

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

Appeal from Abbeville County

Honorable Alison Renee Lee, Circuit Court Judge

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AUG 11 2017  
SC Court of Appeals

THE STATE,

RESPONDENT,

V.

TERRANCE LEMAN CALLOWAY,

APPELLANT

APPELLATE CASE NO 2016-001958

RECORD ON APPEAL

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SC Court of Appeals

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1       you like to make an opening statement?

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

5               THE COURT: Yes.

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

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

11               OPENING STATEMENTS

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

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

16              THE JURORS: (Collectively:) Good morning.

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

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

25              The Eighth Judicial Circuit is actually made up

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 in his vehicle, just the two of them.

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

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

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

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

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

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

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

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

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

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

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

1     ~~the way it works.~~

2             Thank you very much for being here this week.

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

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

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

17           THE COURT: Yes, ma'am.

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

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

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

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

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

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

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

15                 THE COURT: You may call your first witness.

16                 MR. BROWN: The State calls Sherry Williams.

17                 THE WITNESS: (Approaching.)

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

22                 THE COURT: State your full name, please.

23                 THE WITNESS: Sherry Tameka Williams.

24                 THE COURT: Would you spell your first name?

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

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. BROWN:

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

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

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

8 A. Uh-huh.

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

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

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

14 A. Yeah.

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

16 A. Forty-three.

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

18 A. Dixie High School.

19 Q. And what county is that in?

20 A. That's in Abbeville.

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

23 A. Yes, I do.

24 Q. Who is that?

25 A. Terrance Calloway.

1 Q. Does he go by any other name?

2 A. Terry.

3 Q. How do you know Terry?

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

5 Q. At Dixie High School?

6 A. Uh-huh.

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

10 THE WITNESS: Okay.

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

13 THE WITNESS: Okay.

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

16 THE WITNESS: Okay.

17 BY MR. BROWN:

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

20 A. Yes, sir.

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

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

24 Q. Which aunt?

25 A. Tessie Singleton.

1 Q. Tessie Singleton.

2 A. And my cousin, Shaquille.

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

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

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

9 A. Well, every --

10 Q. --- regularly?

11 A. Every other day.

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

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

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

18 A. No.

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

21 A. Yes, I do.

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

24 A. Yes, I did.

25 Q. Where is the Time Out Club?

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

2 Q. Honea Path?

3 A. Uh-huh.

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

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

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

8 A. No. Except for Terry Calloway.

9 Q. Terry was there?

10 A. Uh-huh.

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

12 A. Yes.

13 Q. Who'd you leave with?

14 A. With Terrance Calloway.

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

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

19 Q. You never made it to Burger King?

20 A. No.

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

22 A. Yes.

23 Q. What kind of car did Terry have?

24 A. A white Cadillac.

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

1 A. Yes, I did.

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

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

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

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

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

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

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

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

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

16 Q. (Affirmative response.)

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

18 I said, "No. No."

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

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

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

1 Q. And ---

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

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

9 A. Pushed the back of my head.

10 Q. He forced your head down?

11 A. Yep.

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

14 A. That's Abbeville.

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

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

18 Q. And is Abbeville County in South Carolina?

19 A. Yes.

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

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

24 Q. Came on your side?

25 A. Yes.

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

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

6 Q. How long did that last?

7 A. I think about three to four minutes.

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

10 A. I don't think so.

11 Q. What made him stop?

12 A. A vehicle was coming.

13 Q. You say a vehicle was coming?

14 A. (Nonverbal response.)

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

16 A. Yeah, it startled him.

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

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

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

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

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

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

3 That's what he kept telling me.

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

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

9 Q. Did he confine you to that car?

10 A. Excuse me?

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

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

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

16 A. Yes.

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

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

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

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

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

22 A. No.

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

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

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

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

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

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

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

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

22 A. Yes.

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

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

1 was out or anything.

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

4 A. Yes.

5 Q. Did Anderson EMS come to your location?

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

8 Q. Where did they take you?

9 A. They took me to the Anderson hospital.

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

11 A. Uh-huh.

12 Q. Is that a "yes"?

13 A. Oh, yes. Sorry.

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

16 A. Yes, they did.

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

19 A. Yes, they did.

20 Q. Did they swab around your vagina?

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

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

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

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

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

6 A. No. They gave me more clothes.

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

10 A. That's what I had on.

11 Q. Are those your clothes?

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

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

17 THE COURT: Any objection?

18 MS. BOLEN: No, ma'am.

19 THE COURT: It's admitted.

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

22 BY MR. BROWN:

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

25 A. It was a few people standing outside.

1 Q. What time did you leave?

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

4 Q. A little bit after 8:00?

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

6 Q. It was close to dark?

7 A. Yes.

8 Q. And this was August 3rd?

9 A. Yeah.

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

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

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

16 A. Yes, he is.

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

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

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

21 A. Yes, sir.

22 Q. And he forced himself on you?

23 A. Yes, sir.

24 Q. Down on Horseshoe Road in Abbeville County?

25 A. Yes, sir.

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

3 A. Yes, I did.

4 Q. Did you ask him to stop?

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

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

8 A. Excuse me?

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

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

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

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

15 MR. BROWN: No further questions.

16 THE COURT: Any cross?

17 MS. BOLEN: Yes, ma'am.

18 CROSS-EXAMINATION

19 BY MS. BOLEN:

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

22 A. Later on that night.

23 Q. That night?

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

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

1 house first, correct?

2 A. Yes. Me and my cousin walked.

3 Q. Okay.

4 A. We walked.

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

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

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

11 A. Yes.

12 Q. And there were other people ---

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

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

15 A. Yes.

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

18 A. Yes.

19 Q. Driving cars?

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

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

24 A. Yeah.

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

1 A. Yes. I stay in Honea Path.

2 Q. And 76, that's the road you were talking about,  
3 right?

4 A. Yes.

5 Q. And that's in Anderson County, correct?

6 A. Yes.

7 Q. And Horseshoe Road comes off of 76, correct?

8 A. Yes. But you have to go a long way.

9 Q. Okay. So you're basically heading 76 out to  
10 25?

11 A. Yeah.

12 Q. Okay.

13 A. Just before you get to town.

14 Q. Before you get to 25?

15 A. Yes.

16 Q. And Horseshoe Road is actually a horseshoe,  
17 right?

18 A. Yes.

19 Q. Like it comes around like that (indicating)?

20 A. No. It's a long road. I don't know cause I  
21 ain't been down to the whole road.

22 Q. Okay. You haven't been up and down all of  
23 Horseshoe Road?

24 A. Huh-uh.

25 Q. Okay. But it's off of 76 which is in Anderson,

1 correct?

2 A. Uh-huh.

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

5 A. I guess.

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

8 A. Yes, I did. Correct.

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

11 A. Yes.

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

14 A. Yes.

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

18 A. Yes.

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

20 A. Forced me to have ---

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

22 A. Yes, he did.

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

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

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

3 A. Yes.

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

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

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

10 A. Yes.

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

13 A. Excuse me?

14 Q. He got out of the car?

15 A. Yes.

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

19 A. Yes.

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

22 A. Yes.

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

24 A. Correct.

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

1 in the car?

2 A. Yes.

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

5 A. Yes.

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

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

9 Q. Okay. And were you ---

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

12 Q. Okay.

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

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

16 A. Yes.

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

18 A. Pushed me back over in the car.

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

21 A. Yes.

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

25 A. Again.

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

1 A. I was nervous. I was shaking. I'm in shock  
2 really.

3 Q. Okay. But 25 the first time, a couple minutes,  
4 and then somewhere around 30?

5 A. Yes.

6 Q. Okay. And you -- you were at the club in Honea  
7 Path, right? It's called the Last Stop?

8 A. No. Time Out.

9 Q. Time Out. Okay. So you're at the Time Out,  
10 and that's right in Honea Path. You go down 76 and  
11 you don't get all the way to 25, so that's a couple  
12 of miles, right?

13 A. Yes.

14 Q. And then you're on Horseshoe Road which is a  
15 mile or two or so?

16 A. No.

17 Q. A little bit longer?

18 A. Well, yes, I guess if you say. I don't know.

19 Q. Okay. And then after you say he had you on the  
20 side of the road and he gets you back in the car,  
21 you go straight back to Honea Path, right?

22 A. Yes. That's when I jump out the car when I get  
23 to the red light.

24 Q. Okay. So that's another couple miles, right?

25 A. No, not really -- well, yes, I guess so.

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

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

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

6 A. They moved the police station.

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

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

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

11 A. Yes.

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

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

17 Q. Okay.

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

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

22 A. Yes.

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

25 A. No.

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

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

3 A. Yes.

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

6 A. Yes.

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

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

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

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

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

14 A. Yes.

15 Q. Hospital in Anderson, correct?

16 A. Yes.

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

19 A. Yes.

20 Q. And an Abbeville County officer, correct?

21 A. Yes.

22 Q. And a doctor, correct?

23 A. Yes, it was I think.

24 Q. And a nurse, right?

25 A. Yes.

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

4 A. Yes.

5 Q. A second aunt at her house?

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

8 Q. Okay.

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

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

13 A. Yes.

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

18 A. Yes, I do.

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

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

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

1 ~~your~~ statement, right?

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

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

7 A. No.

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

12 A. Yes.

13 Q. And this is ---

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

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

16 A. Yes. Yes, ma'am.

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

18 A. Yes. Okay. Yeah.

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

21 A. Yes.

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

24 A. No.

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

1 A. No.

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

4 A. Correct.

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

7 A. Yes.

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

12 A. Correct.

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

14 A. No.

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

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

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

20 A. Yes.

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

24 A. Yes.

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

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

3 A. Yes.

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

5 A. No.

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

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

12 Q. Okay.

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

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

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

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

21 A. Correct.

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

25 A. Yes.

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

3 A. Yes. Correct.

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

6 A. Yes.

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

9 A. Correct.

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

12 A. Correct.

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

15 A. Yes.

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

18 A. Correct.

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

21 A. That's correct.

22 Q. They took all of it?

23 A. Yes.

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

1 A. Yes.

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

4 A. Correct.

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

7 A. No, I don't.

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

11 A. No.

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

13 A. I went to a counselor ---

14 Q. Okay.

15 A. --- in Greenwood.

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

18 A. Yes.

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

21 A. I think so, yes.

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

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

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

1 A. Yes.

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

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

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

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

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

12 A. I don't have a vehicle.

13 Q. You don't have a vehicle?

14 A. No.

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

17 (Counsel conferred briefly.)

18 BY MS. BOLEN:

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

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

24 A. Yes.

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

1 to 76?

2 A. Yes.

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

4 A. Yes.

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

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

9 Q. Okay.

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

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

13 A. Correct.

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

17 A. Yes.

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

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

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

24 A. Yes.

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

1 ended up ---

2 A. Yes.

3 Q. --- coming back around?

4 A. Yes.

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

6 Thank you, Your Honor.

7 THE COURT: Any redirect?

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

9 REDIRECT EXAMINATION

10 BY MR. BROWN:

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

15 A. Into Anderson.

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

18 A. Yes.

19 Q. --- correct?

20 A. Yes.

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

23 A. Yes.

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

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

2 about counseling. Did you have counseling?

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

4 Q. How long were you in counseling?

5 A. I think I went to two sessions.

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

7 A. Yes.

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

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

13 Q. Did he physically assault you?

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

15 Q. Forced you to do that?

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

18 MR. BROWN: No further questions.

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

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

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

23 RE-CROSS-EXAMINATION

24 BY MS. BOLEN:

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

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

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

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

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

9 THE WITNESS: Thank you.

10 (Witness excused.)

11 MR. BROWN: State calls Tessie Singleton.

12 (Witness entered.)

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

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

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

20 THE COURT: And the last name?

21 THE WITNESS: Singleton.

22 THE COURT: Thank you.

23 DIRECT EXAMINATION

24 BY MR. BROWN:

25 Q. Ms. Singleton?

1 A. Uh-huh.

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

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

7 BY MR. BROWN:

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

9 A. Yes.

10 Q. --- Williams?

11 A. Yes.

12 Q. Who is she?

13 A. She's my niece.

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

15 A. She stays in [REDACTED] apartments.

16 Q. And where do you live?

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

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

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

22 Q. In that same location?

23 A. Yep.

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

1 A. Yes. Very much.

2 Q. Do you know Terrance Calloway?

3 A. Yes, I do.

4 Q. How do you know him?

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

7 Q. Where did you go to school?

8 A. Dixie High School.

9 Q. Is that in Abbeville County?

10 A. Abbeville County, yes, sir.

11 Q. Is Terry Calloway in the courtroom?

12 A. Yep. Yes, sir.

13 Q. What color shirt does he have on?

14 A. Blue -- light blue.

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

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

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

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

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

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

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

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

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

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

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

1 she was being hysterical.

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

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

11 Q. Do you find this strange?

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

15 Q. Does Sherry act like that often?

16 A. No.

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

18 A. No.

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

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

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

5        Q.     Who is her boyfriend?

6        A.     Tim.

7        Q.     Tim?

8        A.     Uh-huh.

9        Q.     Not Terry?

10       A.     No.

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

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

14       Q.     Now ---

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

17       Q.     Last name ---

18       A.     Timothy Black.

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

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

25       Q.     Did she ride in the ambulance?

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

3 Q. To AnMed?

4 A. In Anderson.

5 MR. BROWN: No further questions.

6 THE COURT: Any cross?

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

8 CROSS-EXAMINATION

9 BY MS. BOLEN:

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

12 A. Yes.

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

14 A. I stayed in Donalds.

15 Q. Donalds, Due West area?

16 A. Yeah.

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

19 A. Yes. Yes.

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

22 A. Yes.

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

25 A. Yeah.

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

6 A. I don't know the highway.

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

9 A. 25.

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

12 A. Uh-huh.

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

15 A. Yeah, somewhere in there.

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

17 A. Yeah.

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

20 A. No.

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

23 A. Yeah.

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

1 A. Yeah.

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

3 A. That's correct.

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

6 A. Yes.

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

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

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

12 A. Yes. High school.

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

14 A. Yeah.

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

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

18 Q. Okay.

19 A. I come from a revival.

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

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

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

1 A. Burger King.

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

4 A. Right. Yeah, correct.

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

7 A. Yeah, she ran to my car.

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

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

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

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

17 A. No, she didn't.

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

20 A. Correct.

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

24 A. Uh-huh.

25 Q. And do you remember putting in that statement

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

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

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

7       A.     Okay.

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

9       THE COURT: Yes.

10      BY MS. BOLEN:

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

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

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

17      A.     Yeah.

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

21      A.     Yes, I did.

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

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

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

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

3 A. Yeah.

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

6 A. Yes. Sure was.

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

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

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

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

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

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

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

24 A. The BI-LO parking lot.

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

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

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

5       A.    Yes.

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

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

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

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

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

16      A.    Yeah.

17      Q.    --- another one behind you?

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

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

21      A.    I can't recall.

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

25      A.    Yeah, correct.

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

3 THE COURT: Any redirect?

4 MR. BROWN: Not from the State.

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

6 THE WITNESS: All right. Thank you.

7 (Witness excused.)

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

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

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

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

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

22 MR. BROWN: Not from the State.

23 MS. BOLEN: No, ma'am.

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

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

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

4 MR. BROWN: Nothing from the State.

5 THE COURT: Anything for the defense?

6 MS. BOLEN: No, ma'am.

7 THE COURT: You may call the jury in.

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

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

12 MR. BROWN: State calls Sandy Purdy.

13 (Witness entered.)

14 SANDY PURDY,

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

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

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

22 THE COURT: Yes, sir.

23 DIRECT EXAMINATION

24 BY MR. BROWN:

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

1 A. I work with the Anderson County 911.

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

3 A. Since 2013.

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

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

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

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

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

19 A. Yes.

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

22 A. Yes.

23 Q. And you work with Anderson County?

24 A. Uh-huh.

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

1 County, would that obviously go to Anderson?

2 A. Uh-huh.

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

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

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

15 A. Yes.

16 Q. What time did this call come in?

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

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

20 A. August 3rd of 2012.

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

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

1 questions.

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

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

7       A.    Yes.

8       Q.    --- outside of Anderson County?

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

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

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

18           THE COURT: Yes, ma'am.

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

21           THE COURT: Yes, sir.

22           BY MR. BROWN:

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

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

1 A. Uh-huh.

2 THE COURT: You need to answer out loud.

3 THE WITNESS: I'm sorry. Yes.

4 BY MR. BROWN:

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

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

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

11 A. Yes. Abbeville County after that.

12 Q. And why did you do that?

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

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

19 THE COURT: Rephrase the question.

20 BY MR. BROWN:

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

23 A. Yes.

24 Q. And what agency did you contact?

25 A. Abbeville.

1 Q. Abbeville County Sheriff's Office?

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

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

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

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

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

14 MR. BROWN: Thank you, Your Honor.

15 BY MR. BROWN:

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

18 A. At 10:53 p.m.

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

20 A. August 3rd. Yes, sir.

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

23 A. It's ---

24 MS. BOLEN: Same objection.

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

1 THE COURT: ) One moment.

2 THE WITNESS: Okay.

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

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

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

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

12 MR. BROWN: No further questions.

13 THE COURT: Any cross?

14 MS. BOLEN: Very briefly.

15 CROSS-EXAMINATION

16 BY MS. BOLEN:

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

19 A. Yes.

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

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

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

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

2 THE WITNESS: Okay.

3 (Witness excused.)

4 MR. SHEEK: State calls Cory Michael Freeman.

5 (Witness entered.)

6 THE COURT: Step forward please to be sworn.

7 THE WITNESS: Yes, ma'am.

8 CORY FREEMAN,

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

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

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

15 THE COURT: Yes, sir.

16 MR. SHEEK: Thank you.

17 DIRECT EXAMINATION

18 BY MR. SHEEK:

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

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

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

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

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

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

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

7 A. Yes, sir, I was.

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

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

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

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

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

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

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

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

23 Q. And did you respond to that location?

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

1     intermediate.

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

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

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

11   A.    I do, yes, sir.

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

14   A.    (No response.)

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

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

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

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

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

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

1 Q. Did you make note of her demeanor?

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

3 Q. Okay.

4 A. And I don't remember exactly.

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

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

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

12 A. That was known to her.

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

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

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

17 A. Intercourse. Sexual intercourse through ---

18 Q. Penetration?

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

21 Q. Okay. Was she transported?

22 A. She was.

23 Q. And where was she taken?

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

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

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

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

11 A. In her genital area.

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

14 A. Yes, sir.

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

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

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

1 answer anything that Ms. Bolen may have.

2 THE WITNESS: All right.

3 CROSS-EXAMINATION

4 BY MS. BOLEN:

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

8 A. Yes, ma'am.

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

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

11 Q. Okay.

12 A. July of 2010.

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

15 A. Yes, ma'am.

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

19 A. Yes, ma'am.

20 Q. Okay. And that --

21 A. The apartments right there.

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

24 A. Yes, ma'am.

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

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

3 A. Yes, ma'am.

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

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

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

10 A. Yes, ma'am.

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

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

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

19 A. It would be close.

20 Q. Close. Okay.

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

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

25 A. Yes, ma'am.

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

3 A. Yes, ma'am.

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

6 A. Fairly close.

7 Q. Fairly close?

8 A. Yes.

9 Q. All within that ---

10 A. A couple of blocks.

11 Q. A couple blocks.

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

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

19 A. 76?

20 Q. It's Princeton Highway ---

21 A. Yes.

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

23 A. Yes, ma'am.

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

25 A. Yes, ma'am.

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

3 A. Seven to eight.

4 Q. Seven to eight?

5 A. Yes, ma'am.

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

10 A. Yes, ma'am.

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

14 A. Yes, ma'am.

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

16 A. Yes, ma'am.

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

18 A. Yes, ma'am.

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

21 A. Yes, ma'am.

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

25 A. Yes.

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

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

3 Q. That was something she told you?

4 A. Yes, ma'am.

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

8 A. Yes, ma'am.

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

10 A. Yes, ma'am.

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

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

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

16 A. Yes, ma'am.

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

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

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

25 A. Yes, ma'am.

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

3 THE COURT: Any redirect?

4 MR. SHEEK: No, ma'am.

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

6 (Witness excused.)

7 THE COURT: You may call your next witness.

8 MR. BROWN: State calls Timothy Black.

9 (Witness entered.)

10 THE COURT: Step forward please to be sworn.

11 TIMOTHY BLACK,

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

15 THE COURT: State your full name, please.

16 THE WITNESS: Timothy Black.

17 DIRECT EXAMINATION

18 BY MR. BROWN:

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

20 A. Honea Path.

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

22 A. Yes.

23 Q. Who is that?

24 A. My girlfriend.

25 Q. Your girlfriend. How long have you and

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

1 A. It was swimming, the Winter Olympics.

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

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

6 Q. It was swimming, so Summer?

7 A. Yeah.

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

10 A. Right.

11 Q. Was this at night?

12 A. When it happened.

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

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

17 Q. Did you ride in the ambulance?

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

19 Q. Who wouldn't let you?

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

21 Q. Who'd you ride with?

22 A. Her aunt.

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

24 A. They said it was ---

25 MS. BOLEN: Objection as to speculation,

1 calling for hearsay.

2 THE COURT: Sustained.

3 BY MR. BROWN:

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

6 A. No.

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

8 A. In the car.

9 Q. Did you ever see Sherry that night?

10 A. Yes.

11 Q. What was her demeanor?

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

15 Q. Does she normally act like that?

16 A. No.

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

19 A. No.

20 Q. Was she crying?

21 A. Yes.

22 Q. Are you and Sherry still together?

23 A. Still together.

24 MR. BROWN: No further questions.

25 THE COURT: Any cross.

1 MS. BOLEN: Briefly, Your Honor.

2 CROSS-EXAMINATION

3 BY MS. BOLEN:

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

6 A. Yes.

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

9 A. Eight years.

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

11 A. Yes.

12 Q. But you were at home that night?

13 A. Yeah.

14 MS. BOLEN: Nothing further. Thank you.

15 THE COURT: Any redirect?

16 MR. BROWN: No redirect, Your Honor.

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

18 THE WITNESS: You're welcome.

19 (Witness excused.)

20 THE COURT: You may call your next witness.

21 MR. BROWN: The State calls Kerry Smith.

22 (Witness entered.)

23 KERRY SMITH,

24 having been produced and first duly sworn as a

25 witness on behalf of the State, then testified as

1 follows:

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

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

5 THE COURT: Common spelling for Smith?

6 THE WITNESS: Yes, sir.

7 DIRECT EXAMINATION

8 BY MR. BROWN:

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

10 A. AnMed.

11 Q. How long have you been with AnMed?

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

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

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

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

19 A. In the ER.

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

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

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

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

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

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

7 A. Yes, sir.

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

10 A. Yes.

11 Q. Is Sherry Williams here in the courtroom?

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

14 Q. Is this who you examined that night?

15 A. Uh-huh.

16 Q. Is that a "yes"?

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

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

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

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

1       that would refresh your memory.

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

5       Q.    11:37?

6       A.    Yes.  11:37.

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

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

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

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

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

21      A.    Yes.

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

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

1       ...they say happened.

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

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

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

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

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

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

3 A. Uh-huh.

4 Q. What do you mean by that?

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

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

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

17 A. Uh-huh.

18 Q. Is that a "yes"?

19 A. Yes.

20 Q. And what is that?

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

25 Q. And do you recognize this particular box?

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

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

7 A. Abbeville County.

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

10 A. Sergeant Norman.

11 Q. Now, after you collect this --

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

14 MS. BOLEN: Without objection.

15 THE COURT: It's admitted.

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

18 BY MR. BROWN:

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

21 A. Yes.

22 Q. Did she answer --

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

1        freewill.

2        Q.    What was her demeanor like?

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

6        Q.    Was she upset?

7        A.    Yes.

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

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

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

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

20       Q.    What was his name?

21       A.    His name is Dr. James Stump.

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

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

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

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

10 A. Uh-huh.

11 Q. Those ---

12 A. Yes.

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

14 A. Yes.

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

16 A. No. No internal swabs were done.

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

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

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

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

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

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

11      A.     Uh-huh.

12      Q.     And allowed you to swab?

13      A.     Completely.

14      Q.     Her genitalia?

15      A.     Uh-huh.

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

18      A.     Uh-huh.

19      Q.     Did she appear to be drunk?

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

1 Q. Did you even smell alcohol on her?

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

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

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

7 Q. So arrived before midnight?

8 A. Uh-huh. Yes.

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

10 A. Yes, sir.

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

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

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

20 A. Yes, sir.

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

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

25 Q. What's her age?

1 A. Thirty-nine years old.

2 MR. BROWN: No further questions.

3 THE COURT: Cross?

4 MS. BOLEN: Thank you.

5 CROSS-EXAMINATION

6 BY MS. BOLEN:

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

11 A. That was my role.

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

14 A. Yes. Yes.

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

18 A. Yes.

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

21 A. Yes, ma'am.

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

24 A. Yes. Yes, ma'am.

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

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

3 A. Yes, ma'am.

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

5 A. Yes.

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

9 A. Yes, ma'am.

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

12 A. Yes.

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

15 A. Yes, ma'am.

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

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

20 Q. Okay.

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

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

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

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

2 A. Yeah, 11:37.

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

5 A. Yes.

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

8 A. Yes, ma'am.

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

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

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

14 A. Uh-huh.

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

18 A. Uh-huh.

19 THE COURT: Is that a "yes"?

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

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

25 THE WITNESS: I'm sorry. Yes.

1 BY MS. BOLEN:

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

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

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

9 A. Yes, ma'am.

10 Q. Underwear?

11 A. Yes, ma'am.

12 Q. Pants? Top?

13 A. Yes, ma'am.

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

17 A. I would have to look.

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

20 A. Yes, ma'am.

21 Q. She was your patient?

22 A. Yes, ma'am.

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

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

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

3 A. Yes, ma'am.

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

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

7 Q. Any bruises, any marks, right?

8 A. Yes, ma'am.

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

12 A. Yes, ma'am.

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

15 A. Yes, ma'am.

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

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

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

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

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

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

2           A.    No obvious ones ---

3           Q.    Okay.

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

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

7           A.    Externally, no.

8           Q.    Externally?

9           A.    Yes.

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

12          A.    Yes, ma'am.

13          Q.    And nothing noted in your report?

14          A.    No, ma'am.

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

17          A.    Yes, ma'am.

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

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

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

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

24          Q.    Okay.

25          A.    I believe we did.

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

4 A. Yes, ma'am.

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

7 A. No obvious bleeding ---

8 Q. Okay.

9 A. --- externally.

10 Q. No obvious external bleeding?

11 A. Right.

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

14 A. No.

15 Q. Or swelling?

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

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

19 A. Yes, ma'am.

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

23 A. Yes, ma'am.

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

25 A. Yes, ma'am.

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

4       A.   I believe so.

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

8       A.   We try to.

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

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

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

14      A.   Not obvious, no.

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

17      A.   Yes, ma'am.

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

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

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

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

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

3 A. Yes, ma'am.

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

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

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

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

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

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

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

24 THE WITNESS: Okay.

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

1 Honor.

2 THE COURT: Any redirect?

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

4 REDIRECT EXAMINATION

5 BY MR. BROWN:

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

8 A. Uh-huh.

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

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

12 Q. So she became more sore?

13 A. Yes. Yes, sir.

14 Q. Ten would be what?

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

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

22 A. Mild to moderate.

23 Q. And what's a five?

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

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

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

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

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

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

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

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

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

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

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

9     A.    Not to my knowledge, no.

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

13    A.    No.

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

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

23    Q.    And she did take a shot?

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

25    Q.    What does the Plan B pill do?

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

6 Q. Forces her to start her period?

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

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

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

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

15 A. Yes.

16 MR. BROWN: No further questions.

17 THE COURT: Anything further?

18 MS. BOLEN: No, ma'am.

19 THE COURT: You may step down.

20 (Witness excused.)

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

1 evidence.

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

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

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

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

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

22 MR. BROWN: Not from the State.

23 MS. BOLEN: No, Your Honor.

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

1 THE DEFENDANT: Yes, ma'am.

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

12 THE DEFENDANT: Yes, ma'am.

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

15 MS. BOLEN: Thank you, Your Honor.

16 MR. BROWN: Thank you.

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

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

21 MR. BROWN: Not from the State.

22 MS. BOLEN: No, ma'am.

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

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

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

3 THE JURORS: (Collectively:) Good afternoon.

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

6 MR. BROWN: State calls Monique Bell.

7 (Witness entered.)

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

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

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

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

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

19 THE COURT: Thank you.

20 DIRECT EXAMINATION

21 BY MR. BROWN:

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

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

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

1 A. Six years.

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

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

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

7 A. Eleven years.

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

10 A. Yes.

11 Q. And August 4, 2012?

12 A. Yes.

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

15 A. Yes.

16 Q. What was that call in relation to?

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

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

20 A. Sherry.

21 Q. Sherry Williams?

22 A. Sherry Williams.

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

25 THE WITNESS: Okay. Sherry Williams.

1 BY MR. BROWN:

2 Q. Is she in the courtroom today?

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

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

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

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

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

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

16 A. Yes.

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

19 A. Yes.

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

23 A. Yes, I did.

24 Q. They were in your care and custody?

25 A. Yes.

1 Q. While you were there at AnMed and in the  
2 presence of Ms. Williams, do you remember what her  
3 disposition was, what she looked like or acted like?

4 A. She was traumatized. She was very nervous,  
5 crying off and on about the exam, kept trying to  
6 tell us, you know, what had happened to her that  
7 night when she left the club from Time Out.

8 Q. Now, did -- what time did you arrive at the  
9 hospital that night? Do you remember?

10 A. I don't remember.

11 Q. Were you there a long while at the hospital  
12 with her?

13 A. I was there until she got discharged.

14 Q. Was that the extent of your role in this case?

15 A. After, I still helped her with her counseling  
16 and anything that she may need assistance with.

17 Q. After she was discharged from the hospital?

18 A. Yes.

19 MR. BROWN: No further questions.

20 THE COURT: Any cross?

21 MS. BOLEN: May we just have a moment, Your  
22 Honor?

23 (Counsel conferred briefly.)

24 CROSS-EXAMINATION

25 BY MS. BOLEN:

1 Q. Ms. Bell, you've work for the Sheriff's Office  
2 for six years, right?

3 A. Yes.

4 Q. Okay. And before that, you were with Abbeville  
5 City?

6 A. I was with the Townville Police Department.

7 Q. Townville. Okay. And with the Sheriff's  
8 Office, you would cover all of Abbeville County,  
9 correct?

10 A. Yes. Every -- everything but the city,  
11 Abbeville City.

12 Q. Okay. All right. So you're familiar with the  
13 county?

14 A. Yes.

15 Q. Okay. And you're aware that Honea Path is  
16 partially in Anderson County, correct?

17 A. Uh-huh.

18 THE COURT: I'm sorry. You need to speak  
19 up ---

20 THE WITNESS: Yes.

21 THE COURT: --- and you need to answer  
22 verbally. Thank you. Please keep your voice up.

23 BY MS. BOLEN:

24 Q. And, in fact, a good bit of Honea Path is in  
25 Anderson County?

1 A. Yes.

2 Q. Including what they call Princeton Highway,  
3 Highway 76, that goes to 25? Are you aware that's  
4 in Anderson?

5 A. To be honest with you, I'm not good with the  
6 road. I don't work the roads. I'm not a deputy  
7 that be on the road, so I don't really know.

8 MS. BOLEN: Okay.. That's fine. I believe  
9 that's all I have. Thank you.

10 THE COURT: Any redirect?

11 MR. BROWN: No redirect.

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

13 (Witness excused.)

14 THE COURT: You may call your next witness.

15 MR. SHEEK: Yes. The State calls Verona  
16 Gibson.

17 (Witness entered.)

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

22 THE COURT: Please state your full name and  
23 spell your first name.

24 THE WITNESS: Verona Herrera, V-e-r-o-n-a.

25 THE COURT: Your last name's Herrera?

1 THE WITNESS: Herrera, yes, ma'am.

2 THE COURT: Spell that please.

3 THE WITNESS: H-e-r-r-e-r-a.

4 THE COURT: Thank you.

5 DIRECT EXAMINATION

6 BY MR. SHEEK:

7 Q. Ma'am, when I called your name out for you to  
8 come out, I said Verona Gibson. What -- what's  
9 changed recently?

10 A. I got married late last year.

11 Q. Okay. So you were Verona Gibson and now you're  
12 Verona Herrera?

13 A. Correct.

14 Q. And with whom are you employed, ma'am?

15 A. The South Carolina Law Enforcement Division  
16 which we refer to as SLED.

17 Q. And what do you do with SLED?

18 A. I'm a forensic serologist in the DNA section at  
19 SLED.

20 Q. Okay. Well, tell us generally what kind of  
21 work you do as a forensic serologist in the DNA  
22 center?

23 A. We get larger pieces of evidence. We evaluate  
24 those based on our requests of the item. We're also  
25 looking for bodily fluids such as semen. We also do

1       some ownership collections of DNA or touch DNA. We  
2       evaluate hair to see if it's suitable for the type  
3       of DNA testing we perform at SLED. And then we do  
4       confirmatory testing on some of the items -- or some  
5       of the body fluids.

6       Q.     Okay. Ma'am, I'm going to show you what's been  
7       marked already as State's Exhibit No. 2 for  
8       evidence, and ask you if you can identify this?

9       A.     Yes. My initials and the date that I closed up  
10      the box are on the top of it.

11     Q.     Okay. So this box was brought to you?

12     A.     Yes, sir.

13     Q.     And what kind of testing, if any, were you  
14      requested to perform?

15     A.     The request was for semen.

16     Q.     Okay. So when you have clothing such as what's  
17      in State's Exhibit No. 2, what do you do with it?

18     A.     We use an alternate light source, which is kind  
19      of like a blue light if you've ever seen one of  
20      those. It makes areas of semen, saliva, urine glow  
21      so we can more easily visualize those because unlike  
22      blood spots, they're not as easy to visualize with  
23      the naked eye.

24             Then those areas are tested. They're  
25      fluoresced. And we would -- it's a quick drop a few

1 ~~chemicals~~ chemicals on a swab that we swab the area with. If  
2 there's a color change, that means there's a  
3 possibility that substance could be semen in this  
4 case. We would cut that out and kind of forward  
5 that on to further testing in another section of the  
6 DNA department.

7 Q. Okay. So when you got these items in State's  
8 Exhibit No. 2, did you check them or perform any  
9 presumptive test of bodily fluids?

10 A. Yes, sir, I did.

11 Q. And were you able to identify any bodily fluids  
12 on those items?

13 A. There was no areas that tested positive for the  
14 presumptive test for semen.

15 Q. When you have clothing like this and you don't  
16 have any areas that test positive for the  
17 presumptive testing, do you go forward with any DNA  
18 testing?

19 A. No, sir.

20 Q. And can you tell us why?

21 A. We would just have to either test the entire  
22 item, which would have to be cut into very small  
23 pieces, so one shirt could be a couple hundred  
24 samples. So it's just not -- with no indication  
25 that the body fluid that the agency is interested in

1 is there, we just don't do any further testing.

2 Q. And would it be feasible to test every item of  
3 clothing completely that's brought to SLED for  
4 testing?

5 A. No, sir.

6 Q. And do y'all do testing for just this area, or  
7 do it for the state, or what do you do?

8 A. We do it for every agency within the state that  
9 requests it from us. There are a couple of labs  
10 scattered across the state that do local testing,  
11 but for the most part we do the entire state.

12 Q. And do you have a backlog of cases waiting to  
13 be tested?

14 A. We do, yes, sir.

15 Q. Okay. And is it standard operating procedure  
16 at SLED that when you have no positive presumptive  
17 test that it's not forwarded for any further  
18 testing?

19 A. That is correct.

20 Q. And so in this case I believe you testified no  
21 presumptive positive results?

22 A. That's correct.

23 Q. Has it -- and that ended your involvement?

24 A. Yes, sir.

25 MR. SHEEK: Beg the Court's indulgence one

1 moment.

2 (Counsel conferred briefly.)

3 MR. SHEEK: Thank you, Ms. Herrera. Please  
4 answer anything the defense may have.

5 THE COURT: Any cross?

6 MS. BOLEN: Thank you, Your Honor.

7 CROSS-EXAMINATION

8 BY MS. BOLEN:

9 Q. Ms. Herrera, you said you test for bodily  
10 fluids such as blood, saliva, semen, correct?

11 A. Yes, ma'am.

12 Q. And in this case, I believe you -- the  
13 particular items you looked at were a shirt,  
14 correct?

15 A. That was one of the items, yes, ma'am.

16 Q. Pants?

17 A. And a belt.

18 Q. And a belt. Okay. No underwear?

19 A. No, ma'am.

20 Q. Just those three. And you didn't find any  
21 blood, saliva, semen, or other bodily fluids,  
22 correct?

23 A. I only checked these for semen. The request,  
24 when it came in, was multiple items. But I spoke  
25 with the investigator, and they only wanted semen on

1 the items.

2 Q. Okay. And you didn't find any, correct?

3 A. That's correct.

4 MS. BOLEN: Okay. Thank you. Nothing further.

5 THE COURT: Any redirect?

6 MR. SHEEK: No redirect, Your Honor. I would  
7 ask that this witness be excused from her subpoena.

8 THE COURT: Any objection?

9 MS. BOLEN: No, ma'am.

10 THE COURT: You may be excused. Thank you.

11 (Witness excused.)

12 MR. SHEEK: Your Honor, the State next calls  
13 Courtney Thompson who I believe has also been  
14 married now.

15 (Witness entered.)

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

20 THE COURT: Would you state your full name,  
21 please?

22 THE WITNESS: Courtney Thompson.

23 THE COURT: And would you spell your first  
24 name?

25 THE WITNESS: C-o-u-r-t-n-e-y.

1 THE COURT: Thank you.

2 DIRECT EXAMINATION

3 BY MR. SHEEK:

4 Q. Thank you, ma'am. Courtney, with whom are you  
5 employed?

6 A. I'm employed at the South Carolina Law  
7 Enforcement Division, also referred to as SLED.

8 Q. And in what division or department are you  
9 employed there?

10 A. I work in the DNA case work department.

11 Q. When you say DNA case work, what kind of work  
12 do you do?

13 A. Specifically, my job title is that I'm a  
14 forensic serologist. And what I do in the DNA case  
15 work department involves identifying body fluids of  
16 interest to the DNA case work department for  
17 possible DNA analysis.

18 Q. Ms. Thompson, I'm going to hand you what's been  
19 marked as State's Exhibit No. 1. Ask you, do you  
20 recognize that?

21 A. Would it be alright if I open it, sir?

22 Q. Please open it if you need to.

23 A. It appears that this is the box that the sexual  
24 assault evidence collection kit was packaged in.

25 Q. And as a part of that sexual assault kit, what

1 kind of items were you given, if any, regarding the  
2 case of Sherry Williams and Terrance Calloway?

3 A. Within the sexual assault kit, I have the  
4 opportunity to examine smears, vaginal, oral, and  
5 rectal swabs, fingernail scrapings, pubic hair  
6 combings, a standard -- a known standard from the  
7 victim, a recollection, as well as underwear from  
8 the victim.

9 Q. Okay. So the underwear from a victim were  
10 contained in the sexual assault kit?

11 A. They were not contained in the sexual assault  
12 kit once it came to me. Upon a sexual assault kit  
13 being brought to SLED, a technician at evidence  
14 control removes the underwear and packages it  
15 separately, does not touch the item in any fashion,  
16 and then I pick it up as a separate item and I  
17 analyze it separate from the sexual assault kit.

18 Q. Okay. And when you have those items, do you  
19 perform any type of presumptive testing checking for  
20 the presence of any bodily fluids?

21 A. With a sexual assault kit, my examinations were  
22 for semen. And for the pair of underwear, I did a  
23 presumptive screening for semen, as well.

24 Q. And were you -- were you able to locate or  
25 identify any semen?

1       A.    In this particular case, no. I did not have  
2       the occasion to find any areas that were positive  
3       for semen.

4       Q.    Okay. And were you -- you testified you were  
5       given smears. What kind of smears were these -- or  
6       if you would, ma'am, do you -- can you explain to  
7       the jury what we're talking about when we say a  
8       "smear"?

9       A.    Yes. A smear is a small glass slide that is  
10      collected at the time of a sexual assault. And  
11      typically what happens is, the medical personnel who  
12      is collecting the smear takes a swab and rubs a  
13      slight amount of that material that's collected.

14            So in this case, I had vaginal, oral, and  
15      rectal smears. So what they did is when the -- for  
16      instance, a vaginal swab was collected. They took  
17      that swab and rubbed it on the smear a little bit  
18      and dried it and packaged it.

19            And then when I receive it, I use a special  
20      stain that allows us to visualize cellular material  
21      on a microscope, and I put that on the smears and  
22      then I examined that smear under a microscope to see  
23      if I could identify any sperm.

24      Q.    And were you able to identify any sperm from  
25      the smears which you were provided?

1 A. For the vaginal, oral, and rectal smears, I did  
2 not identify any sperm.

3 Q. Now, were you able -- were you also checking  
4 the pubic hair combs?

5 A. Yes, sir. I did have the occasion to look at  
6 the pubic hair combs.

7 Q. What is a pubic hair combing?

8 A. Whenever a kit is collected at a hospital, the  
9 medical personnel have a sterile napkin and a  
10 sterile fine tooth comb, and they will gently comb  
11 through the pubic area of the victim. And any  
12 potential stray hairs are collected inside of the  
13 sterile napkin. And then it's packaged up and  
14 sealed out of the kit.

15 Q. And there were you able to identify any hair  
16 identified as pubic hair combing?

17 A. I was not able to identify any hair at all.

18 Q. Now, we talked about debris collection. What  
19 are you talking about when you talk about that?

20 A. The debris collection is a large sheet that  
21 when a victim enters into the hospital, whenever  
22 their clothes are removed, they undress over the  
23 sheet, and then the medical personnel carefully  
24 folds it up and preserves any particular evidence  
25 that might have fallen off the victim's clothes.

1       And in this case, the debris collection was  
2       examined for hair. And my result for that is that  
3       no hair was found that was suitable for DNA  
4       analysis.

5       Q.   Now when you say not suitable, what do you need  
6       on a hair for it to be suitable for DNA analysis?

7       A.   At SLED per protocol, a root must be present at  
8       the end of a hair in order for it to be able to be  
9       used in DNA.

10      Q.   So in the debris, you found no hair suitable  
11      for DNA analysis?

12      A.   That is correct.

13      Q.   And did you find any other debris that  
14      indicated it would be suitable for DNA analysis?  
15      Anything test positive, the presumptive test for  
16      semen?

17      A.   No, sir. None of my tests were positive for  
18      semen.

19      Q.   Do you know from your training when DNA became  
20      commonly used in investigative purposes?

21      A.   I'm sorry. I do not know that exact year off  
22      the top of my head, but I could refer to some  
23      literature, but I don't happen to have any of it  
24      with me at this time.

25      Q.   And when you examined the underwear, did you

1 find any hair available there suitable for DNA  
2 testing?

3 A. My results indicate that, no, I did not find  
4 any hair.

5 Q. When you performed the examination like you  
6 have, if you have no positive results for  
7 presumptive testing for DNA -- for bodily fluids --  
8 I apologize -- or semen when you're looking for  
9 that, do you forward it to any other departments for  
10 further analysis?

11 A. No. After my screening for semen is complete,  
12 if I do not have any positive results, then that  
13 particular item does not travel any further in the  
14 DNA department.

15 MR. SHEEK: Thank you. Ms. Thompson, please  
16 answer anything the defense may have.

17 THE COURT: Any cross?

18 MS. BOLEN: Thank you, Your Honor.

19 CROSS-EXAMINATION

20 BY MS. BOLEN:

21 Q. Ms. Thompson, you examined quite a few pieces  
22 of evidence in this case, right?

23 A. Yes, I did.

24 Q. Okay. You had the vaginal smear, right?

25 A. Yes, I did.

1 Q. Oral smear which would've been just from oral  
2 meaning inside the mouth, correct?

3 A. That is correct.

4 Q. Okay. And rectal smear?

5 A. Yes.

6 Q. Okay. Pubic hair combings, you examined that,  
7 right.

8 A. Yes.

9 Q. Debris collection, correct?

10 A. Yes.

11 Q. And a pair of underwear, right?

12 A. Yes.

13 Q. And for all of those, you were looking  
14 specifically for semen, correct?

15 A. For the smears, what I was trying to identify  
16 would be a sperm cell on the smear.

17 And then for the underwear, I was testing for  
18 any indication of semen being present.

19 The pubic hair combings and the debris, I was  
20 looking for hair primarily.

21 Q. Okay. Right. I misspoke there, so those you  
22 were looking for hair and there wasn't anything in  
23 the pubic hair combings, right?

24 A. That's correct.

25 Q. And there wasn't any presence of any sperm

1 cells or semen in the underwear, correct?

2 A. That's correct.

3 Q. And you didn't note in your report finding  
4 anything else in the underwear, correct? No  
5 other -- you didn't notice any other bodily fluids,  
6 correct?

7 A. And that is -- that is correct. But also per  
8 the request that was placed by the agency, I was  
9 only screening for semen as that's what was  
10 indicated to be most prevalent for this particular  
11 occurrence.

12 Q. Okay. And if you had seen visible blood on any  
13 items of clothing, that's when you would've noted in  
14 your report?

15 A. Possibly if I thought that it might be  
16 pertinent to the case scenario. I don't know of it  
17 every time. For instance, a victim might be on  
18 their -- on their period or anything that were  
19 recently on it. And so I'll note it if it doesn't  
20 seem like it's a part of the particular case.

21 Q. And you didn't make any note of seeing any  
22 blood on the underwear in this case, right?

23 A. Let me refer real quick to my report.

24 (Reading.) No. I did not note anything like  
25 that on this particular case.

1 MS. BOLEN: Nothing further. Thank you.

2 THE COURT: Any redirect?

3 MR. SHEEK: Beg the Court's indulgence one  
4 moment.

5 (Counsel conferred briefly.)

6 MR. SHEEK: No redirect, Your Honor.

7 THE COURT: You may step down. Thank you.

8 (Witness excused.)

9 THE COURT: You may call your next witness.

10 MR. BROWN: State calls Leslie Norman.

11 (Witness entered.)

12 LESLIE NORMAN,

13 having been produced and first duly sworn as a  
14 witness on behalf of the State, then testified as  
15 follows:

16 THE COURT: Can you state your full name,  
17 please?

18 THE WITNESS: Leslie Wells Norman.

19 THE COURT: Thank you.

20 DIRECT EXAMINATION

21 BY MR. BROWN:

22 Q. Ms. Norman, where do you currently work?

23 A. I work for Department of Public Safety Mental  
24 Health.

25 Q. And where? Which county?

- 1 A. That's Belton, Anderson County.
- 2 Q. Ms. Norman, where did work back in 2012?
- 3 A. Abbeville County Sheriff's Office.
- 4 Q. And what was your position there?
- 5 A. Sergeant deputy.
- 6 Q. And being a sergeant deputy, did you -- are you
- 7 familiar with the roadways in Abbeville County?
- 8 A. Yes.
- 9 Q. Did you have the occasion to work on or get
- 10 involved with this particular case on August 3 ---
- 11 A. Yes.
- 12 Q. --- 2012?
- 13 A. Yes.
- 14 Q. And do you know this lady (indicating) on the
- 15 front row?
- 16 A. Yes, I do.
- 17 Q. Who is that?
- 18 A. That's -- I forgot her name, but I know who she
- 19 is. She's the victim.
- 20 Q. Sherry Williams?
- 21 A. Sherry Williams.
- 22 Q. Ms. Norman, did you get a call to respond to a
- 23 sexual assault?
- 24 A. Yes.
- 25 Q. On August 3, 2012?

1 A. Yes.

2 Q. Where did you respond?

3 A. I responded to Anderson Area Medical Center.

4 Q. And at that location, did you talk with  
5 Ms. Williams?

6 A. Yes, I did.

7 Q. In speaking with Ms. Williams, did she indicate  
8 where this sexual assault took place?

9 A. Horseshoe Road.

10 MS. BOLEN: Objection as to hearsay.

11 THE COURT: (No response.)

12 MS. BOLEN: Your Honor, I think we can -- I'm  
13 going to withdraw my objection, Your Honor.

14 THE COURT: Going to withdraw it?

15 MS. BOLEN: Yes, ma'am.

16 BY MR. BROWN:

17 Q. Ms. Norman, speaking with Ms. Williams, did she  
18 say on what road this occurred?

19 A. Horseshoe Road in Abbeville County.

20 Q. Now, being a road deputy, are you familiar with  
21 Horseshoe Road in Abbeville County?

22 A. Yes.

23 Q. I'm going to show you what's been marked for  
24 identification purposes as State's No. 4. Can you  
25 tell me what that picture shows?

1 A. It shows the surrounding county -- surrounding  
2 area in Anderson County that leads back to Horseshoe  
3 Road in Abbeville.

4 Q. And do you see the Abbeville/Anderson County  
5 line?

6 A. Yes.

7 Q. And how is that denoted in that photograph?

8 A. How is it denoted? It's in the yellow.

9 Q. A yellow highlighter shows the county line?

10 A. Uh-huh.

11 Q. And is the green -- what does the green show?

12 A. The green shows the Horseshoe Road area.

13 Q. Is part of that green on Horseshoe Road, is  
14 that in Abbeville County?

15 A. Yes.

16 MR. BROWN: Your Honor, at this time the State  
17 moves State's ID 4 into evidence as State's No. 4.

18 THE COURT: Any objection?

19 MS. BOLEN: No, ma'am. No objection.

20 THE COURT: It's admitted.

21 (State's Exhibit No. 4 was admitted into  
22 evidence.)

23 BY MR. BROWN:

24 Q. Now, when you were talking to Ms. Williams,  
25 where did you -- you said you went to AnMed?

- 1 A. Yes.
- 2 Q. And what time -- were you there the entire time
- 3 she was at the hospital, or did you arrive a little
- 4 later?
- 5 A. No. I arrived later. I worked a shift -- a
- 6 12-hour shift that day. I believe it was after
- 7 12:00 when I got the call.
- 8 Q. And the call originally came in to Anderson
- 9 County; is that correct?
- 10 A. Yes.
- 11 Q. And then Anderson dispatch contacted Abbeville
- 12 County?
- 13 A. Yes.
- 14 Q. And that's when you got involved?
- 15 A. Yes.
- 16 Q. State's Evidence No. 4. This map is a little
- 17 light in color, but again, what's the yellow line?
- 18 A. That's the county line. That's Highway 252.
- 19 It's Abbeville County.
- 20 Q. And the county up here (indicating), is that
- 21 Anderson County?
- 22 A. That's Anderson County.
- 23 Q. And Abbeville would be the bottom half, right?
- 24 A. Yeah, it is. The green is the Horseshoe Road
- 25 area.

1 Q. Horseshoe Road is in Anderson and it also comes  
2 into Abbeville County?

3 A. Yes.

4 Q. And when you spoke with Ms. Williams again, she  
5 stated it happened on Abbeville Horseshoe. --

6 A. Yes.

7 Q. --- Horseshoe Road?

8 A. Yes.

9 Q. Did -- so your role in this case, you met with  
10 her and then took a report?

11 A. Yes.

12 Q. Documented everything she said?

13 A. Yes.

14 Q. And, ultimately, you are the one that secured  
15 the warrants for Mr. Calloway's arrest?

16 A. Yes.

17 MR. BROWN: No further questions.

18 MS. BOLEN: If I may have just a moment, Your  
19 Honor.

20 (Counsel conferred briefly.)

21 MS. BOLEN: No cross, Your Honor.

22 THE COURT: You may step down. Thank you.

23 (Witness excused.)

24 THE COURT: You may call your next witness.

25 MR. BROWN: The State rests at this time, Your

1 Honor.

2 THE COURT: Ladies and gentlemen, we have some  
3 legal issues which we need to take up outside of  
4 your presence. I'm going to ask that you retire to  
5 the jury room and not to begin any discussions about  
6 this matter as you've not heard all the evidence.  
7 Or even if you have heard all the evidence, you've  
8 not heard my instructions to you as to the law. So  
9 let's take a break for you while we take up these  
10 legal issues and we'll bring you back shortly.

11 (At 2:37 p.m., the jury was excused from the  
12 courtroom.)

13 THE COURT: Are there any motions at this time?

14 MS. BOLEN: Yes, ma'am, Your Honor. At this  
15 time the defense moves for a directed verdict on --  
16 I'm sorry, Your Honor. I'm just having a computer  
17 problem. Defense moves for a directed verdict of  
18 not guilty on both charges.

19 Your Honor, this is a two-part motion. Our  
20 first argument, Your Honor, is that the State has  
21 not -- has not presented evidence that this was a --  
22 an assault that occurred by any sort of aggravated  
23 force. The CSC first degree statute specifically  
24 requires aggravated force or that the assault  
25 happened while under -- and it lists number of

1 crimes, one of which is kidnapping, but it rides  
2 into one of our next arguments, Your Honor, that the  
3 State has not presented evidence that Ms. Williams  
4 was forcibly kidnapped, taken away by force, kept by  
5 force by Mr. Calloway.

6 Without the kidnapping, Your Honor, there's not  
7 been any testimony about any sort of aggravated  
8 force used in the assault. And without sufficient  
9 evidence of the kidnapping, there's not sufficient  
10 evidence of the CSC. So we make a directed verdict  
11 motion with respect to both charges that there  
12 hasn't been sufficient evidence presented to  
13 establish the elements of the statutes.

14 Your Honor, we also make a directed verdict  
15 motion on the basis that the State has not  
16 established venue. There's been testimony that the  
17 location of the alleged assault was on Horseshoe  
18 Road by the State's last exhibit, which I believe is  
19 Exhibit 4. The majority of Horseshoe Road is  
20 actually in Anderson County, not in Abbeville  
21 County.

22 There was testimony by Ms. Williams that the  
23 assault happened in Abbeville County, but there  
24 wasn't anything -- she didn't have any corroboration  
25 or support of that. There were no landmarks noted.

1     There were no, "I knew I was exactly at this spot  
2     because of this reason." Looking at the map, Your  
3     Honor, the -- I would say 90 percent of Horseshoe  
4     Road is in Anderson County, and the State needs to  
5     prove venue as one of its elements. And it's our  
6     position that they have not proved that any assault  
7     happened in -- in Abbeville County.

8             Furthermore, Your Honor, with respect to the  
9     kidnapping and venue, there's been ample testimony  
10    plus the State's Exhibit 4 that showed that the  
11    allegations about the kidnapping would've been in  
12    Anderson rather than Abbeville County.

13            So our position, Your Honor, is that there  
14    should be a directed verdict of not guilty with  
15    respect to both charges; first, on the basis of  
16    insufficient evidence; and second, on the basis of  
17    the venue has not been proved.

18            And it's -- for venue I believe that it goes --  
19    the kidnapping, the obligations are put squarely in  
20    Anderson rather than Abbeville. And with CSC, that  
21    there hasn't been evidence presented that it was in  
22    the Abbeville section of Horseshoe Road.

23            THE COURT: Yes, sir.

24            MR. BROWN: Your Honor, with regard to the  
25    first point, as Ms. Bolen stated, there's not

1 evidence presented to show evidence of force. The  
2 statute says aggravated force means acting as  
3 physical force.

4 THE COURT: I'm sorry. Say that again.

5 MR. BROWN: Aggravated force in the statute  
6 means the act uses physical force or physical  
7 violence of an -- it says or physical violence of a  
8 high and aggravated nature.

9 Aggravated coercion part of the statute means  
10 act with threatening force or violence. There's  
11 also a part of that as an aggravated coercion is --  
12 or threatens to retaliate in the future by  
13 infliction of physical harm, kidnapping, or  
14 extortion.

15 Your Honor, in all three of those -- B, C, and  
16 D -- there's been testimony suggesting that is  
17 exactly what happened, aggravated force.

18 Ms. Williams stated that he forced her head down in  
19 his lap, punched her in the back of the head,  
20 actually removed some of her hair from the back of  
21 her head which would be physical force. He  
22 threatened to kill her, which would be a threat  
23 which would also be part of the aggravated coercion.

24 Your Honor, part of the argument of Ms. Bolen  
25 stated would go also to the kidnapping. The

1 kidnapping, State would suggest or would  
2 followthrough is that when Ms. Williams got in the  
3 car, she was going to Burger King. And when he  
4 takes those next turns and takes her down the road  
5 where he's threatening her, she's in the process of  
6 being kidnapped, going in from Anderson County into  
7 Abbeville County.

8 Unfortunately, Anderson did not charge on the  
9 kidnapping, but Abbeville did. He carried her over  
10 into Abbeville County. He got her out of the car,  
11 forcibly bent her over the front of the car, and  
12 forcibly put her back in the car once a car showed  
13 up which scared him. That would all be in line with  
14 kidnapping.

15 And in the light most favorable to the State,  
16 there has been evidence presented that Ms. Williams  
17 was sexually assaulted. She testified to that  
18 saying he forced her to perform oral sex on him,  
19 also sexually penetrated or had sexual  
20 intercourse -- forcible sexual intercourse with her.  
21 So there is, again, in the light most favorable to  
22 the State ample evidence there for a jury to decide  
23 the facts in this case and it should go to the jury.

24 And with regard to venue or jurisdiction, it  
25 has been testified to, Ms. Williams stated that she

1 did grow up in Abbeville -- or in Abbeville County.  
2 Went to Dixie High School. Is very familiar with  
3 the area. Lives in Honea Path which is just  
4 neighboring on the other side of the county line.  
5 We have provided testimony from the 911 CAD from the  
6 custodian saying that they also called Abbeville  
7 County to work the case.

8 Leslie Norman, who was the officer involved in  
9 this case who took the report, also testified that  
10 she's familiar with the roads in Abbeville County.  
11 And, of course, the part of Horseshoe Road is in  
12 Abbeville County. Therefore, we do feel like we  
13 have provided information and facts on the subject  
14 matter of jurisdiction and both of those points that  
15 Ms. Bolen has provided should be denied.

16 THE COURT: Any response?

17 MS. BOLEN: No, Your Honor.

18 THE COURT: Let me start with the motion  
19 relating to venue. There was testimony by the  
20 victim that she -- that they had gone down Horseshoe  
21 Drive, that they went down Highway 76, that they  
22 turned on Horseshoe Drive, and that she was  
23 assaulted in Abbeville County because that is where  
24 the car was stopped. And the testimony was that the  
25 car was stopped, but she was forced out of the car.

1       He had forced her to have sexual intercourse, and  
2       then he forced her back into the car. And those  
3       events took place in Abbeville County. So there is  
4       evidence in the record that the offense, as  
5       testified to by the victim, occurred in Abbeville  
6       County. It's up to the jury to determine whether or  
7       not they choose to believe her testimony and whether  
8       or not they believe that she provided sufficient  
9       information to be able to establish that it was  
10      Abbeville County, but I'm only concerned with the  
11      existence of the evidence and what weight to give  
12      it, so there is evidence of that.

13             In addition, there is also evidence of  
14      kidnapping in Anderson -- I'm sorry -- Abbeville  
15      County. The kidnapping is abducting or carrying  
16      away or confining. And the testimony was is that he  
17      forced her to move from one place to another, that  
18      he confined her in his car, that she could not jump  
19      out the car at that particular point and leave, and  
20      that it was against her will. And so I think -- and  
21      that that occurred at or about the time that she was  
22      sexually assaulted on Horseshoe Drive, so I think  
23      that that constitutes evidence in the light most  
24      favorable to the State, which is what I'm using as  
25      well, that there was a kidnapping in Abbeville

1 County.

2 As to the motions relating to whether there was  
3 evidence of the CSC first, the CSC first, of course,  
4 is either aggravated force or physical violence of a  
5 high and aggravated nature to the victim or threat  
6 of use or deadly weapons, or it requires forcible  
7 confinement, kidnapping. And I think that there's  
8 evidence of either aggravated force, which is  
9 physical force based upon the testimony that she was  
10 forced out of the car, that he forcibly bent her  
11 over the car and had sexual intercourse with her.  
12 There was also the threat of the use of a deadly  
13 weapon -- well, threat -- threatened to kill her and  
14 the family, and so I think that's sufficient to  
15 constitute the kidnapping, as well as CSC first.

16 And kidnapping is either forcible confinement  
17 or carrying away by means -- any means whatsoever or  
18 unlawfully seizing or confining the fact that she  
19 would've been confined to the vehicle, that he took  
20 her away from location where she thought she was  
21 going to be going, and that that continued, and it  
22 continued into Abbeville County, according to her  
23 testimony, and then back into Anderson County before  
24 she was able to jump out of the car. I think that  
25 that's evidence from which the jury could consider,

1       so there is existence of evidence as to the  
2       kidnapping.

3               So I'm going to deny all the motions from the  
4       defense at this time.

5               MS. BOLEN: Thank you, Your Honor.

6               MR. BROWN: Thank you, Your Honor.

7               THE COURT: Mr. Calloway, would you stand  
8       please and raise your right hand?

9               THE DEFENDANT: (Complying.)

10              THE COURT: Do you solemnly swear or affirm  
11       that the answers that you shall give shall be the  
12       truth?

13              THE DEFENDANT: Yes, ma'am.

14              THE COURT: Thank you. We've now reached that  
15       part of trial where you may put up a defense. In  
16       connection with putting up a defense, that means  
17       that you can call witnesses that will testify on  
18       your behalf. You may also get on the witness stand  
19       and testify for yourself.

20              If you -- whether or not you wish to testify is  
21       entirely up to you. It's a matter that you can  
22       certainly discuss with your family and friends, but  
23       I encourage you most of all to discuss with your  
24       attorney. I will tell you that if you have a  
25       record, a criminal history or convictions of crimes

1       that involve moral turpitude or crimes that carry a  
2       term of imprisonment for more than one year, than  
3       those crimes can be used to impeach you if you get  
4       on the stand and testify.

5               As to the State, does he have any criminal  
6       history that we need to be aware of?

7               MR. SHEEK: Your Honor, he does have a  
8       significant criminal history. I believe what would  
9       be available to the State for impeachment purposes  
10      should the defendant choose to testify would be a  
11      conviction for assault and battery of a high and  
12      aggravated nature. That conviction came in, I  
13      believe, 2008. He was given into custody of the  
14      Department of Corrections in 2009. That is within  
15      the last ten years obviously, so that one I think  
16      would be available.

17              He had a 2012 conviction for CVD second. That  
18      only carries up to one year. We will not seek to  
19      introduce any evidence for impeachment purposes on  
20      that.

21              The other remaining convictions are more than  
22      ten years old, and I believe would not be relevant  
23      unless he testified and made them relevant through  
24      some testimony, Your Honor.

25              He's got -- should he testify, he does have

1 prior domestic violence convictions, a couple of  
2 driving offenses. He also has a lynching which  
3 looks like was either convicted or plead to assault  
4 and battery high and aggravated in '06. He also has  
5 two prior sexual assaults, Your Honor, which were  
6 both resulting in convictions, a CSC first and a CSC  
7 third. And as a result of that, he is a registered  
8 sex offender. I don't believe that was available to  
9 us to bring into evidence ourselves unless the door  
10 were opened in direct testimony.

11 THE COURT: The lynching you said was a 2006  
12 conviction?

13 MR. SHEEK: Yes, Your Honor. It was a lynching  
14 charge. It's an ABHAN, but it appears that he was  
15 confined for it in 2009. So I believe that's one in  
16 the same conviction, the '06 and the '09  
17 imprisonment.

18 THE COURT: And you mentioned that there was an  
19 '08 conviction in which he went to jail in 2009.

20 MR. SHEEK: I misspoke. It was an '06 charge  
21 and '09 violation of probation that he was  
22 incarcerated on. And, obviously, in the event that  
23 he were to testify and we thought something that was  
24 relevant, we'd bring that to the Court's attention  
25 prior.

1           THE COURT: Well, and so, Mr. Calloway, you've  
2           heard what they claim what your record is. It  
3           appears that the one charge that could be used to  
4           impeach your testimony will be the assault and  
5           battery of a high and aggravated nature in which you  
6           were -- there was a probation violation revocation  
7           in 2009. So that would be because you were still  
8           under the effects of the conviction in 2009, that --  
9           the conviction actually occurred in 2006, so that  
10          would be eligible to be used to impeach your  
11          testimony should you decide that you wish to  
12          testify.

13                 If you decide that you do not wish to testify,  
14          then the jury will be specifically instructed that  
15          you have the Constitutional right to remain silent,  
16          that the fact that you have exercised that right  
17          could not be considered by them in any manner  
18          whatsoever in determining your guilt or your  
19          innocence on this charge.

20                 In fact, they would be instructed that they  
21          should not even discuss the fact that you did not  
22          testify in this matter and during the course of  
23          their deliberations, or it shouldn't be mentioned at  
24          all while they're in the jury room.

25                 You do -- as I stated, you do have the

1 opportunity to have a conversation with your  
2 attorney, with your family and friends. Certainly,  
3 take a break so that you can -- you could do that.  
4 And then when we come back from this break, you can  
5 let me know whether or not you wish to testify or --  
6 and your attorney can let me know whether or not you  
7 intend to call any witnesses on your behalf. Do you  
8 understand what I've stated?

9 THE DEFENDANT: Yes, ma'am.

10 THE COURT: Do have any questions?

11 THE DEFENDANT: No, ma'am.

12 THE COURT: Then let's take a break and we will  
13 come back in a few minutes.

14 (From 3:12 to 3:25 p.m., a recess was taken.)

15 THE COURT: Mr. Calloway, have you had the  
16 opportunity to consult with your attorney and make a  
17 decision in this matter?

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: And so what is your decision about  
20 whether or not you wish to testify?

21 THE DEFENDANT: I'm not going to testify.

22 THE COURT: Therefore, Mr. Calloway, the jury  
23 will be instructed the fact that you did not take  
24 the witness stand and testify may not be -- may not  
25 be considered by them in any way in determining your

1       guilt or your innocence and cannot be discussed  
2       during the course of their deliberations.

3               Ms. Bolen, have you decided whether or not you  
4       all are going to put up any witnesses?

5               MS. BOLEN: Yes, ma'am. We will not be putting  
6       up any witnesses.

7               THE COURT: So at this time then, we will be  
8       prepared to go to a closing argument, is that  
9       correct, and charge?

10              MS. BOLEN: Yes, ma'am.

11              MR. BROWN: Yes, Your Honor.

12              THE COURT: Are there any additional requests  
13       to charge? I've received -- I've received one  
14       request? I don't think I've received anything else.  
15       The only request I received was about the firmly  
16       convinced language.

17              MR. SHEEK: Your Honor, is it your practice to  
18       charge the statute regarding the testimony of a  
19       victim may not be corroborated?

20              THE COURT: No. Because the case law clearly  
21       says that that's no longer appropriate.

22              MR. SHEEK: Do you -- do you have an objection  
23       to the State arguing that because it is in the code?  
24       I know charging it obviously according to the case  
25       law is improper.

1           THE COURT: Frankly, I think that any argument  
2           along those lines in -- in -- in saying need not --  
3           need not be corroborated.

4           MR. SHEEK: I tell you what, Judge, we won't  
5           mention it in closing. I -- I apologize for even  
6           bringing it up.

7           THE COURT: Oh, no. You know, I just think  
8           that since the recent case law is such that they --  
9           they indicate that it's really not something  
10          that's -- that should be charged to the jury. It's  
11          still there for the use of the defendants and the  
12          prosecution.

13          And to -- for benefit of the Court in coming up  
14          with certain decisions and -- and -- and motions,  
15          you know, that it's much like the -- mind you, it's  
16          much like the child forensic interviews, that those  
17          statements have to -- statements have to be limited  
18          to time and place and, you know, that they shouldn't  
19          be anything else that would tend to bolster the  
20          victim's testimony in any form or fashion.

21          So I don't have a problem arguing -- having an  
22          argument that, you know, that the -- that no one  
23          else was there, there were no eyewitnesses, but I  
24          wouldn't necessarily use the words "need not be  
25          corroborated."

1 MR. SHEEK: Thank you, Judge.

2 MS. BOLEN: Your Honor, I didn't submit any  
3 charge request, and I understand that Mr. Brown did.  
4 And I believe he just submitted the firmly  
5 convinced, and that -- that's -- I'm -- I'm assuming  
6 Your Honor's charges are fairly standard.

7 THE COURT: I'm about to go -- I'm about to go  
8 over them with you, but I just want to make sure  
9 that there was nothing -- that someone didn't submit  
10 something that I didn't receive.

11 MS. BOLEN: No. Not from us.

12 THE COURT: Okay. I've tried to determine the  
13 facts based upon the evidence. I have to determine  
14 the credibility of the witnesses.

15 I'll charge them on circumstantial evidence.  
16 In essence, that cause may be proven by  
17 circumstantial evidence. The law makes no  
18 distinction between the rate of value to be given to  
19 either direct or circumstantial to the extent that  
20 the State will open on circumstantial evidence and  
21 that all the circumstances must be consistent with  
22 each other. And when taken together, point  
23 conclusively to the guilt of the accused beyond a  
24 reasonable doubt, that the circumstances merely  
25 portray the defendant's behavior suspicious or the

1 proof has failed.

2 The burden is on the defendant -- I'm sorry.

3 The burden is on the -- I'm sorry. The State has  
4 the burden of proving the defendant guilty beyond a  
5 reasonable doubt. The burden rests with the State  
6 regardless of whether the State relies upon direct  
7 evidence, circumstantial evidence, or a combination  
8 of the two.

9 Conjecture, speculations, suspicions,  
10 probabilities, do not constitute circumstantial  
11 evidence. I'll charge on the presumption of  
12 innocence. Actually, I'll charge -- probably charge  
13 failure of the defendant to testify first. That is  
14 that it's a Constitutional right to remain silent,  
15 and the fact that he's exercising that right must  
16 not be considered by them in any manner in  
17 determining the guilt or the innocence of the  
18 defendant. They're to draw no conclusion from the  
19 fact that the defendant did not testify, and it  
20 should not even be discussed with them. The burden  
21 of proof is on the State.

22 I'll charge them on the Victim v. Nebraska,  
23 reasonable doubt, that is proof beyond reasonable  
24 doubt is proof that leaves you firmly convinced of  
25 the defendant's guilt. There are very few things we

1 know in this world absent certainty. The law does  
2 not require proof that overcomes every possible  
3 doubt, but based upon your consideration, if you're  
4 firmly convinced that the defendant's guilty of the  
5 crime charged, you must find him guilty. If, on the  
6 other hand, you think it's a real possibility that  
7 he's not guilty, then you must give him the benefit  
8 of the doubt and find him not guilty.

9 Criminal sexual conduct, I'll charge kidnap --  
10 kidnapping. The State must prove beyond a  
11 reasonable doubt that the defendant knowingly and  
12 unlawfully seized, confined, inveigled, decoyed  
13 kidnapped, abducted, or carried away another person  
14 without authority of law. To do a thing unlawfully  
15 is to do it against -- to do it willfully against  
16 the law.

17 Knowingly means with knowledge, consciously not  
18 accidentally. Seize means to take hold of suddenly or  
19 forcibly. Confine means to limit, restrict, or  
20 enclose within the bounds imprisonment or shut or  
21 keep in. Inveigle means to lure, entice, or lead  
22 astray by false representations, promises, or other  
23 deceitful means. Decoy means to or by or intent by  
24 decoy. The decoy is something to entice a person  
25 into a trap. Kidnap is to remove a person against

1 his will by unlawful force or by fraud. Abduct  
2 means to carry off secretly or by force for a  
3 limited purpose. Carry away means to move. The  
4 State does not have to prove that the defendant did  
5 all of those things. Instead, if you find they are  
6 reasonable that the defendant did any of these  
7 things, then you can find the defendant guilty of  
8 kidnapping.

9 Something done without authority of law is  
10 something which the law does not sanction, permit,  
11 or condone or provide justification for. The  
12 kidnapping does not have to be for any personal or  
13 monetary gain or for any monetary gain for illegal  
14 purpose. It may be for any reason whatsoever.

15 Criminal sexual conduct first degree, the State  
16 first has to prove the defendant engaged in a sexual  
17 battery with the victim. Sexual battery is sexual  
18 intercourse. It includes cunnilingus, fellatio, or  
19 anal intercourse, or any intrusion however slight of  
20 any part of any person's body, or any object into  
21 the genital or anal openings of another person's  
22 body, except when it's accomplished for medically  
23 recognized treatment or diagnostic purposes.

24 If you find that there's been no sexual  
25 battery, then you can stop your deliberations. If

1       you find that the sexual battery did occur, then the  
2       State has to prove beyond a reasonable doubt that  
3       the defendant used aggravate force to accomplish the  
4       sexual battery. Aggravated force means use of  
5       physical force or physical violence of a high and  
6       aggravated nature to overcome the victim. This  
7       includes the threat of using a deadly weapon, or the  
8       State has to prove beyond a reasonable doubt that  
9       the victim submitted to sexual battery while the  
10      victim was also the victim of a forcible  
11      confinement, a kidnapping, robbery, extortion,  
12      burglary, or housebreaking, or some other similar  
13      offense.

14             There are two -- two charges. There are two  
15      possible verdicts. One is guilty; one's not guilty.  
16      There's no significance to which I say them. I have  
17      to put one first; I have to put one second. The  
18      verdict has to be unanimous.

19             Is there anything further?

20             MR. BROWN: Not from the State.

21             MS. BOLEN: No, ma'am.

22             THE COURT: Okay. Does the defense wish to  
23      rest on the record?

24             MS. BOLEN: I don't believe we need to. No,  
25      ma'am.

1 THE COURT: All right. So I can just skip over  
2 that part.

3 MS. BOLEN: I guess I -- I do need to renew all  
4 of our -- we didn't make any pretrial motions, but  
5 all of our trial objections and motions and all of  
6 our -- the DV motion we made, I need to renew all of  
7 those I believe before resting and then after  
8 resting as well just to preserve the record.

9 THE COURT: You want to make those motions at  
10 this particular time? My -- my thought is that  
11 because we're going directly, that there's been no  
12 additional testimony. So I know that the Supreme  
13 Court and Court of Appeals might view it  
14 differently, but to the -- to the extent that you  
15 make the same directed verdict motion that you made  
16 previously, I've not heard anything new that  
17 would ---

18 MS. BOLEN: Right.

19 THE COURT: --- that would make me change my  
20 mind that there's evidence in the light most  
21 favorable to the State that should go to the jury  
22 for them to properly weigh the evidence and  
23 determine credibility. As it relates to objections,  
24 I think there were a couple of objections made about  
25 hearsay. One was at sidebar.

1 MS. BOLEN: Yes, ma'am. There were a few  
2 others in there.

3 THE COURT: There were a couple of others. I  
4 think one was withdrawn. I overruled one. And I  
5 think the one at sidebar came down to how the  
6 question was asked.

7 MS. BOLEN: Yes, ma'am.

8 THE COURT: And I think that did, in fact, lead  
9 to an objection which I overruled.

10 MS. BOLEN: Because I just -- I just want to  
11 make sure the record is clear that I did renew our  
12 objections and our motions.

13 THE COURT: Yes, ma'am.

14 MR. BROWN: Your Honor, I just request that the  
15 defense rest on the record in front of the jury just  
16 so everything's nice and neat throughout, you know,  
17 the rest of closing. That would just be our  
18 position.

19 THE COURT: Any particular reason why? They're  
20 not required to put up a defense.

21 MR. BROWN: No particular reason.

22 MS. BOLEN: Your Honor, we're -- we're  
23 satisfied with resting right now. I mean, it's on  
24 the record. It's clear on the record that we're  
25 resting, so we just ask that has to be sufficient.

1 THE COURT: And it doesn't necessarily have to  
2 be in front of the jury.

3 MS. BOLEN: I don't -- I don't believe there's  
4 any reason for that, no.

5 THE COURT: We can ask the jury to come back  
6 in.

7 (At 3:39 p.m., the jury entered the courtroom.)

8 THE COURT: Ladies and gentlemen, at this time  
9 we are now ready to hear the closing arguments of  
10 the attorneys. As I told you earlier, their closing  
11 arguments are not evidence, but what they will do is  
12 they'll make arguments to you and pick out the  
13 portions of the evidence that you've heard and make  
14 those arguments in an effort to try to sway you to  
15 find the facts in accordance with their view of what  
16 occurred.

17 So I ask that you listen very carefully to  
18 those closing arguments. Sometimes they cause you  
19 to think about the evidence in a different light, or  
20 they may raise questions that you'll want to discuss  
21 among yourselves when it's time for you-all to begin  
22 your deliberations.

23 Once they have made those closing arguments,  
24 then I will instruct you on the law that's to be  
25 applied and then you may begin your deliberations at

1           that particular point.

2           Yes, sir.

3                               CLOSING ARGUMENTS

4           MR. BROWN: Thank you, Your Honor. May it  
5           please the Court?

6           Ladies and gentlemen, thank you again for being  
7           here this week on multiple -- many of y'all have  
8           served on both juries and we appreciate that. This  
9           was a case that was pretty straightforward as that  
10          was said early. This went pretty quick. One took  
11          days. This will probably take one day. It's  
12          straightforward.

13          So who did you hear from today, what did you  
14          hear, and how does it all add up? Again, Sherry  
15          Williams grew up in Abbeville. Lives over in Honea  
16          Path. Went to Dixie High School with Terry  
17          Calloway. She knew him. Thirty-nine years old at  
18          the time this happened.

19          She had been out and was actually living with  
20          her boyfriend Mr. Black here. She went out to the  
21          club that night. Wanted to go get a bite to eat.  
22          Instead of walking across the road, she sees  
23          Mr. Calloway, somebody she's known for quite some  
24          time. He offered to give her a ride in his white  
25          Cadillac.

1           She didn't make it to Burger King to get food.  
2           Took a wrong -- took a right-hand turn, went down  
3           the road from Abbeville to Anderson County at that  
4           point on Horseshoe Road which then goes into  
5           Abbeville County. He's got her in the car, striking  
6           her in the back of the head, pulling her hair, and  
7           then making -- making her as she said -- she said he  
8           told her to suck his dick. Forcing her head down.  
9           It was just force. Forcing her to do that going  
10          down Horseshoe Road. Forcing her to do that in  
11          Abbeville County on Horseshoe Road.

12                 And finally when they get to Abbeville County,  
13          a dark road where nobody else is there, gets her out  
14          of the car, forces her out of the car, bends her  
15          over the front of the car -- the hood of the car,  
16          pulls her pants down, and sexually assaults her.

17                 Remember what she said, he wasn't doing it very  
18          long. Wasn't doing that very long until a car --  
19          luckily a car drove by. A car at night that had its  
20          lights on. Remember you're going down Horseshoe  
21          Road in Abbeville County at night. There's nobody  
22          else out there, but luckily somebody rode by with  
23          lights. It startled him. Made him stop.

24                 It didn't end there though. He forced her back  
25          in the car, again threatened her, said, "I'll kill

1       you." Slapped her in the back of the head. Punched  
2       her in the back of the head. Made her again perform  
3       sexual -- or oral sex on him. Sexual battery.  
4       That's aggravated force. And that's aggravated  
5       coercion of making somebody do those acts by  
6       threats.

7               They're driving back into Honea Path, got to a  
8       stoplight. Before that, you remember her saying up  
9       here on the stand she couldn't leave. He had  
10      actually grabbed her and pulled her out of the car.  
11      Wouldn't let her leave. She was forced -- or she  
12      was forced to stay in the car. She was kidnapped.  
13      Not only was she sexually assaulted, she was  
14      kidnapped.

15             We'll go more into definitions here in a moment  
16      and the judge will read out all the definitions in  
17      the statute.

18             Once she got back to Honea Path, gets to the  
19      stop sign, she's going to make a break for it. She  
20      opens up the door and runs. Runs. And, luckily,  
21      she goes to Burger King. She's down the road a  
22      little bit from it. She gets to the Burger King.

23             She sees a familiar car, her Aunt Tessie.  
24      She's here today four years later saying that her  
25      niece comes to the door, bangs on it. Her hair is

1 all messed up. She's frantic. She's crying. She's  
2 upset.

3 And all of a sudden, she darts away. Why did  
4 she dart away? Why did she dart away? Because she  
5 sees him again. That's the actions of somebody  
6 that's terrified. Somebody that is scared to death  
7 of what might happen if he sees her again or if he  
8 catches her again. Somebody that's grown up with  
9 her aunt. Somebody that feels comfortable enough to  
10 approach her aunt to try to get in the car, but then  
11 runs away. She was scared to death.

12 She goes to her other aunt's house. What does  
13 she do? She calls 911. Gets EMS to come pick her  
14 up. You heard the EMS worker. Gets her into the  
15 ambulance and takes her to AnMed. She discloses a  
16 sexual assault. She's petrified. She's upset.  
17 Talks about being in pain.

18 She gets to the hospital. Who did she see?  
19 Who's the person that testified? The woman that  
20 there was with her doing the sexual assault kit,  
21 Ms. Kerry Smith. She sees her. She gets there at  
22 11:00, a little bit before twelve o'clock on  
23 August 3, 2012. She doesn't leave the hospital  
24 until 5:00 a.m. on August 4th. It's a long time to  
25 be in a hospital.

1           Not only was she in the hospital in her own  
2 clothes and the comfort of her own clothes, she's  
3 stripped down there. She stood over a white paper,  
4 took her clothes off, and had to be subjected again  
5 to swabbing the physical exam. But then, again,  
6 when she got -- after getting to the actual internal  
7 physical exam and the doctor was there and was about  
8 to stick the speculum inside of her, at that point  
9 she had enough. She'd already had enough sticking  
10 in her that night. She was too sore. You heard it  
11 from her mouth. You heard it from the nurse's  
12 mouth. She couldn't take it anymore. She had  
13 already been subjected to that.

14           She didn't want to be at the hospital that  
15 night. She didn't want to have to leave her clothes  
16 with somebody else to be boxed up in here. She  
17 didn't want to have to get that Rocephin shot in  
18 her -- in her arm for STD's. And she obviously  
19 would not want to get a Plan B pill that would force  
20 her into having a period. It's a lot to go through  
21 if you're making it up or if it didn't happen. So I  
22 imagine the defense would say that it didn't happen.  
23 Folks, that's a lot of stuff that went on. It's a  
24 lot that went on that she put herself through and  
25 come here again today four years later to testify

1       to.

2               You heard Tessie say, "Was that normal for her  
3       to act like that? Is that normal for her to be that  
4       upset, to be that scared?" No.

5               I asked Mr. Black that. "What were you doing  
6       that night?" "I was laying on the couch watching  
7       the Olympics." 2012 in London. Michael Phelps. He  
8       was alarmed by that. His girlfriend who he lives  
9       with comes to the door, and he races to the  
10      hospital. He sees her there. She's upset.

11              What the defense is going to -- I'd imagine  
12      they'll talk to you about is, "Well, we don't have  
13      any signs of semen, not in her clothes, not during  
14      the vaginal smears on the swabs." Well, again,  
15      remember that they actually didn't -- weren't able  
16      to take an internal swab which would then obviously  
17      be put on a smear. Why? Because she was in pain.  
18      She didn't want to be prodded anymore. When another  
19      man comes in there to do a medical test, she  
20      couldn't do it. She had already gone through it.  
21      She probably wishes now that it had happened, but  
22      that night she was in pain.

23              But what did you find out? What did you find  
24      out from SLED agents that came up here? Well, on  
25      the clothes, they take snippets. They take little

1 spots and they test it. They looked for bodily  
2 fluids. Swabs are needed if they said we need  
3 bodily fluids. They look for those, semen in  
4 particular. On all of them, they look for semen.

5 Well, remember what she said from the get go.  
6 I asked her, "Do you know if he ejaculated?" She  
7 wasn't sure if he did or not. Out there on the  
8 road, it was quick. She didn't remember him doing  
9 that while he was forcing her to have oral sex on  
10 him. So if he didn't ejaculate, would you find  
11 semen? Would you find sperm? You've got to have  
12 one to find the other.

13 But, again, what did they -- what did they  
14 test? The nurse said she was only able to get the  
15 outside. Pubic hair combings, there weren't  
16 sufficient to test. There weren't any of the first  
17 test. And then on the debris shield, on the debris  
18 paper, there wasn't any sufficient because you have  
19 to have the actual follicle with the root on it to  
20 be able to test it. So that wasn't -- they couldn't  
21 test it.

22 Four years later, she's here. She's  
23 testifying. Familiar with her interactions that  
24 night that she was petrified. She was scared. She  
25 was of sound mind. She remembered. She was

1 clearheaded. Nurse said she walked down the  
2 hallway. She knew exactly where she was. She  
3 answered in complete sentences, but she was  
4 withdrawn. She was quiet. She was traumatized.  
5 She was shocked. She had just been raped.

6 So what is it we have to prove to you beyond a  
7 reasonable doubt? We have to prove to you that she  
8 was sexually assaulted by that man, Terry Calloway.  
9 As Leslie Norman stated and as you saw on State's  
10 Evidence 4, you can see Horseshoe Road, Abbeville  
11 County. Imagine that question was asked a lot. It  
12 might be something that's brought up again. She's  
13 adamant. She grew up in Abbeville. She knows where  
14 she is. She was in Abbeville County when it  
15 happened.

16 The kidnapping when she forced in his car,  
17 forced out of his car, and forced back in his car,  
18 kidnapping in Abbeville County. She was forced to  
19 perform oral sex on him in Abbeville County when he  
20 bent her over the front of the car and had sex with  
21 her in Abbeville County.

22 Criminal sexual conduct in the first degree. A  
23 person is guilty of criminal sexual in the first  
24 degree if the actor engages in a sexual battery, if  
25 any one of the following circumstances are proven:

1       The actor uses aggravated force to accomplish sexual  
2       battery, or the victim submits to sexual battery by  
3       the act or under circumstances where the victim is  
4       also the victim of forcible confinement, kidnapping,  
5       trafficking a person, robbery, extortion, burglary  
6       housebreaking. The ones focused on are the forcible  
7       confinement, the kidnapping, the aggravated force.  
8       The judge is going to give you the definition of  
9       violence.

10             Aggravated force, what does that mean? It  
11       means the actor, which is the actor in this case  
12       would be the defendant, Terry Calloway, uses  
13       physical force or the threat of physical force and  
14       violence to make Ms. Williams perform this act.  
15       Remember what he said, "I'll kill you or your family  
16       if you tell anybody." Hit her in the back of the  
17       head, pulled her hair, made her do it -- made her do  
18       that.

19             Intimate parts. Folks, to have a criminal  
20       sexual conduct, it's penetration or the intrusion of  
21       any kind of body part or however slight by the  
22       defendant. It means mouth; it means vagina; it  
23       means any opening on the body. And as you heard  
24       from her, he penetrated her mouth and he penetrated  
25       her vagina. So sexual battery means sexual

1 intercourse, cunnilingus, fellatio, anal intercourse  
2 any intrusion however slight of any part of the  
3 person's body or any object in the person's body.

4 Kidnapping. What does that mean? Whoever  
5 shall unlawfully seize, confine, inveigle, decoy --  
6 decoy, kidnap, abduct, or carry away. Ladies and  
7 gentlemen, she got in the car with Terry Calloway in  
8 Honea Path. Once he made that other turn not going  
9 to Burger King but going down Horseshoe Road, he  
10 wouldn't let her leave that car. He wouldn't let  
11 her leave that car once she got in Abbeville County.  
12 He forced her out of the car. There he forced her  
13 back in the car, and you heard her own statement  
14 that she felt like she couldn't leave. He had her  
15 by the back of the head. That's kidnapping.

16 Once again, our burden to prove -- is to prove  
17 to you beyond a reasonable doubt that Terry Calloway  
18 committed these crimes. What is that? Some of  
19 y'all have already heard me talk about this. Beyond  
20 a reasonable doubt is proof that leaves you firmly  
21 convinced in his guilt. Firmly convinced. Doesn't  
22 mean all doubt, doesn't mean every doubt, and it  
23 doesn't mean any doubt. It doesn't have to be  
24 beyond every possible doubt. It's reasonable doubt.  
25 Reasonable.

1           Is it reasonable for somebody out there to be  
2           sexually assaulted and calls EMS? Somebody that's  
3           been sexually assaulted takes the EMS ride to the  
4           hospital. Drops their clothes on a paper sack.  
5           Gets swabbed. Takes an STD shot to make sure she  
6           doesn't get that. Takes a Plan B pill. Proof  
7           beyond a reasonable doubt.

8           She contacted law enforcement right after it  
9           happened. You heard the Anderson 911 call. Once  
10          they realized it was in Abbeville County, they  
11          called Abbeville County. Had the victim's advocate  
12          there, Monique Bell. Had Leslie Norman respond.

13          Folks, it would be nice to have DNA serology  
14          semen, but with it not being there it doesn't mean  
15          it didn't happen. It's an awful lot of stuff she  
16          put herself through that night if it didn't happen.  
17          It's not reasonable. Just because you don't have  
18          semen does not make it reasonable doubt. Proof  
19          beyond a reasonable doubt leaves you firmly  
20          convinced that Terry Calloway did this.

21          The judge will give you the definition. She'll  
22          tell you the law in this case. And we ask that you  
23          pull back in your memory, remember what she said.  
24          Remember what all the witnesses said, and come to  
25          the conclusion that Terry Calloway is guilty of

1     ~~kidnapping~~ of Sherry Williams and raping her, which  
2     he did on August 3, 2012, in Abbeville County. I  
3     appreciate your time.

4             THE COURT: Ms. Bolen.

5             MS. BOLEN: Thank you, Your Honor. May it  
6     please the Court?

7             THE COURT: Yes, ma'am.

8             MS. BOLEN: Folks, it's not just a lack of  
9     semen that gives you reasonable doubt in this case.  
10    State wants you to think that, oh, that's all you've  
11    got. You know, that -- that's the only problem in  
12    this case. What the State has to prove to you is  
13    that Terrance Calloway committed these two acts  
14    beyond a reasonable doubt. They've got to prove  
15    each and every element of both of these crimes  
16    beyond a reasonable doubt.

17            The judge will instruct you about what  
18    reasonable doubt is, but I'm going to go over where  
19    I see reasonable doubt in this case and there --  
20    there's quite a lot of it. There's a lot of  
21    reasonable doubt, and what I'm seeing is four basic  
22    categories. Okay.

23            Where you see reasonable doubt. Number one, in  
24    Sherry Williams' statements, and I'll go over those  
25    and go over why there's reasonable doubt in her

1 statements.

2 Number two, there's reasonable doubt that these  
3 crimes occurred at all based on where Sherry is  
4 saying it happened and how the scene is laid out and  
5 on the venue, what county it is in.

6 Number three, there's reasonable doubt based on  
7 the investigation. Okay.

8 And number four, there's reasonable doubt based  
9 on the evidence, physical as well as testimonial  
10 presented to you.

11 And I say evidence, it really could be the  
12 evidence or the lack thereof, okay, because there's  
13 not a whole lot of evidence in this case.

14 Going to number one, Ms. Williams. And I  
15 apologize. I've got kind of messy handwriting.  
16 I'll try to write as neatly as I can. Sherry  
17 Williams. What did she say? Well, that depends on  
18 what version of her statement you listen to. Okay.  
19 What she got up and said to you today was that she  
20 was at the club in Honea Path right downtown, that  
21 she wanted something to eat, and so she got in the  
22 car with Terrance Calloway and said she wanted to go  
23 to Burger King, which is just, as the EMS officer  
24 testified, it's about two or three blocks away. And  
25 that -- that's -- that's one problem. Okay. Why

1 are you getting a ride for somewhere that's just a  
2 couple of blocks away?

3 But she says after getting in the car with him,  
4 he goes the wrong way. He goes down 76. It's also  
5 called Princeton Highway, and they go the wrong way.  
6 Okay. Then she says that pretty much as soon as  
7 they turn, he -- he starts forcing her to give him  
8 oral sex. Starts hitting her in the head. Starts  
9 telling her, "You're going to do this. I'm going to  
10 kill you. Shut up."

11 Then she says they drive along 76 for a while.  
12 And you'll have a map to look at because the  
13 State -- and this is in evidence as State's 4.  
14 Okay. They drive along Highway 76 for a couple of  
15 miles. They go down Horseshoe Road. It's a couple  
16 of miles. Okay. Some of the testimony said it was  
17 maybe, you know, five to six, somewhere around  
18 there.

19 And she says on Horseshoe Road he pulls over.  
20 She says he gets out of the car. She stays in the  
21 car. That's another problem. He's out of the car.  
22 Why not lock the doors and drive away? How is she  
23 kidnapped at that point?

24 Anyway's, she says he gets out, he comes  
25 around, he pulls her out. And then she says -- she

1 doesn't say he bent me over the front of the car.  
2 That's what the Solicitor said in his closing, but  
3 that -- those were not her words. Her words were,  
4 "He bent me over, started raping me from behind,  
5 okay, vaginally." And she says that happened for a  
6 couple of minutes, two, three, maybe four.

7 And then today she tells you he stopped because  
8 a car drove by. Okay. So that -- that's her basic  
9 outline today. And then she says after the car  
10 drives by, he gets her back in the car, turns around  
11 on Horseshoe, and goes right back the way they came.  
12 And, again, that's a couple of miles. And she says  
13 that he -- after getting her back in the car  
14 continues to force her to have oral sex. So her  
15 order today is oral, vaginal, oral. Okay.

16 What does she say about how long this takes?  
17 She says, first, that the second forced oral took 30  
18 to 40 minutes. Okay. She said it takes 30 to 40  
19 minutes of him forcing her to perform oral sex, yet  
20 they're only driving a couple of miles. That --  
21 that just doesn't make sense. Does not make sense.  
22 And that should give you reasonable doubt.

23 Then on cross -- on cross when I asked her  
24 about that, she said, "No, no, no. That was the  
25 first time." Then she said it was probably more

1     like 25 minutes of forced oral. And, again, it's  
2     the same couple of miles -- five, six, maybe seven  
3     at the most. It's not -- not 25 minutes of driving.  
4     She doesn't say anything about him going anywhere  
5     else other than Princeton Highway, Horseshoe Road.  
6     But this is the order she gives today. Okay.

7             And then I asked her about, well, you know, you  
8     talked to Leslie Norman, Officer Norman. You might  
9     remember Mr. Sheek in his opening said something  
10    about that her testimony was going to be that when  
11    he pulled over to the side of the road, she got out  
12    and ran away but he caught her. There's no  
13    testimony about that from her. She did not say that  
14    in her direct exam. Another thing that should give  
15    you some reasonable doubt. Okay. Because that's a  
16    pretty important fact, right? If you're under as  
17    much trauma as the State is saying she's under, she  
18    doesn't mention that.

19            So I asked her about it, and she -- she said,  
20    yeah, she had said that to Leslie Norman after she  
21    met with her at the hospital. She also said, you  
22    know, yeah, she had written a statement. And her  
23    written statement was written August 4th. Okay.  
24    August 4, 2012. 8/4/2012.

25            And I submit to you a part of -- a good part of

1       your job as jurors is to use your common sense and  
2       it's common sense to know that your memory is better  
3       right after something happens and not four years  
4       later.

5               And I went over her written statement with her.  
6       And there's a lot of differences between what she  
7       says then and what she says now, or what she doesn't  
8       say then. Today we get this, you know, 30 to 40 to  
9       25 minutes of oral, vaginal, gets me out of the car,  
10      bends me over, car comes by, and then another 30  
11      minutes of oral.

12             But in her statement on August 4th of 2012, she  
13      doesn't mention any of that. She says, "He starts  
14      beating me in the head, forcing me to have oral sex  
15      with him. We pull off. He starts raping me." She  
16      doesn't say anything about being bent over. She  
17      doesn't say anything about being raped from behind.  
18      She says he starts raping me. And then she says,  
19      "When he finished, we got back in the car. Drove  
20      back. I jumped out the car."

21             She said today she didn't know if he had  
22      ejaculated or not, but in her statement on August 4,  
23      2012, she said he finished. Y'all can use your  
24      common sense to know what she -- she may have meant  
25      by that.

1        But what's important about looking at her prior  
2        statement, she does not mention being bent over.  
3        She doesn't mention this car that drives by. She  
4        doesn't mentioned oral sex taking 30 to 45 -- 30 to  
5        40 minutes or maybe 25 minutes on the way out. And  
6        she never mentions forced oral on the way back. She  
7        doesn't say any of that. None of it. And that  
8        should give you reasonable doubt because her  
9        statements are all over the place.

10       She says to EMS that night, "I was vaginally  
11       raped and I'm bleeding a little bit." Okay. That's  
12       what she says to EMS. You heard that from the EMS  
13       officer, okay, vaginal and bleeding. You don't hear  
14       anything about her telling EMS that there's oral  
15       forced sex -- forced oral sex. So her account of  
16       the alleged assault just doesn't make sense because  
17       it -- it's all over the place.

18       Let's look at what else she says about how  
19       she's saying this happened. Okay. She says they  
20       get in the car to go to Burger King. Then when  
21       they're coming back, she jumps out of the car at the  
22       Spinx, which you've heard testimony about that's a  
23       fairly busy intersection. There's five roads that  
24       come in there.

25       She runs, not to the police station which is

1 right there, but she runs over to Burger King. She  
2 gets to Burger King. She says today in her  
3 testimony, she says, "I got in my aunt's car." And  
4 that's what she says in her statement back on  
5 August -- August 4, 2012. She says she gets in her  
6 aunt's car, and then she thinks maybe she sees  
7 Terrance and so she jumps out. Runs away. Runs  
8 over to a second aunt's house. Calls EMS and she  
9 said, you know, "There's people out there. People  
10 lingering around," and she talked to some officers.

11 Leads me to the second part, second category  
12 where you just don't -- State just doesn't have the  
13 evidence. Okay. And that's the scene. Okay. How  
14 she's saying it happened, her timing, all of it.  
15 None of it makes sense. It just doesn't make sense.  
16 It doesn't make sense that she'd be in the car for  
17 30 to 45 minutes -- 30 to 40 minutes to go a couple  
18 of miles. Does not make sense that instead of going  
19 to the police station, she goes to Burger King, and  
20 then run on out to the club where she was supposedly  
21 taken.

22 So the timing and how the scene is laid out,  
23 that gives you some reasonable doubt because there's  
24 just no way of what she's saying can work out the  
25 way she's saying it did. Where she is at the

1 intersection, at the Spinx intersection, she says  
2 she jumps out. She says she runs to the Burger  
3 King. She says she runs right there, sees her aunt,  
4 and then thinks she sees Terry ahead of her. Well,  
5 if she had jumped -- just jumped out of the car, how  
6 is he two cars ahead of them? That doesn't make any  
7 sense either. Okay.

8 What also doesn't make sense is what we call  
9 venue. Okay. And in addition to proving beyond a  
10 reasonable doubt that these allegations actually  
11 happened, the State's got to prove that it happened  
12 in Abbeville County. And that -- that's another  
13 thing that they're just missing.

14 They have this map. And you'll -- you'll have  
15 this back with you in the jury room, okay, and you  
16 can look at it. The yellow line is the county line.  
17 Everything up here is Anderson; everything down here  
18 is Abbeville. This is Princeton Highway, Route 76,  
19 and this green line helps you.

20 You can see that just a very small portion of  
21 Horseshoe Road is in Abbeville County. She doesn't  
22 give you any evidence that she was in Abbeville  
23 County portion, and the State said in their closing,  
24 "Hey, she grew up in this county." Well, I don't  
25 know where county lines change. Most of us don't

1 know exactly where county lines change.. How -- she  
2 didn't say anything about land -- landmarks or  
3 seeing anything in particular or seeing the county  
4 line. They can't prove to you it happened, if it  
5 happened at all, that it happened in Abbeville  
6 County, and that's a problem. So they've got some  
7 problems. They've got some reasonable doubt built  
8 in with the scene. Okay.

9 Then let's look at the investigation. And this  
10 is kind of a big one. Okay. There's a lot of  
11 reasonable doubt when you look at their  
12 investigation. Let's kind of outline what the  
13 investigation is. Okay. So she -- she first makes  
14 contact with law enforcement at the second aunt's  
15 house. Okay. So she calls EMS, and some Honea Path  
16 officers arrive, right? Honea Path officers. She  
17 also says there's some other folks just kind of  
18 spilling over from the club. But we've got some  
19 Honea Path officers who arrive, and she talks to  
20 them.

21 She talks to the two EMS officers. We've heard  
22 from one. Okay. There's two officers. She's then  
23 transported to AnMed. Okay. And AnMed she said she  
24 met with some Anderson officers, some Abbeville  
25 officers, one that who we heard from, doctor, nurse.

1       Okay. She also talked to her Aunt Tessie. So these  
2       are all the people that we have testimony that had  
3       some sort of contact with Sherry that night.

4               First at Honea Path officers. You've got these  
5       first responders, the first people that talk to her  
6       and there is no testimony from them. Okay. And  
7       that gives you some reasonable doubt because these  
8       are the first officials who meet and talk to Sherry  
9       Williams. None of them were here to testify about  
10      her demeanor, whether they saw injuries, nothing  
11      like that.

12             Then you've got EMS. Okay. And she was in the  
13      ambulance for about 30 minutes is what Mr. Freeman  
14      said. It took about 30 minutes to get from Honea  
15      Path to Anderson. She talked to him. She told him,  
16      "I was vaginally raped. I'm bleeding. And I'm not  
17      in that much pain."

18             What is important about Mr. Freeman's  
19      testimony? That's the EMS officer that was here.  
20      What's important about it that gives you reasonable  
21      doubt? Two things. He said he saw no physical  
22      injuries to her and he could not comment on her  
23      demeanor. Remember that? He had a report. And  
24      they asked him, you know, "Did you note anything  
25      about her demeanor in the report?" And he said,

1 "No." And he said, "And, honestly, I can't remember  
2 it."

3 There's a lot of conflicting testimony about  
4 her demeanor and that's another thing that gives you  
5 reasonable doubt. Okay. You've got some of these  
6 witnesses saying she's hysterical and crying.  
7 You've got others saying she's quiet and calm.  
8 You've got one who's like he don't remember. Can  
9 you -- you can use your common use to know that her  
10 demeanor must not have been that -- all that  
11 unusual. If it was, he would've made a note of it,  
12 right?

13 And what's important that gives you reasonable  
14 doubt based on Mr. Freeman's testimony, there's no  
15 physical evidence. He doesn't see anything. He  
16 doesn't do any kind of intensive exam. He looks her  
17 over. He doesn't see anything.

18 So we've got Honea Path who we haven't heard  
19 from. We've got EMS who we've heard from. It gives  
20 you some reasons that he's -- reasonable doubt. We  
21 have the Anderson officers that we haven't heard  
22 from. These are people who respond to the hospital  
23 and they're the first ones at the hospital. They'll  
24 hear from them. We've got an Abbeville officer and  
25 then Ms. Bell. Ms. Bell responded and then

1 Ms. Norman responded. Then we've got the doctor and  
2 the nurses. And we've got, of course,  
3 Ms. Williams's Aunt Tessie.

4 What are these officers, all the people who  
5 came -- the EMS officers, Ms. Norman, doctor -- the  
6 doctor didn't come -- the nurse -- what do they all  
7 have in common with what they testified to that  
8 gives you reasonable doubt? Not a single one of  
9 them gave any testimony about seeing any kind of  
10 physical injury to Ms. Williams. And, in fact, they  
11 didn't see any.

12 You heard from the nurse who the -- they call a  
13 sexual assault nurse examiner. She's trained. She  
14 follows policies and procedures. She does those to  
15 preserve evidence. State makes a big deal about the  
16 fact that Ms. Williams was in the hospital for five  
17 or six hours. There's time for a thorough exam -- a  
18 thorough external exam and there's nothing. There's  
19 nothing. There's no scratches. There's no bruises.  
20 There's no swelling. There's no cuts. There's  
21 nothing.

22 And yet you've got testimony from Ms. Williams  
23 that he was violently beating her about the head.  
24 Nothing. No testimony about anyone, any of these  
25 trained professionals seeing any injuries to her

1 head, as well as anywhere else on her body. You get  
2 that from EMS, the first responder. You get that  
3 from -- you don't hear anything from Ms. Norman  
4 about any kind of injuries. You get that from the  
5 nurse. No injuries. No nothing. And that's after  
6 someone was supposedly beat about the head violently  
7 for anywhere from -- you add 25 and 30 and going on  
8 an hour, beaten. Nothing. That gives you  
9 reasonable doubt. Okay. That absolutely gives you  
10 reasonable doubt.

11 Let's talk a little bit about Ms. Williams'  
12 Aunt Tessie's testimony. Okay. Her Aunt Tessie,  
13 Tessie Singleton. She says that she was at the  
14 Burger King in the drive-thru. She was there. She  
15 says that Ms. Williams runs up to her. She was  
16 really clear today and really adamant today that  
17 Ms. Williams didn't get in her car. Okay. She  
18 said, and the way she remembers it, Ms. Williams was  
19 banging on the window crying. Doesn't get in the  
20 car.

21 Well, Sherry, Ms. Williams herself, says she  
22 gets in the car. The stories just don't make sense.  
23 They don't make sense. You can't have both be true.  
24 And Aunt Tessie was really adamant. She had just  
25 come from revival. There was a revival. She was

1 going to Burger King. She was clear about what she  
2 remembered. And then she says that Ms. Williams  
3 runs across the parking lot. And she said it didn't  
4 make sense to her, and it really doesn't make sense.  
5 You're either in a car or able to get in a car.  
6 You're safe. Why are you running away? Why are you  
7 running towards where you're saying all this  
8 happened? Doesn't make sense.

9 Another thing that doesn't make sense is their  
10 testimony that Terrance could've been two cars ahead  
11 of them. Again, if you're going to believe what  
12 Ms. Williams says, then how -- how does he get  
13 there? How does he get two cars ahead of her if she  
14 jumps out and he goes and somehow beats her there?  
15 Doesn't make sense.

16 Nothing about the investigation. Okay. We've  
17 been over what they presented to you, and you've got  
18 to look also at what they don't present, okay,  
19 because that also gives you reasonable doubt. What  
20 they don't present. There's no witnesses from the  
21 club. Ms. Williams said, "Yeah, there were people  
22 milling around outside." There's no one here to  
23 even corroborate that Terrance was at the club.  
24 Okay.

25 Another thing that's a lack in the

1 investigation that gives you reasonable doubt, they  
2 don't have any of the -- the witnesses that were  
3 supposedly with Ms. Williams when she's at her  
4 aunt's house. Okay. None of the people that were  
5 milling around with her or the Honea Path police.

6 They also didn't present to you any kind of  
7 testimony about anyone seeing her jump out of a car.  
8 Think about it. You know, this is somewhere around  
9 10:00, 10:30. It's got to be a fairly busy night  
10 because Ms. Singleton, Aunt Tessie, says that  
11 there's people in line at the Burger King. Sherry,  
12 Ms. Williams, says that she jumps out at this very  
13 busy intersection. No one sees that happen. That  
14 seems a little unusual. That's something that gives  
15 you reasonable doubt. Okay. No one sees -- no one  
16 calls to say, "Hey, we just saw a woman jump out of  
17 the car and run across."

18 Another thing that gives you reasonable doubt  
19 with respect to both her statements and the  
20 investigation. Okay. The State made a big deal  
21 both in their testimony from the nurse and in their  
22 closing about, oh, Sherry was too sore. She was too  
23 sore to have that exam. That's not what Sherry  
24 said. Ms. Williams testified. She said, "I don't  
25 know if I had it. I don't remember. A long time

1     --ago. --I don't remember." She didn't remember. If  
2     it was something that was as traumatic as they're  
3     saying it was, wouldn't she have remembered? But  
4     she told you, "I don't remember if I had the vaginal  
5     exam or not." Another thing that gives you  
6     reasonable doubt.

7             Last area in which there's reasonable doubt --  
8     I'm going to switch pens. That one is kind of  
9     dying. Okay. -- is the evidence, or as I said, the  
10    lack of it. I mean the evidence in two ways. Okay.  
11    I mean the physical evidence and I mean the  
12    testimonial evidence. Okay.

13            EMS, Mr. Freeman says that she says she's  
14    bleeding, yet there's absolutely no testimony to  
15    corroborate that. She goes right to the hospital.  
16    State makes a big deal of that. She goes right to  
17    the hospital. The nurse said she did the vaginal  
18    swabs, maybe not the internal, but the external. No  
19    bleeding. Okay. There's no -- it's not -- it's not  
20    just that there's no testimony about it. There's  
21    testimony that there was no bleeding. Okay. Yet  
22    she told the EMS worker there was. No bleeding.  
23    We've got this whole too sore to have an exam, but  
24    today she says can't remember.

25            And when you're looking at all of this evidence

1       and considering whether there's reasonable doubt,  
2       which I submit there's a tremendous amount of  
3       reasonable doubt, but you could possibly not want to  
4       have an exam because you're too sore or you could  
5       possibly not want to have an exam because you know  
6       it's not going to show anything. There's certainly  
7       two reasonable ways to see that.

8           Also, with the EMS, remember Ms. Williams says  
9       that for EMS, she didn't remember much about talking  
10      to them, but she said, "They mostly just calmed me  
11      down." Okay. That's what she said. "Mostly just  
12      calmed me down." That's completely in conflict with  
13      what the EMS worker says. He says, "I don't  
14      remember demeanor and I didn't make any note of it."  
15      That's another problem of their evidence. It just  
16      doesn't match up and gives you reasonable doubt.

17           The lack of physical injuries, that's a big  
18      one. Again, she's saying she was beaten for  
19      somewhere around an hour about the face. Her hair  
20      was pulled. There is nothing. All right. No  
21      physical injuries. There's no bruising; no  
22      bleeding; no swelling. And remember this nurse does  
23      her exam. She's there for a couple hours. She was  
24      there for the whole thing. And I specifically asked  
25      her, "Did you see any bruising to her vaginal area?"

1     ~~No bleeding~~, no swelling, and there's nothing  
2         mentioned about injuries to her head or anywhere  
3         else. And that gives you reasonable doubt as to  
4         whether you can believe what Ms. Williams is telling  
5         you.

6             And, of course, you got the DNA. And, again,  
7         it's a lack of it. Again, let's look at what  
8         Ms. Williams is telling you. Okay. She goes to the  
9         hospital right away. Doesn't change her clothes.  
10        There's no testimony about her changing her clothes.  
11        She says that she is raped. She says he finishes.  
12        She says she is bleeding. And there's nothing on  
13        any of her clothes. Her underwear is submitted. No  
14        semen. No blood mentioned in the report. Her pants  
15        are analyzed by SLED. Nothing. No semen. Nothing  
16        else noted. Same with her shirt. Nothing. You can  
17        use your common sense here. If what she's saying is  
18        true, there should've been something. There should  
19        have been something, and there's absolutely nothing.

20            You heard the nurse say that they follow all  
21        these procedures and policies collecting the  
22        evidence for evidentiary purposes to make sure it's  
23        not contaminated. They follow those. This evidence  
24        and what they collected was not contaminated.  
25        There's just nothing there. And that just goes

1       against what she's trying to tell you happened  
2       because there's nothing in that DNA, in the clothes,  
3       any of it, to back up what she's saying.

4               Remember also that Ms. -- I think it was  
5       Ms. Courtney Thompson with SLED says that she does  
6       the smears. There's vaginal smears; rectal smears;  
7       oral smears. And remember this is -- you know,  
8       Ms. Williams is saying that this oral sex happened  
9       for somewhere around 55 minutes total. Nothing in  
10      the oral smear. Nothing. Nothing in the vaginal  
11      smear. Nothing in the rectal smear.

12             You also heard one of the -- you heard the  
13      nurse talk about getting fingernail scrapings, but  
14      you didn't hear anything about those scrapings being  
15      analyzed. And you can use your common sense to  
16      document anything. They've collected fingernail  
17      scrapings. There wasn't anything. You know there  
18      wasn't because it would've been presented to you if  
19      there was.

20             So the physical evidence, the lack of physical  
21      evidence, every little piece of that, every little  
22      piece that is lacking. She's saying she's bleeding.  
23      There's no bleeding. Her drastic changes in what  
24      people are saying her demeanor is like; the lack of  
25      any physical injuries to her head; the lack of any

1     ~~sort of injury~~ or genital area; the lack of any sort  
2     of DNA, each one of those gives you reasonable  
3     doubt. When you put them all together, more than  
4     enough reasonable doubt.

5             Now, the State said in their closing, doesn't  
6     make sense that she would go through all of this.  
7     Doesn't make sense that she would be in the hospital  
8     for five hours, get a -- get a shot. It doesn't  
9     make sense that she'd come here today. What she's  
10    telling you doesn't make sense. What she's telling  
11    you doesn't make sense. It doesn't make sense that  
12    he's forcing oral sex on her for 30 to 40 minutes on  
13    a ride that take -- covers maybe 7 miles.

14            What she's telling you about how it -- it  
15    happened doesn't make sense. And you can look  
16    through her statement. She's all over the place.  
17    What she's telling you about a second round of  
18    forced oral sex that takes another somewhere between  
19    25 and 30 minutes that doesn't mention until today.  
20    That doesn't make sense. What she's saying doesn't  
21    make sense.

22            And you may wonder, you know, why -- why would  
23    she make this up? I can't answer that for you, but  
24    the thing is we don't have to. It is not the  
25    defense's burden to try to show why someone would

1       make something like this up. And, in fact, we  
2       can't. There's no way to do that. It is the  
3       State's burden to prove beyond a reasonable doubt  
4       that this assault and this kidnapping happened the  
5       way she said it did or that it happened at all. And  
6       I submit it -- it didn't happen at all. They just  
7       don't have the evidence to say that it happened at  
8       all.

9       What they're missing is anything to back up  
10      what she says. And what she says is all over the  
11      place and just doesn't make sense. They don't have  
12      anywhere near enough evidence to prove he's guilty.  
13      They don't have the evidence to prove that any sort  
14      of sexual contact even occurred. They don't even  
15      have the evidence to -- to say that Terrance was  
16      even there that night. They don't have anyone to  
17      corroborate that.

18      But I think when you look back at the evidence  
19      that's been submitted and the testimony you've heard  
20      and you put it all together, you look at how she's  
21      saying it happened, the differences in her  
22      statement, the utter lack of any corroboration in  
23      terms of the physical evidence and injuries to her,  
24      you'll find the only reasonable conclusion is that  
25      he is not guilty. Thank you.

1       MR. BROWN: Judge, may we approach?

2               (Sidebar discussion between the Court and  
3       counsel and without the court reporter.)

4               THE COURT: Ladies and gentlemen, before I  
5       begin my instructions to you as to the law, we have  
6       an issue that we need to take up outside of your  
7       presence. I'm going to ask that you retire to the  
8       jury room. I'm going to ask that you not begin to  
9       discuss this matter among yourselves until we're  
10      able to discuss this legal issue. Then when you  
11      return, I will instruct you on the law that's to be  
12      applied, and then you can begin your deliberations  
13      at that particular point. So I'll bring you back  
14      shortly.

15              (At 4:33 p.m., the jury exited the courtroom.)

16              THE COURT: Yes, sir.

17              MR. SHEEK: Thank you, Your Honor. The State  
18      would request a charge for clarification to the  
19      jury. And I apologize, Your Honor, for not having  
20      addressed this earlier, but I didn't anticipate the  
21      defense actually arguing failure to prove venue  
22      beyond reasonable doubt being a ground for a not  
23      guilty verdict.

24              Article 1, Section 11 of the South Carolina  
25      Constitution requires that a prosecution be tried in

1 the county in which the offense was committed.

2 There's a couple cases that I don't have printed out  
3 having not anticipated it, but I can give you the  
4 sites, Your Honor, that dwelt with that question of  
5 venue.

6 If you look at probably the best case about it  
7 is *State v. Gethers*. That is G-e-t-h-e-r-s.

8 THE COURT: I'm sorry. G-e- ---

9 MR. SHEEK: --- t-h-e-r-s. That is 269 S.C.  
10 105. Interestingly, that's the case where the  
11 defendant was charged with criminal sexual conduct  
12 and kidnapping where allegedly he picked up the  
13 defendant [sic] in one county, took him into another  
14 county to commit the offenses, and then brought him  
15 back to that county. In that case, the Supreme  
16 Court specifically discussed because the defendant  
17 raised the issue of venue and alleged that the State  
18 could not prove it.

19 *State v. Gethers* specifically cited to *State v.*  
20 *Wharton*, W-h-a-r-t-o-n, which is 263 S.C. 437. If  
21 you look at that, Your Honor, the Court stated that  
22 the right of the party to be tried in the county  
23 where it was committed is a jurisdictional issue.  
24 However, it is not necessary in a criminal case that  
25 venue should be proven affirmatively to the ~

1       sufficient evidence for which it can be inferred.

2       Evidence of venue, though slight, is sufficient in  
3       the absence of conflicting evidence and may be  
4       proved through circumstantial.

5               And if you look at all of these cases, they  
6       refer to it being a jurisdictional issue. Since it  
7       is a jurisdictional issue, the defense would not be  
8       able to argue that this jury has the jurisdiction to  
9       find him not guilty based on the lack of proper  
10      jurisdiction. I mean, obviously it's conflicting in  
11      and of itself. They either have jurisdiction to  
12      hear the case or they don't. So that's an issue to  
13      be raised to the Court because it's a matter of law,  
14      not a matter of fact. And like a -- like the Court  
15      said and the cases say, evidence, however slight, is  
16      sufficient if it's not contradicted.

17             There is a 2012 case which is *State v. Kelly*,  
18      K-e-l-l-y. Your Honor, I'll give you the cite on  
19      that; however, that's an unreported opinion so it  
20      has very little precedential value, but they also  
21      discuss this case. They referred back to the Kelly  
22      case, but they also cited the Amjure (phonetic)  
23      second criminal law where it states, and they quoted  
24      it, wherein certainty exists, the accused may be  
25      tried in any county in which the evidence indicates

1       the crime might have been committed. And that is  
2       something the Court stated in their opinion in the  
3       Kelly case.

4               So what we have is, yes, venue has to be  
5       proper. Evidence has to be submitted to make it  
6       proper, but that is a question of law, not a  
7       question of fact that the jury has to determine.  
8       Once the Court determines there is sufficient venue,  
9       then it goes to the jury on the elements of the  
10      crime. Venue is not an element of the crime.

11             THE COURT: Anything from the defense?

12             MS. BOLEN: If I can just have a moment to look  
13      at some of these cases, Your Honor?

14             THE COURT: Yes, ma'am.

15             MS. BOLEN: I believe *State v. Warden* appears  
16      to be overturned, and so I'm trying to find out why.  
17      Looking at *State v. Evans*, Your Honor, I think is  
18      one of the cases the State cited. They -- the Court  
19      in that case says that it's not a -- it's not a  
20      jurisdictional right.

21             THE COURT: What's the site on Evans?

22             MS. BOLEN: *State v. Evans*, 307 S.C. 477. And,  
23      actually, that's been overruled as well, so let me  
24      look at that.

25             Your Honor, does look like on the case law that

1 ~~venue is~~ certainly something for the directed  
2 verdict stage. I -- honestly, I didn't really  
3 anticipate this coming up, so I hadn't done the  
4 research on it, but...

5 And, Your Honor, what I'm -- what I'm looking  
6 at is in *State v. Evans*. It says, "Although the  
7 accused has a right to be tried in the county in  
8 which the offense is alleged to have been committed,  
9 we hold the right is not jurisdictional." So I  
10 think the language is clear that it's not a  
11 jurisdictional thing, and it is something the jury  
12 could consider.

13 MR. SHEEK: Is that the one that's been  
14 overturned?

15 MS. BOLEN: But on different grounds. All of  
16 these have been overturned.

17 MR. SHEEK: I believe, and I may be wrong, but  
18 I think Evans was referring to subject matter  
19 jurisdiction which is granted to General Sessions  
20 Court when an indictment is presented and true  
21 billed; therefore, subject matter has been met,  
22 yeah.

23 MS. BOLEN: Okay.

24 MR. SHEEK: It goes on to say, "Instead of the  
25 right of privilege of the accused and any objection

1 to improver venue is waived if not raised by timely  
2 objection." I believe under Evans it would be  
3 waived anyway.

4 THE COURT: If you-all will just give me a  
5 chance to read, please, and then I'll -- if there is  
6 are anything additional you want to argue at that  
7 time, I'll let you argue it then.

8 MS. BOLEN: Your Honor, I -- I -- I don't mean  
9 to interrupt, but I did find a case that I think  
10 aligns with what the State is saying that might beg  
11 you some reading. There is *State v. Brisbane*, I  
12 believe, Brisbane. It's 323 S.C. 324. And it does  
13 address -- it looks like this -- this issue of  
14 whether venue has to be proved beyond a reasonable  
15 doubt.

16 And in that case, the Court said it -- it -- it  
17 concerned the jury instruction, but the Supreme  
18 Court said that a jury instruction requiring the  
19 State to prove venue beyond a reasonable doubt was  
20 not valid, so I think that would candor with the  
21 tribunal, would go towards what the State is saying.

22 THE COURT: I've looked through a number of  
23 cases. What's cited in Brisbane seems to make the  
24 most sense in terms of the fact that it's not -- the  
25 case law clearly says it's not jurisdictional. It

1        says, "The accused has the right to be tried in the  
2        county in which the offense is alleged to have been  
3        committed. This right is not jurisdictional."

4                It cites Evans which has been overruled, but  
5        "Venue in a criminal case need not be affirmatively  
6        proved if there's sufficient evidence in which it  
7        can be inferred.

8                "Evidence of venue, though slight, is  
9        sufficient in the absence of conflicting evidence  
10       and may be proved by circumstantial as well as  
11       direct evidence. Where acts essential to the  
12       offense are committed in both -- in different  
13       counties, the accused may be tried in either  
14       county."

15               And then goes on to say that the recitation  
16       that I've just given makes clear that Brisbane's  
17       second argument related to venue, that it must be  
18       proved beyond a reasonable doubt lacks validity. So  
19       at best what I would -- what I would propose to  
20       charge the jury as it relates to those comments is  
21       that the accused has the right to be tried in the  
22       county in which the offense is alleged to have been  
23       committed. This is known as venue. Venue does not  
24       have to be proven by the State beyond a reasonable  
25       doubt. Venue is not an element of the criminal

1 charge. The State is only required to prove each  
2 and every element of the charge -- of the criminal  
3 charge beyond a reasonable doubt.

4 Is there anything the parties wish for me to  
5 add to that?

6 MR. SHEEK: Nothing from the State, Your Honor.

7 MS. BOLEN: No, ma'am.

8 THE COURT: All right. Counsel, it's five  
9 o'clock. I don't have a problem charging the jury  
10 at this particular time. They won't get it until  
11 probably 20 after, 5:30.

12 MS. BOLEN: I don't have any objection to  
13 staying, Your Honor. I would inquire of the State.

14 MR. BROWN: I can stay too.

15 THE COURT: We'll see how long. Okay. You can  
16 bring the jury in.

17 (At 5:10 p.m., the jury entered the courtroom.)

18 JURY CHARGE

19 THE COURT: At this time, ladies and gentlemen,  
20 I'm now prepared to provide you with instructions as  
21 to the law in this matter. I'm going to go ahead  
22 and instruct you, and then you may begin your  
23 deliberations once I have concluded my instructions  
24 to you.

25 During this trial, ladies and gentlemen, you

1     ~~and I have~~ certain duties to perform. As the trial  
2     judge, it's my responsibility to preside over the  
3     trial of this case and to rule upon or pass upon the  
4     admissibility of evidence that's been presented  
5     throughout the course of this trial, and you are to  
6     consider only the competent evidence which is before  
7     you. To any evidence to which there is an objection  
8     sustained, you must not speculate as to what the  
9     evidence might've been or the reasons for the  
10    objection. Again, you should consider all the  
11    evidence along with the exhibits that have been made  
12    a part of the record.

13           Now, I have the additional duty and  
14    responsibility to instruct you on the law that  
15    applies. And as the trial judge, I'm the sole judge  
16    of the law that applies. If you have any  
17    preconceived ideas as to what the law is or what you  
18    think the law is or your interpretation of the law,  
19    you must set all of that aside. For under your oath  
20    as jurors, you are sworn to accept the law as I  
21    charge it to you.

22           Now, if by chance I make some error in those  
23    instructions, then there's another Court at another  
24    time that can correct those errors of law. For  
25    right now, this moment, at this time, you must

1       accept the law as I instruct you as being the  
2       correct statement of the law.

3               Now, in every case tried before a jury, you the  
4       jurors become the sole and exclusive judges of the  
5       facts in this case. No one can tell you what the  
6       facts of this case are. And if I've done anything  
7       throughout the course of this trial that's given you  
8       any impression that I'm commenting on the facts or  
9       I'm telling you what the facts are or I'm giving an  
10      opinion about the facts, I ask that you set that  
11      aside as well. I assure you, I don't have any  
12      opinion about the facts of this case. That's not my  
13      job here. That's not my role. That's your duty and  
14      responsibility as jurors to determine the facts of  
15      the case.

16             Now, in order to do that, you have to analyze  
17      and evaluate the evidence and determine what  
18      evidence convinces you of its truth. In order to do  
19      that, you have to judge the credibility or  
20      believability of the witnesses. In order to do  
21      that, you may consider the following factors:

22             What was the manner and appearance of the  
23      witness who testified on the witness stand?

24             Was the witness hesitant or straightforward in  
25      answering the questions?

1       And was the witness's testimony consistent or  
2       inconsistent?

3               How did the witness come to know the facts that  
4       he or she testified to?

5               What was his or her ability to know these  
6       facts?

7               Did the witness provide testimony that was  
8       biased or prejudiced in some manner?

9               And was the testimony of the witness  
10       strengthened or weakened by other testimony or other  
11       evidence?

12              Now, ladies and gentlemen, determining the  
13       credibility of the witnesses, you may believe one  
14       witness against several witnesses, or you may  
15       believe several witnesses against one witness. You  
16       may believe a portion of a witness's testimony and  
17       disregard other portions of that same witness's  
18       testimony. And if you have a good and sufficient  
19       reason for doing so, you may accept the witness's  
20       testimony in its entirety or you may reject it in  
21       its entirety. But these factors you should not  
22       consider arbitrarily, but if in your good judgement  
23       there's reason for you to consider these things,  
24       then you should do so.

25              You objective, ladies and gentlemen, is to seek

1 the truth and whether it comes from a witness or  
2 witnesses for the State or the witness or witnesses  
3 for the defense. You don't determine the  
4 truthfulness of the testimony by counting the number  
5 of witnesses who've testified for one side or the  
6 other. The truth isn't determined by counting  
7 witnesses.

8 What the law simply requires is that when you  
9 exercise your mental processes in coming up with  
10 what you consider to be truthful evidence, that you  
11 should use your good common sense, your sense of  
12 logic and reasoning, use your experiences in life.  
13 You then apply these attributes to the evidence and  
14 determine the facts based upon your view of that  
15 evidence. And then to those true statements of  
16 factors determined by you, you apply the law as I  
17 instruct you and then you'll be able to arrive at  
18 your verdict.

19 Ladies and gentlemen, your verdict should not  
20 be based upon sympathy, passion, or prejudice. Your  
21 verdict should simply speak the truth.

22 Now, ladies and gentlemen, there are two types  
23 of evidence that can be presented throughout the  
24 course of a trial. One is direct evidence and the  
25 other is circumstantial evidence. Direct evidence

1 directly proves the existence of a fact and does not  
2 require that you make any deductions.

3 Circumstantial evidence is proof of a chain of  
4 facts and circumstances that indicate the existence  
5 of a fact. Crimes may be proven by direct evidence  
6 or circumstantial evidence or by both. The law  
7 makes no distinction between the weight or the value  
8 to be given to either direct evidence or  
9 circumstantial evidence.

10 But to the extent that the State relies on  
11 circumstantial evidence, all of the circumstances  
12 must be consistent with each other. And when taken  
13 together, they must point conclusively to the guilt  
14 of the accused beyond a reasonable doubt. If the  
15 circumstances merely portray the defendant's  
16 behavior as suspicious, then the proof has failed.  
17 The State has the burden of proving that the  
18 defendant is guilty beyond a reasonable doubt, and  
19 that burden rests for the State whether the State  
20 relies on direct evidence, circumstantial evidence,  
21 or a combination of the two. Conjecture,  
22 speculation, suspicion, or probabilities do not  
23 constitute circumstantial evidence.

24 Now, ladies and gentlemen, I instruct you now,  
25 as I did earlier, once again that these indictments

1       which I've read to you are -- simply contain the  
2       allegations of the charges in this case. And they  
3       are not evidence of guilt, nor does it create any  
4       presumption or any inference of guilt. These  
5       indictments are just the manner in which we're able  
6       to come to court to have a trial to determine  
7       whether or not the State would be able to meet that  
8       burden.

9               Now, to this and these indictments, the  
10       defendant has pleaded not guilty. And that plea  
11       casts the burden on the State to prove that he is  
12       guilty of each of these crimes because a person  
13       who's charged with committing a crime is never  
14       required to prove that they are innocent.

15              Ladies and gentlemen, it is a cardinal  
16       important rule of law of evidence that the defendant  
17       in a criminal trial, no matter how serious a charge  
18       against a defendant may be, is always innocent and  
19       remains innocent unless and until the State is able  
20       to prove that he is -- he or she is guilty by  
21       evidence that satisfies you of that guilt beyond a  
22       reasonable doubt.

23              Now, ladies and gentlemen, this is called  
24       presumption of innocence, and it does not end when  
25       you go into the jury room to begin your

1       deliberations. The presumption of innocence remains  
2       with him from the time that he makes an appearance  
3       in court until you return a verdict of guilt that's  
4       based upon evidence that satisfies you of that guilt  
5       beyond a reasonable doubt.

6               Our Supreme Court has said that the presumption  
7       of innocence is like a robe of righteousness that's  
8       placed about the defendant's shoulders, and it casts  
9       him with that -- the cast of being innocent, until  
10      that presumptive robe is stripped from him by  
11      evidence that convinces -- that satisfies you of his  
12      guilt beyond a reasonable doubt.

13             Ladies and gentlemen, I cannot emphasize enough  
14      how important the presumption of innocence is. It's  
15      just -- it's not a nice legal phrase. It's not just  
16      something that we toss around lightly, but it is a  
17      very important cardinal rule of law that the  
18      defendant is always presumed innocent until you find  
19      that he is guilty based upon evidence that satisfies  
20      you of that guilt beyond a reasonable doubt.

21             Now, ladies and gentlemen, I instruct you and  
22      emphasize to you the fact that the defendant did not  
23      testify in this case should not be a factor  
24      considered by you in any manner whatsoever during  
25      your deliberations or the question in determining

1 his guilt or his innocence. It must not be  
2 considered by you in any manner whatsoever. The  
3 defendant has a Constitutional right to remain  
4 silent. And the fact that he has exercised that  
5 right in this particular case must not be considered  
6 by you during the course of your deliberations.

7 Under your oath, ladies and gentlemen, you are  
8 to draw no conclusion whatsoever from the fact that  
9 the defendant did not take the witness stand to  
10 testify in this case. And the fact that the  
11 defendant did not testify should not even be  
12 mentioned or discussed by you during the course of  
13 your deliberations. As I've stated, the defendant  
14 is not required to prove that he is innocent and  
15 that burden remains with the State to prove that he  
16 is guilty beyond a reasonable doubt.

17 So what is reasonable doubt? The Government  
18 has the burden of proving each and every element of  
19 the offense that has been charged beyond a  
20 reasonable doubt. And some of you may have served  
21 as jurors in civil cases in which you were told that  
22 it only required that they had to prove the fact  
23 that it was more likely true than not true, but in  
24 criminal cases the burden is more powerful than  
25 that. It's proof beyond a reasonable doubt.

1       There are a few things that we know in this  
2       world with absolute certainty, and the law does not  
3       require proof that overcomes every possible doubt.  
4       But if after your consideration of all the evidence  
5       that has been presented you are firmly convinced  
6       that the defendant is guilty of a crime with which  
7       he's been charged, then you must find him guilty.  
8       If, on the other hand, you think that there is a  
9       real possibility that he is not guilty, then you  
10      must give him the benefit of that doubt and find him  
11      not guilty.

12      Now, ladies and gentlemen, the accused, the  
13      defendant has the right to be tried in the county in  
14      which the offense is alleged to have been committed.  
15      This is known as venue. Venue does not have to be  
16      proven by the State beyond a reasonable doubt. The  
17      State is only required to prove each and every  
18      element of the crime charged beyond a reasonable  
19      doubt. And venue is not an element of the crime  
20      that's charged.

21      The defendant has been charged with kidnapping.  
22      With kidnapping, the State must prove beyond a  
23      reasonable doubt that the defendant knowingly and  
24      unlawfully seized, confined, inveigled, decoyed,  
25      kidnapped, abducted, or carried away another person

1 without authority of law.

2 To do something unlawfully is to do it  
3 willfully against the law.

4 Knowingly means with knowledge, consciously,  
5 not accidentally.

6 Seize means to take hold or suddenly takes hold  
7 of suddenly or forcefully.

8 Confined means to limit, restrict, or enclose  
9 within bounds, imprison, or shut in, or keep in.

10 Inveigle means to lure, entice, or lead astray  
11 by false representations or by promises or other  
12 deceitful means.

13 Decoy means to lure by or as if by decoy. The  
14 decoy is something to entice a person into a trap.

15 Kidnap is to remove a person against his will  
16 by unlawful force or by fraud.

17 Abduct means to carry off, secretly or by force  
18 for an illegal purpose.

19 And carry away means to remove.

20 Now, ladies and gentlemen, the State does not  
21 have to prove that the defendant did all of these  
22 things. Instead, if you find beyond a reasonable  
23 doubt that the defendant did any one of these things  
24 or any of these things, then you may find the  
25 defendant guilty of the kidnapping.

1       Something done without authority of law is  
2       something which the law does not sanction or permit  
3       or allow or condone or provide justification for.  
4       And kidnapping does not have to be for any personal  
5       or monetary gain for any illegal purpose. It may be  
6       for any reason whatsoever.

7               The defendant has also been charged with first  
8       degree criminal sexual conduct. And the State has  
9       to prove beyond -- the first element that the State  
10      has to prove beyond a reasonable doubt is that the  
11      defendant engaged in a sexual battery with the  
12      victim. The sexual battery is sexual intercourse,  
13      cunnilingus, fellatio, anal intercourse, or any  
14      intrusion however slight of any part of the person's  
15      body or any object into the genital or anal openings  
16      of another person's body except when the intrusion  
17      is accomplished by medically recognized treatment or  
18      diagnostic purposes.

19             If you find that the State has failed to show  
20      beyond a reasonable doubt that there was a sexual  
21      battery, then your deliberations as to the criminal  
22      sexual conduct would end at that particular point,  
23      and the defendant would be not guilty.

24             If, however, you find that a sexual battery did  
25      occur, then you must decide whether the State has

1       proven beyond a reasonable doubt one of two things:

2               One, that the defendant used aggravated force  
3       to accomplish the sexual battery. Aggravated force  
4       means that the use of physical force or physical  
5       violence of a high and aggravated nature was used to  
6       overcome the victim. This includes the threat of  
7       using a deadly weapon.

8               Or the State must prove beyond a reasonable  
9       doubt that the victim submitted to sexual battery  
10      while the victim was also the victim of forcible  
11      confinement, kidnapping, robbery, extortion,  
12      burglary, housebreaking, or any such similar  
13      offense.

14              Now, ladies and gentlemen, when you have  
15      considered all of the evidence in this case, then  
16      you -- you will be able to determine the facts based  
17      upon your view of what that evidence shows, and then  
18      you must apply the law as I've instructed you and  
19      you will be able to arrive at your verdict. At that  
20      time, your foreperson would be required to complete  
21      and write the verdict on the appropriate form.

22              Ladies and gentlemen, this is an indictment for  
23      kidnapping. There are two possible verdicts for  
24      kidnapping. One is guilty; one is not guilty.  
25      There's no significance to the order in which I say

1     ...it. I have to put one first and I have to put one  
2     second.

3             Mr. Foreman, if you determine based upon the  
4     laws I've instructed you as to the elements of  
5     kidnapping, you find the -- that the State has  
6     proven beyond a reasonable doubt that the defendant  
7     is guilty, then you will write guilty on the front  
8     of the indictment where it says "verdict." You'd  
9     sign your name and then place today's date.

10            If, however, you find that the State has failed  
11     to prove that the defendant is guilty of kidnapping  
12     beyond a reasonable doubt, then you would place on  
13     this line "not guilty" and do the same thing.

14            The other -- this indictment is for criminal  
15     sexual conduct first degree. Again, there are two  
16     possible verdicts in this case, guilty or not  
17     guilty. Again, there's no significance to which I  
18     say them. I have to say one first; I have to say  
19     one second. Again, the same thought process. Did  
20     the State prove beyond a reasonable doubt each and  
21     every element of the crime of criminal sexual  
22     conduct first degree? If you find that the State  
23     met that burden, then you would write "guilty."  
24     Again, you would sign your name on the front here  
25     and place today's date. If you find that the State

1       failed in meeting that burden, you would write "not  
2       guilty" and sign your name again and place today's  
3       date.

4               Ladies and gentlemen, your verdict must be  
5       unanimous. It must be the verdict of all 12 of you.  
6       You have been sworn as fair and impartial jurors to  
7       determine the facts of this case based upon the  
8       evidence that's been presented throughout the course  
9       of this trial and based upon my instructions to you  
10      as to the law. And when you have done that, then no  
11      one can complain about the verdict that you've  
12      reached, and you would've fully discharged your duty  
13      and your responsibility as jurors in this particular  
14      matter.

15             Ms. Gordon is the alternate. Your role is very  
16      important. If one of your fellow jurors had been  
17      unable to complete service, then you would've  
18      stepped into that person's shoes. I ask that when  
19      you go back behind the doors, do not go into the  
20      actual jury room with them. Stand outside in that  
21      little hallway, and I'll come excuse you in just a  
22      few moments.

23             Ladies and gentlemen, before you begin your  
24      deliberations, I'm required by law to consult with  
25      the attorneys and make sure that I have not omitted

1     ~~anything from my~~ charge. If I have not omitted  
2     anything, then the indictments as well as the  
3     exhibits will be sent to you and you may begin your  
4     deliberations at that time.

5             Mr. Foreman, if there are questions that come  
6     up that you'd like the Court to try to answer it,  
7     please write the question on a sheet of paper, knock  
8     on the door and give it to the bailiff, and we'll  
9     try to answer it. If you don't have any questions  
10    and once you reach your verdict, if you've written  
11    on the indictments, knock on the door and tell them  
12    that you have a verdict and we'll just come back  
13    into court and we will receive you at that time.

14            As I told the jury yesterday, I'm willing to  
15    stay here as long as you wish to stay here, but I  
16    will not be feeding you dinner. And so to the  
17    extent that you want to take a break for the evening  
18    or go home and have dinner and come back tomorrow, I  
19    will -- all you have to do is write me a note about  
20    that and I will be happy to excuse you for the  
21    evening and we can come back tomorrow morning. And  
22    I'll be here tomorrow all day. And so, you know, I  
23    don't want you to rush through any type of  
24    deliberations or anything. I want to make sure that  
25    you've considered all the information and evidence

1 as you see -- as you see fit and appropriate to do.  
2 And so don't let the fact that it becomes a late  
3 hour stop you from taking a break and coming back.

4 At this time, I'd ask that you retire to the  
5 jury room and await for further instructions. Thank  
6 you.

7 (At 5:29 p.m., the jurors exited the  
8 courtroom.)

9 THE COURT: Are there any exceptions to the  
10 charge by the State?

11 MR. BROWN: Not by the State.

12 THE COURT: By the defense?

13 MS. BOLEN: No, ma'am.

14 THE COURT: If you will come and look at the  
15 indictments. Make sure that they're -- it's correct  
16 and it's appropriate to send back. And, also, there  
17 were three exhibits -- one, two, and four?

18 MR. SHEEK: Correct.

19 THE COURT: You can give it to them. You may  
20 tell them they may begin their deliberations, and  
21 I'll come excuse the alternate in just a moment.

22 We'll stand in recess until we hear from them  
23 further.

24 (At 5:30 p.m., the jury began their  
25 deliberations.)

1 (At 6:21 p.m., a verdict was reached.)

2 THE COURT: I understand that they've reached a  
3 verdict. Is there anything we need to take up  
4 before we bring the jury in.

5 MR. BROWN: Not from the State.

6 MS. BOLEN: No, ma'am.

7 THE COURT: Will you ask the jury to come in,  
8 please?

9 (At 6:23 p.m., the jury entered the courtroom.)

10 THE COURT: Mr. Foreman, I understand that  
11 y'all have reached a verdict; is that correct?

12 MR. FOREMAN: That's correct.

13 THE COURT: If you'd pass that to the bailiff.  
14 Thank you.

15 MR. FOREMAN: (Complying.)

16 THE COURT: Madam clerk, if you'd please  
17 publish the verdicts.

18 VERDICT

19 THE CLERK: The State of South Carolina, County  
20 of Abbeville, Indictment 16GS01-411, State v.  
21 Terrance Leman Calloway, indictment for kidnapping;  
22 verdict, guilty. Tracy Chiles, Foreman.

23 The State of South Carolina, County of  
24 Abbeville, Indictment 16GS01-433, the State v.  
25 Terrance Leman Calloway, indictment for criminal

1 sexual conduct; verdict, not guilty. Tracy Chiles,  
2 Foreman.

3 Mr. Foreman, ladies and gentlemen of the jury,  
4 is this your verdict so say you all? Please signify  
5 by raising your right hand.

6 THE JURORS: (Indicating.)

7 THE COURT: Thank you. Do the parties wish to  
8 pole the jurors?

9 MR. BROWN: The State does not.

10 MS. BOLEN: No, ma'am.

11 THE COURT: Ladies and gentlemen, the Court's  
12 not concerned with your verdict so much as I'm  
13 concerned with the manner in which you reach your  
14 verdict. You listened to the evidence as it was  
15 presented throughout the course of this trial. You  
16 also listened to my instructions to you as to the  
17 law. You determined the facts in accordance with  
18 your view of what that showed, and you applied the  
19 law as I instructed you, and, therefore, you have  
20 arrived at your verdict and no one can complain  
21 about the verdict that you've reached and you've  
22 fully discharged your duty and your responsibility  
23 as jurors.

24 On behalf of the State and Abbeville County,  
25 I'd like to thank you very much for your willingness

1 ~~to~~ to serve as jurors this week. I am pleased to tell  
2 you today that your service is concluded for the  
3 week, so you don't have to call back after 6:00,  
4 which it's after 6:00 now, and you don't have to  
5 report back tomorrow like I told some of you  
6 yesterday, but I want to thank you very much for  
7 your service. I appreciate your service here for  
8 Abbeville County. You are excused.

9 "Return to work" forms, if you need them,  
10 she'll meet you at the back door. Someone will meet  
11 you at the back door, and your checks will be in the  
12 mail.

13 (At 6:30 p.m., the jury was excused from  
14 further service.)

15 THE COURT: Are there any motions with respect  
16 to post-trial motions?

17 MR. BROWN: Not from the State, Your Honor.

18 MS. BOLEN: Your Honor, I don't believe we have  
19 any post-trial motions either at this time.

20 THE COURT: Okay. And I believe the sentencing  
21 sheet has already been prepared.

22 MR. BROWN: That's correct, Your Honor.

23 THE COURT: Okay. Well, Mr. Calloway has been  
24 convicted of kidnapping, which carries up to  
25 30 years imprisonment. It's considered to be a

1 violent offense as well as a much serious offense  
2 which constitutes a strike. And so I'll hear from  
3 the State in terms of additional information related  
4 to sentencing.

5 MR. BROWN: Thank you, Your Honor.

6 Your Honor, Mr. Calloway's got an extensive  
7 record going back to 1993.

8 Mr. Calloway was charged and convicted of  
9 assault and battery of a high and aggravated nature.  
10 Received a probationary sentence at that time. He  
11 had a custody status for his violation, and he was  
12 revoked for several months on that charge.

13 1997, he was convicted of a criminal sexual  
14 conduct second degree and also manufacturing or  
15 possession of controlled substance, possession of  
16 mar -- possession of marijuana, 1997. I've already  
17 said the criminal sexual conduct second degree, but  
18 he also had a criminal sexual contact third degree  
19 which he received a seven-year sentence. He also  
20 had a resisting arrest in 1997. The criminal sexual  
21 conduct, second offense, was a violent offense at  
22 that time. And I have passed forward a certified  
23 copy of that indictment from here in Abbeville  
24 County.

25 Malicious injury to property, date was 1998.

1     And simple assault and battery, 1998.

2             Criminal domestic violence or simple assault  
3     and battery, 2003.

4             A criminal domestic violence, first offense, in  
5     2004. Again, he was convicted of assault and  
6     battery of a high and aggravated nature. It was --  
7     I believe it was a 2004 charge; sentenced in 2006.  
8     Convicted ten years upon the service of four years  
9     with probation for five years. That also looks --  
10    I believe he had a custody status on that charge  
11    from, 2006.

12            In 2009, has a violation of parole and was sent  
13    to prison for a longer period of time on that  
14    assault and battery, high and aggravated nature.

15            Your Honor, Mr. Calloway has been in and out of  
16    the court system, been in and out of the judicial --  
17    out of the Department of Corrections. And with his  
18    record and already having a violent crime for  
19    criminal sexual conduct second degree, criminal  
20    sexual conduct third degree, and this charge of  
21    kidnapping surrounding a sexual assault, and I know  
22    the jury found him not guilty on those, but revolved  
23    around the same facts and traumatized the victim in  
24    this case.

25            And, Your Honor, the State would recommend a

1       very substantial and lengthy prison sentence for Mr.  
2       Calloway. He has proved to be a danger to the  
3       community here in Abbeville County and would be a  
4       danger to the State if he's released and left on the  
5       street, so we'd ask for a very lengthy prison  
6       sentence.

7               THE COURT: Mr. Calloway, are you employed?

8               THE DEFENDANT: Not right now.

9               THE COURT: How far did you go in school?

10              THE DEFENDANT: Twelfth grade.

11              THE COURT: You graduated?

12              THE DEFENDANT: Yes, ma'am.

13              THE COURT: Have you ever been treated for or  
14       received counseling for any substance abuse or  
15       mental health disorders?

16              THE DEFENDANT: No, ma'am.

17              THE COURT: And, Mr. Calloway, do you  
18       understand that as I stated earlier, this is  
19       considered to be a most serious offense which  
20       constitutes a strike. And so if you were  
21       subsequently convicted of other charges that carry a  
22       serious or a most serious designation, then at some  
23       particular point the State could seek to -- will  
24       serve you with notice that they intend to seek a  
25       life without the possibility of parole. Do you

1     ~~understand that?~~

2             THE DEFENDANT: Yes, ma'am.

3             THE COURT: And I understand that you're  
4     already required to register; is that correct?

5             THE DEFENDANT: Yes, ma'am.

6             THE COURT: Yes, Ms. Bolen.

7             MS. BOLEN: Thank you, Your Honor. Terrance is  
8     45 years old. He is from this area. Lived here his  
9     whole life. Did go to high school here. Lives with  
10    his mother and his brother. He's worked in  
11    construction.

12            Your Honor, he is -- it's worth noting a number  
13    of things based on what the State brought up. His  
14    significant criminal history is quite old. It's  
15    from I believe 1997. In the past, he does have that  
16    ABHAN conviction which I believe is under the common  
17    law misdemeanor ABHAN, but other than that, he  
18    doesn't have any recent substantial charges, Your  
19    Honor. He has been out on bond for the past about  
20    three years.

21            THE DEFENDANT: Yeah, three.

22            MS. BOLEN: He served some time in the local  
23    detention center, Your Honor, and then he bonded  
24    out. He's been out on bond for quite a while, and  
25    he's had a GPS monitor on as a condition of his

1       bond. And there have been no problems at all, Your  
2       Honor. We've never had any kind of bond revocation.  
3       There's never been, you know, any allegations of him  
4       violating his bond. There's never been any problem  
5       with the GPS. I think he has done well in the past  
6       couple years. I don't -- I don't believe he's  
7       gotten any charges since this one. And I --  
8       contrary to what the State says, I don't find him to  
9       be a dangerous person or a danger to the community.

10       Your Honor, I understand the jury's verdict and  
11       I was taking a minute to look up the inconsistent  
12       verdicts. And I don't know that there's an  
13       inconsistent verdict in this situation, but I think  
14       it is very worth noting that they did not find him  
15       guilty of the CSC. They found him guilty of the  
16       kidnapping. And taking the facts in the light most  
17       favorable to the -- to the State, the facts upon  
18       which they found him guilty of kidnapping were just  
19       not very egregious.

20       The facts presenting with respect to the  
21       kidnapping were basically he picked her up at the  
22       club. She got in the car voluntarily. He took a  
23       turn. It was not the one she was expecting to take,  
24       and then had her in the car for some period of time,  
25       not exceeding about one hour.

1. ~~There's a great sentencing range in~~  
2 kidnappings, Your Honor. And I think, you know,  
3 there's also a great amount of range in what  
4 constitutes a kidnapping in the statutes, the  
5 different sorts of action that can constitute a  
6 kidnapping. And I think there's -- having done the  
7 case law research and just being part of society and  
8 seeing on the news, there are kidnappings that are  
9 far, far more egregious than this one.

10 And, again, going on what the jury found him  
11 guilty of and the facts presented, you're talking  
12 about a situation where they found him guilty of  
13 after she got in the car voluntarily, had her in the  
14 car for maybe an hour, maybe a little more. And I  
15 think the sentencing range for kidnapping is there  
16 to cover situations like this as opposed to far more  
17 egregious situations where someone is abducted by  
18 force with weapons and kept for a period of time.

19 So we'd ask Your Honor to come in on the lower  
20 end of the sentencing range. We're actually asking  
21 Your Honor to consider a suspended sentence given  
22 the amount of time he did in the jail. I believe he  
23 was in the jail for about -- about one year, Your  
24 Honor. And he's been on house arrest, and I believe  
25 that the house arrest statute leaves it up to the

1 judge's discretion whether the time he's been out on  
2 bond can be counted towards his sentence. We would  
3 ask that it would.

4 But we'd ask that you take into consideration  
5 the fact that his history is quite old, that he's  
6 done very well in the past couple of years, no  
7 incidents other than this, that this is clearly  
8 something the jury, you know, they -- they did not  
9 find him guilty of what I would call the principle  
10 offense, the sort of driving charge here. And I'd  
11 ask that you take into consideration the broadness  
12 of the kidnapping statute both in terms of what  
13 actions constitute kidnaping and in terms of  
14 sentencing range, and that you consider the lack of  
15 egregiousness about this particular kidnapping. And  
16 we ask that you consider a suspended sentence or one  
17 on the lower end of the sentencing range, Your  
18 Honor.

19 MR. BROWN: Your Honor, just in response to the  
20 driving offense. Kidnapping classified as a  
21 violent, most serious, just as criminal sexual  
22 conduct first degree. Both carry the same penalties  
23 from 0 to 30 years. And this one also, the  
24 kidnapping, we would ask that it would be noted that  
25 it is -- or does have something, and I know the jury

1 ~~would be left up~~ here to your discretion obviously  
2 on that about being associated with a sexual offense  
3 or attempt.

4 We're not sure what the jury discussed about  
5 that, but would make note of that, that it does  
6 evolve around sexual offense, even though they did  
7 not find him guilty of that offense along with the  
8 kidnapping.

9 And, Your Honor, just in response to, again,  
10 credit for the GPS monitoring. We did have multiple  
11 bond hearings with regard to his GPS and where he  
12 could go. He was allowed to travel a good bit while  
13 on monitoring, so it would be the State's position  
14 that he was not under house arrest and that should  
15 not be credited as jail time on that.

16 MS. BOLEN: Well, Your Honor, respond to that.  
17 When the say he was allowed to travel a good bit, we  
18 had a bond hearing. He lived in Due West. He asked  
19 the judge for permission to travel to Greenwood  
20 which is about 20 minutes away to help his  
21 father-in-law mowing the lawn once or twice a week.  
22 So it's not that he was traveling all over the state  
23 or going out of the state or going out of the  
24 country.

25 And I think, again, that shows some of his

1 character that he came to court and asked  
2 specifically, you know, "Before I go and do this, do  
3 I have permission to leave and go to Greenwood to  
4 the next county over to help out a family member?"

5 THE COURT: And when was he arrested?

6 MS. BOLEN: Your Honor, he was arrested on  
7 December 30th of 2012, and he bonded out on  
8 January 7th of 2014.

9 THE CLERK: December 7th of 2013. You have to  
10 go by the actual --

11 MS. BOLEN: I was reading the public index,  
12 Your Honor. Apparently ---

13 MR. BROWN: I believe it's 363 days he was in  
14 the Abbeville County Detention Center.

15 THE COURT: So he was arrested on the 27th, or  
16 he made bond on the 27th?

17 MS. BOLEN: Yes.

18 THE CLERK: Yes, ma'am.

19 THE COURT: January 27th?

20 THE CLERK: No. December the 27th.

21 THE COURT: When was he arrested?

22 MS. BOLEN: December 30th of 2012.

23 THE COURT: And when did he make bond?

24 MS. CLERK: December 27th of 2013.

25 THE COURT: Thank you. And he was on -- were

1 the conditions for bond was that he have a GPS?

2 MS. BOLEN: Yes, ma'am.

3 THE COURT: Mr. Calloway, when were you  
4 released from the Department of Corrections?

5 THE DEFENDANT: In 2009, I believe.

6 THE COURT: You were released in 2009? And  
7 that's ---

8 THE DEFENDANT: Oh, 2001 for the CSC.

9 THE COURT: No, sir. I mean, from what I  
10 understand, you were convicted of assault and  
11 battery of a high and aggravated nature. And in  
12 2006, that there was a parole revocation or  
13 something in 2009. Was that correct or not correct?

14 THE DEFENDANT: Yes. That's correct, I think.

15 MR. BROWN: Your Honor, I can pass forward the  
16 history. It's hard to read what the actual sentence  
17 was on that, but it says, "VOP zero to five. It  
18 looks like one year, so it looks like it's a one  
19 year additional year to 2009. So that was  
20 December 16, 2009, which would then put it at 2010.

21 THE DEFENDANT: 2010.

22 THE COURT: Okay. From what I understand,  
23 there were some charges back in 1997 that involved a  
24 CSC in which there was a negotiated plea pursuant to  
25 Alford to a seven-year sentence. There was some --

1       and that was when -- the charges after that, with  
2       the exception of the 2006 ABHAN and the CDV where  
3       some concerns with the ABHAN, it would've been under  
4       the -- the old misdemeanor, ten-year misdemeanor.

5               I've been told that he was sentenced to ten  
6       years, suspended upon the service of four years, and  
7       five years probation, that the parole was revoked  
8       for one year in 2009, so he was released in 2010.

9               There were no other incidents until these --  
10       this arrest on these charges in 2013. He was  
11       charged with a CSC first, as well as the kidnapping.

12              The jury found him not guilty of the criminal  
13       sexual conduct in other words. And the reasons are  
14       unknown whether they found that there was a sexual  
15       battery, but not the other elements were met or  
16       perhaps there was no sexual battery, but they found  
17       him guilty on the kidnapping, which is not  
18       inconsistent given what the allegations are related  
19       to the kidnapping.

20              I understand the State's position that he has a  
21       significant criminal history. He's proven in the  
22       past to be a danger to the community. Since he's  
23       been released on bond in 2014, he's been on GPS  
24       monitoring. His bond was modified several times  
25       from allowing him to move from Greenville to Due

1 ~~West and to then go to -- I'm sorry -- Greenville~~  
2 with his wife to go to Due West to live with his  
3 mother, and then to be able to go to Greenwood  
4 several times a week for purposes of doing some  
5 work.

6 I've heard the arguments that both of the  
7 crimes with which he's been charged were violent  
8 crimes and are both considered to be serious crimes  
9 and -- and that is correct. I do, however, consider  
10 the character in terms of the allegations, and I  
11 think there is a difference between the allegations  
12 of a CSC and the allegation of kidnapping.

13 I do understand the testimony of the victim in  
14 this case and what she testified to on the witness  
15 stand. And I understand the State's argument about  
16 the fact that he should be put away for a long  
17 period of time. Respectfully, I would disagree with  
18 that given the verdict of the jury in this  
19 particular case.

20 I would agree with the defense that the -- in  
21 my view, the most egregious offense would've been  
22 the CSC first. Although, both crimes are  
23 designated. I understand why they both are because  
24 they require some assault on a victim.

25 In this particular case, based upon the jury's

1        verdict with the kidnapping, and we don't go behind  
2        what they were thinking or why they came up with  
3        their conclusions with the kidnapping. In this  
4        particular case, while it's unlawful, it was not as  
5        egregious as the criminal sexual conduct.

6                So having said all that, Mr. Calloway, I've  
7        considered all of your criminal history. I've  
8        considered the State's request. I've considered  
9        your attorney's request. I don't think that I would  
10       give you credit for the time that you have spent  
11       while you were incarcerated. I do not consider the  
12       time that you were on GPS monitoring to really  
13       satisfy the requirements of house arrest.

14               I don't believe that there is a -- at least  
15       from what I saw, I did not see a house arrest that  
16       was required. I saw restrictions on where you could  
17       travel or whether or not you could leave the county  
18       and whether -- I think the original conditions were  
19       that you live in Greenville. Certainly, when you  
20       moved to Due West, that had to have a court order to  
21       require that change.

22               Apparently, there's not been any contact or  
23       violations in connection with the GPS monitoring or  
24       in connection with the bond. And taking that in  
25       consideration in terms of what type of sentence to

1 ~~impose, but not to give you credit for that.~~

2       So, Mr. Calloway, I'm going to sentence you to  
3 the Department of Corrections for a period of five  
4 years. I give you credit for the time that you --  
5 the one year that you've served. Good luck to you,  
6 sir.

7       THE DEFENDANT: Yes, ma'am.

8       MS. BOLEN: Thank you, Your Honor.

9       THE COURT: And I've also made a notation that  
10 there should be no contact with the victim upon your  
11 release and as a condition of your parole. There  
12 is -- actually, it's a no parole offense, 85 percent  
13 time, so you'd be required to serve 85 percent of  
14 your sentence that would be imposed before you'll be  
15 eligible for release under the Community Supervision  
16 Program. You're required to successfully complete  
17 two years of that Community Supervision Program  
18 before you'll be released from any further duties  
19 and responsibilities as it relets to that sentence.  
20 Do you understand?

21       THE DEFENDANT: Yes, ma'am.

22       THE COURT: Good luck to you.

23       THE DEFENDANT: Thank you.

24       (The proceedings concluded at 7:00 p.m.)

25

## 1 C E R T I F I C A T E O F R E P O R T E R

2

3 STATE OF SOUTH CAROLINA

4 COUNTY OF ABBEVILLE

5

6 I, the undersigned, Lisa Scott, Circuit Court  
7 Reporter for the Eighth Judicial Circuit of the  
8 State of South Carolina, do hereby certify that the  
9 foregoing is a true, accurate and complete  
10 transcript of record of all the proceedings had and  
11 the evidence introduced in the trial of the  
12 captioned cause, relative to appeal in the Criminal  
13 Court for Abbeville County, South Carolina, on the  
14 31st day of August, 2016.

15 I do further certify that I am neither of kin,  
16 counsel, nor interest to any party hereto.

17

18

November 27, 2016

19

20

/s/Lisa Scott

21

22

Lisa Scott  
Circuit Court Reporter

23

24

25

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WITNESSES

Kenneth Smith  
Abbeville County Sheriff

---

THE STATE OF SOUTH CAROLINA

COUNTY OF ABBEVILLE

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COURT OF GENERAL SESSIONS

August Term, 2016

Indictment # 16CS01-0411

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WARRANT NUMBER

2015100100100080

---

**TRUE BILL**

*Caroline Blackwell*

Foreman of the Grand Jury

Date: AUG 26 2016

---

THE STATE

vs.  
Terrance Lenna Calloway

---

VERDICT

*Guilty*

*Tracy Chiles*

Foreman 8/31/16

---

INDICTMENT FOR

KIDNAPPING

§16-03-0910

CDR: 0095

## THE STATE OF SOUTH CAROLINA

## INDICTMENT FOR

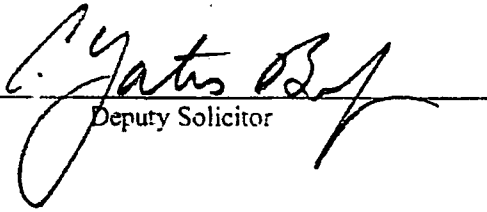
COUNTY OF ABBEVILLE

KIDNAPPING  
§16-03-0910

At a Court of General Sessions, convened on the 26th day of August, 2016, the Grand Jurors of Abbeville County present upon their oath:

That Terrance Leman Calaway, on or about August 3, 2012, in Abbeville County, willfully and unlawfully with criminal intent, seize, confine, inveigle, decoy, kidnap, abduct or carry away Sherry Tameeka Williams without authority of law, in violation of Section 16-3-910 of the South Carolina Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such cases made and provided.

  
Deputy Solicitor

## STATE OF SOUTH CAROLINA

## IN THE COURT OF GENERAL SESSIONS

COUNTY OF Abbeville  
 STATE VS.  
Terrance Leman Calloway

INDICTMENT CASE#: 16GS01-0411A.W.#: 2015D0100100080Date of Offense: 8 3 2012S.C. Code: 16-03-0910CDR Code #: 0095

AKA:

Race: AFRICAN AME Sex: M Age: 45DOB: 1970 SS#: Address: Moffett StreetCity/State/Zip: Due West, SC 29639DL#:  SID#: \*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Kidnapping; 0-30 yrsin violation of 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ 17-25-45

w/minor 1st or Lewd Act)

The charge is: ☐ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Brown, C. YatesSC Bar#

Defendant

Attorney for Defendant

SC Bar#

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed  yearsand/or to pay a fine of \$ ; provided that upon the service of  days/months/years and/or paymentof \$ ; plus costs and assessments as applicable\*; the balance is suspended with probation for 

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code 24-13-40 to be calculated and applied by the State Department of Corrections. 363 days☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code 17-25-135.

Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

## SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$  plus 20% fee: \$ Payment Terms: ☐ Set by SCDPPPS Recipient: 

\*Fine:

14-1-206 (Assessments 107.5%) \$ 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.0014-1-211(A)(2) (DUI Surcharge) \$100 \$ 56-5-2995 (DUI Assessment) \$12 \$ 56-1-286 (DUI Breath Test) \$25 \$ Proviso 61.6 (Public Def. Probation) \$500 \$ 14-1-212 (Law Enforce. Funding) \$25 \$ 25.0014-1-213 (Drug Court Surcharge) \$150 \$ 50-21-114(B)(1) Breath Test Fee) \$50 \$ 56-5-2942(I) (Vehicle Assessment) \$10 ea \$ 3% to County (if paid in installments) \$ 3.75

TOTAL

\$ 126.75

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA 217 (07/2016)

Shandal B BoggsLisa Scott

Presiding Judge

Judge Code:

Sentence Date:

 days/hours Public Service EmploymentObtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W.F. beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$  beginning \$  paid to Public Defender FundOther: no contact with the victimupon release

☐ Appointed PD or appointed other counsel.  
 Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date:

Alfred Lee21188/31/2016

## CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Kathrine H. Hudgins  
Appellate Defender

South Carolina Commission on Indigent Defense  
Division of Appellate Defense  
PO Box 11589  
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 11th day of August, 2017.

**RECEIVED**

AUG 11 2017

**SC Court of Appeals**