
8 Did you have an opportunity to speak with Dr. Faile
9 or have any communication with him in regards to
10 Ms. Azalee's mental faculties?

11 A. If I am not mistaken, I reviewed
12 Dr. Faile's letter. I do remember some issues, but
13 I repeat, he wrote a letter. A little short note.
14 And in that short note, he indicated that I believe
15 that he had been -- this woman had been his client.
16 His client, he had seen her. And in his opinion
17 that no issue regarding her.

18 Q. So it was Dr. Faile's belief that she
19 didn't dementia.

20 A. Absolutely it was.

21 MR. CORNWELL: No further questions.

22 THE COURT: Any recross?

23 MR. GOURLEY: No.

24 THE COURT: Any Redirect, excuse me. Any
25 objection to me asking the witness a question, Mr.

Charles Barr-Cross by Cornwell

1 Gourley?

2 MR. GOURLEY: No, sir, Your Honor.

3 THE COURT: Mr. Cornwell, do you have an
4 objection?

5 MR. CORNWELL: I do not, Your Honor.

6 THE COURT: Mr. Barr.

7 A. Yes, sir.

8 THE COURT: I'm a little bit in the dark
9 about the DNA. What was the swab taken from
10 Mr. Wright to be compared to?

11 A. They had nothing to compare it to. They
12 had no -- they had no standard.

13 Q. And your reason for that pursuing testing
14 was that you didn't want to open that door?

15 A. Well suppose he did have sex with her.

16 THE COURT: It would have been consistent
17 with something found at the scene?

18 A. It would have consisted with her testimony
19 that they had intercourse. I mean if they had
20 found.

21 THE COURT: I just want to make sure I
22 understood what it would have been compared to. I
23 heard mention.

24 A. Well I mean I understand Mr. Wright said
25 that he didn't do it. And, you know, quite frankly

Dennis Wright-Direct by Cornwell

1 the truth is, we'll never know for sure. But that's
2 always doubt from my perspective just that in and of
3 itself.

4 THE COURT: Mr. Gourley, any follow up?

5 MR. GOURLEY: No, sir, Your Honor.

6 THE COURT: Mr. Cornwell, any additional
7 questions either along the lines that I just
8 referenced, or anything else that you would like to
9 ask the witness?

10 MR. CORNWELL: No, Your Honor.

11 THE COURT: Step down Mr. Barr.

12 THE COURT: Any additional witnesses from
13 the State?

14 MR. GOURLEY: No, your honor.

15 THE COURT: Any reply?

16 MR. CORNWELL: Your Honor, my client would
17 like to take the stand.

18 THE COURT: Come back up, Mr. Wright, you
19 still under oath.

20 Dennis Wright, retakes the witness
21 stand and testifies as follows:

22 THE COURT: Mr. Cornwell.

23 Direct Examination by Mr. Cornwell:

24 Q. Mr. Wright, I know you had some issue with
25 testimony, and specifically I guess the testimony

Dennis Wright-Direct by Cornwell

1 regarding the mental faculties of Ms. Azalee.

2 A. Yes, sir.

3 Q. Would you like to share that?

4 A. Yes, sir. It was widely known, because
5 when Mr. Barr said he, somebody interviewed me at
6 the jail, Exhibit No. 1, says history of dementia.
7 And she also accused her own children at one point
8 or another of attacking her. That's when the
9 dementia issue comes up. Now as far as Mr. Barr
10 meeting me in his office, my mother that's sitting
11 right back there, she was there for that one and
12 only consultation meeting that Ernest Jarrett has in
13 his paperwork when he investigated Mr. Barr.
14 Mr. Barr met with me one time, and that was it. We
15 never formulated any kind of trial strategy at all.

16 And Ernie was there to testify that she
17 took Michael through the same thing, accusing people
18 of being her husband. That's another form of
19 dementia. The police reports state that I said that
20 she's acting kind of funny. What Ms. Azalee would
21 do was throw things all over the house. She would
22 walk around and stand in the corner. And when you
23 go get her, she'll say she lost. She doesn't know
24 where she's at. Ms. Azalee was led through
25 testimony period, without an objection from

Dennis Wright-Direct by Cornwell

1 Mr. Barr. And that outburst in the courtroom, we
2 had it, like I said, I have statements from those
3 people that were in the courtroom that that took
4 place.

5 Q. Now you've talked to Mr. Barr about these
6 other instances where she had problems with her
7 mental faculties. Did you guys discuss that?

8 A. No, sir. We only had one consultation,
9 that was it; that was to pay him his fee.

10 Q. So you never -- he never asked you about
11 that, and you never got to discuss that with him.

12 A. We had one meeting, a consultation.
13 Wherever I went, my mother went with me. She's
14 right back. Mr. Barr is misleading. What Mr. Barr
15 was doing, Mr. Barr had a thing for my aunt, Merline
16 Singletary.

17 MR. GOURLEY: I'm going to object to this
18 testimony.

19 A. And that's who originally---

20 THE COURT: Wait just a second.

21 Mr. Cornwell, what is your response to the
22 objection? I guess it's relevance?

23 MR. GOURLEY: Yes, Your Honor.

24 THE COURT: I'll allow it. Go ahead,
25 Mr. Wright.

Dennis Wright-Direct by Cornwell

1 A. Okay. And that's who since I bond myself
2 out, my aunt came and got the fees, the funds to
3 give to Mr. Barr. And that's who Mr. Barr talked
4 to. He didn't talk to me.

5 Q. So it's still your testimony that you guys
6 only, initial consultation visit.

7 A. One time. And as far as Dr. Faile is
8 concerned, Dr. Faile, claimed he didn't know about
9 an attack until a month later, and that's the
10 primary care physician. That is not true. Because
11 if you look at Dr. Faile's chart dated 3/17/09, it
12 states on the bottom, recheck her in 7 weeks. Are
13 you going to tell me that's what a primary care
14 provider would do after somebody claimed that she
15 was attacked. And he said Emma Wilkes on the -- on
16 2/25/09 that my mother was attacked. And then you
17 mean to tell me he will wait 30 days. That came
18 from his own testimony out of the transcript.

19 The part where the redaction, Mr. Barr was
20 not a part of the redaction. Kimberly Barr states
21 in that transcript, redaction was done so we don't
22 waste the jury's time.

23 Q. That's what I was getting to next. Do you
24 remember during the trial when they played the audio
25 tape?

Dennis Wright-Direct by Cornwell

1 A. Yes, I do.

2 Q. Was that the full audio tape?

3 A. No, it wasn't. Kimberly Barr stated, I
4 don't want to waste the jury's time, so I redacted
5 the 29 minutes. And when they did my interview,
6 they used two different tape machines. And when
7 they played the tape machine, you heard levels go
8 up, stuff cut out. You piece it together like you
9 would piece a record together. And when I protested
10 to Mr. Barr about that, he didn't say anything.

11 Q. So there was no objection from Mr. Barr.

12 A. No objection at all to preserve for
13 appellate review. Nothing at all.

14 Q. Is it your testimony that that -- the
15 recording they played was not an accurate reflection
16 of what you said?

17 A. That's absolutely correct. And when I
18 told Mr. Barr that, he said oh, I should have
19 listened to the tape.

20 Q. So you're saying Mr. Barr admitted to you
21 he not heard the tape.

22 A. That's correct. And Mr. Barr, I have
23 Mr. Barr's own records also. His memo out of his
24 book, we ain't had no meetings. I got his charts.
25 Mr. Barr did not have a meeting with me. And I

Dennis Wright-Direct by Cornwell

1 don't drive a BMW.

2 Q. Just for the record, what kind of a car
3 did you drove at that time?

4 A. A Mercedes Benz. Nothing but the best.

5 MR. CORNWELL: Thank you, Mr. Wright. No
6 further questions at this time.

7 THE COURT: Mr. Gourley.

8 MR. GOURLEY: Nothing, Your Honor.

9 THE COURT: Did you testify at the trial,
10 sir?

11 A. No, sir. What I was told that---

12 THE COURT: No, did you testify at the
13 trial.

14 A. No, sir.

15 THE COURT: Okay. Go ahead and explain.

16 A. Mr. Barr told me, I'm not going to let you
17 testify. No one is going to believe you over a
18 State expert, Dr. Faile. They -- then he says
19 you've got a criminal record. And told I him no, I
20 don't, I'm a teacher. And the thing with Dr. Faile,
21 there should have been an expert to testify for me.
22 The State had one. Mr. Barr should have one to
23 refute Dr. Faile's testimony by her state of mind.

24 THE COURT: Okay. Anything additional
25 questions, Mr. Cornwell?

Dennis Wright-Cross by Gourley

1 MR. CORNWELL: No, Your Honor.

2 THE COURT: Mr. Gourley?

3 MR. GOURLEY: Yes, Your Honor. Just very
4 briefly.

5 Cross Examination by Mr. Gourley:

6 Q. Mr. Wright, do you recall the court
7 advising you of your rights to testify at trial?

8 A. Yes, I do. And the court also said if you
9 want to testify later. And when I did, Mr. Barr
10 said I am not going to let you testify, as I was
11 just saying to you.

12 Q. So when the court asked you whether or not
13 you'd made a decision to testify and you said, no,
14 sir. Correct?

15 A. After 30 seconds with Mr. Barr that he
16 will play my entire tape, and that nobody was going
17 to believe me over the State expert and that I had a
18 criminal record.

19 MR. GOURLEY: No further questions. Thank
20 you, Mr. Wright. Thank you, Judge.

21 THE COURT: You can step down. I thought
22 Mr. Barr said he did testify, Mr. Gourley.

23 MR. BARR: I know he did.

24 THE COURT: I just want to make sure I
25 heard that correctly. Any additional witnesses for

Dennis Wright-Cross by Gourley

1 the State?

2 MR. GOURLEY: No, Your Honor.

3 THE COURT: Anything else, Mr. Cornwell,
4 as far as testimony or evidence?

5 MR. CORNWELL: No, Your Honor.

6 THE COURT: Argument, Mr. Cornwell?

7 MR. CORNWELL: Please the court, Your
8 Honor. It's our position that Mr. Wright was
9 prejudiced by the fact that his defense, one of the
10 main thrusts of his defense was, that the victim's
11 mental faculties, basically she wasn't all there.
12 She had problems recalling. There were instances
13 where she had accused other people and mistaken
14 identities with other people before.

15 THE COURT: Where is the evidence of that?
16 Who are those witnesses who would say that? And do
17 they not have to testify here today.

18 MR. CORNWELL: I'll get to that, Your
19 Honor. Those things would have been things that
20 could have been discovered. And they were told to
21 Mr. Barr by Mr. Wright. There was also some, it
22 came out in trial a little, that she had problems
23 with her memory, Your Honor. That all falls under
24 our allegations that he failed to investigate the
25 case fully. Your Honor, also the fact that he did

1 not even cross examine the witness, even though a
2 main thrust of his defense was that this woman had
3 problems with recall, I feel prejudiced our client.
4 Because on cross he could have fleshed out that
5 issue either by pointing out that she had problems
6 in recall by asking her certain questions, or just
7 asking her about examples where she had mistaken
8 identity things or had affected or he could have
9 asked anything.

10 THE COURT: Who are the people she accused
11 on other occasions?

12 MR. CORNWELL: Well not accused, I should
13 take that back. Not accused of actually doing
14 things to her, but just calling her husband and just
15 mistaken identity. Things of that nature that would
16 indicate that she had issues in regards to recall
17 and identity and misidentification of people, Your
18 Honor. We feel like that if he would have just
19 simply asked her some questions that this case could
20 have been, it could have went a whole different way.

21 Your Honor, also in regards to meeting
22 with Mr. Wright, I feel like that one meeting before
23 the trial, is not sufficient to flesh out the
24 details with your client, explain all the issues.
25 We feel like he was prejudiced by the fact that he

1 was not able to go over the case fully with his
2 lawyer, and discuss the facts of the case and aid in
3 the investigation of this case, Your Honor. We
4 feel like he was prejudiced in that way. I beg the
5 court's indulgence.

6 THE COURT: Is there a transcript of the
7 interview between Wright and law enforcement, or is
8 there just a disk?

9 MR. CORNWELL: There is transcript of the
10 recording. The transcript was not introduced into
11 evidence.

12 THE COURT: But Mr. Wright says if you
13 listen to the whole thing, you can tell so and so
14 and so and so. Where is it? Am I supposed to
15 listen to it, or take his word for it?

16 MR. CORNWELL: I don't have the full
17 recording, Your Honor.

18 THE COURT: Well where it is?

19 MR. CORNWELL: I would guess the
20 solicitor's office has the full recording.

21 THE COURT: Well I want to listen to it,
22 so somebody is going to find. And nobody's told me
23 what he said in it. What did he say? Did he say he
24 had sex with her? And don't shake your head, sir.
25 It's really not doing you any good. It's extremely

1 distracting. I know you disagree with everything
2 the State says. And I know that your answers to the
3 questions are going to be so and so. But I'm asking
4 these questions for a purpose. Did he admit in the
5 interview that he had sex with the victim?

6 MR. CORNWELL: I think he did admit that
7 there was penetration. As a matter of fact, I know
8 in the interview there was a the statement said---

9 THE COURT: And he's looking at you like
10 you're crazy. So where is transcript, Mr. Gourley?

11 MR. GOURLEY: Your Honor, I don't have it.
12 The only thing are the PCR application and SCDC
13 records. I don't get anything from the State.

14 THE COURT: Was it played for the jury?

15 MR. CORNWELL: Yes, Your Honor. It was
16 played during the trial?

17 THE COURT: And what did it -- what did
18 the jury hear out of his mouth?

19 MR. CORNWELL: They heard him admit that
20 there was an encounter between he and the victim.
21 Except that his version of events was that the
22 victim basically came on to him. And got on top of
23 him and, that's how the sexual encounter take place.

24 THE COURT: So he's saying it was
25 consensual.

1 MR. CORNWELL: In essence, Your Honor.

2 THE COURT: And he's still looking at you
3 like you're not saying it correctly.

4 THE COURT: I want to hear the interview.

5 MR. CORNWELL: Well what I'm -- his
6 testimony, what he is telling me is that the tape is
7 altered.

8 THE COURT: And did anybody look into that
9 on PCR.

10 MR. CORNWELL: No, Your Honor. I
11 explained to him that redacting the tape is not the
12 same thing as altered.

13 THE COURT: So what I want to know is
14 where the audio is. And I want to know if there is
15 a transcript. I want to listen to it, and I want to
16 hear the -- I want to listen to it and I want to see
17 the transcript. So who can find it for me?

18 MR. GOURLEY: Judge, I'll be happy to stop
19 by the solicitor's office after court today and see
20 if they can track it down.

21 THE COURT: That's in Kingstree though.

22 MR. GOURLEY Oh, that's true. I'll call
23 Ms. Barr, Your Honor.

24 THE COURT: Go ahead, Mr. Cornwell. I
25 interrupted you and I apologize.. You talked about

1 the witnesses who could have been called regarding
2 her mental status. And you talked about the failure
3 to explore the alterations of the audiotape, and the
4 failure to cross examine the victim.

5 MR. CORNWELL: Also I feel like my client
6 was prejudiced by Mr. Barr's failing to object after
7 the outburst was made and ask the court for a
8 mistrial. The jury hearing that outburst was
9 definitely prejudice, Your Honor.

10 THE COURT: How is -- what is the law on a
11 judge granting a mistrial simply because there is an
12 outburst? And what was the outburst? What were the
13 words uttered? What was said? What was done? And
14 would have been the legal basis for a mistrial?

15 MR. CORNWELL: For my understanding what
16 was said at the trial, and this is based on what
17 Mr. Wright is telling me. Because I don't -- it
18 doesn't show up in a transcript, I don't think. But
19 the outburst is to the effect that she is not crazy.
20 And that he did it, and she knows what she is
21 talking about. So I would say that not moving for a
22 mistrial at that point and allowing the jury to hear
23 that, prejudiced my client, Your Honor. And that's
24 all I would have to say.

25 THE COURT: And how about the DNA? Do we

1 hold this -- Mr. Barr's explanation, and I am going
2 to look at my notes and review everything. But
3 Mr. Barr's explanation for not securing a DNA test
4 seems to be pretty valid to me. Because why would
5 you want to get a DNA test to maybe to prove
6 something that the State doesn't even have.

7 MR. CORNWELL: And, Your Honor, I never --
8 that was never an issue I intended to raise. That
9 was an issue my client wanted me to raise. And I
10 explained to him before that that was the situation;
11 that it was probably to his benefit that his lawyer
12 was able to say, hey, they have no physical
13 evidence.

14 THE COURT: And why take the chance of
15 going to get some.

16 MR. CORNWELL: Exactly.

17 THE COURT: Especially after he admitted
18 she was on top of him, and he may have penetrated
19 her.

20 MR. CORNWELL: That's kind of how I
21 explained it also.

22 BY THE COURT: How about this religious
23 reference in the closing argument and I think that's
24 it.

25 MR. CORNWELL: I think that and I am

1 specifically sure what the reference was, Your
2 Honor. But that was also -- that was not something
3 that I had planned to argue, Your Honor. But it's
4 an issue that my client had.

5 THE COURT: Then I will have to do some
6 research on that. But I don't know off the top of
7 my head what the legal basis would have been for an
8 objection or a mistrial. I'll hear from
9 Mr. Gourley, and then I will come back to you
10 Mr. Cornwell. Mr. Gourley.

11 MR. GOURLEY: Your Honor, I would submit
12 to the court that Mr. Wright has not met his burden
13 of proof of showing efficiency on behalf of
14 Mr. Barr, and also prejudice.

15 THE COURT: Why didn't he cross examine
16 the victim?

17 MR. GOURLEY: Your Honor, according to
18 Mr. Barr's testimony, he stated that the victim was
19 very credible. There was no inconsistencies to
20 point out. And, Your Honor, I would submit to the
21 court that that's trial strategy on behalf of
22 Mr. Barr, and he should be given deference to his
23 trial strategy. As he stated, he had nothing to
24 point out; that she was credible witness that was
25 very emotional and the quicker she could get him

1 off -- the quicker he could get her off the stand,
2 the better off everybody would be.

3 Your Honor, in regards to the outburst, it
4 is noted in the transcript on page 286. Apparently
5 the victim did make a comment. I know what the man
6 done to me, and if you let him go. Just for the
7 court's note. But, Your Honor, in regards to the
8 mistrial, it should only be given when it's created
9 a prejudicial issue given in extreme circumstances.
10 And, Your Honor, I don't think that that statement
11 by Ms. Mouzon necessitates a mistrial or even a
12 motion on behalf of her. Actually to that point,
13 Your Honor, during that direct examination of Edie
14 Mae Brooks, Mr. Barr is actually going down the line
15 of direct questioning Ms. Mouzon's mental capacity.
16 And I think that would only further support his
17 theory that Ms. Mouzon is not -- is not capable or
18 competent.

19 THE COURT: Not reliable.

20 MR. GOURLEY: Yes, sir, Your Honor.

21 THE COURT: Anything else, Mr. Gourley?

22 MR. GOURLEY: No, Your Honor.

23 THE COURT: Mr. Cornwell, anything else?

24 MR. CORNWELL: No, Your Honor.

25 THE COURT: Mr. Wright.

1 THE PLAINTIFF: Yes, sir.

2 THE COURT: What I am going to do is, I'm
3 going to review all this in detail. I am going to
4 read every word of this transcript. I'm going to
5 listen of that audiotape and review any transcript
6 that there was. And I will review all the bases for
7 your application. And I will do one of three
8 things. First, if I determine that there needs to
9 be additional evidence presented on the issue of the
10 DNA that you referenced, I will order that. I will
11 order that to be done. If I determine that your
12 application should be granted, I will issue an order
13 granting you the relief, and you will get a new
14 trial short of appeals that the State may pursue.
15 Do you understand that?

16 THE PLAINTIFF: Yes, I do, sir.

17 THE COURT: If I determine your
18 application should be denied, I will issue an order
19 to that effect, setting for my findings in detail.
20 Your lawyer will get a copy of that, and you will
21 have the right to appeal my decision in 30 days
22 after he receives that order. Do you understand
23 that?

24 THE PLAINTIFF: Yes, I do. May I speak?

25 THE COURT: Do you have any other

1 questions?

2 THE PLAINTIFF: Yes, sir.

3 THE COURT: You're not going to make an
4 argument.

5 THE PLAINTIFF: No I am not. The part
6 where they claim that some penetration, I never said
7 that. You'll find that out in the tape. Also
8 when she went to the medical professional after she
9 had a D & C two weeks before the claim, it shows
10 normal healing. If I had done something to that
11 lady, it would have showed it. Also I have a
12 disseminating coccidioidomycosis. It attacks the
13 prostate. So what they're claiming happened, is no
14 way. And I have all the documentation right here.

15 THE COURT: Did you tell that to Mr. Barr?

16 THE PLAINTIFF: Yes, I did.

17 THE COURT: Why didn't you testify to
18 that?

19 THE PLAINTIFF: I said that, I had
20 disseminating coccidioidomycosis.

21 THE COURT: On the witness stand?

22 THE PLAINTIFF: Yes, I did.

23 THE COURT: Well I don't know what that
24 means. I understand that, but I can't sit there and
25 say, okay, I know what that means. There's got

1 evidence presented of that.

2 THE PLAINTIFF: That's why I asked for
3 expert services to explain.

4 THE COURT: Mr. Cornwell, why didn't you
5 do that? What is that condition?

6 MR. CORNWELL: It's a condition that
7 apparently damages the prostate. As I explained to
8 Mr. Wright, that would only indicate that maybe
9 there was no semen that could be ejaculated. But it
10 wouldn't necessarily exonerate him from having sex
11 with somebody.

12 THE COURT: Now we're getting in the
13 debate between you and your client. This is the
14 last thing you're going to say, and then we are
15 going to stop. Go ahead.

16 THE PLAINTIFF: Coccidioidomycoses, what
17 it does---

18 THE COURT: If you're going to talk to me,
19 you need to stand up.

20 THE PLAINTIFF: I'm sorry. Disseminating
21 coccidioidomycosis, it attacks the lungs, the skin,
22 and the bones. I have arthritis so bad, it hurts
23 for me to move. And that night when she claimed
24 something happened to her, was one of the coldest
25 nights in February. So there's no way. I can't

1 even -- because I need help at SCDC to get around.
2 So what he's saying, I've had that for over 20
3 something years. There's no way those things have
4 happened. If expert services were here to say that
5 and look at that, that's exactly what they would
6 say. And I'm not going to abandon any of the issues
7 that I've made.

8 MR. CORNWELL: And, Your Honor, I'd like
9 to, because he told to do with the prostate. But he
10 also explained to me he had the arthritis issue.
11 But the reason I didn't---

12 THE COURT: Do you have a prostate
13 condition?

14 THE PLAINTIFF: Cocci -- disseminating
15 coccidioidomycosis attacks all of those areas. If
16 you live alone, and I have multitude of problems.
17 And there is no way, I can't even lift over 20
18 pounds.

19 MR. CORNWELL: The only reason that I
20 didn't bring that issue up here is because of the,
21 obviously the recording kind of contradicts that.

22 THE COURT: I want that recording. Thank
23 you.

24 --End of Requested Transcript of Record--

25

1 C-E-R-T-I-F-I-C-A-T-E

2

3 I, Margaret T. Sullivan, Court Reporter, for
4 the Third Judicial Circuit of the State of South
5 Carolina, do hereby Certify that the foregoing is a
6 true, accurate and complete Transcript of Record of
7 the proceedings had and evidence introduced in
8 Common Pleas Nonjury Court on April 13, 2015, in
9 Sumter County, Sumter, South Carolina.

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

12

13 10/18/17
14 DATE

Margaret T. Sullivan

COURT REPORTER

My Commission expires: 9/7/21

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STATE OF SOUTH CAROLINA
COUNTY OF WILLIAMSBURG

Dennis Wright, #343201

Applicant,

v.

State of South Carolina,

Respondent.

IN THE COURT OF COMMON PLEAS
FOR THE THIRD JUDICIAL CIRCUIT

Case No. 2012-CP-45-0403

ORDER OF DISMISSAL

2015 JUL -8 PM 2:50

This matter comes before the Court by way of a post-conviction relief (PCR) application filed on July 21, 2012. Respondent made its return on January 15, 2013. An evidentiary hearing in to the matter was convened on April 13, 2015, at the Sumter County Courthouse. Applicant was present at the hearing and was represented by Casey Cornwell, Esquire. Respondent was represented by Assistant Attorney General Daniel Gourley of the South Carolina Attorney General's Office.

PROCEDURAL HISTORY

The records before this Court indicate that the Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Williamsburg County Clerk of Court. The Applicant was true bill indicted at the July 2009 term of the Williamsburg County Grand Jury for Criminal Sexual Conduct 1st Degree and Abuse of Vulnerable Adult (2009-GS-45-199). Charles David Barr, Esquire, represented him. Applicant proceeded to a jury trial before the Honorable Clifton Newman. On October 14, 2010, Applicant was found guilty of Criminal Sexual Conduct - 1st Degree and Abuse of Vulnerable Adult. Judge Cothran sentenced Applicant to twenty years imprisonment for

SCANNED
7/14/15

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Criminal Sexual Conduct and five years for Abuse of Vulnerable Adult; with the sentences to be served concurrently.

A timely notice of appeal was filed. The South Carolina Court of Appeals affirmed the lower court's conviction. State v. Dennis Wright, Op. No. 2012-UP-408 (S.C. Ct. App. filed July 11, 2012). The Remittitur was sent on July 27, 2012.

ALLEGATIONS

In his current Application, Applicant alleges that he is being held in custody unlawfully for the following reasons:

1. Prosecutorial Misconduct; and
 - a. Solicitor vouched for witness stating: "At her age 90 years-old, because this is the down side of her life. She is preparing herself one day to meet her maker. You mean to tell me the same God that she is going to see in Heaven, she is going to put her hand on the Bible and swear to him and lie about that."
2. Ineffective assistance of counsel.
 - a. "Counsel failed to object to improper vouching as to bring in religion to prove a fact there by failing to preserve for Appellate Court review. This is a violation of defendants 6th and 14th admendment (sic) rights."
 - b. "Failed to call expert witness. Neg DNA based on witness testimony DNA testing would have shown nothing happened. DNA expert needed to explain to Jury this also being a violation of defendants 6th and 14th admendments (sic) rights."

On September 19, 2013, PCR Counsel filed an amended application on Applicant's behalf. In this amended application, Applicant alleged the following allegations:

1. Ineffective Assistance of Counsel
 - a. Failing to review discovery and explain complete discovery materials
 - b. Failure to conduct an independent investigation in the case
 - c. Failure to question witnesses whose testimony was vital to clients defense.

SUMMARY OF TESTIMONY PRESENTED

At the evidentiary hearing, Applicant testified on his own behalf. The State presented testimony from Charles Barr, Esquire. (hereinafter "Trial Counsel"). This Court also had before it a copy of the trial transcript, the Williamsburg County Clerk of Court records, Applicant's South Carolina Department of Correction records, appellate records, the PCR application, and return.

During the evidentiary hearing, Applicant initially testified that he was present at the PCR hearing for PCR Counsel to "cheat" him. After a brief recess, Applicant testified that he was convicted of criminal sexual conduct of a vulnerable adult. Applicant stated Charles Barr, Esquire, represented him at trial. Applicant stated that he met with Trial Counsel one time. Applicant stated their only meeting was a consultation visit. Applicant stated that he never spoke with Trial Counsel, never reviewed discovery, nor talked about possible defenses for trial. Applicant stated Trial Counsel failed to look into several witnesses. Specifically, Applicant stated Trial Counsel failed to meet with Lasondra Lewis, Ernie Mouzon, Priscilla Lewis, Dorothy Raines, Jasheem Mouzon, and Sholey Boggen.

Applicant stated that he showed up for roll call and saw that a jury had been picked. Applicant stated that Trial Counsel failed to hire an investigator to look into the possibility of DNA evidence. Applicant stated that the State took DNA evidence from him. Applicant stated he spoke with Shandra Lewis, however she was not present at trial. Applicant stated Trial Counsel should have investigated the Victim's mental health history. Specifically, Applicant stated the Victim suffered from dementia. Applicant further alleged Trial Counsel should have cross-examined the Victim. Additionally, Applicant stated Trial Counsel should have objected to the religious comments made by the Solicitor during closing arguments.

Following Applicant's testimony, Trial Counsel was called to testify by the State. Trial Counsel stated he was retained to represent Applicant. Trial Counsel noted Applicant was on bond during his representation. Trial Counsel stated that they had several meetings prior to trial. Trial Counsel stated that he filed for and reviewed all Brady and Rule 5 material with Applicant. Trial Counsel stated Applicant seemed to understand their conversations about the evidence against him.

Trial Counsel stated Applicant's version of events was "spelled out" in Applicant's statement. Specifically, Trial Counsel stated that Applicant acknowledged that he may have penetrated the Victim. Trial Counsel stated that it was their strategy to create doubt in the juror's minds. Trial Counsel stated Applicant wanted to explain what happened. Trial Counsel recalled Applicant requesting him to investigate Gloria Hannah (also known as Dorothy Hannah), who testified at trial for Applicant. Trial Counsel stated this witness dealt primarily with Victim's mental health issues.

Trial Counsel stated Applicant had a lot of witnesses, but none of them were helpful at trial. Trial Counsel stated the witnesses Applicant stated were merely character witnesses. Trial Counsel stated Applicant's character was not in question. Trial Counsel stated he sent Lasondra Lewis home before the Solicitor was able to speak with her. Trial Counsel stated Lasondra Lewis would have been a better witness for the State.

Trial Counsel stated that the DNA was a critical issue in the case. Trial Counsel recalled that Dr. Kenneth Faile testified that there was no rape kit conducted in this case because of the lapse of time between the rape and report. Trial Counsel further stated that Dr. Faile testified that there was no DNA evidence found in this case. Trial Counsel stated that it is the State's burden of proof to show that Applicant physically raped Victim. Trial Counsel stated he did not

want to explore the DNA issue because Applicant had already acknowledged that he may have penetrated the Victim. Since the absence of DNA evidence was already in favor of the defense, Trial Counsel saw no benefit in retaining an expert.

Trial Counsel testified that the Victim's direct testimony was very powerful, very persuasive, emotional, and very detailed. Trial Counsel stated that he did not hear any inconsistencies between her trial testimony and her written statement. Trial Counsel stated that he saw no reason to cross-examine the Victim, because, in his view, she would have been equally effective on cross. Trial Counsel stated he was glad to see her get off the stand. He opined that the best way to attack a strong adverse witness was through closing argument.

Following Trial Counsel's testimony, Applicant was recalled to testify. Applicant stated that it was well known that Victim had a history of dementia. Applicant stated Victim accused her own children of various indiscretions. Applicant reiterated that he only met with Trial Counsel one time. Applicant stated that they never formulated a trial strategy. Applicant stated the Solicitor had redacted his interview with law enforcement and Trial Counsel failed to object to the interview.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

This Court has had the opportunity to review the record in its entirety and has heard the testimony at the post-conviction relief hearing. This Court has further had the opportunity to observe the witnesses presented at the hearing, closely pass upon their credibility, and weigh their testimony accordingly. Specifically, this Court finds Trial Counsel's testimony credible and Applicant's testimony not credible. Set forth below are the relevant findings of facts and conclusions of law as required pursuant to S.C. Code Ann. §17-27-80 (1985).

INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL

In a post-conviction relief action, the applicant has the burden of proving the allegations in the application. Rule 71.1(e), SCRCP; Butler v. State, 286 S.C. 441, 334 S.E.2d 813 (1985). Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that "counsel's conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Strickland v. Washington, 466 U.S. 668, (1984); Butler, 286 S.C. 441, 334 S.E.2d 813 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. Courts presume that counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Butler, 286 S.C. 441, 334 S.E.2d 813 (1985). The applicant must overcome this presumption to receive relief. Cherry v. State, 300 S.C. 115, 386 S.E.2d 624 (1989).

Courts use a two-pronged test in evaluating allegations of ineffective assistance of counsel. First, the Applicant must prove that counsel's performance was deficient. Under this prong, attorney performance is measured by its "reasonableness under professional norms." Cherry, 300 S.C. at 117, 385 S.E.2d at 625 (citing Strickland). Second, counsel's deficient performance must have prejudiced the applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625.

1. Ineffective assistance of counsel for failing to meet and review discovery with Applicant prior to trial.

This Court finds Applicant's allegation that he received ineffective assistance of counsel due to Trial Counsel's failure to meet and review discovery is meritless. This Court finds credible Trial Counsel's testimony that he met with Applicant several times while Applicant was incarcerated and several times after he got out of jail. This Court further finds credible Trial Counsel's testimony that he reviewed and gave the Applicant his Rule 5 and Brady material prior to trial. This Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.

2. Ineffective assistance of counsel for failing to give notice of trial.

This Court finds Applicant's allegation he received ineffective assistance of counsel for failing to give him notice of trial is meritless. This Court initially notes that there was little testimony presented on this issue. Regardless, it is clear from reviewing the transcript that Trial Counsel was very prepared and extensively, and frankly effectively, cross-examined the State's witnesses. This court is of the view that the verdict may well have been different if Applicant had not given a statement to law enforcement, but he did. Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.

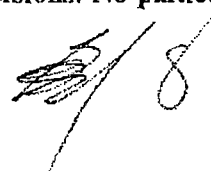
3. Ineffective assistance of counsel for failing to call Lasondra Lewis, Ernie Mouzon, Priscilla Lewis, Dorothy Raines, Jasheem Mouzon, and Sholey Boggen.

This Court finds Applicant's allegation that he received ineffective assistance of counsel for failing to call the above listed witnesses is meritless. This Court notes that none of the listed witnesses testified at the PCR evidentiary hearing. This Court notes that a PCR applicant must produce the testimony of a favorable witness or otherwise offer the testimony in accordance with the rules of evidence at the PCR hearing in order to establish prejudice from the witness' failure to testify at trial. Bannister v. State, 333 S.C. 298, 303, 509 S.E.2d 807, 809 (1998). Furthermore, this Court notes the applicant's mere speculation what the witnesses' testimony would have been cannot, by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, *supra*, 318 S.C. at 498-99, 458 S.E.2d at 540. This Court notes that Gloria Hannah (aka Dorothy Hannah) was called by the Trial Counsel in an effort to elicit testimony about Victim's mental competency. Additionally, Michael Mouzon was called as a witness at trial by the State.

Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.

4. Ineffective assistance of counsel for failing to cross-examine the victim at trial.

This Court finds Applicant's allegation that he received ineffective assistance of counsel for failing to cross-examine the victim at trial is meritless. This Court notes Strickland requires that trial counsel must be given leeway to make reasonable strategic decisions. No particular set



of detailed rules for counsel's conduct can satisfactorily take account of the variety of circumstances faced by defense counsel or the range of legitimate decisions regarding how best to represent a criminal defendant. Strickland v. Washington, 466 U.S. 668, 688-689 (1984). "Representation is an art, and an act or omission that is unprofessional in one case may be sound or even brilliant in another." Id. at 691. Therefore, judicial scrutiny of counsel's performance must be highly deferential. Id. at 689. Where counsel articulates a valid strategic reason for his action or inaction, counsel's performance should not be found ineffective. Roseboro v. State, 317 S.C. 292, 454 S.E.2d 312 (1996); Underwood v. State, 309 S.C. 560, 425 S.E.2d 20 (1992); Stokes v. State, 308 S.C. 546, 419 S.E.2d 778 (1992). Courts must be wary of second guessing counsel's trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992).

Trial Counsel testified that he decided not to cross-examine the Victim because her testimony was so powerful and because she was so persuasive, emotional, detailed, and consistent with her prior statements. Trial Counsel explained that in his opinion, the best way to attack such a strong witness is to wait until closing argument. This Court has reviewed the Victim's trial testimony and finds Trial Counsel's assessment and decision to be a valid and appropriate decision based on the dynamics of the trial as he reasonably saw them at the time. Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions

to prove the second prong of Strickland – that he was prejudiced by Trial Counsel’s performance.

5. Ineffective assistance of counsel for failing to explore the DNA issue.

Applicant’s allegation that he received ineffective assistance of counsel for failing to explore the DNA issue at trial is meritless. The record reveals that no DNA evidence was recovered from the scene. Trial Counsel cross-examined the appropriate witnesses about the absence of DNA. Trial Counsel further testified it would have been unwise for him to further explore the existence of DNA with his own expert, especially since the Applicant had admitted he may have penetrated the Victim. This Court finds Trial Counsel’s assessment and decision to be a valid and appropriate decision based on the dynamics of the trial as he reasonably saw them at the time. Whitehead v. State, 308 S.C. 119, 417 S.E.2d 529 (1992). (Finding Courts must be wary of second guessing counsel’s trial tactics; and where counsel articulates a valid reason for employing such strategy, such conduct is not ineffective assistance of counsel). Based on the foregoing, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel’s performance.

6. Ineffective assistance of counsel for failing to object to religious comments made during the solicitor’s closing argument.

This Court finds Applicant’s allegation that he received ineffective assistance of counsel due to Trial Counsel’s failure to meet and review discovery is meritless. This Court notes “closing argument serves to sharpen and clarify the issues for resolution by the trier of fact in a



criminal case. For it is only after all the evidence is in that counsel for the parties are in a position to present their respective versions of the case as a whole. Only then can they argue the inferences to be drawn from all the testimony, and point out the weaknesses of their adversaries' positions." State v. Mouzon, 321 S.C. 27, 31-32, 467 S.E.2d 122, 124-25 (Ct. App. 1995), aff'd, 326 S.C. 199, 485 S.E.2d 918 (1997) (citing Herring v. New York, 422 U.S. 853 (1975)). "A solicitor's closing argument must be carefully tailored so as not to appeal to the personal biases of the jury." Von Dohlen v. State, 360 S.C. 598, 609, 602 S.E.2d 738, 744 (2004). "The argument must not be calculated to arouse the jurors' passions or prejudices, and its content should stay within the record and reasonable inferences that may be drawn therefrom." Id. at 609-10, 602 S.E.2d at 744. "Improper comments do not automatically require reversal if they are not prejudicial to the defendant, and the appellant has the burden of proving he did not receive a fair trial because of the alleged improper argument." Humphries v. State, 351 S.C. 362, 373, 570 S.E.2d 160, 166 (2002). "The relevant question is whether the solicitor's comments so infected the trial with unfairness as to make the resulting conviction a denial of due process." Id.

This Court, having reviewed the entire argument, finds it not to have been objectionable. This Court finds that the Solicitor made a valid argument regarding credibility and the oath taken by the victim to tell the truth to the jury. Therefore, this Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms. Furthermore, Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.

7. Ineffective assistance of counsel for failing to investigate the possibility of the victim suffering from dementia.



This Court finds Applicant's allegation that he received ineffective assistance of counsel due to Trial Counsel's failure to investigate the possibility of the victim suffering from dementia is meritless. This Court notes Trial Counsel did examine Gloria Hannah about the Victim's ability to recall details of the events. This Court finds the Applicant has failed to present sufficient evidence to prove the first prong of the Strickland test – that Trial Counsel failed to render reasonably effective assistance under prevailing professional norms.

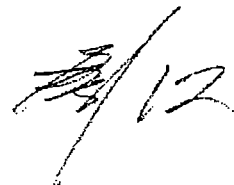
Furthermore, this Court finds Applicant can show no prejudice as he presented no credible evidence to support his allegation that the Victim actually suffered from dementia. See Skeen v. State, 325 S.C. 210, 481 S.E.2d 129 (1997) (holding applicant not entitled to relief where no evidence presented at PCR hearing to show how additional preparation would have had any possible effect on the result at trial). Therefore, this Court finds Applicant has failed to present specific and compelling evidence that Trial Counsel committed either errors or omissions to prove the second prong of Strickland – that he was prejudiced by Trial Counsel's performance.

ALL OTHER ALLEGATIONS

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this Order, this Court finds the Applicant failed to present any testimony, argument, or evidence at the hearing regarding such allegations. Accordingly, this Court finds the Applicant has abandoned any such allegations.

CONCLUSION

Based on the foregoing, this Court finds and concludes that the Applicant has not established any constitutional violations or deprivations that would require this court to grant his



application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

This Court notes that Applicant must file and serve a notice of appeal within thirty days from the receipt by counsel of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453 (1991), an Applicant has a right to an appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if the applicant wishes to seek appellate review, post-conviction relief counsel must serve and file a Notice of Appeal on the Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

IT IS THEREFORE ORDERED:

1. That the Application for Post-Conviction Relief must be denied and dismissed with prejudice; and
2. The Applicant must be remanded to the custody of the Respondent.

AND IT IS SO ORDERED this 26 day of June, 2015.


 GEORGE C. JAMES, JR.
 Presiding Judge
 Third Judicial Circuit


 _____, South Carolina

The Supreme Court of South Carolina

Dennis Wright, Petitioner,

v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002424

Lower Court Case No. 2012CP4500403

ORDER

This Court received a *pro se* notice of appeal on November 25, 2015. The order on appeal shows that it was entered with the clerk of the circuit court on July 8, 2015.

Based on the failure of petitioner's counsel to provide this Court with the date on which he received written notice of entry of the order on appeal as requested by this Court's letter dated February 3, 2016, petitioner has failed to establish that the notice of appeal has been timely served under Rule 243(b) and 203(b)(1) of the South Carolina Appellate Court Rules. *See also* Rule 203(e)(1)(C) ("if appropriate for the determination of the timeliness of the appeal, [the notice of appeal shall contain] a statement of when the appealing party received notice of the order or judgment from which the appeal is taken")

Accordingly, the notice of appeal is dismissed. This dismissal is without prejudice to whatever right petitioner may have to seek relief under *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991). The remittitur will be sent as provided by Rule 221, SCACR.

The *pro se* motion to appoint new counsel is denied as moot.



C.J.

FOR THE COURT

Columbia, South Carolina

March 01, 2016

cc: Fulton Casey Dale Cornwell, Esquire
Daniel Francis Gourley, II, Esquire
Mr. Dennis Wright

The Supreme Court of South Carolina

Dennis Wright, Petitioner,

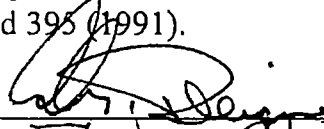
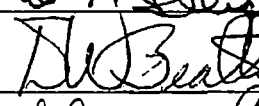
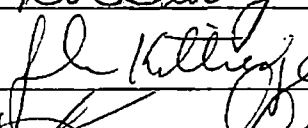
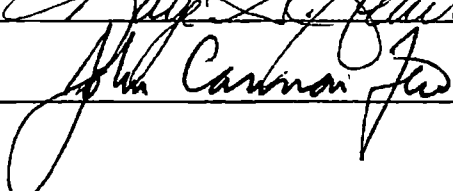
v.

State of South Carolina, Respondent.

Appellate Case No. 2015-002424

ORDER

The notice of appeal in this matter was dismissed due to petitioner's failure to establish the notice was timely served. Petitioner has filed a motion for reconsideration and a motion to appoint new counsel. Both motions are denied. However, we reiterate that petitioner may seek relief in the circuit court pursuant to *Austin v. State*, 305 S.C. 453, 409 S.E.2d 395 (1991).

	C.J.
	J.
	J.
	J.
	J.

Columbia, South Carolina
June 15, 2016

cc:

Fulton Casey Dale Cornwell, Esquire
Julia A. Coleman, Esquire

Dennis Lee Wright, 343201

The Honorable Sharon W. Staggers

FORM 5

STATE OF SOUTH CAROLINA)

County of Williamsburg)Dennis Wright 343201)
Full name and prison number (if any) of Applicant)

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

10 OP45 292

APPLICATION FOR

POST-CONVICTION RELIEF

FILED
2016 JUL -1 PM 3:35
SHARPE
CLERK
KINGSTREE, S.C.

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth in concise form the answers to each applicable question. If necessary, applicant may furnish his answer to a particular question on the reverse side of the page or on an additional page. Applicant shall make clear to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay the fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

1. Place of detention LEE Correctional Inst.
2. Name and location of Court which imposed sentence Williamsburg County Court General Sessions court.
3. Name(s) of co-defendant(s) (if any) N/A
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2009-GS-45-199
 - (b) _____

- (c) _____
5. The date upon which sentence was imposed and the terms of the sentence:
- (a) OCT. 14, 2010
- (b) 20 YEARS
- (c) Sys. concurrent
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ☒ _____
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
- _____
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. South Carolina Court of Appeals
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. Affirmed
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. Filed July 11, 2012
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. NO. 2012-UP-408
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) N/A
- (b) _____

- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:
- (a) SEE: Attachment "A"
- (b) _____
- (c) _____
11. State concisely and in the same order the facts which support each of the grounds set out in (10):
- (a) SEE: Attachment "A"
- (b) _____
- (c) _____
12. Prior to this application have you filed with respect to this conviction:
- (a) any petition in a State Court under South Carolina Law? yes
- (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? N/A
- (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? N/A
- (d) any other petitions, motions or applications in this or any other Court? _____
13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:
- (a) the specific nature thereof:
- i. PCR 12 CP 45-403, July 31, 2012
- ii. _____
- iii. _____
- iv. _____
- (b) the name and location of the Court in which each was filed:
- i. Williamsburg Clerk of Court
- ii. _____
- iii. _____
- iv. _____

10.

a. The Applicant received Ineffective Assistance of Counsel during his P.C.R. proceeding in violation of his rights pursuant to the 6th and 14th amendments to the United States Constitution, as well as Article I, section 14 of the South Carolina Constitution.

11.

a. P.C.R. counsel failed to file the 59(e), upon the judge's Order of Dismissal. Applicant expressed to his P.C.R. counsel thru letters dated May 26, 2015 that he wanted P.C.R. counsel to file the Rule 59(e) (Exhibit 1) against the Order of Dismissal, so all of Applicant's issues would be preserved. Applicant also sent several letters to P.C.R. Counsel to Amend his P.C.R. application, which P.C.R. Counsel never Amended Applicant application. see Exhibits (Exhibit 2 & 3). This is in violation of his rights to due process of law and effective assistance of Counsel. SEE *Austin v. State*, 305 S.C. 453; 409 S.E. 2d 395 (1991)

(c) the disposition thereof:

i. CASE NO. 2012-CP-45-0403 order of dismissal

ii. _____

iii. _____

iv. _____

(d) the date of each such disposition:

i. June 26th, 2015

ii. _____

iii. _____

iv. _____

(e) if known, citations of any written opinions or orders entered pursuant to each such disposition:

i. Order of Dismissal

ii. _____

iii. _____

iv. _____

14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?

NO

15. If you answered "yes" to (14) identify:

(a) which grounds have been presented:

i. N/A

ii. _____

iii. _____

(b) the proceedings in which each ground was raised:

i. N/A

ii. _____

iii. _____

16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) PCR Counsel NEVER filed a 591e to Appeal the judge decision
 - (b) of the order of dismissal, this is the first opportunity
 - (c) for review of these collateral issue.
17. Were you represented by an attorney at any time during the course of:
- (a) your arraignment and plea? YES
 - (b) your trial, if any? YES
 - (c) your sentencing? YES
 - (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
 - (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed?
YES
18. If you answered "yes" to one or more parts of (17), list:
- (a) the name and address of each attorney who represented you:
 - i. Charles David Barr
319 W. Main St., Kingstree S.C. 29556
 - ii. Elizabeth A. Franklin and Breen Steven Appellate
Defense Columbia S.C.,
 - iii. P.C.R. Counsel Fulton Casey Dale Cornwell,
 - (b) the proceedings at which each such attorney represented you:
 - i. Trial proceeding
 - ii. Appellate Appeal
 - iii. P.C.R. Counsel

19. State clearly the relief you seek in filing this application:

Seeking to have my case submitted, to Appeal the decision
of the Judge's order of dismissal, so all my issues will be
preserved. Vacated and remanded for a New trial

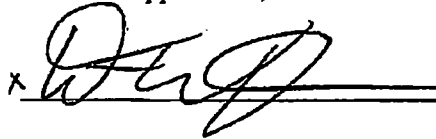
20. Are you now under sentence from any other court that you have not challenged?

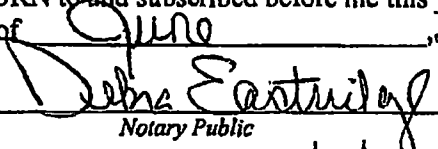
STATE OF SOUTH CAROLINA)

County of Williamsburg)

VERIFICATION

I, Dennis Wright 343201, being duly sworn
 upon my oath, depose and say that I have subscribed to the foregoing application; that I know the
 contents thereof; that it includes every ground known to me for vacating, setting aside or
 correcting the conviction and sentence attacked in this application; and that the matters and
 allegations therein set forth are true.

x 

SWORN to and subscribed before me this 28
 day of June, 2016.
 (L.S.)
 Notary Public

My Commission Expires: 3/3/2020

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, Dennis Wright 343201, hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

X 
Applicant

SWORN or affirmed to and subscribed before me this

28 day of June, 2016.

Debra Eastridge
Notary Public

My Commission Expires: 3/3/2020

FILED
 2016 JUL -1 PM 3:35
 SHIRLEY H. JOHNSON
 CLERK OF COURT
 KINGSTREE, S.C.

Dennis Wright 342201
 Lee Correctional Institution
 990 W. Sack Hwy
 Bishopville, S.C. 29010
 F6-1254

PLACE STICKER AT TOP OF ENVELOPE TO THE RIGHT
 OF THE RETURN ADDRESS, FOLD AT DOTTED LINE
CERTIFIED MAIL



7012 1010 0002 9701 5969



JUN 29 2015

Attorney

Fulton Casey Dale Cornwell
 448 Deerwood St. Unit 100
 Columbia SC 29205
 MAIL ROOM

RETURN TO SENDER
 UNCLAIMED
 UNABLE TO FORWARD

SC: 29010177590 *2480-97852-24-18

29010@1775

SHARON A. STANLEY
 CLERK OF COURT
 KINGSTREE, S.C.

2016 JUL -1 PM 3:35

FILED

Exhibit
 (11)

16 MAY, 2015

The conduct of knowingly concealing the evidence of my innocence through my trial, Appeal, and now PER establishes a due process violation 14th Amendment

Cornwell,

Enclosed numbered 1-9 is my issue(s) for my S9e. When Judge James violates my Constitutional rights. Casey that was a very sorry ineffective performance by you. That Drug dealing Charles Barr was even worse, you mocked my military service and allowed them to do the same. They testified for people not even there without objection Casey. You didn't even say hello to my family, just ran out of there with Gourley. Now why was I there in court... for you to cheat me. I expect you and the rest to change the transcript... Black on Black crime. A dog and pony show Casey planned so no officer of the court would be in court to see it. But God saw and heard all. But back to my S9e Casey. file it within the 10 days. Go through the other material(s) Casey. I have also submitted to you in the (NAME) of Haddock my case file request. You're a very shameful person. A Nothing. file my paper work Casey. I am Dennis Wright 343261 a prisoner. I am innocent. SAY hello to Kevin Washington, and Ronnie Sabb, and his boy friend Cesar McKnight. All sell outs killing there own people.

Innocent!!!

CC: TOL
US. Justice Department
file

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DISTRICT OF
S.C.