

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

**RECEIVED**  
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SC Court of Appeals

\_\_\_\_\_  
Appeal from Horry County

Honorable Steven H. John, Circuit Court Judge

\_\_\_\_\_  
THE STATE,

RESPONDENT,

V.

DAVID JAMES WELCH,

APPELLANT

APPELLATE CASE NO 2017-001019

\_\_\_\_\_  
RECORD ON APPEAL  
\_\_\_\_\_

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**\*THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:**

**STATE’S EXHIBIT NO. 28 (CD OF REDACTED INTERVIEW WITH APPELLANT)**

**DEFENSE EXHIBIT NO. 4 (DVD OF INTERVIEW WITH JERRICA NELSON)**

**DEFENSE EXHIBIT NO. 13 (CD OF INTERVIEW WITH JESSICA NELSON, PART 2)**

STATE OF SOUTH CAROLINA ) IN THE COURT OF GENERAL SESSIONS

COUNTY OF HORRY ) 2015-GS-26-969,970,971,972

STATE OF SOUTH CAROLINA, )

Plaintiff, )

**Transcript of Record**

vs. )

April 17-20, 2017

DAVID JAMES WELCH, )

Defendant. )

**B E F O R E:**

Honorable Steven H. John  
Horry County Courthouse  
Conway, South Carolina

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

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**Attorney for Plaintiff**

Ralph J. Wilson, Jr., Esquire  
**Attorney for Defendant**

**TAKEN BY:**

Dixie C. Eubank  
**Circuit Court Reporter**

**PREPARED BY:**

Kay H. Richardson  
**Circuit Court Reporter**



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## EXHIBITS

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| 25 |            |                  |           |           |

1 APRIL 17, 2017 - DAY ONE

2 VOIR DIRE:

3 THE COURT: We are going to pick the jury in the case of  
4 the State of South Carolina versus David James Welch. The  
5 State has charged the Defendant, Mr. Welch, with various  
6 crimes. Now, I'm going to read to you some information  
7 contained in the indictments regarding those crimes. Before I  
8 do that, I want to tell you the indictment is merely the  
9 charging document, the document which brings the matter to  
10 court. It is not evidence, cannot be considered by anyone as  
11 evidence in the case. The only reason I would read to you  
12 anything from the indictment is to see if you know anything  
13 about this particular case, have any information about this  
14 case that you need to inform the Court about.

15 Now, the State has charged David James Welch with the  
16 crimes of kidnapping, armed robbery, criminal sexual conduct  
17 and possession of a weapon during the commission of a violent  
18 crime. Regarding the charge of kidnapping, the State alleges  
19 that David James Welch did in Horry County on or about January  
20 8th, 2015, unlawfully seize, confine, inveigle, decoy, kidnap,  
21 abduct or carry away one Jerrica N. without authority of law  
22 in violation of the Code of Laws of the State of South  
23 Carolina, 1976, as amended.

24 In the indictment where charged for armed robbery, the  
25 State alleges that David James Welch did in Horry County, on



1 or about January 8th, 2015, while armed with a deadly weapon  
2 or while alleging either by actions or words that he was armed  
3 while using a representative of a deadly weapon or any object  
4 which a person present during the commission of the robbery  
5 reasonably believed to be a deadly weapon, did take and carry  
6 away the personal property of one Jerrica N. from her  
7 immediate presence with the intent to deprive Jerrica N. of  
8 the possession by the use of force, threats or intimidation,  
9 again in violation of the Code of Laws of the State of South  
10 Carolina, 1976, as amended.

11 The State alleges in the indictment for criminal sexual  
12 conduct that David James Welch, did in Horry County, on or  
13 about January 8th, 2015, engage in sexual battery with Jerrica  
14 N. using aggravated force and/or the Defendant did engage in a  
15 sexual battery with the victim while the victim was also the  
16 victim of either forcible confinement, kidnapping, robbery,  
17 burglary, housebreaking or some similar offense, all in  
18 violation of the Code of Laws of the State of South Carolina,  
19 1976, as amended.

20 The State also alleges in the indictment for possession  
21 of a weapon during the commission of a violent crime that  
22 David James Welch, did in Horry County, on or about January  
23 8th, 2015, possess a firearm or visibly display what appeared  
24 to be a firearm or visibly display the representative of a  
25 weapon during the commission or attempted commission of a

1 violent crime in violation of the Code of Laws of the State of  
2 South Carolina, 1976, as amended.

3 Is there any member of the jury panel that knows anything  
4 about this particular case, has any information about this  
5 case, anything they need to bring to the Court's attention at  
6 this time? If so, please stand.

7 First, sir, I need your name and your juror number.

8 JUROR 378: Juror number 378, Richard Soliday.

9 THE COURT: All right, sir. Just answer my questions,  
10 don't elaborate in any way. Do you know about the incident or  
11 do you know -- let's say, do you know about the incident; yes  
12 or no?

13 JUROR 378: Yes.

14 THE COURT: All right, sir. Please come forward and talk  
15 to me. Counsel, y'all come around, please.

16 (REPORTER'S NOTE: A bench conference was held off the record  
17 in the presence of but out of hearing of the Jury. Juror 378  
18 excused from this case).

19 THE COURT: All right. Anybody else?

20 (REPORTER'S NOTE: No response.)

21 THE COURT: All right, ladies and gentlemen, what I'm  
22 gonna do is read to you a possible or potential witness list  
23 regarding the possible potential witnesses that may be called  
24 in this particular case. Just because I read it doesn't mean  
25 that they will be, but it is certainly possible and potential

1 that all or any one of these persons could be called as a  
2 witness in this particular matter.

3 Jerrica Nelson; Officer Austin Cox, Myrtle Beach Police  
4 Department; Officer Brittany Southerland, Myrtle Beach Police  
5 Department; Officer Asia Sououd, S-O-U-O-U-D, Myrtle Beach  
6 Police Department; Detective Jeremiah Beam, B-E-A-M, Myrtle  
7 Beach Police Department; Detective Hugh Jones, Myrtle Beach  
8 Police Department; Crime Scene Specialist Scott Williamson,  
9 Myrtle Beach Police Department; Mike Dame, D-A-M-E, formerly  
10 of the Myrtle Beach Police Department; a representative from  
11 Time Warner; a representative from Verizon; Vanessa Thompson;  
12 Melinda Shadoan, S-H-A-D-O-A-N; Milton Adams; Jennifer Aycock;  
13 Steve Bassett; Edna Blackmon; M. Bland; S. Donovan; Linda  
14 Hopkins; Kenny Harlow; M.L. Hearon, H-E-A-R-O-N; N. Howitt, H-  
15 O-W-I-T-T; Tony Humes; Jay Liber; Sonya Mamoozaden, M-A-M-O-O-  
16 Z-A-D-E-N; L. Mauro, M-A-U-R-O; Tracy Michelle Lewis; M.  
17 Merfert, M-E-R-F-E-R-T; Bryan Murphy; Rena Joy Natali, N-A-T-  
18 A-L-I; an individual with the last name of Stair, S-T-A-I-R;  
19 Carter Starr, S-T-A-R-R; Jessica Stow; Brad Townsend; David  
20 Welch; Theresa Welch; Ben Wilson; Pete Woods; Doris  
21 Yarborough; David James Welch. Anybody related by blood or  
22 marriage, close personal friends, acquaintances of any one of  
23 these individuals the Court has named? If so, please stand.

24 Yes, sir, tell me your name and juror number first.  
25 please.

1 JUROR 230: Dustin Jordan, Juror 230.

2 THE COURT: All right. And who is that you might know?

3 JUROR 230: I work for the City of Myrtle Beach.

4 THE COURT: All right. So what -- refresh my memory and  
5 tell me again what you do for the City of Myrtle Beach?

6 JUROR 230: I work in the Recreation Department.

7 THE COURT: All right, Recreation Department, because of  
8 that, you would potentially have some occasion to know or run  
9 into persons employed by the Myrtle Beach Police Department?

10 JUROR 230: Correct.

11 THE COURT: All right, sir. My question to you is, can  
12 you give to the State of South Carolina and to the Defendant a  
13 fair and impartial trial; can you be a fair and impartial  
14 juror in this case?

15 JUROR 230: Yes, sir.

16 THE COURT: Thank you very much.

17 Anybody else?

18 (REPORTER'S NOTE: No response.)

19 THE COURT: All right. Is there any matter -- or any  
20 member of the jury panel either you yourself or a member of  
21 your immediate family has ever had any kind of matter,  
22 situation of any kind handled, touched, worked on by the  
23 Fifteenth Circuit Solicitor's Office? That's the prosecuting  
24 office that covers Horry and Georgetown Counties. If so,  
25 please stand.

1 (REPORTER'S NOTE: No response.)

2 THE COURT: Is there any member of the jury panel, either  
3 you yourself or a member of your immediate family, that is  
4 related by blood or marriage, close personal friends of  
5 anybody employed by the Fifteenth Circuit Solicitor's office  
6 either in Horry or Georgetown Counties?

7 Yes, sir, again you have to tell me your name and juror  
8 number.

9 JUROR 230: Dustin Jordan, Juror 230.

10 THE COURT: All right, sir. And who might you be related  
11 by blood or marriage, personal friends of?

12 JUROR 230: My mother works in the Solicitor's office.

13 THE COURT: All right, sir. Very good. Can you give to  
14 the State of South Carolina and to the Defendant a fair and  
15 impartial trial; can you be a fair and impartial juror in this  
16 case?

17 JUROR 230: Yes, sir.

18 THE COURT: Thank you very much.

19 All right. If you would, Solicitor, if you would stand,  
20 identify yourself and -- both of you please stand and identify  
21 yourselves.

22 MR. HOLFORD: My name is Josh Holford; I'm an Assistant  
23 Solicitor here in Horry County.

24 MS. WALKER: And I'm Cara Walker, also an Assistant  
25 Solicitor here.

1 THE COURT: Mr. Cooley?

2 MR. COOLEY: David Cooley also Assistant Solicitor.

3 THE COURT: All right. Very good.

4 Mr. Wilson, if you'd stand up and introduce yourself also  
5 please?

6 MR. WILSON: Thank you, Your Honor. My name is Ralph  
7 Wilson, Jr. and I represent the Defendant in this matter. I  
8 have a law firm here in Horry County. I practice in State and  
9 Federal Court. This young lady to my right is my right and  
10 left hand; she is Jessica Marburger and she is my Senior  
11 Paralegal on my staff. This young lady to my left, further  
12 left, is an Associate Attorney in my office and she works on  
13 cases with me such as this. Her name is Allison -- I forgot  
14 Allison's last name.

15 MS. GORDON: Gordon.

16 MR. WILSON: Jordan.

17 MS. GORDON: Gordon.

18 MR. WILSON: Gordon. I apologize. Allyson Gordon; she  
19 just joined my office. My mind is bad. I apologize.

20 THE COURT: All right, sir. Thank you, sir.

21 Is there any member of the jury panel that's related by  
22 blood or marriage, close personal friends, acquaintances of  
23 any of these individuals that have stood up and identified  
24 themselves to you? If so, please stand.

25 (REPORTER'S NOTE: No response.)

1 THE COURT: Very good.

2 Is there any member of the jury panel that has -- that  
3 you believe you have any kind of personal, political,  
4 religious, philosophical belief that you believe would prevent  
5 you from being a fair and impartial juror in this case?

6 (REPORTER'S NOTE: No response.)

7 THE COURT: Is there any member of the jury panel either  
8 you yourself or a member of your immediate family that have  
9 been in law enforcement either you were -- you yourself were  
10 in law enforcement in the past or you currently have a family  
11 member who is now in law enforcement or was in law enforcement  
12 in the past? If any of that applies to you, please stand at  
13 this time.

14 All right. Very good. Yes, ma'am, I'll start with you.

15 JUROR 137: My name is Carolyn Ford, I'm 137. I have a  
16 nephew in Mullins that's a police officer. Excuse me. And I  
17 have a nephew in North Myrtle Beach, Jonathan, and he's a  
18 police officer.

19 THE COURT: All right. Can you give to the State of  
20 South Carolina and to the Defendant a fair and impartial  
21 trial; can you be a fair and impartial juror in this case?

22 JUROR 137: Yes, I can.

23 THE COURT: Thank you, ma'am.

24 THE COURT: Yes, ma'am, name and juror number, please?

25 JUROR 29: Barbara Bellamy, Number 29. My brother-in-law

1 just retired.

2 THE COURT: Okay. And from what law enforcement agency?

3 JUROR 29: In New Jersey.

4 THE COURT: All right. Very good. Can you give -- I'm  
5 sorry, I need to ask you the qualification question.

6 JUROR 29: I'm sorry.

7 THE COURT: That's all right. Can you give to the  
8 State of South Carolina and to the Defendant a fair and  
9 impartial trial; can you be a fair and impartial juror in this  
10 case?

11 JUROR 29: Yes, sir.

12 THE COURT: Thank you very much, ma'am.

13 All right. Yes, sir, your name and juror number please?

14 JUROR 166: Harold Green, Juror 166. My daughter is a  
15 detective in Georgia.

16 THE COURT: All right, sir. Can you give to the State of  
17 South Carolina and to the Defendant a fair and impartial  
18 trial; can you be a fair and impartial juror in this case?

19 JUROR 169: Yes, sir.

20 THE COURT: Thank you very much.

21 And behind?

22 JUROR 100: Brian Dabrowski, Juror 100. My father was a  
23 Police Commander in Detroit.

24 THE COURT: All right, sir. Can you give to the State of  
25 South Carolina and to the Defendant a fair and impartial



1 trial; can you be a fair and impartial juror in this case?

2 JUROR 100: Yes, I can.

3 THE COURT: Thank you very much, sir.

4 All right. Yes, sir, your name and juror number please?

5 JUROR 314: John Nobles, 314. My uncle was a bailiff.

6 THE COURT: All right, sir. Can you give to the State of

7 South Carolina and to the Defendant a fair and impartial

8 trial; can you be a fair and impartial juror in this case?

9 JUROR 314: Yes, sir.

10 THE COURT: Thank you very much.

11 Yes, sir, name and juror number, please?

12 JUROR 295: Drexel Mixson, Juror 295. My uncle was a

13 Major for the South Carolina Highway Department, and I

14 currently have a sister-in-law who is with SLED.

15 THE COURT: All right, sir. Can you give to the State of

16 South Carolina and to the Defendant a fair and impartial

17 trial; can you be a fair and impartial juror in this case?

18 JUROR 295: Yes, sir.

19 THE COURT: Thank you very much. All right. The next  
20 question I'm gonna ask you, ladies and gentlemen, is whether

21 you yourself or a member of your immediate family has ever

22 been a member of any kind of victim's rights or law

23 enforcement support organization. Let me just give you a few

24 examples. This is not an exhaustive list of any kind; this is

25 just examples of what I'm talking about, and that would be

1 like Mothers Against Drunk Driving, the South Carolina Law  
2 Enforcement Officer's Association, or the South Carolina  
3 Sheriff's Association, just some kind of victim's rights or  
4 law enforcement support organization? If so, please stand.  
5 (REPORTER'S NOTE: No response.)

6 THE COURT: Very good.

7 Now the next question I'm gonna ask you, ladies and  
8 gentlemen, is whether or not you yourself or a member of your  
9 immediate family has ever been the victim of a crime. Now, I  
10 am not going to ask you what occurred. I do not want you to  
11 volunteer any information to me about what occurred. The  
12 question is going to be straightforward; was it yourself or a  
13 family member, and after that I'll ask the qualification  
14 question. So, is there any member of the jury panel either  
15 you yourself or a member of your immediate family has ever  
16 been the victim of a crime? If so, please stand.

17 All right. In the front row, yes, ma'am, your name and  
18 juror number, please?

19 JUROR 411: Yvette Veideman, Juror 411.

20 THE COURT: All right, ma'am, and was it yourself or a  
21 family member?

22 JUROR 411: Myself.

23 THE COURT: Can you give to the State of South Carolina  
24 and to the Defendant a fair and impartial trial; can you be a  
25 fair and impartial juror in this case?

1 JUROR 411: Yes.

2 THE COURT: Thank you very much, ma'am.

3 All right. Yes, ma'am, name and juror number again?

4 JUROR 252: My name is Dawne Linseman and my number is  
5 252.

6 THE COURT: And was it yourself or a family member?

7 JUROR 252: It was myself.

8 THE COURT: Can you give to the State of South Carolina  
9 and to the Defendant a fair and impartial trial; can you be a  
10 fair and impartial juror in this case?

11 JUROR 252: I'm not sure about it.

12 THE COURT: All right. Very good then come and talk to  
13 me please, ma'am. Counsel.

14 (REPORTER'S NOTE: A bench conference was held off the record  
15 in the presence of but out of hearing of the Jury. Juror 252  
16 excused.

17 THE COURT: All right. Yes, sir, at the center, please.  
18 Your name and juror number again?

19 JUROR 54: Olin Brown, 54.

20 THE COURT: All right, sir. And was it yourself?

21 JUROR 54: Yes, sir.

22 THE COURT: All right, sir. Can you give to the State of  
23 South Carolina and to the Defendant a fair and impartial  
24 trial; can you be a fair and impartial juror in this case?

25 JUROR 54: Yes.

1 THE COURT: Thank you very much.

2 Yes, ma'am, your name and juror number please, ma'am?

3 JUROR 415: Victoria Vidmar, Number 415.

4 THE COURT: Yourself or a family member?

5 JUROR 415: Both.

6 THE COURT: Can you give to the State of South Carolina  
7 and to the Defendant a fair and impartial trial; can you be a  
8 fair and impartial juror in this case?

9 JUROR 415: Yes, I can.

10 THE COURT: Thank you very much, ma'am.

11 Yes, sir, tell me your name and juror number again.

12 JUROR 295: Drexel Mixson, 295.

13 THE COURT: And yourself or a family member?

14 JUROR 295: Both.

15 THE COURT: Can you give to the State of South Carolina  
16 and to the Defendant a fair and impartial trial; can you be a  
17 fair and impartial juror in this case?

18 JUROR 295: Yes, sir.

19 THE COURT: Thank you very much. All right.

20 All right. Before I ask the Court's final question,  
21 further questions from the State?

22 MR. HOLFORD: Your Honor, may we approach?

23 THE COURT: Absolutely.

24 (REPORTER'S NOTE: A bench conference was held off the record  
25 in the presence of but out of hearing of the Jury.)

1       THE COURT: All right. I classify this as my general or  
2 catch-all question. Do you know of any reason, have any  
3 question in your mind, any doubt in your mind that you cannot  
4 give to the State of South Carolina and to the Defendant a  
5 fair and impartial trial, that is for any reason whatsoever  
6 you believe you cannot be a fair and impartial juror in this  
7 case? If so, please stand.

8 (REPORTER'S NOTE: No response.)

9       THE COURT: Very good.

10       All right. What's gonna happen, ladies and gentlemen, is  
11 again your names have been placed in a random order by a  
12 computer program. The Clerk representative is going to call  
13 out a name of a juror. If and when your name is called, you  
14 will stand up, you'll come forward, you'll come around and  
15 you'll come to a place basically right in front of the Court  
16 Reporter that's seated right here, right there, Ms. Dixie, and  
17 you'll stand and you will face to the back of the courtroom.  
18 At that point in time, the Clerk's representative will inquire  
19 of the State to present or excuse the juror. After that  
20 response, the Clerk will inquire of the Defense to seat or  
21 excuse the juror. If you are excused by the State or the  
22 Defense, you go back and have a seat from whence you came. If  
23 you are presented by the State and you are seated by the  
24 Defense, the Clerk will instruct you to go to the jury box  
25 right over there and have a seat in the jury box. So, if you

1 happen to have any personal items, you know a book, purse,  
2 hat, whatever it might be, bring that along with you in case  
3 that you are seated you can go directly to the jury box.

4 All right. Madam Clerk?

5 JURY SELECTION:

6 CLERK: 323, Richard ---

7 THE COURT: Patelunas.

8 CLERK: --- Patelunas.

9' JUROR 323: Patelunas.

10 CLERK: What say the State?

11 MR. HOLFORD: Please present this juror.

12 CLERK: Defense?

13 MR. WILSON: Please present the juror..

14 CLERK: Please be seated in our jury box.

15 274, Daniel Matz.

16 What say the State?

17 MR. HOLFORD: Please present this juror.

18 CLERK: Defense?

19 MR. WILSON: Please excuse this juror from this

20 particular case.

21 CLERK: You're excused from this particular case.

22 217, Christina James.

23 What say the State?

24 MR. HOLFORD: Please present this juror.

25 CLERK: Defense?

1 MR. WILSON: Please seat the juror.

2 CLERK: Please be seated in our jury box.

3 276, Margueritte Mazza.

4 What say the State?

5 MR. HOLFORD: Please present this juror.

6 CLERK: Defense?

7 MR. WILSON: Please excuse the juror from this particular  
8 case.

9 CLERK: You're excused from this particular case.

10 364, McCullin Shimwell.

11 What say the State?

12 MR., HOLFORD: Please excuse this juror from this case.

13 CLERK: You're excused from this particular case.

14 54, Olin Brown.

15 What say the State?

16 MR. HOLFORD: Please present this juror.

17 CLERK: Defense?

18 MR. WILSON: Please excuse this juror from this  
19 particular case.

20 CLERK: You're excused from this particular case.

21 179, Amanda Hatcher.

22 What say the State?

23 MR. HOLFORD: Please excuse this juror from this case.

24 CLERK: You're excused from this particular case.

25 44, Michael Bralley.

1           What say the State?

2           MR. HOLFORD: Please present this juror.

3           CLERK: Defense?

4           MR. WILSON: Please excuse the juror from this particular  
5 case.

6           CLERK: You're excused from this particular case.

7           411, Yvette Veideman.

8           What say the State?

9           MR. HOLFORD: Please present this juror.

10          CLERK: Defense?

11          MR. WILSON: Please excuse this juror from this  
12 particular case.

13          CLERK: You're excused from this particular case.

14          450, William Zimmerman.

15          What say the State?

16          MR. HOLFORD: Please excuse this juror from this case.

17          CLERK: You're excused from this particular case.

18          29, Barbara Bellamy.

19          What say the State?

20          MR. HOLFORD: Please present this juror.

21          CLERK: Defense?

22          MR. WILSON: Please excuse this juror from this  
23 particular case.

24          CLERK: You're excused from this particular case.

25          446, Barbara Wright.



1 What say the State?

2 MR. HOLFORD: Please present this juror.

3 CLERK: Defense?

4 MR. WILSON: Please seat this juror.

5 CLERK: Please be seated in our jury box.

6 58, Michael Bunts.

7 What say the State?

8 MR. HOLFORD: Please present this juror.

9 CLERK: Defense?

10 MR. WILSON: Please seat this juror.

11 CLERK: Please be seated in our jury box.

12 314, John Nobles.

13 What say the State?

14 MR. HOLFORD: Please excuse this juror from this case.

15 CLERK: You're excused from this particular case.

16 269, Jonathan Marks.

17 What say the State?

18 MR. HOLFORD: Please present this juror.

19 CLERK: Defense?

20 MR. WILSON: Please present this juror.

21 CLERK: Please be seated in our jury box.

22 153, Paula Gibbons.

23 What say the State?

24 MR. HOLFORD: Please present this juror.

25 CLERK: Defense?

1 MR. WILSON: Seat the juror.

2 CLERK: Please be seated in our jury box.  
3 109, Emily Demasters.

4 What say the State?

5 MR. HOLFORD: Please present this juror.

6 CLERK: Defense?

7 MR. WILSON: Seat the juror.

8 CLERK: Please be seated in our jury box.  
9 415, Victoria Vidmar.

10 What say the State?

11 MR. HOLFORD: Please present the juror.

12 CLERK: Defense?

13 MR. WILSON: Please excuse this juror from this  
14 particular case.

15 CLERK: You're excused from this particular case.

16 104, Paul Deitrick.

17 What say the State?

18 MR. HOLFORD: Please present this juror.

19 CLERK: Defense?

20 MR. WILSON: Seat the juror.

21 CLERK: Please be seated in our jury box.

22 100, Brian Dabrowski.

23 What say the State?

24 MR. HOLFORD: Please present the juror.

25 CLERK: Defense?

1 MR. WILSON: Please excuse the juror from this particular  
2 case.

3 CLERK: You're excused from this particular case.

4 440, Michael Wlock.

5 What say the State?

6 MR. HOLFORD: Please present the juror.

7 CLERK: Defense?

8 MR. WILSON: Please seat the juror.

9 CLERK: Please be seated in our jury box.

10 434, Janice Wilson.

11 What say the State?

12 MR. HOLFORD: Please present the juror.

13 CLERK: Defense?

14 MR. WILSON: Please excuse this juror from this  
15 particular case.

16 CLERK: You're excused from this particular case.

17 166, Harold Green.

18 What say the State?

19 MR. HOLFORD: Please present the juror.

20 CLERK: Defense?

21 MR. WILSON: Please seat the juror.

22 CLERK: Please be seated in our jury box.

23 357, Cheri Schmidt.

24 What say the State?

25 MR. HOLFORD: Please present the juror.

1 CLERK: Defense?

2 MR. WILSON: Please seat the juror.

3 CLERK: Please be seated in our jury box.

4 23, Joshua Barrett.

5 What say the State?

6 MR. HOLFORD: Please excuse the juror.

7 CLERK: You're excused from this particular case.

8 230 Dustin Jordan.

9 What say the State?

10 MR. HOLFORD: Please present the juror.

11 CLERK: Defense?

12 MR. WILSON: Please excuse the juror from this particular

13 case.

14 CLERK: You're excused from this particular case.

15 131, Lindsey Fipps.

16 What say the State?

17 MR. HOLFORD: Please present the juror

18 CLERK: Defense?

19 MR. WILSON: Seat the juror.

20 CLERK: Please be seated in our jury box.

21 THE COURT: All right, Counsel, we're gonna have two

22 alternates. It will be one and two on each alternate.

23 Proceed.

24 CLERK: 413, Trisha Vereen.

25 What say the State?

1 MR. HOLFORD: Please present the juror.

2 CLERK: Defense?

3 MR. WILSON: Seat the juror.

4 CLERK: Please be seated in our jury box.

5 THE COURT: All right. Ms. Vereen, you are one of the  
6 alternates, please, ma'am. Thank you.

7 CLERK: 16, Donald Baiata.

8 What say the State?

9 MR. HOLFORD: Please present the juror.

10 CLERK: Defense?

11 MR. WILSON: Please seat the juror.

12 CLERK: Please be seated in our jury box.

13 THE COURT: All right, sir, you are the second alternate  
14 or another alternate in this particular panel.

15 All right. Any exceptions or objections to the jury  
16 panel from the State?

17 MR. HOLFORD: Nothing from the State, Your Honor.

18 THE COURT: From the Defense?

19 MR. WILSON: Nothing, Your Honor.

20 THE COURT: Very good. I find the jury has been properly  
21 empaneled pursuant to *Batson v. Kentucky* and *J.E.B v. Alabama*.

22 BY THE COURT:

23 THE COURT: All right. Ladies and gentlemen, you are the  
24 jury in this particular case. In just a minute, I'm gonna ask  
25 that you go back to the jury room and do one thing for me and

1 that is going to be select the foreperson for your particular  
2 jury. So, let me tell you very briefly what the duties of the  
3 foreperson are during the course of the trial. We are here in  
4 the courtroom. If there is any matter that the jury needs  
5 attention to, a witness needs to speak up or the lawyers or  
6 whatever the issue is, the foreperson raise their hand, get  
7 the Court's attention. We'll handle the matter, whatever it  
8 might be. If you're back in the jury room and some issue  
9 comes up, you'll take the pad and pen provided to you, you'll  
10 write out a note, you'll sign it, you'll give it to the  
11 Bailiff. It'll come to me and, again, we'll handle that  
12 matter, whatever it might be. When we have gone through the  
13 evidentiary portion of the trial, we have heard all of the  
14 witnesses testify under oath in this matter, there has been  
15 the receipt of maybe some type of documentary or other type of  
16 evidence that might be introduced in this particular case and  
17 then you've heard the closing arguments of the attorneys in  
18 this particular case, after which I will give you the law that  
19 you will apply to the facts and evidence you collectively find  
20 to be true in this particular case. After that, I will submit  
21 the case to you for your deliberations and your unanimous  
22 decision in this particular matter.

23 Now, at that point in time, when the Court excuses you to  
24 deliberate and reach a unanimous decision, the foreperson's  
25 duties change in this regard. You're gonna act like the

1 chairperson at a meeting. You're gonna guide the discussions,  
2 if necessary. Now, the foreperson's voice and vote carries no  
3 more weight than any other member of the jury; everybody is  
4 equal in that regard. But, somebody needs to remain in  
5 charge, if necessary, again guide the discussions. An  
6 important duty and responsibility that the foreperson has at  
7 this time is to make sure that everybody that wants to has an  
8 opportunity to speak, everybody's voice has an opportunity to  
9 be heard. After that, you will conduct the matters and such  
10 that the jury deliberates and reaches a unanimous decision on  
11 the matters presented to you. After that time, once the  
12 unanimous decision is reached, you will take the verdict form  
13 that the Court will provide to you. You will check the  
14 appropriate block or write out the appropriate words  
15 thereafter signing your name as foreperson indicating that  
16 that verdict is indeed the unanimous verdict of each and every  
17 member of the jury in this particular case.

18         So, understanding those to be the duties and  
19 responsibilities of the foreperson, I'm gonna ask that you  
20 retire to the jury room and select your foreperson. Now, the  
21 two alternates in this matter -- they are seated here at the  
22 end. Y'all can vote on who is the foreperson but, obviously  
23 being alternates, neither one of you can be the foreperson.  
24 Everybody else is eligible except for the two alternates.  
25 All right?

1           So, if you'd all accompany the Bailiff to the jury room,  
2 select your foreperson, knock on the door and let the Bailiff  
3 know who the foreperson is.

4 (REPORTER'S NOTE: Jury exits courtroom.)

5           THE COURT: All right. Ladies and gentlemen, the jury  
6 panel that were not selected for this particular case, I'm  
7 gonna excuse you for the balance of the day. I'm gonna ask  
8 that you call back the juror information line tomorrow after  
9 12:00 noon. Call that number after 12:00 noon, follow the  
10 instructions, whatever they may be. It might very well be  
11 that it tells you to call back. This case will probably take  
12 a couple of days, but I do expect to try one other case, a  
13 very short one, but to try one other matter this week besides  
14 this particular case. So, just call the information line and  
15 follow the instructions. With that, you are now excused.  
16 Thank you very much.

17 (REPORTER'S NOTE: Remaining jury venire exits courtroom. The  
18 following takes place outside the presence of the Jury.)

19           THE COURT: All right. Counsel, as I understand it,  
20 y'all have indicated we needed a *Jackson v. Denno* hearing in  
21 this particular case; is that correct, Solicitor?

22           MR. HOLFORD: That's correct, Your Honor.

23           THE COURT: All right. We'll do that after lunch, but  
24 there are several cases on the trial roster that we'll be  
25 pleading. I'm gonna do those first. I'll do those at 2



1 o'clock. We'll do those pleas after which we'll do the  
2 *Jackson v. Denno* hearing. How many witnesses would the State  
3 have?

4 MR. HOLFORD: One or two witnesses, Your Honor.

5 THE COURT: And is that a written statement?

6 MR. HOLFORD: It's a recorded statement.

7 THE COURT: A recorded statement approximately how long?

8 MR. HOLFORD: Ten minutes, eight to ten minutes.

9 THE COURT: All right. Very good.

10 The State's best approximation as to the length of the  
11 trial?

12 MR. HOLFORD: A day and a half, Your Honor.

13 THE COURT: From the Defense?

14 MR. WILSON: Judge, I would say probably no more than  
15 three days, Judge. I don't want to put myself in a box, but -  
16 --

17 THE COURT: I understand that. Okay. That's fine. With  
18 that, I'm just trying to think how many -- what we could do  
19 this afternoon and having the jury come back. The *Jackson v.*  
20 *Denno* hearing doesn't sound like it will take an extensive  
21 period of time. So, we could probably have the -- we can at  
22 least do the opening statements today. Is that possible?

23 MR. HOLFORD: May I be heard?

24 THE COURT: Yes, sir.

25 MR. HOLFORD: My lead investigator, I texted him this

1 morning and up until this morning we were Number 2 on the  
2 roster.

3 THE COURT: Right.

4 MR. HOLFORD: I expected to start Wednesday. He was on a  
5 dead body call this morning. I told him that we had moved to  
6 Number 1 and expected to start tomorrow morning.

7 THE COURT: Okay.

8 MR. HOLFORD: The victim also is working today from 11:00  
9 to 7:00. I've been in contact with her. She was -- we asked  
10 her to have off the rest of the week.

11 THE COURT: Okay.

12 MR. HOLFORD: After this morning's meeting, I anticipated  
13 starting in the morning.

14 THE COURT: All right. Is there any objection then, Mr.  
15 Wilson, to starting tomorrow morning?

16 MR. WILSON: Judge, I'm -- I'm here to work all week.

17 THE COURT: Okay. And I appreciate that.

18 All right. Based upon that then what we'll do is we'll  
19 do the *Jackson v. Denno* hearing this afternoon. We'll finish  
20 that up and get the matter ready for trial and we'll start  
21 first thing tomorrow morning. Okay?

22 MR. WILSON: Thank you, Judge.

23 THE COURT: So, as you know, I'm gonna start with pleas  
24 at 2:00. There's several of them, so, you know, we'll get  
25 started as soon as we can after that. All right?

1 MR. WILSON: Thank you, Your Honor.

2 THE COURT: Thank you very much.

3 MR. HOLFORD: Thank you, Your Honor.

4 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

5 (On the Record.)

6 (REPORTER'S NOTE: The following takes place outside the  
7 presence of the Jury.)

8 THE COURT: All right. This is 2015-GS-26-969, 970, 971,  
9 972, State of South Carolina versus David James Welch for the  
10 crimes of kidnapping, armed robbery, criminal sexual conduct  
11 in the first degree, possession of a weapon during the  
12 commission of a violent crime.

13 As I understand it, Solicitor, there is necessity of a  
14 Jackson v. Denno Hearing; is that correct?

15 MR. HOLFORD: That's correct, Your Honor.

16 THE COURT: Is the State ready to proceed?

17 MR. HOLFORD: Yes, Your Honor.

18 THE COURT: All right. Go ahead.

19 MR. HOLFORD: The State calls Detective Jeremiah Beam.

20 THE COURT: All right, sir, please come around to be  
21 sworn.

22 JEREMIAH BEAM, HAVING BEEN SWORN  
23 TESTIFIES AS FOLLOWS:

24 CLERK: Please state your full name and spell your first  
25 and last name for the Court.

1 MR. BEAM: It's Jeremiah Beam, J-E-R-E-M-I-A-H, Beam, B-  
2 E-A-M.

3 THE COURT: Go ahead. Go ahead, Solicitor.

4 MR. HOLFORD: Thank you.

5 JACKSON V. DENNO:

6 DIRECT EXAMINATION OF JEREMIAH BEAM BY MR. HOLFORD:

7 Q: Detective Beam, where are you currently employed?

8 A: With the City of Myrtle Beach Police Department.

9 Q: And how long have you been there?

10 A: Almost 13 years.

11 Q: How many interviews of suspects or defendants have you  
12 done?

13 A: Hundreds.

14 Q: And do you normally read Miranda?

15 A: Yes, sir, if it's applicable.

16 Q: And when we talk about Miranda, what are those warnings?

17 A: Usually we read it right off a sheet. It's a City of  
18 Myrtle Beach form that we use. That's typically what we  
19 always use.

20 Q: And that's when interviewing a suspect or a defendant?

21 A: Yes, sir.

22 Q: Did you have an occasion to interview the Defendant in  
23 this case?

24 A: I did, yes, sir.

25 Q: Do you know the Defendant in this case?

1 A: I know him from the case.

2 Q: And what's his name?

3 A: It's David Welch.

4 Q: And you were present when he was interviewed?

5 A: Yes, sir, myself and Detective Jones.

6 Q: How many other people were in the room, anyone else?

7 A: Just Mr. Welch.

8 Q: Okay. So, it was you, Detective Jones, and the  
9 Defendant?

10 A: Yes, sir, we typically interview in twos; that's kind of  
11 our standard operating policy.

12 Q: You said that you have a City of Myrtle Beach form that  
13 you use?

14 A: Yes, sir.

15 Q: And did you use one of those in this case?

16 A: Yes, sir.

17 MR. HOLFORD: Your Honor, may I approach?

18 THE COURT: Certainly.

19 BY MR. HOLFORD:

20 Q: State's 1, it's been marked as State's 1 for ID. Can you  
21 identify that form?

22 A: Yes, sir, it's our Myrtle Beach Miranda Form and it  
23 appears to be signed by D.J.

24 Q: Was that the form that was used in this interview?

25 A: Yes, sir, it appears to be.

1 Q: And witnessed it?

2 A: Detective Hugh Jones.

3 Q: And were you present during this?

4 A: I was; yes, sir.

5 Q: And are there check marks by the rights that were read?

6 A: Yes, sir, after each one they read, we put a check mark

7 ---

8 Q: Is that a clear and accurate copy of what would've been  
9 used in this case?

10 A: Yes, sir.

11 MR. HOLFORD: The State moves State's 1 into evidence for  
12 this hearing?

13 THE COURT: Any objection.

14 MR. WILSON: Without objection, Your Honor.

15 THE COURT: All right. It's in evidence for the hearing.

16 STATE'S EXHIBIT NUMBER 1

17 ADMITTED INTO EVIDENCE FOR JACKSON V. DENNO

18 BY MR. HOLFORD:

19 Q: And when you interviewed the Defendant, was this audio or  
20 video recorded?

21 A: It was audio, yes, sir, it happened in our jail, so I  
22 used our digital recorder.

23 Q: And did you turn over an audio recording to the State?

24 A: Yes, sir; it was transmitted to the Solicitor's office  
25 with the case file.

1 Q: And have you heard that interview after the -- after you  
2 submitted it?

3 A: I've listened to bits and pieces of it.

4 MR. HOLFORD: May I approach, Your Honor?

5 THE COURT: Yes, sir, please.

6 BY MR. HOLFORD:

7 Q: I'm handing you State's 2, can you identify what that --  
8 what I just handed you?

9 A: It's State v. David Welch and it's a disc, an audio disc.

10 Q: Is that -- you believe that's the interview that you're  
11 referring to?

12 A: Yes, sir.

13 MR. HOLFORD: State moves to enter Exhibit 2 into  
14 evidence?

15 THE COURT: Any objection?

16 MR. WILSON: Your Honor, just subject to objections that  
17 may come to pass in a little bit. We have some issues but,  
18 again, I have no objection to them entering it into evidence  
19 at for this hearing.

20 THE COURT: All right, sir. Very good. So, the audio  
21 portion is entered for the purposes of the hearing. If there  
22 are objections as to issues within the audio itself, then I'll  
23 hear those at the appropriate time. Thank you.

24 MR. HOLFORD: Yes, sir.

25 MR. WILSON: Thank you, Your Honor.

1                    STATE'S EXHIBIT NUMBER 2

2                    ADMITTED INTO EVIDENCE FOR JACKSON V. DENNO

3            MR. HOLFORD: Yes, sir.

4            MR. WILSON: Thank you, Your Honor.

5            MR. HOLFORD: Permission to play the audio now?

6            THE COURT: You may do so.

7                    \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

8 (REPORTER'S NOTE: State's Exhibit 2 published, not  
9 transcribed herein.)

10           **(On the Record.)**

11           BY MR. HOLFORD:

12           Q: Detective Beam, was that the entirety of the interview?

13           A: Yes, sir.

14           Q: And at that point, what did you do?

15           A: He was provided with copies of his warrants and taken  
16 back to his cell.

17           COURT REPORTER: Can you pull up to the microphone,  
18 please?

19           A: Yes, ma'am, I apologize.

20           BY MR. HOLFORD:

21           Q: In that interview, was the Defendant -- was he asked if  
22 he was sober or under the influence?

23           A: Yes, sir.

24           Q: Do you remember his response?

25           A: He said he's been sober.



1 Q: Could he understand English?

2 A: Yes, sir.

3 Q: Could he understand what you were asking him?

4 A: Yes, sir.

5 Q: Did he comprehend your questions?

6 A: I believe so.

7 Q: Was he familiar with his rights?

8 A: Yes, sir.

9 Q: Was he read each of his rights?

10 A: He was by Detective Jones.

11 Q: And did he sign this form?

12 A: Yes, sir.

13 Q: Did he -- did he eventually ask for his lawyer?

14 A: He did; yes, sir.

15 Q: And what did you do at that point?

16 A: The interview was terminated.

17 Q: Did you pressure him or coerce him into saying anything  
18 he said in that interview?

19 A: No, sir.

20 Q: And do you remember about what time this was in the day?

21 A: It was in the afternoon, a little after 4:00 P.M., sir.

22 Q: And how soon after the crime had occurred was this  
23 interview done?

24 A: It was hours after. I believe it was early morning hours  
25 going into that day. It was much later.

1 MR. HOLFORD: The State has no further questions.

2 THE COURT: Cross examination?

3 MR. WILSON: Your Honor, if it please the Court?

4 CROSS EXAMINATION OF JEREMIAH BEAM BY MR. WILSON:

5 Q: Good afternoon, Detective?

6 A: Good afternoon, sir.

7 Q: How you doing?

8 A: Good.

9 Q: Just a few questions. In the interview and -- 20 seconds  
10 in, you can be heard on the tape saying I remember that name;  
11 do you recall saying that?

12 A: I don't.

13 Q: Okay. They just played it for you just now.

14 A: Okay.

15 Q: And at the very beginning you say, I remember that name,  
16 I remember your name; do you remember saying that?

17 A: I don't recall that but, if it's on the audio, then I  
18 said it.

19 Q: Okay. All right. And do you also recall that originally  
20 you guys charged him with a felon in possession with a weapon;  
21 do you recall that?

22 A: Initially, he was charged for fleeing from us, for the --  
23 resisting arrest was the initial charge.

24 Q: Okay. But during this interview with him, do you  
25 remember talking with him about being a felon in possession of

1 a weapon?

2 A: That's what Detective Jones said.

3 Q: Okay. All right. But you can hear that sound -- you  
4 were there, obviously, during the interview.

5 A: Yes, sir.

6 Q: Do you recall him saying that to him?

7 A: Yes, sir.

8 Q: Okay. But he's not being tried today for that particular  
9 crime, is he?

10 A: No, sir.

11 Q: He was never indicted for that crime?

12 A: He was never, no, sir.

13 Q: Okay. All right.

14 A: Possession of a weapon during the commission of a violent  
15 crime.

16 Q: Yes, sir. Yes, sir. All right. And also it was 1:50  
17 seconds in where you read the form to him, the form that you  
18 guys read from Myrtle Beach Police Department?

19 A: That was Detective Jones.

20 Q: Okay.

21 A: Yes, sir, but that was read to him; yes, sir.

22 Q: Okay. All right. And basically y'all were going over  
23 his rights with him?

24 A: Yes, sir.

25 Q: All right. And then he says to you at some point in time

1 during that conversation, he says that he needs to get a PR  
2 bond and go see his probation officer?

3 A: Yes, sir.

4 Q: Okay. All right. And then again at 5:28 into the  
5 interview there was another mention of him being charged with  
6 a weapon by a felon, correct?

7 A: Detective Jones again said that incorrectly.

8 Q: Okay. All right. Okay. And then again at 6:02 into  
9 interview is when he then signed the actual document, correct?

10 A: I don't have the timeline in front of me, but he  
11 eventually signed the document, yes, sir.

12 Q: Okay. At that time then you started asking questions  
13 about the girl and who he saw and that kind of thing, correct?

14 A: Yes, sir, he was asked some questions after he signed,  
15 sir.

16 Q: Okay. All right. But he didn't sign right away, did he?

17 A: No, sir.

18 Q: Okay. So, the waiver that was signed -- and I know you  
19 don't know the exact time, but approximately some minutes into  
20 the interview?

21 A: Yeah, the initial Miranda Rights were read and there was  
22 some argument and it took some time before he eventually  
23 signed it; that is correct.

24 Q: Okay. And you know -- he told you he had a ninth grade  
25 education?

1 A: Yes, sir.

2 Q: Okay. All right.

3 I have no further questions, Your Honor.

4 THE COURT: All right. Very good. Any redirect?

5 MR. HOLFORD: Just briefly.

6 REDIRECT EXAMINATION OF JEREMIAH BEAM BY MR. HOLFORD:

7 Q: Was the Defendant making statements to you while you were  
8 going over -- while Detective Jones was going over this  
9 Miranda form?

10 A: Yes, sir, both very -- both animated, it was a fairly  
11 animated conversation but, yes, sir.

12 Q: But it wasn't until you actually got -- until the  
13 Defendant actually signed it that you started asking specific  
14 questions about this case?

15 A: Correct. Very direct questions and that's when he  
16 requested his attorney.

17 MR. HOLFORD: No further questions.

18 THE COURT: Anything on those questions?

19 MR. WILSON: Nothing further, Judge.

20 THE COURT: You may step down, sir.

21 Any further witnesses on behalf of the State?

22 MR. HOLFORD: No, Your Honor.

23 THE COURT: All right. Very good.

24 Witnesses on behalf of the Defense?

25 MR. WILSON: None, Your Honor.

1 THE COURT: All right. Very good. All right. I'll be  
2 glad to hear arguments.

3 ARGUMENT BY COUNSEL:

4 MR. HOLFORD: Your Honor, the State would argue that the  
5 statements made by the Defendant David Welch in this case were  
6 knowing, were voluntary, not under threat of coercion or  
7 duress, they were not pressured by any law enforcement agents.  
8 As the detectives in this case were going over Miranda telling  
9 him of his rights, based on the audio, it seemed clear that he  
10 understood his rights, he knew what they were. Even so much  
11 so that at the point when they got to asking specific  
12 questions, he said I'm not gonna answer any questions that I  
13 don't want to. And then when they started asking questions  
14 that he didn't like he said I want my lawyer and that ended  
15 it. It seems clear to the State that the Defendant was well  
16 aware of his rights. He was read his rights. In fact, he  
17 signed that and initialed that he knew his rights, what his  
18 rights were, and that the conversation leading up to that were  
19 interjected by him, not necessarily responding to questions by  
20 law enforcement, but interjections by him responding to what  
21 law enforcement was saying at the time as they were attempting  
22 to issue Miranda Warnings.

23 Your Honor, the State would ask the Court to hold that  
24 this *Jackson v. Denno* hearing that the Defendant's statements  
25 be held knowing and voluntary.

1 THE COURT: All right, sir.

2 Mr. Wilson?

3 MR. WILSON: Your Honor, if it please the Court. Judge,  
4 my concern here is that the officers actually are testifying  
5 and if that is -- if the tape is not redacted, they say on  
6 there at first -- Detective Beam first says that, again, 20  
7 seconds in, I remember the name, I know the name. All right?  
8 Which implies or could -- the jury could infer that he's had  
9 some interaction with my client before. Again they then  
10 mentioned -- my client then mentions the Charleston incident,  
11 whatever that is, said that, okay, well, is this about  
12 Charleston? At that point in time, they hadn't even told him  
13 -- that's 45 seconds in and they hadn't even told him what the  
14 charges were.

15 Charge not going forward at trial, again, the actual  
16 felon in possession was made -- or the actual comment was made  
17 twice by Detective, I assume, Jones, who was there as well  
18 during this interview. And then after that the Defendant  
19 says, okay, well, you know, I want to get a PR bond so I can  
20 go and see my probation officer, again eluding to prior bad  
21 acts which shouldn't come in, Judge, which I think are  
22 prejudicial. But most importantly at 5:28 they say again  
23 about the weapon by a felon, and then at 6:02 is when he  
24 actually signs the waiver. And after that, then the actual  
25 detective said, okay, well, now I'm gonna ask you questions,

1 and he begins to ask him questions but even the detective says  
2 before that, look, none of this even matters until I actually,  
3 you know, get you to sign this waiver. None of this stuff  
4 even happened is what the detective says to him. And I would  
5 ask the Court at the very least have them redact the entirety  
6 of all the information regarding prior bad acts or even, you  
7 know, anything they're not trying him on inside of that  
8 statement. But we're asking also for the Court to consider  
9 allowing them to introduce anything from 6:02 on after he  
10 signs the waiver, which I think would be appropriate under  
11 Miranda, Judge.

12 THE COURT: Okay. Let's talk about your argument of  
13 necessity. Assuming I let it in or some portion of it in, the  
14 jury still needs to make a determination of the voluntariness  
15 of it.

16 MR. WILSON: Yes, Your Honor.

17 THE COURT: So, at the very least, there would have to be  
18 included in that the recitation of Miranda Warnings to the  
19 Defendant, correct?

20 MR. WILSON: That's correct, Judge.

21 THE COURT: So, even if that occurred prior to him  
22 signing it, that has to be included if I'm going to allow it  
23 at all?

24 MR. WILSON: I think that's correct, Judge. I absolutely  
25 think that's correct.



1           THE COURT: All right. Solicitor, what about the issue  
2 -- I mean there's two issues that probably is honestly  
3 satisfied by the second one. The first one is they're talking  
4 about a crime for which he is not charged. So, that doesn't  
5 seem to be proper in and of itself. So -- because he's not  
6 facing that and that's not what's in front of the jury and  
7 then the second part of it would be wherever it is -- Mr.  
8 Wilson says it's at 6:02. I don't know where it is on the  
9 recording but wherever it is clear that he signs the document,  
10 signs the Miranda Warning document. Would it not be proper  
11 except for the conversation I just had with Mr. Wilson, all  
12 the rest of it really is not proper for the jury to hear.  
13 What would your argument be about that?

14           MR. HOLFORD: As to the first, the State will concede  
15 that, although he was arrested and presented an arrest warrant  
16 for possession of a firearm by a convicted felon, that was  
17 never submitted to the Horry County Grand Jury; he's not being  
18 tried on that offense. So, mention of that the State doesn't  
19 see why it should remain in and is okay redacting it.

20           THE COURT: All right, sir.

21           MR. HOLFORD: We concede that it should be redacted.

22           THE COURT: Okay.

23           MR. HOLFORD: I guess is the proper way to say it.

24           THE COURT: Yes, sir.

25           MR. HOLFORD: However, as to, you know, all the prior

1 statements up until at whatever point he signs the document,  
2 Your Honor, the State would argue that those are not answers  
3 to questions being directed by law enforcement such that they  
4 should be excluded based on the fact that he had not yet  
5 signed the document. At that point, he had been provided  
6 Miranda. Miranda had been read to him. It was clear the  
7 officers were trying to go over what his rights were and the  
8 Defendant was volunteering information. He was interjecting  
9 information. The State would argue that that's more akin to  
10 an excited utterance or spontaneous statement made by the  
11 Defendant. Certainly, in those instances, I don't think that  
12 those types of statements would be disallowed just because the  
13 police had not had a chance to have the Defendant sign his  
14 name on the sheet. I think those statements should be allowed  
15 as far as the Defendant is offering up information as to -- as  
16 law enforcement is trying to go over his rights with him.

17 Further, I think it's clear that the Defendant knew his  
18 rights in this situation and was trying to somewhat game the  
19 system, get as much information out of law enforcement as he  
20 could before he signed it. And then by the time he signs it  
21 and they ask him a pointed question, then he asked for an  
22 attorney.

23 THE COURT: All right. Mr. Wilson, what about the point  
24 that the Defendant -- I think the State would concede he's  
25 certainly in their custody and control, but he's making

1 voluntary statements that are not in response to a question,  
2 that's not a question by law enforcement, they're explaining  
3 the situation to him and he's making statements not responsive  
4 to anything they are inquiring or asking him about?

5 MR. WILSON: Judge, my response to that would be this.  
6 My reading of Miranda is, is fairly simple and clear that,  
7 again, one of the main reasons when law enforcement engages  
8 him, they have to get him to sign a waiver so that those  
9 statements then can be used against him in a court of law. My  
10 real concern here is that they come in, they don't tell him  
11 what he's charged with and they engage him in conversation.  
12 Of course he's gonna have excited utterance saying what, what  
13 in the world are you talking about if he obviously is thrown  
14 back or surprised about what law enforcement says. But again,  
15 the officer, during the actual conversation, you can hear him  
16 on the tape. He says clearly, you know, talk to me, tell me  
17 what's going on here, I want to know what happened here, can  
18 you tell me about what's going on, do you want to talk to me.  
19 He is prompting him to talk to him. All right. And he may  
20 not be asking specific questions before he's Mirandized, but  
21 he's absolutely prompting him into conversation. And again, I  
22 would, you know, think that this is actually akin to again  
23 before you get the horse you know before the cart, or get the  
24 cart before the horse. You got the officer already going  
25 ahead and trying to then get information from him. He

1 could've clearly said, okay, look, I can't talk to you until  
2 you sign this waiver but he didn't do that. He continued to  
3 try to prompt him to talk and get him excited and say, look,  
4 you know, you ain't getting no PR bond; that's not possible  
5 here. You ain't going home, you know, for this. Again, these  
6 types of statements are prompting him in his conversation.  
7 But again, I would again argue, Judge, that the actual waiver  
8 needs to be signed before he can actually go forward and then  
9 ask him questions. And I think on the tape it's clear that's  
10 his understanding of the law as well.

11 THE COURT: All right. Y'all have listened to this  
12 obviously a lot more than I have. All right. As far as the  
13 signing of the document, Solicitor, are you in agreement with  
14 the point in time that Mr. Wilson suggests that the document  
15 was signed or do you think it was signed in a different  
16 timeframe?

17 MR. HOLFORD: I do not have an exact timeframe on it.

18 THE COURT: Okay.

19 MR. HOLFORD: I would assume that it's pretty close to  
20 where Mr. Wilson said.

21 RULING OF THE COURT:

22 THE COURT: All right. Beforehand I think it is proper  
23 before the where it indicates on the audio portion that the  
24 Miranda Warning was signed. It is certainly proper that the  
25 warnings portion be included. I think it is also proper the

1 reading of the charges excluding felon in possession of a  
2 weapon for which he has not been indicted or charged or not  
3 being tried. But, other than that, I do not believe that  
4 anything else should be included in the recording.

5 Now, if there is something, some other statement or  
6 utterance, Solicitor, that you think should be, I will be glad  
7 for you to bring that to my attention again, but certainly the  
8 fact that the detective indicates that he knows the Defendant  
9 prior to the signing of the document, the fact that he  
10 mentions a charge for which he is not indicted nor being  
11 tried, that's certainly not proper. The fact that the  
12 exclamation by the detective, in some portion, there are  
13 questions, may not be specific questions about this particular  
14 incident, but they are of such nature as to illicit a response  
15 from the Defendant and, until he has waived his rights, that  
16 cannot be used. If you think there is some totally  
17 spontaneous utterance that is unrelated to some type of  
18 inquiry or statement by the detective prior to the signing of  
19 the document, again, I'll be glad to hear you about that  
20 particular utterance or statement by the Defendant. But in  
21 general, nothing before the actual signing comes in except for  
22 the reading of the Miranda Warnings and the reading of the  
23 charges for which he is actually facing trial here today so  
24 that it would be clearer to the jury for them to make their  
25 own determination. Okay. Did he get his Miranda Warnings;

1 did he understand them -- so that would include then a  
2 question about being sober, the ninth grade, those kind of  
3 questions and answers certainly go along with the Miranda  
4 Warning, so that would be allowed. All right? Because that  
5 gives the jury some basis to interpret one way or another; is  
6 it voluntary or not. But everything else would be excluded  
7 except if you think there is some spontaneous statement by the  
8 Defendant or utterance that is not related or cannot be  
9 related to some kind of prompting or questioning or influence  
10 by the officer to make him give a response in some way. I'll  
11 be glad to listen to that part of it again if you think there  
12 is a certain portion that you want included also. Okay?

13 MR. HOLFORD: Yes, Your Honor.

14 THE COURT: So, so with that, that's the Court's ruling.  
15 Now, everything after he signed it, then that's in. Okay?  
16 And if y'all have a disagreement as to where it is on the tape  
17 that he signed it, then we'll have to listen to it again and  
18 I'll just have to tell you I think he signed it right then.

19 MR. HOLFORD: Yes, sir.

20 THE COURT: Okay. So, I'll leave that to you but, if  
21 there's a disagreement, then let me know and I'll make a  
22 decision one way or another.

23 MR. WILSON: Yes, sir.

24 THE COURT: Okay?

25 MR. WILSON: Yes, Your Honor.

1 THE COURT: All right.

2 MR. WILSON: Thank you, Judge.

3 THE COURT: All right, Counsel.

4 We'll -- I want y'all here at very least by 9:15. Now,  
5 if there is any issue with anything, Solicitor, if you come up  
6 with something else you want to put in or if there is  
7 questions about it, y'all be here at 9 o'clock. Okay. I'm  
8 just assuming 9:15 there aren't any issues and y'all are ready  
9 at 9:30 to go to trial and we don't have to talk about  
10 anything. Okay?

11 MR. WILSON: Yes, sir.

12 THE COURT: Anything we got to talk about, y'all be here  
13 at 9. All right?

14 MR. WILSON: Yes, sir.

15 MR. HOLFORD: Yes, sir.

16 THE COURT: So, that means I need the Defendant here by 9  
17 o'clock ready to go. Okay? So, if there is any issues,  
18 whatever notice y'all need or whatever notice you need to give  
19 to the deputies, let's make sure that gets done so that he's  
20 here right over there ready to come out at 9 o'clock if we  
21 need him.

22 MR. WILSON: Your Honor, may we approach briefly, Judge?

23 THE COURT: Yes.

24 (REPORTER'S NOTE: A bench conference was held off the  
25 record.)

1 THE COURT: All right. So, with that then I will see  
2 y'all tomorrow morning at the appointed time.

3 Thank you.

4 MR. WILSON: Thank you, Your Honor.

5 MR. HOLFORD: Thank you, Your Honor.

6 END OF DAY ONE.

7 (RECESS.)

8 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

9 APRIL 18, 2017 - DAY TWO

10 (On the Record.)

11 THE COURT: The State ready to proceed, Solicitor?

12 MR. HOLFORD: Yes, Your Honor.

13 THE COURT: And Defense?

14 MR. WILSON: Yes, Your Honor.

15 THE COURT: Very good. All right. Ask the jury to come  
16 in then, please.

17 BAILIFF: Yes, sir.

18 (REPORTER'S NOTE: Jury enters courtroom.)

19 BY THE COURT:

20 THE COURT: All right. So, so, the first thing -- is it  
21 DeMasters, ma'am?

22 JUROR 109: Yes, sir.

23 THE COURT: All right. You were selected by the jury to  
24 be the foreperson for this particular jury?

25 JUROR 109: Yes, sir.



1           THE COURT: Very good. So you will always need to occupy  
2 that particular seat when we come back from the jury room.  
3 The two alternates always need to occupy the last two seats of  
4 each row when y'all come back in and when I ask for y'all come  
5 back, Madam Forelady, just make sure everybody is ready to  
6 come on in. If they, you know, you need a minute or two,  
7 y'all get everybody organized and when everybody is ready to  
8 come in, y'all can come on in. Okay?

9           JUROR 109: Yes, sir.

10          THE COURT: All right. Very good.

11          So, the very first thing that's gonna happen in this  
12 trial is the Clerk's representative is gonna administer your  
13 oath to you, so if you would all please stand at this time.  
14 (REPORTER'S NOTE: Jury is duly sworn.)

15          THE COURT: Is there any member of the jury panel that  
16 did not just affirmatively take the oath as given by the  
17 Clerk's representative? If so, please stand.

18 (REPORTER'S NOTE: No response.)

19          THE COURT: No juror having stood, I find the jury  
20 properly sworn in this particular case.

21          All right. Ladies and gentlemen, I'm sure you're sitting  
22 there wondering exactly what is my job; what -- what are we  
23 gonna be called upon to do in this particular case? You are  
24 going to be collectively the judges of the facts of this  
25 particular case. I will not indicate to you in any way what I

1 believe the facts of this case are because it's gonna be your  
2 job and your responsibility to listen to the testimony, the  
3 evidence presented and to determine the facts in this matter.  
4 In this particular matter, the State has charged the Defendant  
5 with several crimes with which the Defendant has pled not  
6 guilty. That puts the burden of proof on the State of South  
7 Carolina to prove the Defendant guilty of the crime or crimes  
8 charged beyond a reasonable doubt. That's the State's job and  
9 the State's responsibility to present to you the testimony and  
10 the evidence from which you can determine whether or not the  
11 State has proven the Defendant guilty of the crimes or crime  
12 charged and, again, beyond a reasonable doubt. The Defendant  
13 has nothing to show to you. The Defendant has nothing to  
14 prove to you. When the State charges a Defendant with a crime  
15 and the Defendant pleads not guilty, the Defendant is presumed  
16 innocent. The State must accept and have the complete  
17 responsibility to prove the Defendant guilty beyond a  
18 reasonable doubt.

19       How the case will proceed. We'll have these opening  
20 statements by the Court, by the attorneys. We'll then go into  
21 the evidentiary portion of the trial. You'll hear witnesses  
22 that will come before you and testify under oath. You might  
23 receive some kind of documentary or paper or other kind of  
24 evidence that may be produced in this particular trial. When  
25 we have finished the evidentiary portion of the trial, then

1 we'll have the closing arguments of the attorneys. Now, just  
2 to tell you, the opening statements by the attorneys and the  
3 closing arguments by the attorneys, they're important. The  
4 initial opening statement, what they think is going to happen,  
5 what they think the evidence will show to you during the  
6 course of the trial; the closing arguments, their belief as to  
7 what the evidence has shown to you during the course of the  
8 trial. But, that's what they are. They are statements and  
9 arguments; they are not evidence. They cannot be considered  
10 by you as evidence in this case. It is the testimony of  
11 individuals before you under oath, the receipt of certain  
12 documents that the Court has already approved, that is the  
13 evidence from which you must consider and determine whether or  
14 not the State proves the Defendant guilty of the crime or  
15 crimes charged beyond a reasonable doubt.

16 When we have -- when we are finished with the closing  
17 arguments by the attorneys, I will give you the law that you  
18 will apply to the facts and evidence you find to be true in  
19 this case and then I'll submit the case to you for your  
20 decision, your unanimous decision regarding the crimes charged  
21 in this particular matter.

22 I'm gonna ask you not to talk about this case during the  
23 course of the trial. You'll have all the time you deem  
24 necessary to talk about it when I give it to you at the end  
25 for your deliberations and your unanimous decision. The

1 reason for that is, let's say we took a break after the first  
2 witness and y'all started talking about this and somebody says  
3 I believe this or I don't believe that. Well, it could be  
4 that the very next witness totally changes everybody's mind  
5 about what they have heard in that. You need to hear all the  
6 evidence in the case before you try and talk about it and  
7 formulate even mentally your decision about this matter and  
8 the law. That will come to you at the end. After you've  
9 heard all the facts, then you'll have a better understanding  
10 of how to apply the law to the facts that you have already  
11 heard. So, wait until the end to discuss the case.

12 Sometimes during the course of the trial, the attorneys  
13 raise certain issues or matters to the Court. One of my jobs  
14 is to guide the trial as to what is proper and not proper and  
15 they may have a question, raise an objection. I might rule on  
16 it in your presence and I might send you back to the jury room  
17 so I can discuss it more fully with them. But, if I make a  
18 ruling in your presence based on a question or an objection  
19 raised by the attorneys, please remember again that I'm  
20 governing the conduct of the trial, whether something is  
21 proper for you to hear or proper for you to consider or not.  
22 But again, I'm not making any judgements about facts; that's  
23 your job and your responsibility. And an important part of  
24 that is in conjunction with that, credibility and  
25 believability. Because I rule one way or another, that

1 doesn't have anything to do with anybody's credibility or  
2 believability. That, again, is your responsibility. When  
3 you're judging facts, when you're judging somebody's  
4 testimony, you're judging their credibility and believability.  
5 If you are thinking now how am I gonna judge somebody's  
6 credibility and believability? You do it every single day of  
7 your life. When somebody tells you something, you're  
8 automatically in your own mind judging do I believe them or do  
9 I not because you're using your good common sense. You're  
10 using your good judgement and looking at the facts and  
11 determining somebody's credibility or believability regarding  
12 the testimony that they are giving to you.

13       So, that's gonna be your job and responsibility in this  
14 matter. Evaluate the facts and evidence, decide whether or  
15 not the evidence presented to you in this matter, whether or  
16 not the State has proven the Defendant guilty beyond a  
17 reasonable doubt of the crimes charged in this particular  
18 matter.

19       All right, Solicitor?

20       MR. HOLFORD: May it please the Court?

21       THE COURT: Yes, sir.

22       OPENING BY HOLFORD:

23       MR. HOLFORD: Good morning, ladies and gentlemen. You  
24 know, I've thought long and hard about what I was going to say  
25 this morning. I had all night -- actually, a couple of years

1 to think about this. The victim here, Jerrica Nelson, has  
2 also had a couple of years before this day has come, the day  
3 of trial. Obviously, it's the Defendant's day, too. He's on  
4 trial. We also have a victim in this case. She has a trial.  
5 She's here today. I want you to remember that.

6       What the Judge talked about, credibility, believability,  
7 I think that's what this case will come down to. You know in  
8 this day and age, we've got technology, we've got cameras  
9 everywhere. We have DNA still now, since the 70s. Actually,  
10 the first DNA case was tried Horry County. All this stuff  
11 helps. It helps show what happened. Before the 70s does that  
12 mean that no one ever committed a crime, no one was ever able  
13 to be found guilty? Certainly not. People committed crimes,  
14 they came to juries, we had trials, they were found guilty.  
15 Now I, as the State, have this powerful burden beyond a  
16 reasonable doubt. I take that burden. I take it seriously  
17 and I think that you'll see by the end of this trial that we  
18 will meet that burden. Are we gonna have video in this case  
19 that shows the actual crime happening? No. Are we gonna have  
20 forensic evidence? Probably not. But what you will have is  
21 an eye witness to what happened. You'll have a victim telling  
22 you exactly what happened to her, horrific events, tragic  
23 events.

24       As I thought about what I was gonna say -- I usually try  
25 to use analogies. How can I break this down? How can I make

1 it relatable? You know, people might understand a burglary.  
2 So, if someone was coming into your house, how would you feel  
3 if you got burglarized, if your house is being attacked? Do  
4 you let someone in when they point a gun at you? Are you  
5 consenting if you let them in, if you're at gun point?  
6 Certainly not. But in a situation like this, I have to step  
7 back and think. I can't trivialize the events. A burglary is  
8 not strong enough because we're not talking about the sanctity  
9 of the home; we're talking about the sanctity of a person.

10 On January the 8th, 2015, that man right there, David  
11 Welch, met Jerrica Nelson for the first time in person.  
12 They'd been talking on Facebook. They'd been communicating  
13 for a day or so. They met in person after some time. He  
14 pulls out a gun and forced her to have sex. Then he took her  
15 purse, he took her phone, and he ran off.

16 All the charges that you've heard, this kidnapping, armed  
17 robbery, criminal sexual conduct, possession of a weapon  
18 during the commission of a violent crime, it's all the same  
19 defendant. The holding of a gun, the taking of the purse, the  
20 taking the phone, that's armed robbery. Committing a sexual  
21 assault by holding someone at gunpoint is criminal sexual  
22 conduct in the first degree. Committing a sexual assault  
23 while committing an armed robbery or a kidnapping is criminal  
24 sexual conduct in the first degree. Holding someone against  
25 their will at gunpoint is kidnapping and possessing that

1 firearm during those violent crimes is possession of a firearm  
2 during the commission of a violent crime.

3       You might think why charge him so much, why, you know,  
4 it's one thing. This is serious. She's 24 years old now; she  
5 was 22 years old at the time. These are serious charges.  
6 This was a serious event.

7       I wish I had a video showing you exactly what happened,  
8 but we don't have one. Does that mean it didn't happen?  
9 Absolutely not. Things happen every single day that are not  
10 captured on video; that doesn't mean it didn't happen.

11       What I ask you do, please, do what I've done, judge her  
12 credibility, her believability, listen to her. See if you  
13 believe her; see if she's telling the truth; see if she's  
14 making this all up. But she's waited for two years to come  
15 into court, scared to death, to look at 14 people that she  
16 doesn't even know, have to put on a court record in front of  
17 the Judge, face her attacker for a lie? I would say to you  
18 that would be absurd.

19       I would ask you to please use your common sense. When  
20 she takes that stand, listen to her. Judge for yourself and  
21 see what you think. By the end of this trial, I'm confident  
22 that you will see that she's credible, that she's believable.  
23 She may not have done everything that I would have done in  
24 that situation, that someone else on the outside would have  
25 done in that situation, that someone with all the knowledge



1 and experience in years would've done in that situation. But  
2 I don't get to play God. I wasn't in that situation at that  
3 time. I wasn't a 22-year-old girl with a gun in my face; she  
4 was.

5 Please pay attention, as I know you will. These are  
6 serious matters.

7 I thank you for your time.

8 THE COURT: Mr. Wilson?

9 OPENING BY WILSON:

10 MR. WILSON: Your Honor, if it please the Court?

11 Good morning, ladies and gentlemen, how are you doing  
12 this morning?

13 My name is Ralph Wilson, Jr. and I represent this young  
14 man here. I've represented him now for several months and  
15 he's been involved in this also for two years. And at the  
16 time he was 22 -- he was 19 years old at the time when all  
17 this happened. And after you've heard what the prosecutor  
18 said, I know everybody is thinking to themselves, Mr. Wilson,  
19 why after what he said -- it sounds like this is a locked up  
20 case. Why are we here? Why are we here? It sounds like this  
21 young man went out with the intentions of raping and robbing  
22 Jerrica Nelson.

23 What I'm here to tell you today is this, there are  
24 reasons why we have trials. I've known Josh for a long time;  
25 he's a good prosecutor. He's known me for a long time.

1 Neither one of us were in the car with Jerrica Nelson and with  
2 the Defendant, David Welch. Neither one of us were actually  
3 on Facebook talking about sex, talking about, well, whatever  
4 happens, happens. Neither one of us were there. He's a  
5 lawyer just like I'm a lawyer. He doesn't have any special  
6 crystal ball; neither do I. I am not the trier of facts,  
7 neither is he. I want you -- and the Judge is gonna instruct  
8 you later on at the end of this trial to look at the  
9 witnesses, use common sense, think about the circumstances,  
10 think about what happens every single day in a common  
11 scenario. I want you to listen. I want you to listen. All  
12 of you were chosen specifically because we believe that you  
13 can give us a fair trial. Are the allegations bad?  
14 Absolutely. Anytime that a woman is attacked at gunpoint,  
15 forced to have sex, that's bad. Anytime a woman is kidnapped  
16 against her wishes, that's bad. Anytime somebody has their  
17 purse taken at gunpoint, that's bad. But I don't believe  
18 that's what the evidence is gonna show in this case.

19 I'm gonna tell you what I believe the evidence is gonna  
20 show and what the prosecutor hadn't told you. What you're  
21 gonna hear on this stand is that Jerrica Nelson, before she  
22 called 911, before she called anybody, called her mother,  
23 talked to her mother, never told her mother she was raped.  
24 She then goes to Belk from Town Square Apartments, calls 911,  
25 and the first thing she says on the 911 call -- and you can'

1 hear it, you'll hear testimony about it.-- somebody stole my  
2 purse, which is what she told her mother. Then she goes and  
3 changes her story and said oh, no, no, no, I was robbed at  
4 gunpoint. The 911 operator still talking to her on the phone,  
5 I was robbed at gunpoint at Burger King. Somebody followed me  
6 out the bathroom, put the gun in my back; that's what she  
7 says. Then she says, well, no, that's not how it happened.  
8 We left Burger King together. He made me drive him somewhere  
9 at gunpoint. That is the third story we hear. Then she says  
10 -- when pressed and when threatened by the police officers and  
11 you will hear testimony about that, they threatened to charge  
12 her with a felony and she continued to lie to them. Officer  
13 Sououd was talking to her and said, look, if you continue to  
14 lie to us, we'll gonna charge you with a felony. After that,  
15 she then talks to Detective Beam and changing her story yet  
16 again. And that's when she says he raped me at gunpoint.

17 You're gonna hear a lot of evidence in this case. You're  
18 gonna hear about condoms. We're all grown folks. Okay?  
19 You're gonna hear about Summer's Eve. You're gonna hear a lot  
20 of evidence about sexual contact. And I'm asking you to weed  
21 through the nonsense and ask yourself what is realistic, what  
22 is probable? Because I'll tell you right now, in my  
23 experience as a trial lawyer, I have rarely read the reports  
24 and heard the type of evidence you'll hear in this case from  
25 law enforcement questioning what happened, questioning the

1 logic of some of the things that she says happened.

2       You are charged with giving this Defendant a fair trial.  
3 Jerrica Nelson is not on trial. She's not on trial at all.  
4 She's not facing years in prison. CSC first degree is a  
5 serious charge. It is the most serious sex crime that you can  
6 be charged with in South Carolina. It is forcible rape.  
7 Kidnapping is a serious charge. Armed with a deadly weapon  
8 during a violent offense is a serious charge. Armed robbery,  
9 serious charges. And what I want you to do, when you listen  
10 to these witnesses on the stand and you hear this testimony,  
11 I'm asking you to do what the Judge is gonna ask you to do  
12 which is again apply the law to the facts as you find them and  
13 listen to whether or not what you hear is credible. Is it  
14 credible? Is it believable? Does it make sense? That's what  
15 I'm asking you to do. I'm not asking for any more and no  
16 less. Give him a fair trial, listen to all the evidence and,  
17 at the end of this, I promise you, you will see what I've seen  
18 pouring through this evidence for the last several months  
19 preparing for this trial. It doesn't make sense. And, if it  
20 doesn't make sense, if it doesn't add up, as Detective Beam  
21 said, it just doesn't seem like it's really realistic, didn't  
22 happen.

23       Thank you so much for listening to me. I ask you to pay  
24 attention. This is important. Again, he's on trial for some  
25 serious stuff.

1 Thank you so much.

2 THE COURT: All right, Solicitor, your first witness  
3 please, sir.

4 MR. HOLFORD: The State calls Jennifer Dalmida.

5 THE COURT: All right. Very good.

6 All right, ma'am, come all the way around; come all the  
7 way around up here and meet the Clerk's representative right  
8 up here at the corner, please.

9 Madam Clerk?

10 CLERK: Please raise your right hand and put your left  
11 hand on the Bible.

12 JENNIFER DALMIDA, HAVING BEEN SWORN  
13 TESTIFIES AS FOLLOWS:

14 CLERK: Please state your full name and spell your first  
15 and last name for the Court?

16 A: Jennifer Dalmida; J-E-N-N-I-F-E-R, D-A-L-M-I-D-A.

17 DIRECT EXAMINATION OF JENNIFER DALMIDA BY MR. HOLFORD:

18 Q: Ms. Dalmida, can you tell me where you're employed?

19 A: With Verizon Wireless.

20 Q: And what is your job there?

21 A: I'm a Senior Analyst who is a custodian of records for  
22 the company.

23 Q: And so what do you typically do in court?

24 A: I travel from court to court throughout the week and I  
25 testify regarding any records that we provided in compliance

1 with search warrants, court orders or subpoenas.

2 Q: And did you provide -- did Verizon provide warrant -- did  
3 Verizon provide records in this case?

4 A: Yes.

5 Q: Do you have any specific knowledge about this case in  
6 general?

7 A: No.

8 Q: You just know about the records that Verizon provided?

9 A: Correct.

10 Q: If I handed you a document, would you be able to identify  
11 it?

12 A: Yes.

13 MR. HOLFORD: May I approach, Your Honor?

14 THE COURT: Yes, sir, please.

15 BY MR. HOLFORD:

16 Q: I'm handing you what's been marked for ID as State's 15.  
17 Can you identify what that document is?

18 A: Yes. This is a copy of our subscriber information.

19 Q: Okay. And are you familiar with that document?

20 A: Yes.

21 Q: Is that something that you provided?

22 A: Yes.

23 Q: Or Verizon?

24 A: Verizon.

25 Q: And you're the custodian of records like this?

1 A: Yes.

2 Q: Is that a true and accurate copy?

3 A: Yes.

4 MR. HOLFORD: Your Honor, the State would move State's 15  
5 in evidence?

6 THE COURT: Any objection?

7 MR. WILSON: Without objection, Your Honor.

8 THE COURT: All right. So it's into evidence without  
9 objection.

10 STATE'S EXHIBIT NUMBER 15

11 ADMITTED INTO EVIDENCE

12 BY MR. HOLFORD:

13 Q: Can you tell me what this document actually says?

14 A: This document would provide the name and the account  
15 number for a specific target number in which we provided the  
16 records. In this matter, we have [REDACTED]-0233 listed for a  
17 Jerry Nelson. It also would provide a billing address in  
18 which we would provide bill copies to.

19 Q: And what was that billing address?

20 A: We have CMR 427, Box 316.

21 Q: Did you provide anything else other than the subscriber  
22 information?

23 A: A copy of our toll records?

24 Q: What is a toll record?

25 A: A toll record would just indicate any type of billable

1 calls that our subscriber was billed throughout a specific  
2 billing period.

3 MR. HOLFORD: May I approach, Your Honor?

4 THE COURT: Yes, sir.

5 BY MR. HOLFORD:

6 Q: I'm handing you what's been marked for ID as State's 16.  
7 Can you identify what that is?

8 A: This is a copy of our toll records.

9 Q: Okay. And is that a true and accurate copy of something  
10 Verizon would provide?

11 A: Yes.

12 Q: And are you a custodian of records like that?

13 A: Yes.

14 MR. HOLFORD: Your Honor, the State would move 16 in  
15 evidence?

16 THE COURT: Any objection to that?

17 MR. WILSON: Judge, without objection.

18 THE COURT: It's in evidence without objection.

19 STATE'S EXHIBIT NUMBER 16

20 ADMITTED INTO EVIDENCE

21 BY MR. HOLFORD:

22 Q: And can you tell the jury what that number says or that  
23 sheet?

24 A: This is the details for [REDACTED]-0233 for the timeframe of  
25 December 25th through January 12th, 2015.



1 Q: And who did that number belong to?

2 A: A Jerrica Nelson.

3 Q: Okay. And is that all your involvement with this case  
4 that you just gave us documents and said who the phone numbers  
5 belonged to?

6 A: Yes.

7 MR. HOLFORD: No further questions, Your Honor.

8 THE COURT: Cross examination?

9 CROSS EXAMINATION OF JENNIFER DALMIDA BY MR. WILSON:

10 Q: Just briefly, ma'am.

11 Your Honor, may I approach the witness?

12 THE COURT: Yes, sir, please.

13 Q: Thank you, Judge.

14 This is just a copy of the actual document that you have.

15 A: Okay.

16 Q: The highlighted number, can you tell me what that number  
17 is on that document?

18 A: [REDACTED]-6230.

19 Q: Okay. And is that an outgoing call or incoming call?

20 A: This is an outgoing call.

21 Q: And what time was that call coming out?

22 A: This call occurred at 7:32 P.M.

23 Q: Okay. And so that means that that phone number was  
24 calling that number, correct?

25 A: Correct.

1 Q: Okay.

2 Thank you, Judge. No further questions, Your Honor.

3 THE COURT: All right, sir.

4 Anything else, Solicitor?

5 REDIRECT EXAMINATION OF JENNIFER DALMIDA BY MR. HOLFORD:

6 Q: One more question. On that same sheet right before  
7 there, was that same number making incoming calls to Ms.  
8 Nelson?

9 A: Yes, we have an incoming call from [REDACTED]-6230.

10 Q: How many times?

11 A: Eight times.

12 Q: But you're not sure who that number belongs to?

13 A: Correct, I'm not sure.

14 MR. HOLFORD: No further questions, Your Honor.

15 THE COURT: Anything else, Mr. Wilson?

16 MR. WILSON: Nothing further, Your Honor.

17 THE COURT: Do you wish the witness to be excused?

18 MR. HOLFORD: Yes, Your Honor.

19 THE COURT: All right, ma'am, you are excused from your  
20 subpoena and may go back to your regular duties. Thank you.

21 Next witness, please?

22 MR. HOLFORD: Your Honor, the State calls Jerrica Nelson  
23 to the stand.

24 THE COURT: All right. Please come around, ma'am.

25 CLERK: Please raise your right hand and put your left

1 hand on the Bible?

2 JERRICA NELSON, HAVING BEEN SWORN

3 TESTIFIES AS FOLLOWS:

4 CLERK: Please state your full name and spell your first  
5 and last name for the Court.

6 MS. NELSON: Jerrica Nelson; J-E-R-R-I-C-A, N-E-L-S-O-N.

7 DIRECT EXAMINATION OF JERRICA NELSON BY MR. HOLFORD:

8 Q: Ms. Nelson, is it okay if I call you Jerrica?

9 A: Yes.

10 Q: Now, you're gonna have to speak up just a little bit.  
11 Lean up into the microphone if you can but we want to make  
12 sure that everyone here is able to hear what you're saying.  
13 Okay?

14 A: Okay.

15 Q: Tell me, how old are you?

16 A: Twenty-four.

17 Q: And where do you live right now?

18 A: In Murrells inlet.

19 Q: How long have you lived here in Horry County?

20 A: Ever since the third grade; so, for a while.

21 Q: Okay. When is your birthday?

22 A: [REDACTED], 1992.

23 Q: '92. And are you working anywhere right now?

24 A: Yes.

25 Q: Where do you work?

1 A: Bojangles.  
2 Q: How long have you worked at Bojangles?  
3 A: For a year.  
4 Q: A year?  
5 A: Uh-huh (affirmative response).  
6 Q: Did you work anywhere before that?  
7 A: Uh-huh (affirmative response). Yes.  
8 Q: Where did you work before that?  
9 A: Stein Mart.  
10 Q: Okay. Where you working back in January 2015?  
11 A: Stein Mart.  
12 Q: At Stein Mart. Were you going to school anywhere?  
13 A: Yes.  
14 Q: Where were you going to school?  
15 A: Horry Georgetown Tech in Conway.  
16 Q: Okay. Are you still going to school there?  
17 A: No.  
18 Q: Did you graduate?  
19 A: Yes, I finished my Veterinary Assistant program.  
20 Q: Okay. Do you plan to use that degree?  
21 A: Yes.  
22 Q: Are you looking for a job?  
23 A: Yes.  
24 Q: And let's move into January 8th, 2015. Do you remember  
25 that day?

1 A: Uh-huh (affirmative response), yes.

2 Q: Now, let's start at the beginning of the day. What did  
3 you do that morning?

4 A: That morning, I got off work, and I was on my way home,  
5 and he kept messaging me on Facebook, but I couldn't answer  
6 because I was driving and then I heard my phone ring.

7 Q: All right. Let me -- I might interject at times. I'm  
8 really not trying to interrupt you. But, when you say he, who  
9 is he?

10 A: (Indicating.) David.

11 Q: Okay. You've pointed to David.

12 A: Uh-huh (affirmative response).

13 Q: Is the person in the courtroom?

14 A: Yes.

15 Q: And is he seated at the Defendant's table?

16 A: Yes.

17 Q: And what is he wearing?

18 A: I can't see.

19 Q: He's not the man who just gave the opening statement, is  
20 he?

21 A: No.

22 Q: And they're two other females?

23 A: No.

24 Q: And there's one male at the table, right?

25 A: Yes.

1 Q: Is he the Defendant here?

2 A: Yes.

3 Q: He's the one that messaged you on Facebook?

4 A: Yes.

5 Q: Okay. What did you know his name as on that day?

6 A: David Royal.

7 Q: David Royal. How did you know him as David Royal?

8 A: It was on Facebook.

9 Q: On Facebook?

10 A: Uh-huh (affirmative response).

11 Q: Okay. Now, let's go back. So, what time did you get off

12 of work?

13 A: I'm not quite sure. I would say around like 5:30 maybe

14 6:00. I'm not sure.

15 Q: Okay. And had you been talking to David on Facebook

16 before this date?

17 A: He messaged me the previous day.

18 Q: And so if that was the 8th, that would've been on the

19 7th?

20 A: Yes.

21 Q: Okay. Had you met him before?

22 A: No.

23 Q: You hadn't met him in person?

24 A: No.

25 Q: So, how did you get connected on Facebook?

1 A: It was under the suggestions of friends you might know.  
2 Q: Okay. So, you're on Facebook and you've got -- did you  
3 have friends in common?  
4 A: I really didn't look into see who we had in common.  
5 Q: But Facebook will give you like a you might know this  
6 person, right?  
7 A: Uh-huh (affirmative response), yeah.  
8 Q: Did you add him or did he add you?  
9 A: I'm not quite sure on that one.  
10 Q: You might've added him?  
11 A: Possibly.  
12 Q: Were you adding other people at that time?  
13 A: Hu-huh (negative response), no.  
14 Q: Okay. Why would you have added someone on Facebook that  
15 you didn't know?  
16 A: I don't know. I was new to the area and just wanted to  
17 meet new people.  
18 Q: Now, when you say new to the area, if you've been in  
19 Horry County since about third grade, what do you mean by  
20 that?  
21 A: Like in the Murrells Inlet area.  
22 Q: Okay. Where did you live before?  
23 A: In Carolina Forest.  
24 Q: And so were you living with your parents in Murrells  
25 Inlet?

1 A: Yes.

2 Q: Had you just moved there though?

3 A: Yes, I moved after I graduated high school.

4 Q: So you're looking to meet people?

5 A: Uh-huh (affirmative response).

6 Q: Are you a pretty social person? Do you go out and meet  
7 people out at bars and clubs?

8 A: No.

9 Q: Had you met anyone online before?

10 A: No.

11 Q: Did you know anything about David at that time?

12 A: No.

13 Q: You had some type of conversation with him on Facebook,  
14 right?

15 A: Uh-huh (affirmative response), yes.

16 THE COURT: You need to answer yes or no, ma'am, please,  
17 because the Court Reporter can't really tell what uh-huh  
18 means. Okay? So if you could just answer yes or no. All  
19 right?

20 A: Okay.

21 THE COURT: Thank you, ma'am.

22 Q: Would you recognize Facebook conversations if I showed  
23 them to you?

24 A: Yes.

25 Q: Did you know it was possible for us to get your Facebook



1 records?

2 A: Yes.

3 Q: You did?

4 A: Yeah.

5 Q: Most people don't realize that.

6 Your Honor, may I approach with State's 18?

7 THE COURT: Yes, sir.

8 Q: I'm handing you what's been marked for identification as  
9 State's 18. Can you just -- don't say exactly what it is, but  
10 tell us, what is that? What's that appear to be?

11 A: The Facebook conversation between us.

12 Q: Between you?

13 A: Yes.

14 Q: And David?

15 A: Yes.

16 Q: Okay. Does that appear to be an accurate reflection of  
17 what you -- what you wrote back and forth?

18 A: Yes.

19 Q: Do you even know if you would be able to go in and delete  
20 stuff off of Facebook if you wanted to?

21 A: Hu-huh (negative response), no.

22 Q: Do you know if you'd be able to hide stuff from law  
23 enforcement if we went to find it?

24 A: No.

25 Q: Does that appear to be a true and accurate copy of your

1 messages back and forth?

2 A: Yes.

3 MR. HOLFORD: Your Honor, the State would seek to admit  
4 18 in evidence.

5 THE COURT: Any objection?

6 MR. WILSON: Judge, no objection.

7 THE COURT: In evidence without objection.

8 STATE'S EXHIBIT NUMBER 18

9 ADMITTED INTO EVIDENCE

10 BY MR. HOLFORD:

11 Q: Now we have some lengthy conversations. I want you to  
12 look at this and tell -- tell the jury who -- who is this  
13 conversation between?

14 A: Jerrica Nelson and David Royal.

15 Q: David Royal. Okay. So Jerrica Nelson is you?

16 A: Yes.

17 Q: And David Royal is the Defendant?

18 A: Yes.

19 Q: Are there a lot of pages there?

20 A: Yes.

21 Q: Had the Defendant ever asked you to have sex in that  
22 conversation?

23 A: Yes.

24 Q: And did you ever agree to have sex?

25 A: No.

1 Q: Did you ever say you weren't gonna have sex?

2 A: No.

3 Q: You never said you wouldn't?

4 A: I never said I wouldn't.

5 Q: But you never said you would?

6 A: Hu-huh (negative response), no.

7 MR. HOLFORD: May I approach with State's 17?

8 THE COURT: Yes, sir.

9 BY MR. HOLFORD:

10 Q: Now, I handed you what's been marked State's Exhibit 17.

11 Can you identify what that is?

12 A: Yes.

13 Q: What is that?

14 A: A picture of David Royal.

15 Q: A picture of David Royal?

16 A: Uh-huh (affirmative response).

17 Q: Okay. And is that an accurate picture of him?

18 A: Yes.

19 MR. HOLFORD: Your Honor, the State seeks to admit 17 in  
20 evidence?

21 THE COURT: Any objection?

22 MR. WILSON: No objection, Judge.

23 THE COURT: All right, sir. In evidence without  
24 objection.

25 STATE'S EXHIBIT NUMBER 17

ADMITTED INTO EVIDENCE

BY MR. HOLFORD:

Q: Now, this picture, you say this is David Royal. How do you know that's David Royal?

A: That's the name that appeared under the picture.

Q: So, is this off his Facebook?

A: Yes.

Q: Okay. So, this is the Facebook picture of the Defendant

---

A: Uh-huh (affirmative response).

Q: --- using the name David Royal online?

A: Yes.

Q: Okay. So, all these conversations between you and David Royal, we can know are actually you and David Welch?

A: Yes.

Q: Is that the man you met on January the 8th, 2015?

A: Yes.

Q: Now, let's go back to that date. So, you get off work.

I'm gonna hand you what's been entered as State's 16. We just had Verizon tell us they keep the phone records. Do you recognize that phone number?

A: That's his.

Q: All right. So, let's say which is your phone number on there?

A: The [REDACTED]-0233.

1 Q: That was your phone number?  
2 A: Yes.  
3 Q: And you know that?  
4 A: Uh-huh (affirmative response), yes.  
5 Q: And so is this a list of your calls?  
6 A: Yes.  
7 Q: And are some incoming to you?  
8 A: Yes.  
9 Q: Now had the Defendant called you that day?  
10 A: Yes.  
11 Q: Had he also messaged you on Facebook?  
12 A: Yes.  
13 Q: And did he want to meet with you?  
14 A: Uh-huh (affirmative response), yes.  
15 Q: Okay. How many times did he call you that day?  
16 A: Eight.  
17 Q: Eight? And then at the end there, did you call him back?  
18 A: Yes.  
19 Q: Did he answer when you called him back?  
20 A: No.  
21 Q: Who answered?  
22 A: A lady.  
23 Q: A lady?  
24 A: Yes.  
25 Q: Did you talk to her?

1 A: No.

2 Q: Why did you call him back?

3 A: I was just waiting there for a while and I called him to,  
4 I guess, see if he was actually gonna show up.

5 Q: Okay. Let's back up then again and walk me through the  
6 Facebook messages and phone records. What did you guys plan  
7 to do?

8 A: He asked to hang out and I kept like blowing it off  
9 saying maybe another day because I'd been working and I really  
10 don't want to do anything after and then he kept asking and  
11 then I would -- I said no and that's when I got calls and I  
12 didn't know who it was, so I didn't answer the phone and then  
13 it said I had a voice mail. So I listened to the voice mail  
14 and it was David and he claimed he was waiting for us to hang  
15 out, that we made plans, and he had been waiting all day. And  
16 so I messaged him and I was like we never made plans to hang  
17 out. And then he kept asking, well, do you want to hang out?  
18 I was like not really because I just want to go home, and then  
19 he kept asking, asking and asking and kept like calling,  
20 calling, and I was like fine. Fine, I'll meet you somewhere  
21 and that's when we met up at Burger King.

22 Q: You met at Burger King? Where is the Burger King?

23 A: In front of Coastal Grand Mall by Sticky Fingers.

24 MR. HOLFORD: May I approach with State's 19?

25 THE COURT: Yes, sir.

1 BY MR. HOLFORD:

2 Q: I'm showing you a big picture. What is this?

3 A: South Carolina.

4 Q: Is it a map?

5 A: Yes.

6 Q: Okay. And are you familiar with this area on the map?

7 A: A little bit.

8 Q: A little bit?

9 A: Uh-huh (affirmative response).

10 Q: Is Burger King shown on here anywhere?

11 A: (Inaudible.)

12 THE COURT: I'm sorry, ma'am, you have to speak into the  
13 microphone. I'm sorry, we couldn't hear you.

14 A: It's in front of Dillard's.

15 MR. HOLFORD: Your Honor, the State would move Exhibit 19  
16 into evidence?

17 THE COURT: Any objection?

18 MR. WILSON: No objection, Judge.

19 THE COURT: It's in evidence without objection.

20 STATE'S EXHIBIT NUMBER 19

21 ADMITTED INTO EVIDENCE

22 BY MR. HOLFORD:

23 Q: Now, let's show the jury where you're talking about.

24 Where is the Burger King?

25 A: Right there.

1 Q: And is there a dot on that map?  
2 A: Yes.  
3 Q: What color is that dot?  
4 A: Green.  
5 Q: A green dot. Okay. So this is the Burger King right by  
6 the mall?  
7 A: Yes.  
8 Q: And that's where you agreed to meet?  
9 A: Yes.  
10 Q: Okay. And what time did you actually meet there?  
11 A: When I checked it was like, it was around 8:00.  
12 Q: Around 8:00?  
13 A: Yes.  
14 Q: Okay. So walk me through that. How long were you  
15 waiting at Burger King?  
16 A: I would say probably like 10 minutes, 10 or 15 minutes.  
17 I'm not quite sure how long it was.  
18 Q: Okay. Why did you agree to meet at Burger King?  
19 A: Because he kept calling about hanging out and I was just  
20 fed up with it, so I was like, okay, I agree to meet you if  
21 this would make you leave me alone.  
22 Q: Did, did he leave there or did he live around there?  
23 A: He said he lived by the mall.  
24 Q: Did you know where he lived?  
25 A: No.



1 Q: Did you intend to have sex with him?

2 A: No.

3 Q: So, when did he come to the Burger King?

4 A: There was no one else around and then I saw a man walk up  
5 to the door and while I was looking out the window, he turned  
6 and saw the car and walked over.

7 Q: What was he wearing?

8 A: Jeans, like a khaki colored jeans, and sweatshirt.

9 Q: Anything on his head?

10 A: A hat.

11 Q: Like a hat like we see in that picture?

12 A: Yes. Well, no, it was like not a winter hat, but like a  
13 I guess a small like beanie type thing.

14 Q: Okay. Do you remember what color it was?

15 A: No.

16 Q: Do you remember what color his sweatshirt was?

17 A: It was like a dark color; I'm not sure, no.

18 Q: Do you know what kind of shoes he had on?

19 A: I'm guessing tennis shoes.

20 Q: And so what happens, does he get in your car at the  
21 Burger King?

22 A: He knocks on the window with his knuckle and then he gets  
23 in the car and we just sit there talking. He asked me how my  
24 day was; I said it was fine. And then he looked like, well,  
25 what do you want to do? I responded nothing really because

1 I'm tired. I don't want to do anything and it's cold and then  
2 he tried to kiss me and I said no, and he kept asking why and  
3 I said I just don't want to. And then -- and then he asked me  
4 again what do you want to do and I was like there's not much  
5 really to do; I just don't want to do anything. I'm really  
6 tired. I just want to go home and then he tried to kiss me  
7 again and I said no, and he was rubbing my leg, and he asked  
8 again why and I said because I just don't want to. And then  
9 he was like okay. And then he was like well can you at least  
10 take me home so I don't have to walk home in the cold, and I  
11 said okay fine and that's when he said he lived in the  
12 apartments.

13 Q: Okay. So, all that happened at the Burger King?

14 A: Yes.

15 Q: In the parking lot?

16 A: Yes.

17 Q: What kind of car do you drive?

18 A: A Honda Tucson.

19 Q: And were you in your car?

20 A: Yes.

21 MR. HOLFORD: May I approach with State's 4 and 5?

22 THE COURT: Yes, sir.

23 BY MR. HOLFORD:

24 Q: Do you recognize State's 4 and 5?

25 A: Yes.

1 Q: What is that?

2 A: My car.

3 MR. HOLFORD: Your Honor, the State would move 4 and 5 in  
4 evidence?

5 THE COURT: Any objection?

6 MR. WILSON: No objection, Your Honor.

7 THE COURT: All right. They're in evidence without  
8 objection.

9 STATE'S EXHIBITS NUMBER 4 AND 5

10 ADMITTED INTO EVIDENCE

11 BY MR. HOLFORD:

12 Q: Is that the car you were driving that day?

13 A: Yes.

14 Q: And is that the car you were in?

15 A: Yes.

16 Q: So, you're in the Burger King and he says let's go to the  
17 apartments, right?

18 A: Yes.

19 Q: Did you know what apartments?

20 A: No, he showed me the way to get there.

21 Q: Now this is State's 19, can you tell the jury on this map  
22 which way you went?

23 A: Down this road past the Walmart.

24 Q: Okay.

25 A: Then we turned at that light right before you get to the

1 Walmart.

2 Q: Okay. Do you know what road it was?

3 A: I'm not sure what road, the name of it.

4 Q: Do you know where the apartments are?

5 A: It's on Highway 15, the Town Square Apartments.

6 Q: Okay. So, if this is Highway 15 here, it's on Highway  
7 15?

8 A: Uh-huh (affirmative response).

9 Q: And you said the Town Square Apartments?

10 A: Yes.

11 Q: So, you came from Burger King down to Highway 15 Town  
12 Square Apartments?

13 A: Yes, that's where he directed that he lived.

14 MR. HOLFORD: May I approach with State's 20?

15 THE COURT: Yes, sir.

16 BY MR. HOLFORD:

17 Q: Now, if you look at State's 20, can you identify what the  
18 roads are?

19 A: This is the road where the apartment is on because there  
20 was a gas station right across from it.

21 Q: Okay. So you're familiar with this area then?

22 A: A little bit.

23 MR. HOLFORD: Your Honor, the State would move State's 20  
24 in evidence?

25 THE COURT: Any objection?

1 MR. WILSON: No objection, Your Honor.

2 THE COURT: All right. It's into evidence without  
3 objection.

4 STATE'S EXHIBIT NUMBER 20

5 ADMITTED INTO EVIDENCE

6 BY MR. HOLFORD:

7 Q: So, is this a close up of what we were just looking at?

8 A: Yes.

9 Q: All right. Okay. And so what is this road right here?

10 A: Highway 15.

11 Q: And what's this red dot right there?

12 A: The apartment.

13 Q: The apartments, when you say the apartments, what  
14 apartments are those?

15 A: The Town Square Apartments.

16 Q: Okay. And is that where he directed you to?

17 A: Yes.

18 Q: Where did he have you park?

19 A: He led me to the last spot.

20 Q: Right here?

21 A: Uh-huh (affirmative response).

22 Q: So, you actually pulled in the parking lot of the Town  
23 Square Apartments?

24 A: Yes.

25 Q: What is this right here?

1 A: The gas station.

2 Q: Okay. And so the red dot there is the Town Square

3 Apartments?

4 A: Yes.

5 Q: And State's 20 is just a close up of where State's 19 is

6 down here on the bottom right, correct?

7 A: Yes.

8 Q: So the red dot is ---

9 A: Uh-huh (affirmative response). Yes.

10 Q: Okay. So you get down here to these Town Square

11 Apartments. Is that where he lives?

12 A: He said he lived there and that's when after he took my

13 purse and ran out the car, I saw him run across the street to

14 the gas station, and that's when I figured he didn't live

15 there.

16 Q: Okay. So, show us on the map where he ran across the

17 street?

18 A: (Inaudible.)

19 COURT REPORTER: Excuse me.

20 Q: You need to get to the microphone, sorry.

21 A: He ran across the side of the apartments to the gas

22 station.

23 Q: Okay. And identify for the Court Reporter what Highway

24 this is?

25 A: 15.

1 Q: So he ran across Highway 15 to the gas station?

2 A: Yes. ,

3 Q: Now, let's back up because in between the time that you  
4 parked there in that last parking spot ---

5 A: Uh-huh (affirmative response).

6 Q: --- and he takes your purse and runs, walk me through  
7 that?

8 A: We were in the car. We'd pulled up and he said there's a  
9 window open, turn your lights off so you aren't shining in  
10 their window, so I did that. The car was still running and  
11 everything and that's when he pulled out the gun and he was  
12 like, I want to have sex. I asked him, what, and he said I  
13 want to have sex. And he was like I think this is funny that  
14 you think this is fake and he rubbed the gun on my hand and  
15 then that's -- he leaned over me, put it in his pocket and  
16 leaned over me and tried to unbutton my pants. I said no, and  
17 he was like I will shoot you and nobody will care. And, so he  
18 unbuttoned my pants and tried to pull them down, but he  
19 couldn't because I was sitting down, so he tried to lean the  
20 seat back and it didn't work, so he said get in the back seat.  
21 So I did and then my pants were off, and that's when he tried  
22 to kiss me on the mouth. I turned away and he tried to pull  
23 my face towards him and I kept looking away, and that's when  
24 he -- like that's when he started to have sex with me and then  
25 he stopped and I was like, just so you know, I'm not on birth

1 control, hoping that would stop him. And he just put on a  
2 condom and proceeded. And then after it was done, he pulled  
3 up his pants, grabbed my purse, so I grabbed the handle and I  
4 was trying to pull it away from him. And he kept saying let  
5 it go and I was like no, and then he was like let it go or I  
6 will shoot you, and then so I let it go, and that's when he  
7 opened the car door and ran out and, and ran down the side of  
8 the apartments towards the gas station. And I didn't know  
9 what to do for a minute and then I quickly got dressed and I  
10 was shouting out the car and I was like, hey, give me my purse  
11 back, what are you doing, shouting outside, and he didn't  
12 stop, he kept running. And I just like just stood there  
13 trying to figure out like everything that happened and then I  
14 knocked on one door and no one answered, then I knocked on  
15 another one and an old man answered, and I asked if I could  
16 use his phone and he said no and shut the door in my face.  
17 And then that's when I got back in the car and drove to Belk  
18 and went in there and used their phone to call somebody.

19 Q: Why didn't you call from your cell phone?

20 A: Because I didn't have it.

21 Q: Where was it?

22 A: He took it.

23 MR. HOLFORD: May I approach with State's 3?

24 THE COURT: Yes, sir.

25 BY MR. HOLFORD:



1 Q: Can you identify what that is?

2 A: That's Belk.

3 Q: This is a picture of Belk, right?

4 A: Yes.

5 MR. HOLFORD: The State would move State's 3 into  
6 evidence?

7 THE COURT: Any objection.

8 MR. WILSON: No objection, Your Honor.

9 THE COURT: All right. State's 3 is in evidence without  
10 objection.

11 STATE'S EXHIBIT NUMBER 3

12 ADMITTED INTO EVIDENCE

13 BY MR. HOLFORD:

14 Q: This is where you went to make the phone call?

15 A: Yes.

16 Q: Is that back at the mall?

17 A: Yes.

18 Q: So, after you had been assaulted you tried to call from  
19 there?

20 A: Yes, I knocked on their door to see if I could use a  
21 phone and nobody will let me use the phone. So, I looked  
22 around and then I went back in my car and drove to the mall to  
23 use a phone.

24 Q: And point to us where the mall is on this map?

25 A: Right here.

1 Q: And what side is the Belk on?

2 A: This side.

3 Q: All right. On the far side?

4 A: Yes.

5 Q: Did you call police?

6 A: No, I called my mom at first.

7 Q: Okay. From Belk?

8 A: Yes, and I told her that my stuff has been stolen and I  
9 didn't know what to do, and she said hang up the phone and  
10 call the police. So, I called the police and then that's when  
11 I told them someone stole my stuff and they asked me like what  
12 it was. I told them it was a purse with some stuff in it and  
13 my iPhone. And then a security guard from the mall came and  
14 then a few minutes after that is when the officers showed up.

15 MR. HOLFORD: May I approach, Your Honor?

16 THE COURT: Yes, sir.

17 BY MR. HOLFORD:

18 Q: I'm gonNA show you what's been marked for identification  
19 as State's 8, 9, 10, 11, 12, 13, 14, and back to 6 and 7. Do  
20 you know what these are pictures of?

21 A: My purse and the stuff that was inside of it.

22 MR. HOLFORD: Your Honor, the State would move 7 through  
23 14 in evidence.

24 THE COURT: Any objection?

25 MR. WILSON: No objection, Your Honor.

1 MR. HOLFORD: Well, 6 ---

2 THE COURT: I'm sorry -- 6 through 14; any objection?

3 MR. WILSON: No objection, Your Honor.

4 THE COURT: All right. They're all into evidence without  
5 objection.

6 STATE'S EXHIBITS NUMBERS 6 THROUGH 14.

7 ADMITTED INTO EVIDENCE

8 BY MR. HOLFORD:

9 Q: So these are pictures of your purse, right?

10 A: Yes.

11 Q: Do you know where those pictures were taken?

12 A: No.

13 Q: Have you seen your purse since that day?

14 A: No.

15 Q: State's 6, what's that show?

16 A: The front buckle on my purse.

17 Q: The front buckle of your purse?

18 A: Uh-huh (affirmative response).

19 Q: That just identifies what type of purse it was, right?

20 A: Yes.

21 Q: Is that how you know that that's your purse?

22 A: Yes.

23 Q: In State's 13, what is that?

24 A: It looks an old check stub.

25 Q: And who is it addressed to?

1 A: Jerrica Nelson.

2 Q: Is that you?

3 A: Yes.

4 Q: Is that your address on it?

5 A: Yes.

6 Q: And 10, is that -- what's that a photo of?

7 A: The contents inside the purse.

8 Q: The contents inside the purse. State's 14, is that your

9 ID?

10 A: Yes.

11 Q: And 9, that's stuff in your purse?

12 A: Yes.

13 Q: State's 8, are those your things?

14 A: Yes.

15 Q: What are they?

16 A: My driver's license, military ID and work badge.

17 Q: And when is the last time that you saw all this stuff?

18 A: When I had my purse that day, the night I had it.

19 Q: Have you ever got any of that stuff back?

20 A: No.

21 Q: And so after the Defendant took it from you, that's the

22 last time you've seen any of that?

23 A: Yes.

24 Q: And this Defendant took that stuff from you?

25 A: Yes.

1 Q: At gunpoint?

2 A: Yes.

3 Q: How sure are you that he had a gun?

4 A: Because he showed it to me before like we went in the  
5 back seat. He showed me the gun and wiped it on my hand to  
6 show me that it wasn't a fake one.

7 Q: Are you familiar with guns?

8 A: Not really.

9 Q: Do you know what kind of gun it was?

10 A: No, just that it was a small silver gun.

11 Q: Okay. So maybe not like a long rifle?

12 A: No.

13 Q: Or a shotgun?

14 A: No.

15 Q: A smaller gun?

16 A: Yes.

17 Q: Could it be held in one hand?

18 A: Yes.

19 Q: But you don't know the caliber or anything, do you?

20 A: No.

21 Q: I'm gonna let the jury take a second to look at some of  
22 these pictures and just go back. So, you went to Belk and you  
23 called your mom?

24 A: Yes.

25 Q: And you told your mom that you had just been robbed at

1 gunpoint?

2 A: Yes.

3 Q: Did you tell her about the sexual assault?

4 A: No.

5 Q: Why not?

6 A: Because I didn't want to think it happened.

7 Q: Has something like this ever happened to you before?

8 A: No.

9 Q: Have you ever accused anyone of this before?

10 A: No.

11 Q: So, your mom told you to call the police; did you call  
12 the police?

13 A: Yes.

14 Q: And did you tell them about the sexual assault?

15 A: Not at first.

16 Q: Not at first. What did you tell them?

17 A: I was just robbed.

18 Q: That you were robbed?

19 A: Yes.

20 Q: Did you tell them you were robbed at gunpoint?

21 A: Yeah.

22 Q: Have you listened to that 911 tape?

23 A: Yes.

24 MR. HOLFORD: May I approach with State's 21?

25 THE COURT: Yes, sir.

1 BY MR. HOLFORD:

2 Q: What am I handing you?

3 A: The 911 call.

4 Q: Is it a CD?

5 A: Yes.

6 Q: Have you listened to that earlier today?

7 A: Yes.

8 Q: And is that the call that you made?

9 A: Yes.

10 Q: Is that you on the call?

11 A: Yes.

12 MR. HOLFORD: Your Honor, the State would move 21 into  
13 evidence.

14 THE COURT: Any objection?

15 MR. WILSON: No objection, Your Honor.

16 THE COURT: It's in evidence without objection.

17 STATE'S EXHIBIT NUMBER 21

18 ADMITTED INTO EVIDENCE

19 MR. HOLFORD: Permission to publish?

20 THE COURT: You may do so.

21 BY MR. HOLFORD:

22 Q: We're gonna listen to this 911 call that you made.

23 A: Okay.

24 MR. HOLFORD: Your Honor, may we approach?

25 THE COURT: Yes, sir.

1 (REPORTER'S NOTE: A bench conference was held off the record  
2 in the presence of but out of hearing of the Jury.)

3 MR. HOLFORD: Your Honor, I swear I used the computer  
4 this morning and ---

5 THE COURT: You want to take a short break to get it  
6 operational?

7 MR. HOLFORD: May I please?

8 THE COURT: Yes, sir. Ladies and gentlemen, if you'll  
9 got to the jury room for just a few minutes and we'll get this  
10 organized for you. Okay? Just leave the exhibits on the  
11 front rail there, please.

12 (REPORTER'S NOTE: Jury exits courtroom.)

13 THE COURT: All right. We'll take a short break and just  
14 let me know.

15 Yes, sir, Mr. Wilson?

16 MR. WILSON: Judge, can the Defendant use the restroom?

17 THE COURT: Yes, sir. We'll take a short break. Y'all  
18 let me know when you're organized, please.

19 MR. WILSON: Thank you.

20 THE COURT: And, Ms. Nelson, you can step down. You just  
21 can't talk about the case with the Solicitor, but you can  
22 certainly step down and if you need to use the restroom or  
23 something you can.

24 (RECESS.)

25 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*



1 (On the Record.)

2 THE COURT: Ms. Nelson, could you come back up please,  
3 ma'am? Thank you.

4 We got it organized, Solicitor?

5 MR. HOLFORD: Yes, Your Honor.

6 THE COURT: All right. Very good. So you ready for the  
7 jury to come back in?

8 MR. HOLFORD: Yes, Your Honor.

9 THE COURT: And the Defense?

10 MR. WILSON: Yes, Your Honor, we're ready, Judge.

11 THE COURT: All right. Very good. Ask the jury to come  
12 in.

13 (REPORTER'S NOTE: Jury enters courtroom.)

14 THE COURT: All right, Solicitor, you ready to go?

15 MR. HOLFORD: May it please the Court?

16 THE COURT: Yes, sir.

17 BY MR. HOLFORD:

18 Q: All right, Jerrica. Right before we took a break, I was  
19 trying to play an audio of your 911 call. We've got that set  
20 up now, so you said you've heard it before, right?

21 A: Yes.

22 THE COURT: Is that a yes?

23 A: Yes.

24 THE COURT: Thank you, ma'am.

25 Q: And this is the call that you made at the Belk?

1 A: Yes.

2 Q: Right after you had been robbed and assaulted?

3 A: Yes.

4 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

5 (REPORTER'S NOTE: State's 21 published - not transcribed  
6 herein.)

7 (On the Record.)

8 BY MR. HOLFORD:

9 Q: Was that the entirety of the call?

10 A: Yes.

11 Q: And then did the officers show up where you were?

12 A: Yes.

13 Q: And on that call at the very beginning it said it was at  
14 8:32 P.M., right?

15 A: Uh-huh (affirmative response), yes.

16 Q: And you had called your mom right before then from that  
17 Belk phone?

18 A: Yes.

19 MR. HOLFORD: May I approach?

20 THE COURT: Yes, sir.

21 BY MR. HOLFORD:

22 Q: This has been entered as State's 16. This is your phone  
23 record. Can you see on there what time you called from your  
24 cell phone to David's house?

25 A: I'm not sure which one.

1 Q: Okay. What's the -- on January the 8th, if you see the  
2 date on the left-hand side, January the 8th, what's the last  
3 time that a call went out on January the 8th?

4 A: It says 7:32 P.M.

5 Q: 7:32 P.M. So, you would have your cell phone at 7:32  
6 P.M.?

7 A: Yes.

8 Q: And then you made this 911 call at 8:32 P.M. and you  
9 didn't have your phone then?

10 A: No.

11 Q: So, in the course of an hour, you had your phone?

12 A: Uh-huh (affirmative response).

13 Q: You had your purse?

14 A: Yes.

15 Q: And you had your wallet?

16 A: Yes.

17 Q: And then you said you met with David here at the Burger  
18 King?

19 A: Yes.

20 Q: You drove down to Town Square Apartments?

21 A: Yes.

22 Q: He assaulted you?

23 A: Yes.

24 Q: At gunpoint?

25 A: Yes.

1 Q: Took your things?

2 A: Yes.

3 Q: He ran?

4 A: Yes.

5 Q: And then you drove to the Belk and made a phone call?

6 A: Yes.

7 Q: I want to talk about this 911 call just briefly. In the

8 beginning, you say -- you used the pronoun they. Were you

9 talking about multiple people that robbed you?

10 A: No.

11 Q: Did you ever clarify that for the operator?

12 A: No, I wasn't thinking clearly.

13 Q: When she said both of them, what did you say at that

14 point?

15 A: I told her there was only one person.

16 Q: Okay. So in the beginning, you're going back and forth

17 talking about they, but you're really talking about they or

18 them as a single person, right?

19 A: Yes.

20 Q: There were never multiple individuals, were there?

21 A: No.

22 Q: And it wasn't until the operator said both that you ended

23 up clarifying its one person, right?

24 A: Yes.

25 Q: You told her that you didn't have your phone and why was

1 that?

2 A: Because he took it.

3 Q: Now, you told her on the phone that someone had followed  
4 you out of the restroom. You said it was a white male, maybe  
5 19 to 20, maybe 21, right?

6 A: Yes.

7 Q: Had someone followed you out of the restroom at the  
8 Burger King?

9 A: No.

10 Q: Why would you say that?

11 A: I didn't want what happened -- like after it happened, I  
12 didn't want anybody to know.

13 Q: You didn't want to talk about the sexual assault over the  
14 phone?

15 A: No.

16 Q: You said it was a silver gun, right?

17 A: Yes.

18 Q: Right afterwards?

19 A: Uh-huh (affirmative response), yeah.

20 Q: Now you said you didn't recognize him; is that true?

21 A: At first, no.

22 Q: Do you know who assaulted you?

23 A: David.

24 Q: Do you know that for sure?

25 A: Yes.

1 Q: How do you know that for sure?

2 A: Because he was in the car with me.

3 Q: Is it the same person you had been messaging on Facebook?

4 A: Yes.

5 Q: Is it the same person that had called you before?

6 A: Yes.

7 Q: Is it the same person that you identified by the Facebook

8 picture?

9 A: Yes.

10 Q: Is the same person who assaulted you and robbed you the

11 Defendant sitting in the courtroom?

12 A: Yes.

13 Q: But why would you tell an operator on 911 that you didn't

14 know who it was?

15 A: I don't know.

16 Q: Why would you tell them that you didn't recognize him?

17 A: I don't know. I wasn't thinking about it clearly and I

18 just hoped it was a bad dream that happened and it wasn't.

19 Q: Did you describe him as wearing some type of navy blue

20 beanie but you weren't sure?

21 A: Yes.

22 Q: And a sweatshirt and jeans?

23 A: Yes.

24 Q: When you talked about the incident to us in court a

25 minute ago, you talked about him putting the gun in his

1   sweatshirt, right?

2   A:   Yes.

3   Q:   We're talking about the same person, right?

4   A:   Yes.

5   Q:   You couldn't go back and create Facebook messages between  
6   you and the Defendant after the fact, could you?

7   A:   No.

8   Q:   You couldn't go back and create phone calls that happened  
9   before between you and the Defendant, could you?

10  A:   No.

11  Q:   So, you couldn't, after the fact, decide to point the  
12  finger at someone who hadn't actually assaulted you and say it  
13  was this person, could you?

14  A:   No.

15  Q:   The cops questioned you pretty hard, didn't they?

16  A:   Yes.

17  Q:   They might have been a little rough on you, huh?

18  A:   Yes.

19  Q:   And me questioning you, sometimes, it can come across as  
20  disbelief, right?

21  A:   Yes.

22  Q:   Tell this jury though -- sometimes it's hard for me to  
23  understand why you did or didn't do certain things you did.

24       MR. WILSON: Objection, Judge.

25       THE COURT:  Rephrase your question.

1 MR. HOLFORD: Yes, sir.

2 BY MR. HOLFORD:

3 Q: What the jury really needs to know is why -- when did you  
4 first say that it was the Defendant that attacked you?

5 A: After I was in the car.

6 Q: After you were in what car?

7 A: The police car.

8 Q: Okay. Was it the first officer you talked to?

9 A: Yes.

10 Q: And then did you talk to another officer after that?

11 A: Yes.

12 Q: And did they -- did they threaten you about filing a  
13 false police report?

14 A: They said if I was lying about anything that I could be  
15 charged with filing a false police report.

16 Q: And did you change your story?

17 A: Yes.

18 Q: Did you say that, okay, no, it didn't happen?

19 A: No.

20 Q: Was your mom pretty tough on you?

21 A: She kept asking are you sure you didn't want to go meet  
22 up, are you sure this didn't happen -- like you didn't want it  
23 to happen and just had a bad judgment call, and I said no.

24 Q: Did you just have a bad experience?

25 A: You could say, yes, but I didn't want it to happen.



1 Q: Did you ever agree to have sex with him?

2 A: No.

3 Q: And did he force you to have sex at gunpoint?

4 A: He said he wanted to have sex and then he put the gun in  
5 his sweatshirt pocket but he always had it his like hoodie  
6 pocket. And that's when he was like, I will shoot you if you  
7 don't do what I say.

8 Q: Were you afraid for your life?

9 A: Yes.

10 Q: And that light pink purse that you described on the 911  
11 call, is that what is State's 12? Is that that purse that we  
12 talked about earlier that you saw?

13 A: Yes.

14 Q: That you haven't seen since that day?

15 A: Yes.

16 Q: So, the only thing here that has changed is initially you  
17 said you didn't know who did it and now you've come forward  
18 and said you know who it was.

19 A: Yes.

20 Q: And that not only did he rob you at gunpoint and steal  
21 your things, but he sexually assaulted you?

22 A: Yes.

23 Q: Is that tough to say?

24 A: A little.

25 Q: How sure are you?

1 A: I'm positive.

2 MR. HOLFORD: I have no further questions, Your Honor.

3 THE COURT: Cross examination?

4 MR. WILSON: Please the Court, Your Honor?

5 THE COURT: Yes, sir.

6 MR. WILSON: Thank you, sir.

7 CROSS EXAMINATION OF JERRICA NELSON BY MR. WILSON:

8 Q: Good morning, Ms. Nelson, how are you doing?

9 A: I'm okay.

10 Q: Let's go back a little bit for the jury. You testified  
11 earlier that you never met people on Facebook; is that true?

12 A: I don't go and message people just to like hook up or  
13 anything.

14 Q: Okay. Have you ever posted on your Facebook page you  
15 want to meet new people, trying to meet new people? You  
16 testified earlier that you were trying to meet new people,  
17 correct?

18 A: Yeah.

19 Q: Okay. All right. So, you were on Facebook trying to  
20 meet new people in this area, is that a fair statement?

21 A: Yeah.

22 Q: Okay. So, that wasn't exactly true when you said you  
23 weren't trying to meet new people; you were trying to meet new  
24 people. You were trying to meet new people on Facebook; is  
25 that right?

1 A: Yes, but I wasn't like advertising or anything.

2 Q: Okay. Fair enough. On January 6th, you say that David  
3 Welch came up as suggestion for a friend, right?

4 A: Yeah.

5 Q: Okay. That doesn't mean that David Welch tried to  
6 actually befriend you on Facebook, right?

7 A: No.

8 Q: Okay. When someone gets suggestions, explain to the jury  
9 what that means when someone gets a suggestion on Facebook.

10 A: It popped up under people that you may know and it's a  
11 list of people.

12 Q: Okay. Very good. You got a list of people?

13 A: Yes.

14 Q: And normally they're connected to your other friends  
15 somehow or another, right?

16 A: Some way or another.

17 Q: Okay. All right. And on this particular day, did you  
18 send him a Facebook friend request?

19 A: I'm not sure.

20 Q: Okay. Court's indulgence, Your Honor?

21 THE COURT: Yes, sir.

22 Q: All right. Let me ask you this, do you recall at 10:34  
23 P.M. -- do you have the Facebook message in front of you?

24 A: No.

25 Q: Let me see if I can find then for you. Thank you so

1 much. I'll give that to you, what's been marked as State's  
2 Exhibit 18. Do you recall at 10:34 P.M. saying, hey, to David  
3 Welch on January 6th, 2015?

4 A: I guess.

5 Q: You got to speak up for the jury?

6 A: I said, I guess.

7 Q: Okay. Do you recall at 10:39, he responded and says, do  
8 I know you?

9 A: Yes.

10 Q: Okay. Very good. All right. And that starts out the  
11 conversation, right?

12 A: Yeah.

13 Q: Okay. Very good. All right. And then at 10:42 you  
14 explain to him that you want to meet new people; do you recall  
15 that?

16 A: Yeah.

17 Q: Okay. Very good. All right. And then he says at 10:51,  
18 to be honest with you, you're a cutie, we should chill. Is  
19 that a fair statement?

20 A: Yeah.

21 Q: Okay. All right. And then you say, ha-ha, ah, thank  
22 you. Do you recall saying that on Facebook?

23 A: Yeah.

24 Q: Okay. All right. And then he even goes on later on in  
25 the conversation -- y'all were still talking at 11:08 P.M. and

1 he says, we should get together, cuddle, and watch movies  
2 together. And then you respond -- do you recall what you said  
3 in response to that?

4 A: I'm not sure.

5 Q: All right. If I told you that you said, at 11:11 P.M.,  
6 that you were laying in bed watching T.V. Does that sound  
7 about right?

8 A: Yeah.

9 Q: Okay. And now this is the first time y'all are talking  
10 on this particular night. Okay? And at 11:13, you say -- or  
11 excuse me, at 11:12 you said I want to hang out with you and  
12 cuddle. At 11:13 you respond and said, yeah, I know what guys  
13 mean when they say that. Explain to the jury what you mean  
14 when you say that?

15 A: That it wasn't just gonna be cuddling and watching T.V.  
16 what he suggested.

17 Q: Okay. All right. Meaning basically that -- and I'm not  
18 trying to put words in your mouth, just clarify for me, that  
19 it's not just a simple innocent meeting kind of activity,  
20 right?

21 A: Yeah.

22 Q: All right. Very good. And then he says -- tells you  
23 that he wants to cuddle, but that if you want to you can have  
24 sex. Do you recall him putting that down there?

25 A: Yeah.

1 Q: Okay. 11:16 you say and you tell me if I'm wrong, well  
2 that happens to me every time, that's all someone wants from  
3 me. Do you recall saying that to David Welch on Facebook?

4 A: Yes.

5 Q: I'm sorry?

6 A: Yes.

7 Q: You recall? Okay. All right. At 11:16 you asked where  
8 he lives. Do you recall asking where he lived?

9 A: I don't.

10 MR. WILSON: May I approach the witness, Your Honor?

11 THE COURT: Yes, sir.

12 BY MR. WILSON:

13 Q: This is already part -- it's just a copy to make it  
14 easier for you. Just tell me if you recognize that and  
15 recognize that statement that you made.

16 A: I see it.

17 Q: Do you recognize that?

18 A: Yes.

19 Q: Okay. And that's you saying that, right? Where do you  
20 live?

21 A: Yes.

22 Q: Okay. All right. Then he tells you later on, well, I  
23 love sex. He tells you that, correct?

24 A: Yeah.

25 Q: All right. And then later on you guys are talking and

1 having good conversation; is that about right?

2 A: Yeah.

3 Q: Y'all continue to talk until 11:37 that night, correct?

4 A: Yes.

5 Q: All right. And at 11:37, you ask him to do what? Do you  
6 recall what it was you asked him to do?

7 A: I'm not sure.

8 Q: Do you recall asking him to send you a picture?

9 THE COURT: Is there any way that you could make  
10 reference to a page or a line on the exhibit that's in  
11 evidence?

12 MR. WILSON: Absolutely, Judge.

13 BY MR. WILSON:

14 Q: If you can turn to Page 454?

15 A: Okay.

16 Q: You see it on there? You have Page 454 up?

17 A: No, it goes by -- the 600, the page ---

18 MR. WILSON: May I approach, Judge?

19 THE COURT: Yes.

20 MR. WILSON: Thank you, Judge.

21 THE COURT: Try and use the exhibit.

22 MR. WILSON: Yes, sir.

23 Court's indulgence, Your Honor?

24 THE COURT: Yes, sir. Show that to the Solicitor first,  
25 please.

1 MR. WILSON: Thank you, Judge. Thank you.

2 Your Honor, may I approach the witness?

3 THE COURT: Yes, sir.

4 BY MR. WILSON:

5 Q: Let me ask you if you recognize this conversation you're  
6 having on Facebook?

7 A: Yeah.

8 Q: Okay. And who is that conversation between?

9 A: Me and David Royal.

10 Q: Okay. All right. And is that an accurate depiction of  
11 the conversation that took place?

12 A: Yes.

13 MR. WILSON: Your Honor, I'd like to have this entered  
14 into evidence.

15 THE COURT: All right. And we need to keep them separate  
16 if we can, please.

17 MR. WILSON: Yes, sir. Yes, sir.

18 THE COURT: Do you have a clip you can put on it?

19 MR. HOLFORD: Your Honor, the State has no objection to  
20 the material, just the notes and highlighting on them.

21 THE COURT: So -- I'm sorry. There are notes and  
22 highlights on it?

23 MR. WILSON: There are notes and highlights on it, Your  
24 Honor.

25 THE COURT: All right. So, what we'll do is -- we're



1 gonna mark it as what, Defendant's what?

2 MR. WILSON: Number 3, I believe, Judge.

3 THE COURT: Defendant's 3.

4 COURT REPORTER: 2.

5 MR. WILSON: 2, Judge.

6 COURT REPORTER: For ID?

7 MR. WILSON: For ID purposes at this point in time.

8 THE COURT: All right.

9 BY MR. WILSON:

10 Q: All right. Just once again for the record. You have  
11 identified this, correct?

12 A: Yes.

13 Q: And that's an accurate depiction of your Facebook page?

14 A: Yes.

15 Q: And conversations that you're having?

16 A: Yes.

17 MR. WILSON: Judge, at this time, I'd move it to be  
18 entered as Defendant's Exhibit Number 3?

19 THE COURT: Any objection? Or Defendant's 2?

20 MR. WILSON: Defendant's 2, I apologize, Your Honor.

21 MR. HOLFORD: Just to the notes and highlights, Your  
22 Honor.

23 THE COURT: All right. So, what we'll do is I'm gonna  
24 allow Defendant's 2 into evidence. Before it's shown to the  
25 jury, you will need to substitute a copy that eliminates all

1 highlights and notes.

2 MR. HOLFORD: Thank you, Your Honor.

3 DEFENDANT'S EXHIBIT NUMBER 2

4 ADMITTED INTO EVIDENCE

5 BY MR. WILSON:

6 Q: Let me ask you this, also. On -- do you recall asking  
7 him to send you a picture or do you recall asking him to send  
8 you a picture?

9 A: Yes.

10 Q: Okay. Why did you want a picture from David Welch?

11 A: To I could see what he looked like.

12 Q: Why were you concerned with what he looked like?

13 A: Who wouldn't be concerned?

14 Q: You got to speak up. I'm sorry; I can't hear you.

15 A: Who wouldn't -- I just wanted to know what he looked  
16 like.

17 Q: Okay. All right. So later on, on January 7th, the  
18 conversation with him continues at 12:49 A.M. Okay? And he  
19 doesn't respond and give you a picture right away, does he?  
20 It's not on there; I'm just asking you a question. Do you  
21 know if he responded right away to give you a picture?

22 A: I'm not sure.

23 Q: Okay. Do you recall saying or not, LOL, at 12:49 A.M.?

24 A: Yes.

25 Q: Okay. All right. And he doesn't respond until 1:59 and

1 say, why are you up so late? Do you recall that?

2 A: Yeah.

3 Q: All right. And then he also says at 2:55 P.M. the next  
4 day, send me a picture of what? What picture do you want? Do  
5 you know when you responded?

6 A: Of you.

7 Q: Okay. Do you recall saying, so you're not fake and have  
8 you not seen Catfish? Did you ever say that to him?

9 A: Yeah.

10 Q: Okay. And he does end up sending you a picture, doesn't  
11 he?

12 A: Yes.

13 Q: Okay. Can you tell me about the picture that he sent  
14 you; do you recall?

15 A: I'm not sure which one.

16 MR. WILSON: Your Honor, may I approach the witness?

17 THE COURT: Yes, sir.

18 MR. WILSON: Thank you.

19 BY MR. WILSON:

20 Q: Can you identify this document that I'm handing you right  
21 now?

22 A: It's a picture.

23 Q: It's a picture of who?

24 A: David.

25 Q: David Welch?

1 A: Yes.

2 Q: Okay. And who else is in the picture?

3 A: A girl.

4 Q: But you don't know the girl, correct?

5 A: No.

6 Q: All right. And that's the picture that he sends you,  
7 correct?

8 A: Yeah.

9 Q: Okay. All right. And just to clear up, you can identify  
10 this document?

11 A: Yes.

12 Q: Okay. Is this an accurate depiction of the conversation  
13 you had?

14 A: Yes.

15 MR. WILSON: Judge, I'm gonna show this to the  
16 prosecution. I'd like to have this entered as State's Number  
17 3 -- I mean, Defendant's Number 3?

18 THE COURT: Any objection?

19 MR. HOLFORD: No objection.

20 THE COURT: Defendant's 3 is in evidence without  
21 objection.

22 MR. WILSON: Thank you, Your Honor.

23 DEFENDANT'S EXHIBIT NUMBER 3

24 ADMITTED INTO EVIDENCE

25 MR. WILSON: May I approach, Judge?

1 THE COURT: Yes, sir.

2 MR. WILSON: Thank you.

3 BY MR. WILSON:

4 Q: Now, on this particular night at 10:05, you contacted him  
5 saying it was snowing. Do you recall that? Just tell me from  
6 your recollection if you recall that.

7 A: I don't remember.

8 Q: Okay. Do you recall him saying, I don't care, sweetie.  
9 Cuddling involves passing out with each other?

10 A: Yes.

11 Q: Okay. All right. And did you say -- did he tell you at  
12 10:24 P.M., yeah, it would be nice, but you are not down for  
13 that cuddling. Do you recall that?

14 A: Yes.

15 Q: Okay. And you said -- you responded to him at 10:26  
16 P.M., don't put words in my mouth. Do you recall saying that?

17 A: Yes.

18 Q: All right. Do you recall at 10:49 P.M. telling David  
19 again that you always end up getting screwed in these  
20 situations?

21 A: Uh-huh (affirmative response).

22 Q: Okay. Is that a yes?

23 A: Yes.

24 Q: Okay. At 10:52, you accuse him of dodging questions. Do  
25 you remember that?

1 A: Yes.

2 Q: Okay. He then asked you at 11:07, are you a virgin? Do  
3 you recall that?

4 A: Yes.

5 Q: Okay. And what was your answer?

6 A: No.

7 Q: Okay. And he said at 11:13 P.M., well, what do you want?  
8 What do you say? Do you recall saying whatever happens  
9 happens?

10 A: No.

11 Q: No, you didn't say that?

12 A: I don't recall.

13 Q: From your own recollection, do you recall telling him  
14 again, whatever happens happens?

15 A: Yeah.

16 Q: Okay. So at some point in time, y'all were having a  
17 conversation about sexual things; is that correct?

18 A: I guess.

19 Q: Okay. All right. 11:55 P.M. same night, he texted you  
20 or y'all were messaging on Facebook and then you say again, it  
21 says, she just wants to meet people but, if something happens  
22 it happens; you say that again, correct? This is on January  
23 7th at 11:55 P.M. Just tell me if you recall making that  
24 statement at all.

25 A: Yes.

1 Q: Okay. All right. Now, I want to skip forward a little  
2 bit. Okay? And I want to talk about a 911 call that you made  
3 to the police department, and you recall what your testimony  
4 was earlier, correct?

5 A: Yes.

6 Q: All right. Do you recall what the first thing that you  
7 said to the 911 operator on the phone that day?

8 A: My name.

9 Q: Okay. That was one of the first things. What was the  
10 other thing you said first?

11 A: That I was robbed.

12 Q: Okay. You don't recall telling the 911 operator that the  
13 first thing you said was my purse and my cell phone were  
14 stolen?

15 A: Yeah.

16 Q: Okay. All right. And you had already called your mother  
17 before that, correct?

18 A: Yes.

19 Q: Okay. All right. And you hadn't told your mother a word  
20 about being raped, did you?

21 A: No.

22 Q: Okay. And you didn't say anything to the 911 operator  
23 about being raped?

24 A: No.

25 Q: Okay. And you also didn't tell the 911 operator that you

1 knew who you had originally been with, correct?

2 A: No.

3 Q: Okay. All right. So again the Solicitor asked you the  
4 question and I'm gonna ask you again, why is that you made up  
5 the story to the 911 operator about going to Burger King,  
6 which is why they were confused about where you were, going to  
7 the Burger King, getting robbed at gunpoint -- somebody is  
8 following you out of the Burger King, getting robbed at  
9 gunpoint and then walking over to Belk or driving over to  
10 Belk, which is literally on the other side of the department  
11 store?

12 A: After everything that happened, I wasn't thinking clearly  
13 and didn't really want anybody to know what like just  
14 happened.

15 Q: Okay. If you were really at the Burger King, it would  
16 make sense that you would go inside the Burger King, wouldn't  
17 it?

18 A: Yes.

19 Q: Which is what the confusion was, right?

20 A: Yes.

21 Q: Okay. But that's not really what happened, is it?

22 A: No.

23 Q: No, okay. All right. So, on this particular night, you  
24 call 911 and tell 911 this story; that's right?

25 A: Uh-huh (affirmative response).



1 Q: Would you admit now that that was a lie? The story that  
2 you told 911, was it a lie?

3 A: Yes.

4 Q: Okay. So, you lied to 911, and when 911 was trying to  
5 help you in this situation, they couldn't really help you  
6 because you weren't telling them everything that really  
7 happened, right?

8 A: Yes, I was leaving some out.

9 Q: You were leaving some out?

10 A: Yeah.

11 Q: Okay. And your reason -- and please tell the jury, what  
12 was your particular reason for leaving all this stuff out,  
13 that you didn't want to tell anybody?

14 A: Yeah. I didn't want to tell anybody and I didn't want to  
15 think it had actually happened.

16 Q: Okay. And so is that why you didn't tell your mother?

17 A: Yes.

18 Q: Okay. Your mother shows up later on on the scene,  
19 doesn't she?

20 A: Yes.

21 Q: Okay. And tell the jury specifically what your mother  
22 said after an hour and a half or two hours where you had lied  
23 to the officers, you lied to Detective Beam -- tell the jury  
24 what your mother said to you when she came up to you?

25 A: She asked if what I was saying really happened and if I

1 for sure didn't like want this to happen and just had a bad  
2 judgment call.

3 Q: She basically said to you that, honey, were in a bad  
4 spot? Go ahead and, if you were, let us know, and it's gonna  
5 be okay. And that's basically what she said?

6 A: Basically.

7 Q: Okay. All right. Now after 911 is called and you made  
8 the statements to 911, Officer Sououd -- do you recall talking  
9 to Officer Sououd?

10 A: The lady, yes.

11 Q: Yes, the lady cop?

12 A: Yes.

13 Q: She came and she was there talking with you about what  
14 happened, correct?

15 A: Yeah.

16 Q: All right. And you were having this conversation with  
17 her telling her pretty much the same story and then you said,  
18 well, he then took me to Town Square Apartments. Is that  
19 right?

20 A: Yes.

21 Q: Okay. All right. And on the way to Town Square  
22 Apartments, was it your allegation at that time that he had  
23 you at gunpoint and then he got out of the car. Is that  
24 right?

25 A: I don't recall.

1 Q: Okay. You don't recall telling Officer Sououd that he  
2 forced you to drive to Pridgen and 15, Highway 15, and then  
3 stopped the car?

4 A: I ---

5 Q: And that he got out at the stop sign and walked away?

6 A: No.

7 Q: You never told them that? You were in the car with  
8 Officer Sououd, correct?

9 A: Yes.

10 Q: And y'all rode around going to Burger King to try to see  
11 where you parked at. Y'all then rode to off of Seaboard  
12 Avenue, right?

13 A: Yeah.

14 Q: And then you went down Pine Island?

15 A: Uh-huh (affirmative response).

16 Q: And then you also went down Pridgen Road; was that right  
17 -- Highway 15 and Pridgen Road?

18 A: Yes.

19 Q: Okay. And during that time, you knew that you were being  
20 recorded?

21 A: I guess.

22 Q: Okay. Well, she was talking to you and trying to get  
23 information from you, correct?

24 A: Yes.

25 Q: Okay. This is the sound and video from her car. Did

1 they let you listen to that statement yet?

2 A: No.

3 Q: You never heard this before?

4 A: I don't think so.

5 Q: Okay. All right.

6 MR. WILSON: Judge, can I have this marked for  
7 identification at this point in time?

8 THE COURT: Yes, sir.

9 MR. WILSON: Thank you, Judge. Marked for identification  
10 purposes, Judge, only at this time.

11 THE COURT: Yes, sir.

12 MR. WILSON: Thank you, Your Honor.

13 THE COURT: That's Defendant's 4?

14 MR. WILSON: Defendant's 4, Judge.

15 THE COURT: All right. Very good.

16 MR. WILSON: Thank you, Judge.

17 BY MR. WILSON:

18 Q: Now, Officer Sououd, during this ride along with you  
19 eventually stops you and says, look, something is not right  
20 here, correct?

21 A: Yes.

22 Q: She then stops you at a road and says, look, before when  
23 you were talking to me, you said y'all stopped here and he got  
24 out. Do you recall her saying that to you?

25 A: No.

1 Q: Okay. You recall her telling you at some point in time  
2 that she thought you were lying?

3 A: When we drove back to the mall.

4 Q: Okay.

5 A: That's when she turned around in the car and was like,  
6 look, if there's anything else or something you're not saying  
7 or you're lying, you could be charged with filing a false  
8 police report.

9 Q: Okay. Did she also tell you during that conversation you  
10 could be charged with a felony?

11 A: Yes.

12 Q: Okay. All right. So, right then the officer is telling  
13 you that she doesn't believe you, correct?

14 A: Basically.

15 Q: Okay. All right. And then tell me then what it is that  
16 you began to tell her after that, after she threatened you  
17 with being arrested for a felony, what is it you tell her?

18 A: That I did meet him at Burger King and that I didn't want  
19 to hang out, and he was like can you drive me home and I said  
20 sure. And then I told her that when he told me he lived at  
21 the Town Square Apartments and that's when everything  
22 happened.

23 Q: Okay. So now this story you're telling to Officer  
24 Sououd, you tell her then that he does not pull a gun on you  
25 in the car, right, at Burger King?

1 A: No.

2 Q: Okay. And at Burger King, y'all are actually sitting  
3 down in the car having a conversation, right?

4 A: For like a few minutes.

5 Q: Earlier you testified it was 10 to 15 minutes?

6 A: That I was waiting before he got there.

7 Q: So, y'all didn't talk for 10 or 15 minutes in the car?

8 A: No.

9 Q: How long did y'all talk for?

10 A: It wasn't long.

11 Q: How long would you say, five minutes, three minutes, two  
12 minutes?

13 A: I guess five minutes.

14 Q: Okay. Do you recall in the car and the time when you  
15 were sitting in the car with David Welch that he was joking  
16 with you about being on your cell phone and trying to pay  
17 attention to him? Do you recall that happening?

18 A: Yes, he said that.

19 Q: And he was joking with you because you're always -- you  
20 were constantly on your cell phone, correct?

21 A: Yes.

22 Q: Okay. And do you recall him saying I really want to get  
23 something to eat but I ain't got no money?

24 A: He never said that.

25 Q: Did you have money?

1 A: I had my -- not cash. I had my wallet; that's it.

2 Q: Did he tell you on Facebook that he was a broke man?

3 A: No.

4 Q: All right. That never happened?

5 A: He never said he was broke.

6 Q: Okay. During the conversation, also, did you ever tell  
7 him why you were having a bad day?

8 A: No.

9 Q: During the conversation you had at Burger King, did you  
10 ever tell him that you had a bad experience where you were  
11 blackmailed by a guy?

12 A: No.

13 MR. HOLFORD: Objection.

14 THE COURT: She denied the conversation. Move along.

15 MR. WILSON: That was a separate conversation, Judge.

16 THE COURT: I know she denied having it so move along.

17 MR. WILSON: Thank you, Judge.

18 BY MR. WILSON:

19 Q: So in the car for three to five minutes, you basically  
20 just sat there pretty much?

21 A: Basically.

22 Q: Okay. All right. And then you testified earlier that he  
23 said to you, well, what do you want to do? Didn't you testify  
24 to that earlier?

25 A: Yeah.

1 Q: Okay. All right. So, y'all did talk some in the car?

2 A: Yeah.

3 Q: Okay. All right. And then you left there with him,  
4 right?

5 A: Yes, because he asked me to drive him home.

6 Q: He asked you to drive him home. Okay. And then we're  
7 going down to Town Square, right?

8 A: Yes.

9 Q: Now, you're familiar with this area a little bit?

10 A: A little bit.

11 Q: Okay. All right. This is marked as State's Exhibit 19.  
12 And I'm just gonna -- you tell me if I'm wrong about how y'all  
13 left the Burger King and then y'all went down to Pridgen Road.  
14 Okay? Y'all got off -- came out at the mall somewhere around  
15 here, correct?

16 A: Yes.

17 Q: And came out on Seaboard?

18 A: Uh-huh (affirmative response).

19 Q: And then went down Sea Pine Boulevard?

20 A: Yes.

21 Q: All right. And then where did y'all go from there? It's  
22 okay. I need to get a little bit closer.

23 A: He was telling me where to go. He took me there and then  
24 we went on that road by the Walmart.

25 Q: Okay.



1 A: And then we turned down at the first light ---  
2 Q: Okay.  
3 A: --- before Walmart we turned.  
4 Q: So, you're talking about Pine Island, right here?  
5 A: Yeah.  
6 Q: This is the Walmart, correct?  
7 A: I believe so.  
8 Q: Okay. All right. And then you went down where?  
9 A: We went down and we just kept going straight to where  
10 then he said in the apartment parking lot.  
11 Q: Okay. Very good. Now in this area going up here, there  
12 are woods, there are empty parking lots, there are empty  
13 places over here, there are empty woods over here on the way  
14 to Highway 15, correct; is that right?  
15 A: Yes.  
16 Q: Okay. Is that right?  
17 A: Yes.  
18 Q: Okay. All right. So, the layout of the land is that  
19 there are tons of places that you can go -- and I apologize --  
20 on this path and you can park a car, right?  
21 A: Yes.  
22 Q: All right. And you could go in the woods anywhere around  
23 here during this time of day and get privacy; is that correct?  
24 A: Yes.  
25 Q: All right. But y'all didn't go there, did you?

1 A: No.

2 Q: Y'all didn't stop anywhere except those Town Square  
3 Apartments, right?

4 A: Yes.

5 Q: All right. And when you get to Town Square Apartments,  
6 the apartments are actually really close to the parking  
7 spaces, aren't they?

8 A: Yes.

9 Q: Wouldn't you say 10 or 15 feet?

10 A: Yeah.

11 Q: When you get out of your car, you can literally walk and  
12 you'll be there in 5 or 10 steps; isn't that about right?

13 A: Yeah.

14 Q: Okay. So, let's say it's 10 or 15 feet.

15 MR. WILSON: May I approach the witness, Judge?

16 THE COURT: Yes, sir.

17 MR. WILSON: Thank you, Your Honor.

18 BY MR. WILSON:

19 Q: Hold that for me. All right. I'm gonna go ahead and  
20 give it 15 feet just to be sure. And, I don't think it's this  
21 far, but let's say it's that far. Is that fair enough?

22 A: Yeah.

23 Q: Okay. All right. And your car would've been parked --  
24 and I don't want to hurt you with this so let go; I don't want  
25 to hurt you. Sorry about that. Your car was parked basically

1 right here in front of an apartment, right?

2 A: Basically, yes.

3 Q: Because you said earlier that the lights were basically  
4 going through somebody's window?

5 A: Yes.

6 Q: Because the window was open?

7 A: Yes.

8 Q: All right. And when you come out of this apartment  
9 complex, just to kind of let the jury know what's going on,  
10 there are lights everywhere out in this complex, correct?

11 A: They were dim but there was like some street lights, but  
12 yeah.

13 Q: But there was light in the parking lot, right? Was there  
14 light in the parking lot?

15 A: A little bit.

16 Q: There was a little bit of light. Literally it's set up  
17 that there's one set of apartments right here and you park  
18 into the apartments, right?

19 A: Yes.

20 Q: And then there's another set that's right behind it that  
21 you park into, right?

22 A: Yes.

23 Q: Okay. So, when you turn in, you've got to go into the  
24 right or left and either way you're parking in front of  
25 apartment complexes?

1 A: Yes.

2 Q: All right. And this is not at 11 o'clock at night; this  
3 is at 8:05, 8:15, right?

4 A: Yes.

5 Q: Okay. All right. And basically your testimony to this  
6 jury and your statement at the end to Detective Beam -- and  
7 we'll get that in a minute -- is basically that you and him  
8 were sitting there. The windows to your front car -- excuse  
9 me -- the front windows of your car are not tinted, correct?

10 A: No.

11 Q: Okay. I think the prosecutor had some pictures of it. I  
12 don't see where they are. There it is. This is your vehicle,  
13 right? This is State's Exhibit Number 4 and State's Exhibit  
14 Number 5?

15 A: Yes.

16 Q: And there is no tint on your window, is there?

17 A: No.

18 Q: Okay. All right. So, you're sitting in this parking  
19 lot, 8:15 at night, there's no tint on your window and your  
20 allegation is that when you get there, he pulls a gun on you,  
21 right?

22 A: Yes.

23 Q: Okay. Is that what you originally told 911?

24 A: I didn't tell them about the apartment.

25 Q: I understand. Did you tell them that he pulled a gun on

1 you at Town Square Apartments?

2 A: No.

3 Q: Okay. All right. Is that what you told Detective  
4 Sououd?

5 A: I said that after they told me that I could be charged  
6 with a filing a false police report.

7 Q: They were basically telling you you could be charged with  
8 a felony, right?

9 A: Yes.

10 Q: Okay. So then you tell them, look, this is the other  
11 stuff that happened, right?

12 A: Yes.

13 Q: Okay. Now, in this car in the parking lot at this  
14 complex, you say that he pulled a gun on you, right?

15 A: Yes.

16 Q: All right. And when he pulls the gun on you, you say he  
17 then tells you, look, let's have sex because I want to have  
18 sex?

19 A: Yes.

20 Q: All right. But you begin to have a conversation with him  
21 about having sex, right?

22 A: I said, no, I don't want to.

23 Q: All right. So, he's brandishing a gun. Tell me -- show  
24 the jury how he was holding the gun at you.

25 A: He was just holding it in his hand.

1 Q: Okay. He was holding it in his hand?

2 A: Yes.

3 Q: And he was pointing it at you -- now, he was sitting down

4 this entire time, right?

5 A: Yes.

6 Q: And he's pointing the gun at you?

7 A: Yes, he pulled it out and he went like that. And that's

8 when he said, I want to have sex.

9 Q: Okay. And you said that he cocked it, right?

10 A: I'm not sure.

11 Q: You don't recall saying he cocked it or you're not sure

12 if he cocked it?

13 A: I'm not sure if he did cock it or not.

14 Q: All right. Do you recall telling the detective that he

15 cocked the gun?

16 A: No.

17 Q: You never said that?

18 A: I don't recall.

19 Q: Okay. All right. So, you don't recall him cocking the

20 gun at all? You don't recall saying that to Detective Sououd;

21 you don't recall saying that to Detective Beam; and you don't

22 recall saying it to any other officer that was out there?

23 A: I probably did, but I don't recall.

24 Q: Okay. Well, tell the jury this ---

25 A: Sure.

1 Q: You originally made some motion in the car with the  
2 officers when they said, well, how did you cock it? The  
3 detective asked you how did he cock it and then you made --  
4 you said it clicked back; do you recall saying that to him?

5 A: Yes.

6 Q: All right. So tell me was it like this or was it like  
7 this with his thumb?

8 A: I'm not sure. I didn't really -- I wasn't staring dead  
9 at the gun while he was doing it, but I didn't ---

10 Q: Okay. All right. Now you say that y'all are having this  
11 conversation in the car where he is saying to you, I want to  
12 have sex, and you're saying he's got a gun at the time, right?

13 A: Yes.

14 Q: And then he is also unzipping his pants, right?

15 A: He was like, yeah.

16 Q: Okay. So he's got the gun in his right hand, he's taking  
17 off his pants with the left hand and then he is also taking  
18 your pants off simultaneously, right?

19 A: He leaned over me and tried to unbutton my pants.

20 Q: Okay. And you say to him what, in response to him trying  
21 to unbutton your pants? What did you say to him?

22 A: I said, no.

23 Q: You said no, don't do that, right?

24 A: Yes.

25 Q: Okay. And what else did you say to him?

1 A: I said, I don't want to.

2 Q: You said you don't want to? And this is a man who's got  
3 a gun, right?

4 A: Yes.

5 Q: All right. And then you say that you tell him, look,  
6 this is not something I want to do. This is not something I  
7 want to have with you and I'm not gonna do this, basically,  
8 right?

9 A: Yes.

10 Q: All right. And you're not doing it. And then he says  
11 I'm gonna shoot you, right?

12 A: Yes.

13 Q: All right. And then you say okay, well, let me go ahead  
14 and take my pants leg off. Do you recall telling Detective  
15 Beam that you were gonna take your pants leg off?

16 A: He was trying to unbutton my pants, but he couldn't get  
17 it unbuttoned ---

18 Q: Okay.

19 A: --- because of how the seat was positioned. So, he tried  
20 to pull the front seat back but it didn't work.

21 Q: Okay.

22 A: But my pants are unbuttoned and he was like, you just do  
23 it and ---

24 Q: Ma'am, you don't recall telling him you had on skinny  
25 jeans and so they were hard to come off?



1 A: Yes.

2 Q: So, you did tell him that, right?

3 A: Sure, yes.

4 Q: Okay. All right. And during this conversation, you say  
5 he had a gun the entire time, right?

6 A: Yes.

7 Q: All right. So then he puts the gun up according to you,  
8 right?

9 A: He put it in his pocket.

10 Q: He put it in his pocket. And then he leans over you  
11 because the lever is on the left side, isn't it, of that car?

12 A: Uh-huh (affirmative response).

13 Q: All right. So, if I'm sitting in the driver's seat right  
14 here and he's in the passenger seat, there is a center console  
15 right here, correct?

16 A: Uh-huh (affirmative response).

17 Q: And you're sitting on the left side, but the lever to  
18 pull that seat back is on the left, right?

19 A: Yes.

20 Q: Okay. So, if you're going back, you can pull it like  
21 this, can't you?

22 A: Uh-huh (affirmative response).

23 Q: All right. But your testimony to the Court and to the  
24 jury is that he leaned over you, knew where the lever was, and  
25 then pulled you back?

1 A: Yes.

2 Q: Okay. All right. Had he been in your car before?

3 A: No.

4 Q: How did he know where the lever was? How did he know it

5 wasn't automatic?

6 A: That's where every seat lever is.

7 Q: Every seat lever is there?

8 A: I guess.

9 Q: Okay. All right. So, he does that. He's got the gun

10 still in his pouch, right?

11 A: Yes.

12 Q: All right. Now, are your pants down by this time?

13 A: Yes.

14 Q: Okay. And what are you doing while you're leaning back?

15 A: He tried to kiss me.

16 Q: He tried to kiss you?

17 A: Yes.

18 Q: All right. With a gun in his hand?

19 A: It was in his pocket.

20 Q: It was in his pocket at that point in time. All right.

21 So, what are y'all doing during this time then when he's

22 trying to kiss you; what do you say?

23 A: He got frustrated.

24 Q: Okay. He got frustrated why?

25 A: I guess because there was no room in the front seat.

1 Q: Okay.

2 A: And he said go in the back seat.

3 Q: All right.

4 A: And, so I did.

5 Q: Okay.

6 A: And he got back there, too.

7 Q: All right. So, he told you -- he ordered you in the back

8 seat?

9 A: Yes.

10 Q: Now, you tell the police that you got from the front seat

11 into the back right side, correct?

12 A: Behind the driver.

13 Q: Yeah, behind the driver's seat?

14 A: Uh-huh (affirmative response).

15 Q: All right. And then your purse was in that space, right?

16 A: Yeah, it was on the floor.

17 Q: And you moved it where? I'm sorry?

18 A: It was on the floor.

19 Q: And where did you put it at?

20 A: It was still on the floor.

21 Q: Okay. Did you move it?

22 A: I don't think, no.

23 Q: Do you recall telling the detectives that you moved it?

24 A: I might have moved it over.

25 Q: Okay. Okay. So you get in the back seat with him,

1 right? Or you get in the back seat first?

2 A: Uh-huh (affirmative response).

3 Q: The door is to your left, isn't it?

4 A: Yes.

5 Q: Okay. There's four doors?

6 A: Yes.

7 Q: All right. So there's a door to your left and he's still

8 in the front?

9 A: He got in the back seat, too.

10 Q: Eventually, but you got in the back first, right?

11 A: Yes.

12 Q: Why don't you leave? Why don't you try to make a run for

13 it? Why don't you try to go? He is threatening you with a

14 gun, right?

15 A: Yes.

16 Q: He's got it and he said he's gonna shoot you and kill

17 you, right?

18 A: Yes.

19 Q: All right. You're afraid for your life?

20 A: Yes.

21 Q: Okay. All right. Then tell me why don't you run? Why

22 don't you run? Why don't you get out of the car and run?

23 A: I don't know.

24 Q: You don't know? You don't know why you didn't run?

25 A: No, I didn't.

1 Q: Detective Beam asked you also the same question. Why  
2 didn't you try to run? Why didn't you try to fight, right?

3 A: Yes.

4 Q: All right. And do you know why he asked you that  
5 question?

6 A: To understand why I didn't.

7 Q: Do you understand that the sanctity of your body would be  
8 more important than the sanctity of a purse, right? You would  
9 agree with that?

10 A: Yes.

11 Q: And he asked you that question and you never answered  
12 him, but I'm gone ask you today again. Tell the jury why it  
13 is that you fought him over the purse, you grabbed the handle  
14 is what you told the police officers, right?

15 A: Yes.

16 Q: And he had a gun still?

17 A: Yes.

18 Q: After he had sexually assaulted you, right?

19 A: Yes.

20 Q: You're saying he raped you, basically, right?

21 A: Yes.

22 Q: At gunpoint, correct?

23 A: Yes.

24 Q: All right. And then you say that he then takes the purse  
25 after sex, correct?

1 A: Uh-huh (affirmative response).

2 Q: And then you say that he takes the purse and you grab the  
3 handle and you argue with him back and forth about the purse.  
4 Tell the jury why you would argue with a man who has  
5 threatened to kill you already about a purse?

6 A: I don't know.

7 Q: You're not sure?

8 A: Huh-uh (negative response).

9 Q: Okay. But you did argue with him about that purse,  
10 didn't you?

11 A: Yes.

12 Q: All right. As a matter of fact, you got out of the car  
13 and yelled at him, correct?

14 A: Yes.

15 Q: Okay. All right. The man you say just raped you and  
16 just tried to, I guess, assault you, you say that you got out  
17 of the car then and then you were yelling at him about the  
18 purse, correct?

19 A: Yes.

20 Q: Okay. All right. Now, during the actual act, and this  
21 is something the prosecutor asked you about, you said that  
22 when y'all got in the back seat that you told him you were on  
23 birth control or you weren't on birth control?

24 A: Yeah.

25 Q: Okay. So, y'all had that conversation in the car about

1 you being on birth control, correct?

2 A: When he tried.

3 Q: Right, when he tried to have sex?

4 A: Yeah, I told him I wasn't thinking he would stop and be  
5 like never mind, but ---

6 Q: Okay. And your testimony or what you told Detective Beam  
7 was that basically you then tell him this and then he says  
8 what to you in return?

9 A: He didn't say anything.

10 Q: Well, you said he got a condom, right?

11 A: Yes.

12 Q: Where did he get the condom from?

13 A: I guess his pocket.

14 Q: Okay. Do you recall him pulling it out?

15 A: I didn't see him pull it out.

16 Q: Okay. So, he's raping you at gunpoint, he stops raping  
17 you at gunpoint to go get a condom from his pocket and then  
18 continue to have sex, correct?

19 A: Yes.

20 Q: All right. All right. The condom, the police asked you  
21 where that condom was, right?

22 A: Yes.

23 Q: And you said you didn't know where the condom was?

24 A: No.

25 Q: You said you never saw him take it off?

1 A: No.

2 Q: I wasn't so much concerned about the actual condom  
3 itself, I'm wondering where the wrapper was. Where was the  
4 condom wrapper?

5 A: I don't know.

6 Q: The condom wrapper was never found in your car, was it?

7 A: I don't think so; I'm not sure.

8 Q: Okay. Did he pull the condom out of thin air?

9 A: I don't know. I guess he had it in his pocket or  
10 wherever.

11 Q: Did you ever see him take the condom out of the wrapper?

12 A: Yes.

13 Q: Okay.

14 A: I saw him put it on.

15 Q: Okay. You saw him put it on. So, tell the jury then  
16 what he did with the wrapper. You saw all this other stuff  
17 going on and you have good recollection about some things, but  
18 I want you to tell the jury what he did with that wrapper.  
19 Where was the wrapper?

20 A: I'm not sure what he did with it.

21 Q: Do you recall Detective Beam telling you that you never  
22 told him about him cocking the gun or having -- pulling the  
23 gun on you during the conversation? You told Detective Beam  
24 at one point in time that he simply grabbed the purse and left  
25 the car, and then the second time he asked you to repeat the



1 story, you repeat the story and tell him, look, he then pulled  
2 a gun out on me again. Do you recall that discrepancy?

3 A: He had it in his pocket and he always had his hand on it.

4 Q: Ma'am, did he pull the gun on you again when he tried to  
5 take the purse?

6 A: He pulled it out of the pocket a little bit but not all  
7 the way out.

8 Q: Okay. Do you recall telling Detective Beam that he  
9 pulled it out on you?

10 A: I guess.

11 Q: Okay. Now, you also say that he ended up cocking the gun  
12 again. Do you recall saying that?

13 A: I don't recall.

14 Q: Okay. All right. So, you don't recall him cocking the  
15 gun ever, that never happened or you're not sure?

16 A: I'm not sure.

17 Q: Okay. Fair enough. Now when you're engaged the sexual  
18 act that you say occurred, right?

19 A: Yes.

20 Q: You said he asked you, does it feel good?

21 A: Yes.

22 Q: All right. You also say that he is asking you or telling  
23 you, look, I'm gonna go put on a condom for you, right?

24 A: I never said that.

25 Q: No, I'm asking you, is that what he said? I'm asking.

1 A: No.

2 Q: Okay. So, what did he say when you told him you wanted  
3 him to go put on a condom?

4 A: He never said anything.

5 Q: So he just went and put one on?

6 A: Yeah, he didn't say anything to me.

7 Q: Okay.

8 A: He just stopped.

9 Q: All right. Did he ever penetrate you without a condom?

10 A: For a second.

11 Q: Okay. And then he decided he was gone put the condom on?

12 A: Yes.

13 Q: All right. All right. So, at some point in time while  
14 you guys were there in the car, he then says, are you ready?  
15 That's what you told the police, right?

16 A: Uh-huh (affirmative response).

17 Q: So, with a gun, and he's already trying to rape you, he's  
18 then saying, are you ready?

19 A: Uh-huh (affirmative response).

20 Q: Yes or no?

21 A: Yes.

22 Q: Okay. Now, your car is an SUV, correct?

23 A: Yes.

24 Q: Like a mini SUV if you will?

25 A: Yes.

1 Q: All right. In your testimony or your statement to the  
2 police officers that he was on one knee, correct? He was down  
3 on the floorboard?

4 A: He was on the seat and the floor. He had one foot on the  
5 seat and one on the floor.

6 Q: And one on the floor?

7 A: Yes.

8 Q: Okay. And then y'all were trying to have sex like that,  
9 correct?

10 A: I guess, yeah.

11 Q: Ma'am, did the prosecutors or anyone share with you the  
12 results of the rape kit test?

13 A: No.

14 Q: No one ever shared that with you?

15 A: No.

16 Q: Okay. You went to the hospital, correct?

17 A: Yes.

18 Q: And they gave you a rape kit exam?

19 A: Yes.

20 Q: And Detective Beam told you that you were gonna have to  
21 do that after he told you that there was some issues that  
22 things weren't adding up, right?

23 A: I guess, yes.

24 Q: Do you recall going to the hospital?

25 A: Yes.

1 Q: Okay. All right. And do you know if they found sperm  
2 inside of you?

3 A: I'm not sure.

4 Q: All right. Do you know what they found?

5 A: No.

6 Q: Do you know if they found any bleeding inside you?

7 A: I don't know.

8 Q: Would you be surprised if I said ---

9 MR. HOLFORD: Objection, Your Honor.

10 THE COURT: Mr. Wilson ---

11 MR. WILSON: Yes, sir.

12 THE COURT: She's responded to the question that she  
13 does not know.

14 MR. WILSON: Judge, I understand.

15 THE COURT: All right. So phrase your questions  
16 differently then.

17 BY MR. WILSON:

18 Q: Did anyone tell you that that rape kit came back  
19 positive?

20 A: No.

21 Q: All right. Okay. Now, at some point in time, you were  
22 posting things on Facebook, do you recall that, after this all  
23 happened?

24 A: I guess.

25 Q: I'm not asking you if you guess; I'm asking you, do you

1 recall posting anything on Facebook?

2 A: Sure.

3 Q: Okay. Tell the jury some of the things that you were  
4 posting on Facebook after this occurred?

5 A: I ---

6 Q: About this case.

7 COURT REPORTER: Excuse me. Pull the microphone closer  
8 to you please and use it.

9 A: That I said at one time that, that I hoped this all like  
10 blows over eventually. I don't know what -- like, I didn't  
11 plan for this to happen.

12 BY MR. WILSON:

13 Q: Okay. All right. Did you ever tell anyone on Facebook  
14 that you wanted him to rot in jail?

15 A: No.

16 Q: Okay. You never said that?

17 A: I don't ---

18 Q: Do you recall making any statements about the Defendant  
19 on Facebook?

20 A: No.

21 Q: So, you never said anything about him on Facebook to  
22 anybody?

23 A: I talked to my friend, but I never posted anything about  
24 anybody.

25 Q: Okay. All right.

1 MR. WILSON: Court's indulgence, Your Honor?

2 THE COURT: All right, sir.

3 BY MR. WILSON:

4 Q: Let me ask you this, ma'am. During this time while you  
5 were there and you said you were fearing for your life, is  
6 what you told Detective Beam. Detective Beam says to you, why  
7 didn't you honk your horn, why didn't you go and talk to  
8 somebody, why didn't you try to go and run, why didn't you try  
9 to fight? And your response to him was that he had a gun,  
10 right?

11 A: Yes.

12 Q: Okay. All right. And then later on when you are out of  
13 the car and chasing him about the purse, what was your thought  
14 then?

15 A: Was that I need to try to find a phone to call somebody.

16 Q: Okay. And you say that you actually went to someone's  
17 house and tried to get in, right?

18 A: Yes, I knocked on a door.

19 Q: Did you ever tell the police which door you knocked on?

20 A: I explained it the best I could.

21 Q: Okay. But did they ever go and check and confirm that  
22 this ever happened?

23 A: They said they did.

24 Q: Okay. All right. Now, on your way back to Belk -- why  
25 did you go all the way back to Belk? there are tons of places

1 to go, to stop. This is 8:30, 8:25 whatever time it is, it's  
2 before 9 o'clock. So, there are tons of businesses on up and  
3 down that road. Why did you not go and stop at one of those  
4 businesses instead of going all the way back to Belk?

5 A: Because they ---

6 Q: I'm sorry?

7 A: --- they didn't look safe like -- so, I went to the only  
8 place I knew a lot of people would be at.

9 Q: Okay. So, Walmart was before you get to Belk, okay, on  
10 that road, there's gas stations on that road and off that  
11 road, there are residences on that road, but you didn't go to  
12 any of those places, did you?

13 A: No.

14 Q: So you drove back to Belk and then told the 911 operator  
15 the story that you told him earlier, right?

16 A: Yes.

17 Q: Okay. All right. Your clothes, tell the jury what you  
18 had on that day?

19 A: I had some jeans with holes in them.

20 Q: Okay.

21 A: And then a sweatshirt and I think it was a burgundy, a  
22 burgundy sweatshirt.

23 Q: Okay.

24 A: And some shoes.

25 Q: All right. Were any of your clothes torn during this?

1 A: No.

2 Q: Okay.

3 A: Just the holes that were already in the pants.

4 Q: Okay. But those holes weren't caused by Mr. Welch, were

5 they?

6 A: No.

7 Q: Okay. All right. So, the shirt that you had on was

8 completely intact when the police got to you, correct?

9 A: Yeah.

10 Q: Was your bra torn; was it torn?

11 A: No.

12 Q: You had a bra on that day, correct?

13 A: Yeah.

14 Q: Okay. That wasn't torn either, was it?

15 A: No.

16 Q: Were your jeans torn or ripped at all other than the

17 holes that were on there?

18 A: No.

19 Q: Okay. All right. Was anything else torn, anything else

20 -- and I apologize, but I've got to ask you this question

21 obviously. Were your underwear torn?

22 A: No.

23 Q: Okay. All right. So nothing was torn on you, correct?

24 A: No.

25 Q: Okay. Do you know if they looked for DNA evidence inside



1 of your underwear or on you?

2 A: I'm guessing they did.

3 Q: Okay.

4 A: Because they swabbed.

5 Q: They swabbed you. And did anybody tell you what the  
6 results of that test were?

7 A: No.

8 Q: Okay. Now your conversation with Detective Beam, Beam  
9 gave you a hard time, didn't he?

10 A: Yes.

11 Q: All right. Tell the jury what is that Beam was saying to  
12 you almost the entire time you were telling him the story.

13 A: If I was sure if that was exactly what happened and to  
14 repeat what happened to make sure nothing changed and, or like  
15 left anything out, and then he kept asking like if I was sure  
16 that I just didn't like at the last second change my mind and  
17 decided to make this up.

18 Q: Okay. All right. And he gave you several chances to  
19 pull back your story, didn't he?

20 A: Yeah.

21 Q: Okay. All right. And he advised you that this was  
22 inconsistent with what he's normally used to, correct?

23 A: Yes, he said it was kind of confusing.

24 Q: Okay. All right. And you didn't pull your story back,  
25 did you?

1 A: No.

2 Q: Okay. And even when your mother came, this was when  
3 Detective Beam was talking to you, correct?

4 A: Yes.

5 Q: And then she said Jerrica, are you sure you just didn't  
6 find yourself in a bad spot and make some bad decisions  
7 because that's not what you told me when you got in the car;  
8 did she tell you that?

9 A: She said are you sure you didn't make bad decisions. She  
10 didn't say because you didn't tell me anything different.

11 Q: Your mother -- what did you tell your mother that  
12 happened?

13 A: I told her like about the robbing and stuff, and I didn't  
14 mention the sexual assault to her until she got in the car  
15 with me and the detective and I was telling the story.

16 Q: Did you ever tell your mother that there was a gun  
17 involved in this, ma'am?

18 A: Yes.

19 Q: You did? When did you tell her there was a gun?

20 A: When I was telling the story in the car with the  
21 detectives.

22 Q: When you were telling the story in the car?

23 A: Yeah.

24 Q: I mean, on the phone with her?

25 A: No.

1 Q: Okay. No, you did not tell your mother on the phone  
2 there was a gun involved in this, did you?

3 A: I'm not sure, no.

4 Q: Okay. All right. Let me ask you this. And, ma'am, isn't  
5 it true that y'all talked at the Burger King parking lot,  
6 y'all agreed that neither one of you had money. You had said  
7 that you didn't want to hang out. He said take me home. And  
8 y'all agreed to meet at the Burger King; is that correct?

9 A: Yes.

10 Q: Okay. You called him didn't you actually at 7:32 P.M.?

11 A: Yes.

12 Q: You testified to this jury earlier that you didn't want  
13 to hang out and you couldn't find him, right?

14 A: No.

15 Q: All right. But, you called him at 7:32. Why did you  
16 call him at 7:32 if you didn't want to hang out?

17 A: Because he made a big deal about hanging out and when I  
18 finally did agree to meet him, so he'll leave me alone, I  
19 called to see where he was at and he didn't have a phone.

20 Q: Do you recall telling Detective Beam and your mother that  
21 what really made you mad that day, annoyed is the word you  
22 used, was the fact that another boy you were trying to see  
23 that day earlier refused to see or wouldn't see you and  
24 Detective Beam even says to you, you considered that to be a  
25 dis, didn't you?

1 A: He was kind of hard to get a hold of and then he said he  
2 was busy, and I was like okay.

3 Q: What I'm asking you is this, were you not scheduled to  
4 see another boy that day earlier?

5 A: Yes.

6 Q: Okay. And then he didn't show up, right?

7 A: No, I was waiting and got some food, and then I was like  
8 -- and then I -- after he said that he couldn't and he was  
9 busy and all that stuff, I drove home.

10 Q: Okay. You drove home and you told your mother and  
11 Detective Beam in the car that that pretty much upset you and  
12 annoyed you and you had a bad day because of that, correct?

13 A: Not just because of that, because of everything else.

14 Q: Okay. And everything else?

15 A: Yes.

16 Q: Okay. All right. But again, when you were going to meet  
17 him and you agreed to meet him, at 7:32 you called him because  
18 you didn't see him, right? David Welch that is.

19 A: Yes, while I was sitting in the parking lot.

20 Q: All right. And the prosecutor asked you earlier, you  
21 said you called -- he called you eight times, right?

22 A: Yes.

23 Q: Okay. Is that correct?

24 A: YEs.

25 Q: All right. Did David Welch have a cell phone at the

1 time?

2 A: He -- seems like he had one because he kept calling me  
3 off of it.

4 Q: Okay. Now, you're telling this Court that you didn't  
5 know that that same number that's on there was his home  
6 number, that's why you got his momma or his grandmomma on the  
7 phone?

8 A: No.

9 Q: Okay. So, he's grandmomma answered why?

10 A: I didn't know who answered. I just hung up.

11 Q: You sent him also a Facebook message around 7:30 saying  
12 call me, didn't you?

13 A: Yes.

14 Q: Why did you send him a Facebook message saying call me?

15 A: Because he -- because I finally agreed to meet up so he  
16 would quit calling and saying we made plans, and so I tried to  
17 call, got someone else, hung up and then I messaged him. I  
18 was like I don't know if you have a phone, but call me because  
19 why aren't you showing up if you wanted to so badly hang out.

20 Q: Right and that upset you that he was late, right?

21 A: No.

22 Q: All right. So you're telling the jury that didn't upset  
23 you?

24 A: No, I was just wondering.

25 Q: Okay. Fair enough. So you're out there waiting on him

1 pretty much?

2 A: Yes.

3 Q: How long were you waiting on?

4 A: I would guess 15 or 20 minutes. I'm not sure.

5 Q: Okay. All right.

6 MR. WILSON: Your Honor, Court's indulgence, Judge.

7 THE COURT: Yes, sir.

8 BY MR. WILSON:

9 Q: Now on the phone calls -- may I approach the witness,  
10 Judge?

11 THE COURT: Yes, sir.

12 Q: Just briefly, on these phone calls on the 8th, there is a  
13 -- this has been marked as State's Exhibit Number 16. There  
14 is a minute section on these phone calls, on the eight phone  
15 calls you said that he made to you, correct?

16 A: Yes.

17 Q: I want you to read for the jury the number of minutes  
18 each phone call has logged in.

19 A: (Inaudible.)

20 COURT REPORTER: Excuse me.

21 THE COURT: You're gonna have to speak up, ma'am.

22 A: One says 13.

23 BY MR. WILSON:

24 Q: What time was that call that was 13 minutes; what time  
25 was that?

1 A: 6:23 P.M.

2 Q: Okay. 6:23 P.M. that day. All right. What's the next  
3 call, what time was that and then how many minutes?

4 A: 6:45 P.M. and it says five, and then there's one at 6:50  
5 and it says four; and at 7:00 --- no at 6:58 it says three;  
6 and then at 7:00 it says two; and then at 7:02 it says one;  
7 and then 7:04 it says three; and then at 7:12 it says two.

8 Q: Okay. So this is not David Welch simply calling you over  
9 and over again; y'all were having conversations, weren't you?

10 A: I guess you could say that, yes.

11 Q: Ma'am, tell the jury whether or not y'all were talking on  
12 the phone?

13 A: Yes.

14 Q: Okay. Y'all were having conversations. And can you tell  
15 the jury what y'all were talking about?

16 A: He -- when we called the first time, he was asking if I  
17 wanted to hang out. I said, not really, I had a long day I  
18 just want to go home.

19 Q: Okay.

20 A: And then he responded and he was like, but I've been  
21 waiting all day. We've made plans. And I was like, we never  
22 specifically made plans for any date to hang out. Then he  
23 said, yes, you did. And then that's when I said, no, I  
24 didn't, and then he hung up. And then he called again and was  
25 like would you just please meet me, and I was like I really

1 don't want to. I just want to go home. And he was like, just  
2 please, just this once, and then I finally agreed. I was  
3 like, fine, where? And he was like, come to my house. I said  
4 no, I'm not coming to your house. And he asked on and I was  
5 like because I'm not driving to wherever you live at night  
6 coming to your house. And then -- and then he was like, okay,  
7 I live by the mall. He asked me if I know where it is. I  
8 said, yeah. And he was like, meet me there and we -- I was  
9 like, okay. And he said, Burger King in front of the mall,  
10 and I was like, okay, I'll be there. He asked me what kind of  
11 car I was driving and I was like it would be a red one. And  
12 he was like, okay, I'll walk there. And I was like -- and I  
13 said, okay, and we hung up. And then that's when I got to the  
14 mall and was waiting in the parking lot.

15 Q: Okay. And that basically took you about two minutes to  
16 say, right, just now?

17 A: Uh-huh (affirmative response).

18 Q: And there's 37 minutes of actual talk time on that phone  
19 and you're telling this jury, your testimony is, that's all  
20 y'all talked about, right?

21 A: Was meeting up, yes.

22 Q: And that's up?

23 A: He got kind of mad every time I would say I didn't want  
24 to.

25 Q: Well, you didn't tell the detectives earlier, didn't you



1 tell Detective Beam during a conversation that he never got  
2 angry with you? You never told him that?

3 A: I don't recall saying that.

4 Q: All right. Okay.

5 Your Honor, I'd like to have this -- let me ask you.  
6 Have you heard this interview that you had with Detective  
7 Beam?

8 A: No. No, I haven't.

9 Q: All right. But you recall being interviewed by Detective  
10 Beam, correct?

11 A: Yes.

12 Q: Okay.

13 MR. WILSON: Your Honor, at this time, I'd just like to  
14 have it marked for identification purposes only.

15 THE COURT: All right, sir.

16 MR. WILSON: Judge, I believe this is gonna be Defendant's  
17 ---

18 COURT REPORTER: 5 for ID.

19 MR. WILSON: 5 for ID, Judge.

20 THE COURT: Very good.

21 DEFENDANT'S EXHIBIT NUMBER 5

22 MARKED FOR IDENTIFICATION

23 BY MR. WILSON:

24 Q: Let me ask you this. Did you ever in that car with David  
25 Welch start to make out with him?

1 A: No.

2 Q: All right. So, y'all never kissed at all?

3 A: No.

4 Q: Okay. Did he ever give you oral sex?

5 A: No.

6 Q: He never gave you oral sex in that car?

7 A: No.

8 Q: You never told him at Burger King that you enjoyed oral

9 sex more than you liked vaginal sex; you never told him that?

10 A: No.

11 Q: Okay. One of the items in your purse, do you recall

12 having Summer's Eve in your purse?

13 A: I guess, yes.

14 Q: All right. Summer's Eve wipes what are they for?

15 A: For when you have, I guess, a little like UTI or vaginal

16 odor.

17 Q: You had those in your purse that day, ma'am?

18 A: Yeah.

19 Q: Do you recall that?

20 A: Uh-huh (affirmative response).

21 Q: Okay. All right. Now your purse, actually somebody

22 called and said they found your purse, didn't they?

23 A: They didn't call me, but ---

24 Q: Who did they call?

25 A: I guess the police.

1 Q: Okay.

2 A: The detectives or whoever.

3 Q: No one ever called your mother and said they found the  
4 purse?

5 A: They called my mom and she told me, but they didn't call  
6 me personally.

7 Q: Okay. All right. So, they call your mother and they  
8 said look, we found the purse, right?

9 A: Uh-huh (affirmative response).

10 Q: But they didn't find the cell phone, did they?

11 A: No.

12 Q: All right. And everything that you had in the purse when  
13 you said you lost it was still in the purse, wasn't it?

14 A: Yeah, I'm pretty sure.

15 Q: Well, let me ask you this just to be sure. This is the  
16 purse, correct?

17 A: Yeah.

18 Q: That's marked as State's Exhibit Number 12. And this is  
19 your check which is marked State's Exhibit Number 13, and that  
20 was still in the purse, right?

21 A: That is it.

22 Q: Okay. And this has been marked State's Exhibit Number 8  
23 and that was your Stein Mart badge. It looks like a uniform  
24 service ID and South Carolina Driver's License.

25 A: Yes.

1 Q: Okay. All right. And these are just miscellaneous  
2 items, Avocado Clay mask, some balls of some sort, a band, and  
3 some reward cards.  
4 A: Yes.  
5 Q: That were still in your purse. And this is the ID,  
6 again. This stuff was still in your purse, correct?  
7 A: Yes.  
8 Q: All right. And there was a picture of -- your debit card  
9 was still in that purse, wasn't it?  
10 A: It was in my wallet.  
11 Q: It was in your wallet?  
12 A: Uh-huh (affirmative response).  
13 Q: You had your wallet?  
14 A: It was in my purse.  
15 Q: Okay. But the debit card was -- was recovered with the  
16 actual purse, correct?  
17 A: I guess so, I haven't seen it.  
18 Q: Okay. All right.  
19 A: I'm not sure.  
20 Q: And the prosecutor asked you earlier, he said, well, you  
21 haven't received any of this stuff back. The reason you  
22 haven't received it back is because it's in evidence, correct?  
23 A: Yes.  
24 Q: Okay. The State has possession of it is what I'm asking  
25 you?

1 A: Yes.

2 Q: All right. Very good. Very good.

3 MR. WILSON: Court's indulgence, Your Honor?

4 THE COURT: Yes, sir.

5 MR. WILSON: No further questions, Judge.

6 THE COURT: Very good.

7 MR. WILSON: Thank you, Judge. Thank you.

8 THE COURT: Redirect?

9 MR. HOLFORD: Yes, Your Honor.

10 REDIRECT EXAMINATION OF JERRICA NELSON BY MR. HOLFORD:

11 Q: Ms. Nelson, the jury is gonna have a copy of everything  
12 that's on that Facebook record, so they'll be able to read the  
13 conversations back and forth. So, we don't need to go over it  
14 in detail but did you at least on multiple occasions tell  
15 David that you didn't want to have sex the first time you met?

16 A: Yes.

17 Q: Did you say that you weren't that type of girl?

18 A: Yes.

19 Q: And they'll be able to see that, right?

20 A: Yes.

21 Q: They'll be able to say who's getting frustrated in the  
22 conversations?

23 A: Yes.

24 Q: And they'll be able to see the back and forth?

25 A: Yes.

1 Q: Now, the word lie was used a lot in the beginning about  
2 what you said happened. Was it a lie that David used a gun?

3 A: No.

4 Q: And that's what you told 911, right?

5 A: I believe so, yes.

6 Q: And that's what you told the detective?

7 A: Yes.

8 Q: And that's what you told your mom?

9 A: Yes.

10 Q: And that's what you told the jury?

11 A: Yes.

12 Q: It wasn't a lie that he took your purse and that this is  
13 your purse and these are your contents that you haven't seen  
14 since that day?

15 A: No.

16 Q: It wasn't a lie that you met at Burger King?

17 A: No.

18 Q: It wasn't a lie that you were in your car?

19 A: No.

20 Q: The only thing you didn't tell them in the beginning was  
21 that you knew who it was who robbed you at gunpoint, right?

22 A: Yes.

23 Q: And the only thing you didn't tell them in the beginning  
24 over the phone was the fact that he also sexually assaulted  
25 you, right?

1 A: Yes.

2 Q: So, did you lie to the police?

3 A: I don't believe I did lie. I left some things out.

4 Q: And when, when pressed by mom, when pressed by  
5 detectives, when pressed by the officers, when -- as the  
6 Defense has brought up, they said you can be charged with a  
7 felony?

8 A: Yes.

9 Q: You were given chances to change your story?

10 A: Yes.

11 Q: Did you change your story?

12 A: No.

13 Q: Did you back down?

14 A: No.

15 Q: What did you do instead?

16 A: I told them everything that happened.

17 Q: You told them everything; you told them the full story?

18 A: Yes.

19 MR. HOLFORD: I have no further questions, Your Honor.

20 THE COURT: Anything on those questions just asked?

21 MR. WILSON: Nothing, Judge.

22 THE COURT: All right. You may step down.

23 Y'all come up and talk with me for just a second.

24 (REPORTER'S NOTE: A bench conference was held off the record  
25 in the presence of but out of hearing of the Jury.)

1 THE COURT: Call your next witness then.

2 MR. HOLFORD: Your Honor, the State calls the Time Warner  
3 representative.

4 MS. WALKER: Eric Cambree.

5 THE COURT: Very good. Come all the way around, sir.  
6 Just come up to the corner of the bench up here, please.

7 CLERK: Please raise your right hand and place your left  
8 hand on the Bible.

9 ERIC CAMBRE, HAVING BEEN SWORN  
10 TESTIFIES AS FOLLOWS:

11 CLERK: Please state your full name and spell your first  
12 and last name for the Court.

13 MR. CAMBRE: Eric Cambre, E-R-I-C, C-A-M-B-R-E.

14 THE COURT: Go ahead.

15 MS. WALKER: Thank you, Your Honor.

16 DIRECT EXAMINATION OF ERIC CAMBRE BY MS. WALKER:

17 Q: Mr. Cambre, who do you work for?

18 A: It's Charter Communications Cell, so probably Spectrum,  
19 locally is known as Spectrum, formerly Time Warner Cable.

20 Q: Okay. And what is your position there with them?

21 A: I'm a Physical Security Supervisor for the Carolinas.

22 Q: What does that involve?

23 A: I manage access control, video and alarms, our, our  
24 Security Operations Department. It's kind of like the  
25 umbrella of subpoena compliance as well.



1 Q: Okay. And what does subpoena compliance entail?

2 A: Just whenever our company receives a court order or  
3 subpoena or requesting documents, we have a legal team and  
4 Herndon, Virginia that takes care of that.

5 Q: Okay. And are you in any way familiar with this case and  
6 what we're doing here today?

7 A: No, ma'am, not at all.

8 Q: Okay. And for what purpose are you here?

9 A: I received a subpoena as custodian of records just to  
10 verify that some records that my company provided are in fact  
11 records from our company.

12 Q: Okay. And do you have those records with you?

13 A: I have the subpoena and I have the copy of the search  
14 warrant and also have the declaration from our company. I  
15 don't have the actual call detail records; those were  
16 provided.

17 Q: Right. And what is the declaration?

18 A: A declaration is from the paralegal, the subpoena analyst  
19 in Virginia. Her name is Verna, so she is the one that pulled  
20 the information and provided it to the investigating -- Mr.  
21 Townsend.

22 Q: Okay. All right.

23 MS. WALKER: I beg the Court's indulgence?

24 THE COURT: Yes, ma'am.

25 MS. WALKER: May I approach the witness?

1 THE COURT: Yes, ma'am.

2 BY MS. WALKER:

3 Q: I'm gonna have you take a look at what's been marked as  
4 State's Exhibit 22 for identification purposes.

5 A: Okay.

6 Q: And could I ask you to just tell me what that is?

7 A: It -- it's a Time Warner Cable document. It's got our  
8 case number, which is 22415. It basically indicates the  
9 issuing party, it tells who the request is from, the type of  
10 request, it gives the phone number that the records pertain  
11 to, what the information is seeking, inbound and outbound call  
12 detail records for these specific dates, and it indicates the  
13 attachment of the records that we provided.

14 Q: Okay. And could you tell me whether that's a fair and  
15 accurate representation of that document as it comes from Time  
16 Warner?

17 A: Yes, this -- would've been directly from our subpoena  
18 analyst in Virginia.

19 Q: Okay.

20 MS. WALKER: Your Honor, the State would move this as  
21 State's Exhibit 22 into evidence.

22 THE COURT: Any objection?

23 MR. WILSON: No objection, Your Honor.

24 THE COURT: All right. It's in evidence without  
25 objection.

STATE'S EXHIBIT NUMBER 22

ADMITTED INTO EVIDENCE

BY MS. WALKER:

Q: And could I ask you which phone number is listed there?

A: The information is pertaining to area code [REDACTED]-6230.

Q: Okay. And does it have any indication as to whether it's a landline or a cell phone?

A: Our company only provides landlines. So, this would be a landline.

Q: Okay. And does it provide the address for which the number is associated?

A: They did request the -- the search warrant did request detailed information on the subscriber and it does; it's on Page 2.

Q: Okay. Would you mind reading that to us?

A: The subscriber name is Edna Blackmon.

Q: Okay. And what address?

A: [REDACTED] Oak Drive, Myrtle Beach, South Carolina.

Q: Okay. All right. Just one second, please.

MS. WALKER: Your Honor, I have no other questions for this witness.

THE COURT: Very good.

Cross examination?

MR. WILSON: Just briefly, Judge.

CROSS EXAMINATION OF ERIC CAMBRE BY MR. WILSON:

1 Q: You don't know who was on the other end of those phone  
2 calls, correct?

3 A: No, sir, the call detail records would provide incoming  
4 and outgoing phone numbers and numbers only, durations of  
5 calls.

6 Q: Thank you, sir.

7 MR. WILSON: No further questions, Judge.

8 THE COURT: Anything else?

9 MS. WALKER: No, sir, Your Honor.

10 THE COURT: Do you wish the witness to be excused?

11 MS. WALKER: We do.

12 THE COURT: All right, sir. You're released from your  
13 subpoena and may go back to your regular duties.

14 A: Thank you, Your Honor.

15 THE COURT: Thank you, sir. Leave the documents there.

16 Thank you, sir.

17 A: Yes, sir.

18 BY THE COURT:

19 THE COURT: All right, ladies and gentlemen, we're going  
20 to break for lunch at this time. We're going to want to  
21 resume the trial at 2 o'clock. So, Madam Bailiff, if you will  
22 organize them such that they'll be ready to come back into the  
23 courtroom at 2 o'clock. Whatever time you need to have them  
24 be organized to come back in at 2 o'clock.

25 Remember don't talk about the case, don't allow anybody

1 to talk to you about it. All right?

2 Thank you very much.

3 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
4 place outside the presence of the Jury.)

5 THE COURT: All right, Solicitor, is there any matters  
6 you need to cover before we break for lunch?

7 MR. HOLFORD: Your Honor, we did get a revised -- I  
8 apologize, Your Honor. After we had the *Jackson v. Denno*  
9 yesterday ---

10 THE COURT: Yes.

11 MR. HOLFORD: The State did do a redacted version. There  
12 was a couple of seconds the Defense listened to this morning  
13 that they want edited. We'll have the revised version during  
14 the lunch break. We'll get together and make sure it comports  
15 to the Court's order.

16 THE COURT: Great. Very good.

17 Anything else, Mr. Wilson?

18 MR. WILSON: Nothing further, Judge.

19 THE COURT: All right. Very good.

20 We'll see you back at 2 o'clock then.

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: Thank you very much.

23 (RECESS.)

24 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

25 (On the Record.)

1 THE COURT: The State ready for the jury to come in?

2 MR. HOLFORD: Yes, sir.

3 THE COURT: And Defense?

4 MR. WILSON: Yes, Your Honor.

5 THE COURT: Very good. Ask the jury to come in please.

6 (REPORTER'S NOTE: Jury enters courtroom.)

7 THE COURT: All right, Solicitor, you ready to proceed?

8 MR. HOLFORD: Yes, Your Honor.

9 THE COURT: All right. Call your next witness please.

10 MS. WALKER: Your Honor, the State calls Vanessa  
11 Thompson.

12 THE COURT: All right. Very good. Ms. Thompson, if  
13 you'd come all the way up and right up all the way to the  
14 front here and meet the Clerk right over here, please.

15 CLERK: Please raise your right hand and place your left  
16 hand on the Bible.

17 VANESSA LYNN THOMPSON, HAVING BEEN SWORN  
18 TESTIFIES AS FOLLOWS:

19 CLERK: Please state your full name and spell your first  
20 and last name for the Court.

21 MS. THOMPSON: Vanessa Lynn Thompson, V-A-N-E-S-S-A, T-H-  
22 O-M-P-S-O-N.

23 THE COURT: Go ahead, Solicitor.

24 DIRECT EXAMINATION OF VANESSA LYNN THOMPSON BY MS. WALKER:

25 Q: Ms. Thompson, can you tell me how long you've lived here

1 in the Horry County area?

2 A: My great grandfather used to be a solicitor and he passed  
3 away before my 80-year-old mother -- I think she was four --  
4 so most of my life.

5 Q: All right. And what's your current address?

6 A: [REDACTED], Myrtle Beach, South Carolina.

7 Q: Okay. And is that where you were living in 2015?

8 A: Yes, ma'am.

9 Q: Okay. And have you lived there since 2015?

10 A: I have lived there for almost the last 13 years.

11 Q: Okay. All right. I'm gonna show you what has been  
12 marked as State's Exhibit 20. Based on this map, can you  
13 point to me approximately where your house is?

14 A: It's about right here (indicating).

15 Q: Okay. All right. And that's the one you were living in  
16 in 2015 and you still live there?

17 A: Uh-huh (affirmative response).

18 Q: Okay. And can you tell me how you became involved in  
19 this case?

20 A: My sister used to live in the house across the street  
21 from us and the house had -- I think had gone into  
22 foreclosure, it was abandoned. And when she moved back in  
23 with us like a month or two prior, well we decided we were  
24 gonna walk across the street and just check it out, I mean she  
25 used to live there, you know we went over.

1 Q: Okay. And, and let me ask you to point out that house on  
2 this map.

3 A: It's dead-end road, seven houses. This is mine, the last  
4 house on the left, and it was the house right across the  
5 street.

6 Q: Okay. So, are you pointing to the one with the pink?

7 A: The pink dot.

8 Q: The pink dot on it. Okay. And let me show you what's  
9 been marked as State's Exhibits 23, 24, 25, and 26 for  
10 identification purposes, and ask you to flip through those and  
11 tell me if you recognize any of them.

12 A: Yeah, yeah; I recognize all of it.

13 Q: Okay. And what are those pictures of?

14 A: It's of the house that's across the street from the one I  
15 live in, you know, it's the carport with the utility room,  
16 it's the air conditioning unit in the backyard, the front  
17 door, you know, the house itself.

18 Q: Okay. Those are a fair and accurate representation of  
19 the house?

20 A: Oh, it's definitely the house.

21 Q: Okay.

22 MS. WALKER: The State would like to move State's  
23 Exhibits 23 through 26 into evidence.

24 THE COURT: Any objection?

25 MR. WILSON: Judge, let me take a look at them.



1 MS. WALKER: I apologize.

2 THE COURT: All right. Very good.

3 MR. WILSON: No objection, Your Honor.

4 THE COURT: All right, sir. So they're in evidence  
5 without objection.

6 MR. WILSON: Thank you, Judge.

7 STATE'S EXHIBITS NUMBERS 23 THROUGH 26

8 ADMITTED INTO EVIDENCE

9 BY MS. WALKER:

10 Q: So, you say this house is why you became involved in the  
11 case?

12 A: Yeah.

13 Q: How is that? What does that house have to do with  
14 anything?

15 A: Well, my sister used to live in it, and when she moved  
16 back in with us, you know, we decided we'd just walk across  
17 and check out the house. I mean, it was abandoned.

18 Q: Okay.

19 A: We just went to look at it.

20 Q: Okay.

21 A: Yeah, they got a -- or had a big pear tree in the  
22 backyard and everything. And as we're going through the  
23 carport, there's like a little, not even a doorway, but a  
24 little open area there at the kitchen door and the utility  
25 room, and she went through there to go to the backyard and

1 check it out. And I glanced in the utility room and I found a  
2 purse.

3 Q: Okay. And is this a picture of the utility room?

4 A: Yes, it is.

5 Q: Okay. And you said you found a purse in there?

6 A: There was a purse in there with stuff scattered like it  
7 had been thrown out of the purse. There was still stuff in  
8 the purse, you know, ID's and everything.

9 Q: Okay.

10 A: And my sister found more ID's back on the air  
11 conditioning unit.

12 Q: Okay. And what did you guys do with purse and its  
13 contents.

14 A: Well, I figured the purse had been stolen. And it had  
15 where the person worked in there. So, I called ---

16 Q: Sorry, just back up. Do you mean an identification?

17 A: Yeah, like a name tag I believe it was.

18 Q: Okay.

19 A: And so I called the company ---

20 Q: Okay. Well ---

21 A: --- and asked to speak to the girl to let her know that I  
22 had found her pocketbook.

23 Q: Okay. And do you remember whose name was on the  
24 identification?

25 A: I don't remember.

1 Q: Okay.

2 A: I mean, I just thought I found a lost purse, you know.

3 Q: Okay.

4 A: Or a stolen purse.

5 Q: Okay. And then what did you do after you called to let  
6 them know?

7 A: Well, they said they would have her call me and instead  
8 an officer called me, and then he came out to the house and I  
9 gave a statement about finding the purse.

10 Q: Okay. And so beyond finding the purse and living across  
11 the street from the house that you've identified, did you have  
12 any other involvement in the case?

13 A: No.

14 Q: No?

15 A: I just found a purse and tried to do the right thing.

16 Q: Okay. And do you remember what the purse looked like at  
17 all?

18 A: I honestly really don't. I want to say beige or tan, but  
19 I mean that's -- I don't know; I really don't.

20 Q: Okay. Did you give the purse to the officer?

21 A: Yes, I did.

22 Q: Okay. All right. I'm gonna ask you to answer any  
23 questions that, that Mr. Wilson has.

24 THE COURT: Cross examination?

25 MR. WILSON: Your Honor, just very briefly.

1 CROSS EXAMINATION OF VANESSA LYNN THOMPSON BY MR. WILSON:

2 Q: Ms. Thompson, how are you today, ma'am?

3 A: I'm fine. How are you?

4 Q: You don't know who put the purse in that house, do you?

5 A: Sir?

6 Q: Do you know who put the purse in that house?

7 A: I have no clue.

8 Q: Okay. Have you ever seen Mr. David Welch before, sitting  
9 right here in this gray shirt?

10 A: No, I have not.

11 MR. WILSON: All right. No further questions, Your  
12 Honor.

13 THE COURT: Any redirect?

14 MS. WALKER: No, Your Honor.

15 THE COURT: All right. Do you wish the witness to be  
16 excused?

17 MS. WALKER: Yes, sir, Your Honor.

18 THE COURT: All right, ma'am, you're released from your  
19 subpoena and you may go back to your regular activities.

20 Thank you.

21 A: Thank you.

22 THE COURT: All right, Solicitor, your next witness,  
23 please, ma'am.

24 MS. WALKER: Yes, Your Honor, the State calls Officer  
25 Brittany Southerland.

1 THE COURT: All right. Very good.

2 Please come around all the way up front and meet the  
3 Clerk's representative all the way up here, please.

4 CLERK: Please raise your right hand and place your left  
5 hand on the Bible.

6 BRITTANY SOUTHERLAND, HAVING BEEN  
7 SWORN TESTIFIES AS FOLLOWS:

8 CLERK: Please state your full name and spell your first  
9 and last name for the Court.

10 MS. SOUTHERLAND: Brittany Southerland; first name, B-R-  
11 I-T-T-A-N-Y, last name, S-O-U-T-H-E-R-L-A-N-D.

12 THE COURT: Go ahead, Solicitor.

13 DIRECT EXAMINATION OF BRITTANY SOUTHERLAND BY MS. WALKER:

14 Q: Officer Southerland, who are you employed by?

15 A: The Myrtle Beach Police Department.

16 Q: Okay. And what's your position with them there?

17 A: I'm a patrol officer.

18 Q: All right. And what, what do your duties involve as a  
19 patrol officer?

20 A: Daily patrol activities on the road, answering calls,  
21 responding to all sorts of calls, basically.

22 Q: Okay. And did you have a reason to respond to a call  
23 about this case in February of 2015?

24 A: Yes, ma'am.

25 Q: Okay. And what was the nature of that involvement?

1 A: That was gonna be for a follow-up to found property.

2 Q: Okay. And who contacted you about that?

3 A: I was actually dispatched there. It was a call that came  
4 in from Detective Beam.

5 Q: Okay. And what was the property that was found?

6 A: It was a purse with contents.

7 Q: Okay. And I'm gonna show you this map also what's been  
8 marked as State's Exhibit 20 and ask you if you can tell me  
9 where it was that you responded to?

10 A: My original call was dispatched to [REDACTED],  
11 which would've been on this side of the road. The property  
12 was located on the -- directly across the street at the house,  
13 abandoned property across the road.

14 Q: And that would be [REDACTED]?

15 A: [REDACTED], ma'am, yes.

16 Q: Okay. And that's where the pink dot is?

17 A: Yes, ma'am.

18 Q: Okay. All right. And I'll show you what's been marked  
19 State's Exhibits 23 through 26 and ask you if that's the house  
20 that you responded to?

21 A: Yes, ma'am. Yes, that's gonna be [REDACTED].

22 Q: Okay. So, these pictures are basically the pink dot?

23 A: Yes, ma'am.

24 Q: Okay. I will show these to the jury.

25 When you got to [REDACTED], who did you meet with?

1 A: I met with the two complainants; they were sisters.

2 Q: Okay. And what did they tell you? How did they tell you  
3 they found this?

4 A: They had stated earlier in the day there were some  
5 workers doing work at the house. A few hours later after the  
6 workers had left, they had gone over there just to see what  
7 was done. As they were walking around the back of the house,  
8 they said there was an AC unit that had a driver's license on  
9 there and a military ID card.

10 Q: Okay.

11 A: As they continued around the house, they explained to me  
12 that there was an outside storage shed. There was a purse  
13 sitting in there with its contents sprawled around. At that  
14 point, they went and looked at some of the items and they  
15 discovered a debit card and a employee ID tag. That's when  
16 they collected those items and went ahead and began making  
17 phone calls.

18 Q: Okay. And what did you do with those items once you  
19 collected them from the scene?

20 A: When I collected it, I just took a look at the  
21 identification just to confirm that it was who Detective Beam  
22 had called about. At that point, I placed the contents in my  
23 trunk of my car and continued on with the investigation. I  
24 went ahead and collected statements from them and then I  
25 notified Detective Beam.

1 Q: Okay. And did you turn in the purse as evidence?

2 A: No, ma'am. Detective Beam advised me that Crime Scene  
3 was on their way to that location to collect all that. I was  
4 just to stand by until they got there.

5 Q: Okay. And then to whom did you hand the purse off to?

6 A: That would have Crime Scene Officer Williamson.

7 Q: Okay. All right. And so from there did you have any  
8 other involvement in this case?

9 A: No, ma'am.

10 Q: Okay.

11 MS. WALKER: I beg the Court's indulgence?

12 THE COURT: Yes, ma'am.

13 BY MS. WALKER:

14 Q: If you would, please answer any questions that Mr. Wilson  
15 has.

16 A: Yes, ma'am.

17 THE COURT: Cross examination?

18 MR. WILSON: Your Honor, just briefly.

19 CROSS EXAMINATION OF BRITTANY SOUTHERLAND BY MR. WILSON:

20 Q: Officer, how are you doing today?

21 A: Good, how are you?

22 Q: Pretty good. So, when you found the purse, you said one  
23 of the things that was in the purse was a debit card, correct?

24 A: It was some type of debit card, yes.

25 Q: Okay. Do you recall what kind of debit card it was? If



1 you don't, that's okay.

2 A: I do not.

3 Q: Okay.

4 MR. WILSON: No further questions, Your Honor.

5 THE COURT: Any redirect?

6 MS. WALKER: No, sir, Your Honor.

7 THE COURT: Do you wish the witness to be excused?

8 MS. WALKER: We do.

9 THE COURT: All right, ma'am, you are released from your  
10 subpoena. You may go back to your regular duties.

11 All right. Next witness please?

12 MR. HOLFORD: The State calls Officer Austin Cox.

13 THE COURT: All right. All right, Officer, if you'll  
14 come all the way around up here to the front and meet the  
15 Clerk's representative, please.

16 CLERK: Please raise your right hand and place your left  
17 hand on the Bible.

18 AUSTIN COX, HAVING BEEN SWORN

19 TESTIFIES AS FOLLOWS:

20 CLERK: Please state your full name and spell your first  
21 and last name for the Court.

22 MR. COX: My name is Austin McCray Cox, A-U-S-T-I-N and  
23 then C-O-X.

24 THE COURT: Go ahead, Solicitor.

25 DIRECT EXAMINATION OF AUSTIN MCCRAY COX BY MR. HOLFORD:

1 Q: Officer Cox, where are you employed?  
2 A: Myrtle Beach Police Department.  
3 Q: And how long have you been with Myrtle Beach?  
4 A: A little over five years.  
5 Q: Okay. What's your position now?  
6 A: I work for the Street Crimes Unit.  
7 Q: What kind of training do you have in Street Crimes?  
8 A: I've been a part of various narcotics related  
9 investigations. I've been a part of investigations related to  
10 prostitution and then also as a patrol officer leading up to  
11 my position, I've been involved in various investigations up  
12 to and including CSC's, shoplifting, things like that.  
13 Q: And did you go to the Police Academy?  
14 A: Yes, sir.  
15 Q: So you did?  
16 A: I did.  
17 Q: How long was that?  
18 A: It was 12 weeks.  
19 Q: And then do you do continuing certifications?  
20 A: Yes, we have -- I believe it's yearly.  
21 Q: So, in the past five years, is it fair to say you've done  
22 a lot of training?  
23 A: Yes, sir.  
24 Q: Now this case back on January the 8th, 2015, were you  
25 with Myrtle Beach Police Department?

1 A: Yes, sir.

2 Q: And what was your position back then?

3 A: I was a patrol officer.

4 Q: Okay. And so what do you do as a patrol officer?

5 A: I respond to calls for service, generally 911 calls,  
6 citizen complaints, things of that nature.

7 Q: And did you -- I apologize, go ahead.

8 A: That's okay. Go ahead.

9 Q: Did you respond to a call to service in this case?

10 A: Yes, I did.

11 Q: And what was the nature of that call?

12 A: I believe the initial nature was an armed robbery.

13 Q: Okay. And where did you respond to?

14 A: I responded to Belk.

15 Q: And what did you find out at Belk?

16 A: I don't remember the extent of the interview, you know  
17 the content of the interview, but more or less, there was a  
18 crime that was alleged in the city and I was just there to  
19 listen.

20 Q: Okay. At some point, did you have contact with the --  
21 with the victim, Jerrica Nelson?

22 A: I did.

23 Q: And was it to identify a person?

24 A: Yes, it was.

25 MR. HOLFORD: May I approach, Your Honor?

1 THE COURT: Yes, sir.

2 BY MR. HOLFORD:

3 Q: I'm gonna hand you what's been entered as 17?

4 A: Okay.

5 Q: Are you familiar with that photo?

6 A: I am.

7 Q: How are you familiar with this photo?

8 A: It was a Facebook photo.

9 Q: Could you pull this photo up?

10 A: I believe Detective Beam pulled the photo up on his  
11 department cell phone.

12 Q: Okay. And at that point in time, who was the victim  
13 referring to this individual as?

14 A: I believe it was David Royal, David Royal.

15 Q: And did you in fact know his name to be something  
16 different?

17 A: I did.

18 Q: And what do you know this individuals name to be?

19 A: David James Welch or D.J. Welch.

20 Q: Okay. So, you knew that the person identified on  
21 Facebook as David Royal is in fact the Defendant in the  
22 courtroom, David Welch?

23 A: Correct.

24 MR. WILSON: Your Honor, may we approach, Judge?

25 THE COURT: Sure.

1 MR. WILSON: Thank you.

2 (REPORTER'S NOTE: A bench conference was held off the record  
3 in the presence of but out of hearing of the Jury.)

4 THE COURT: Ladies and gentlemen of the jury, go to your  
5 jury room, please.

6 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
7 place outside the presence of the Jury.)

8 THE COURT: All right, Mr. Wilson, be glad to hear from  
9 you, sir.

10 MOTION:

11 MR. WILSON: Judge, my concern here is this, that we  
12 obviously want to keep out any inference to the jury that this  
13 Defendant had any sort of prior bad act or conduct which would  
14 obviously be something this officer would know him from and  
15 he's testifying on the stand, which was elicited by the  
16 Solicitor about testimony saying that he knows him as David  
17 Welch, and that's how they identified him. And based on what  
18 I understand from the actual tapes as well as listening to the  
19 interviews is that how they identified him was a conversation.  
20 Again, this was the issue that I filed a motion about, Judge.  
21 The conversation that they had where Detective Cox comes up  
22 and this individual is named as David Royal on Facebook and  
23 then the young lady saying, okay, well, you know, do you know  
24 him -- this is Officer Sououd saying that and then he says in  
25 front of, and we believe in earshot -- within earshot of the

1 victim or the alleged victim in this case, oh yeah, I know  
2 him, I know his name, which is the whole point of why we  
3 redacted everything out of the, the interview with Woods  
4 before and now he's testifying for the record that he knew him  
5 before, that he knew his name, that he identified him. And  
6 how else would he know him unless he had some run-ins with  
7 him, which is the inference that the jury would jump to.

8 THE COURT: Solicitor, what's your response?

9 MR. HOLFORD: Your Honor, the State's been very careful  
10 not to bring up anything about a conversation between Sououd,  
11 not to bring up anything -- any mention of he knew him through  
12 R.M.S. or he knew him through any prior involvement or in what  
13 way he knew him. The only thing that has been testified to  
14 the jury is that this picture known to be David Royal, this  
15 officer knows is David Welch. That's how we get to the point  
16 we are and how this Defendant gets arrested. Your Honor,  
17 that's an important piece for the jury to know how we jump  
18 from a David Royal to this Defendant sitting here in the  
19 courtroom. There's been no inference made by the State or by  
20 this officer on the stand in front of the jury that it  
21 involves any prior crime, any prior bad act, any act  
22 whatsoever. There's been zero inference as to how he knows  
23 him or why he knows him. It's simply a connection between we  
24 know that we talk about David Royal but how does that get us  
25 to this defendant, David Welch, and he's the key link. He's

1 the one who says I know that person in that photo; that's  
2 David Welch.

3 MR. WILSON: He testified ---

4 THE COURT: All right.

5 MR. WILSON: I apologize, Your Honor.

6 THE COURT: Go ahead.

7 MR. WILSON: Just for the record, he testified earlier  
8 that he does narcotics and that he does CSC. He said that  
9 himself. Okay? And so the jury has already heard that.

10 THE COURT: Well, that's his job.

11 MR. WILSON: It is. Absolutely.

12 THE COURT: But he has not made a connection between his  
13 job and the Defendant. For all the jury knows is he was a,  
14 you know, YMCA basketball coach and that's how he knows that  
15 individual to be David Welch. They don't know how he knows  
16 him. He did not say how he knows him. The State did not ask  
17 him how do you know him. So, I do not see how -- there is no  
18 evidence in the record. There is nothing for the jury that  
19 has been said before them to make a connection between this  
20 witness and the Defendant and some prior crime.

21 If your request is for a mistrial, I deny your request  
22 for a mistrial based on the fact that I do not believe there  
23 is anything that has been said to the jury that would rise to  
24 the level of a mistrial. In fact, I do not think anything has  
25 been said improper to the jury in any shape, manner or form.

1 With that, and the Court's denying your request for a  
2 mistrial, do you want me to give some kind of curative  
3 instruction to the jury?

4 MR. WILSON: Yes, sir, I would.

5 THE COURT: All right. And what would you like me to say  
6 to them so that I don't indicate to them there's a problem  
7 because I don't think they have any idea there's a problem  
8 now, but I'll be glad to give them instruction, but what is it  
9 that you want me to tell them.

10 MR. WILSON: Judge, I guess my -- my real concern, I  
11 guess, is that if the jury -- even if -- you're right. He may  
12 say that he's a YMCA coach and he coached him in basketball;  
13 that's true. But they also may equally say, why did this  
14 officer have contact with him? Again, I'm not sure how to  
15 cure it. I ---

16 THE COURT: Well, I mean that's what I'll -- you know, I  
17 am glad to give them a curative instruction. I'm not sure  
18 what I'm curing, and I don't want that to lead to further  
19 problems.

20 MR. WILSON: Right.

21 THE COURT: I'm glad for you to suggest to me, you know,  
22 what you would want me to say to them that, you know,  
23 something just in general that the jury must be guided by the  
24 facts and evidence in the case or what -- what is it you want  
25 me to tell them?



1 MR. WILSON: Judge, just that they -- actually, no, no  
2 curative instruction, Judge.

3 THE COURT: All right. Very good.

4 MR. WILSON: Thank you, Judge.

5 THE COURT: All right. Thank you.

6 MR. WILSON: Thank you, Judge.

7 THE COURT: All right. All right. Let's ask the jury to  
8 come back in then.

9 (REPORTER'S NOTE: Jury enters courtroom.)

10 THE COURT: All right, Solicitor, you may proceed.

11 MR. HOLFORD: Thank you, Your Honor.

12 BY MR. HOLFORD:

13 Q: Officer Cox, so you were able to provide -- State's 17,  
14 this picture that the victim identified as David Royals is in  
15 fact the Defendant, David Welch?

16 A: Correct.

17 MR. HOLFORD: No further questions, Your Honor.

18 THE COURT: All right. Cross examination?

19 MR. WILSON: Just briefly, Judge.

20 CROSS EXAMINATION OF AUSTIN MCCRAY COX BY MR. WILSON:

21 Q: Officer Cox, how are you doing today, sir?

22 A: Good.

23 Q: Your involvement in this case was pretty limited,  
24 correct?

25 A: Yes, sir.

1 Q: Okay. You didn't do any of the actual conversations with  
2 Jerrica Nelson or with David Welch, did you?

3 A: As far as I -- I don't believe I did.

4 Q: Okay. All right. So, your involvement was simply just  
5 the picture; is that right?

6 A: Yes, sir.

7 Q: Thank you so much. Nothing further.

8 THE COURT: Any redirect?

9 MR. HOLFORD: No, Your Honor.

10 THE COURT: All right. Do you wish the witness to be  
11 excused?

12 MR. HOLFORD: Yes, Your Honor.

13 THE COURT: Any objection?

14 MR. WILSON: No objection, Your Honor.

15 THE COURT: All right, sir, you're released from your  
16 subpoena and may go back to your regular duties.

17 A: Thank you, Your Honor.

18 THE COURT: Thank you, sir.

19 All right, Solicitor, your next witness, please.

20 MR. HOLFORD: Yes, Your Honor. The State calls Mike  
21 Dame.

22 THE COURT: All right. Very good.

23 All right, Mr. Dame, if you want to come all the way  
24 around and just meet the Clerk's representative right up front  
25 please, sir.

1 CLERK: Please raise your right hand.

2 MICHAEL DAME, HAVING BEEN SWORN

3 TESTIFIES AS FOLLOWS:

4 CLERK: Please state your full name and spell your first  
5 and last name.

6 MR. DAME: Michael Dame, D-A-M-E.

7 THE COURT: Go ahead and have a seat, sir.

8 All right, Solicitor, go ahead.

9 DIRECT EXAMINATION OF MICHAEL DAME BY MR. HOLFORD:

10 Q: Mr. Dame, how are you today?

11 A: Good, how are you, sir?

12 Q: Where are you currently employed?

13 A: I'm retired from the Myrtle Beach Police Department.

14 Q: Okay. You were with Myrtle Beach back in 2015?

15 A: Yes, sir.

16 Q: And so I would've known you back then as Officer Dame?

17 A: Yes, sir.

18 Q: How long have you been employed with Myrtle Beach Police  
19 Department?

20 A: Almost 18 years.

21 Q: Okay. And when did you retire?

22 A: Last year; last March, 2016.

23 Q: How did you come to be involved in this case?

24 A: We were made aware that we'd be going out to [REDACTED] Oak to  
25 pick up a subject that was involved in something we were told

1 of a sexual nature, some assault. We were there basically for  
2 assistance; I was on the Street Crimes Unit.

3 Q: Okay. And did you know the individual you were looking  
4 for?

5 A: I did not know him personally, no.

6 Q: All right. Did you know the name of this ---

7 A: We were given the name.

8 Q: And what was the name of the subject?

9 A: David Welch.

10 Q: Okay. And you said you were going to [REDACTED] Oak, right?

11 A: Yes.

12 Q: On State's 20, do you know where [REDACTED] Oak is on this map?

13 A: I'm not used to looking at it -- I mean, from the air, it  
14 would be hard for me to tell, but ---

15 Q: All right. So, if Highway 15 is here, Ramsey, Jennings,  
16 Oak Drive is there, Poplar is here.

17 A: Right. I mean, from a Google Map, I couldn't pick it out  
18 without ---

19 Q: Okay.

20 A: It's not an area that I was in constantly, but ---

21 Q: Okay. But the Defendant's location was [REDACTED] Oak Street?

22 A: That we were sure of, yes.

23 MR. HOLFORD: May I approach with the State's 27 for ID?

24 THE COURT: Yes, sir.

25 BY MR. HOLFORD:

1 Q: Are you familiar with State's 27?

2 A: Yes, I do recognize that residence.

3 Q: Is that a picture of the residence that you went to?

4 A: Yes, it is.

5 MR. HOLFORD: Your Honor, the State would move 27 in  
6 evidence.

7 THE COURT: Any objection?

8 MR. WILSON: No objection, Your Honor.

9 THE COURT: All right, sir. It's in evidence without  
10 objection.

11 STATE'S EXHIBIT NUMBER 27

12 ADMITTED INTO EVIDENCE

13 BY MR. HOLFORD:

14 Q: So is this [REDACTED] Oak that you were heading to?

15 A: It is, sir.

16 Q: And that was to find the subject, David Welch?

17 A: Yes, sir.

18 Q: Okay. Tell me what happened when you went there?

19 A: Myself and Sergeant Murphy, he was my Sergeant in Street  
20 Crimes; we approached the house from the rear in anticipation  
21 of anything. There were officers that approached from the  
22 front to knock on the door. We approached from the side rear  
23 and I was to the back of the house to the right.

24 Q: Okay.

25 A: There was a fence there; we sat alongside the fence.

1 Q: So multiple people approached this house?

2 A: Yes, sir.

3 Q: And did you knock?

4 A: I believe they knocked up front. Like I said, I was in  
5 the back. We could hear people talking up front.

6 Q: Okay. And what happened?

7 A: Basically, we could hear on the radio right away as soon  
8 as they approached because they made the announcement we're  
9 approaching the house at this time. Almost simultaneously the  
10 back door flew open and the subject exited very quickly out  
11 the back of the house.

12 Q: Okay. And did you give chase?

13 A: Officer -- some officers went over to the fence to give  
14 chase. I've been in a lot of chases in my career; I went wide  
15 knowing this could go either way. There was a lot of stuff in  
16 the back, a lot of fences, a lot of neighbors' yards and it  
17 was very dark..

18 Q: Do you know if you were running north or south?

19 A: It seemed like we would be running north.

20 Q: Okay. Did you eventually find the subject?

21 A: I did.

22 Q: Where did you find him?

23 A: While certain officers were running through back yards  
24 and over fences, like I said, I went wide down the street and  
25 as I came around to anticipate, well, they should be about

1 here, I saw the same subject that left the house going  
2 underneath a vehicle, cowering underneath a vehicle.

3 Q: Okay. Do you remember where that road -- what that road  
4 was?

5 A: I don't recall the name of the road.

6 Q: Okay. But you did find the subject hiding under a car?

7 A: I did.

8 Q: And he ran from that [REDACTED] Oak Street address?

9 A: It was the same individual that left the building, yes.

10 Q: Okay. And did you apprehend him?

11 A: We did remove him from underneath the vehicle and he was  
12 placed under arrest.

13 Q: And is that same individual David Welch?

14 A: Yes, it is.

15 Q: And he was taken into custody at that point?

16 A: He was.

17 MR. HOLFORD: No further questions, Your Honor.

18 THE COURT: Cross examination?

19 MR. WILSON: Your Honor, if it please the Court, Judge?

20 THE COURT: Go ahead.

21 CROSS EXAMINATION OF MICHAEL DAME BY MR. WILSON:

22 Q: Good afternoon, Officer, how are you doing?

23 A: Good, sir.

24 Q: Good to see you. Just a couple of questions. When you  
25 gave chase at this residence, did David Welch -- you

1 eventually caught him, right?

2 A: Yes, sir.

3 Q: Okay. And when you gave chase, do you know why he ran?

4 A: Do I know why he ran?

5 Q: Yes.

6 A: I can't speak for him.

7 Q: Okay. All right. You personally don't know why he ran?

8 A: I can't speak for him, sir.

9 Q: Okay. Let me ask you this, when you caught him, he had

10 clothes on, correct?

11 A: He did have clothes.

12 Q: Can you tell me what he had on?

13 A: I don't recall. It wasn't anything that stood out.

14 Q: Okay. All right. And normally when y'all catch

15 somebody, y'all do Terry pat, right?

16 A: Yes, sir.

17 Q: Okay. Explain to the jury what a Terry pat is?

18 A: Basically, a light patting down of the person to make

19 sure there's no weapons on them at that time.

20 Q: Okay. And did you find a weapon on David Welch?

21 A: I did not do the pat down.

22 Q: All right. You know who did the pat down?

23 A: I do not, sir.

24 Q: All right. You would've been there when he was taken

25 down?



7  
1 A: Yes, sir.

2 Q: Did you actually tackle him?

3 A: No, he was cowering underneath the vehicle.

4 Q: Okay. Who pulled him from underneath the vehicle?

5 A: I, I don't recall who exactly. My, my focus was to watch  
6 his hands. I could not see his left hand.

7 Q: Okay.

8 A: I'm concerned with a gun. There was mention of a gun  
9 earlier. My concern is with this man's hands.

10 Q: Okay. All right. Did you see the officers pat him down?

11 A: I don't recall if I did.

12 Q: Okay. Do you recall if you guys recovered a weapon from  
13 his person when you caught him?

14 A: I don't recall if they did.

15 Q: Okay. Do you recall if they searched him and found  
16 condoms?

17 A: I don't recall if they did.

18 Q: Okay. All right. So, all you recall is that he ran out  
19 of the house?

20 A: Yes, sir.

21 MR. WILSON: Okay. No further questions, Judge.

22 THE COURT: Very good.

23 Redirect?

24 MR. HOLFORD: Just one quick question.

25 REDIRECT EXAMINATION OF MICHAEL DAME BY MR. HOLFORD:

1 Q: Do you know about what time you went to that house?

2 A: I believe it to be around midnight or shortly thereafter.

3 Q: Okay.

4 A: It was between 11 and 1; there was a timeframe there  
5 between January 8th and 9th.

6 Q: Okay. No further questions.

7 THE COURT: Anything on that question, Mr. Wilson?

8 MR. WILSON: Nothing, Your Honor.

9 THE COURT: All right, sir.

10 Do you wish the witness to be excused, Solicitor?

11 MR. HOLFORD: Yes, Your Honor.

12 THE COURT: All right, sir, you're released from your  
13 subpoena and may go back to your regular duties.

14 A: All right.

15 THE COURT: Thank you, sir.

16 A: Thank you, sir.

17 THE COURT: All right, Solicitor, your next witness  
18 please.

19 MR. HOLFORD: Yes, Your Honor, the State calls Malinda  
20 Shadoan.

21 THE COURT: All right.

22 CLERK: Please raise your right hand.

23 MELINDA SHADOAN, HAVING BEEN SWORN

24 TESTIFIES AS FOLLOWS:

25 CLERK: Please state your full name and spell your first

1 and last name for the Court.

2 MS. SHADOAN: Malinda Shadoan, M-A-L-I-N-D-A, Shadoan, S-  
3 H-A-D-O-A-N.

4 THE COURT: All right. Go ahead, Solicitor.

5 DIRECT EXAMINATION OF MALINDA SHADOAN BY MR. HOLFORD:

6 Q: Malinda, where are you currently employed?

7 A: At the City of Myrtle Beach Police Department.

8 Q: And how long have you been there?

9 A: Nine years in July.

10 Q: What's your position at Myrtle Beach?

11 A: I am the Property and Evidence Technician.

12 Q: And so what does that mean you do?

13 A: I basically secure all the evidence of the City and the  
14 lost and found.

15 Q: Okay. And have you secured evidence in this case?

16 A: I have.

17 Q: Is there a case number associated with it?

18 A: There is.

19 Q: And do you keep track of all the evidence that comes in  
20 and out based on case number?

21 A: We do.

22 Q: Do you have lot numbers and bag numbers and ---

23 A: Yeah, there's personal record numbers and they're each  
24 assigned its own individual number.

25 Q: And did you bring evidence in this case here today?

1 A: I did.

2 Q: Is that what this box is?

3 A: It is.

4 Q: With the bags and stuff in it?

5 A: Yes, sir.

6 Q: Are pictures taken of the evidence as well?

7 A: At times, whether by the officers or Crime Scene.

8 Q: I'm gonna show you what's been marked as State's 7?

9 A: Okay.

10 Q: Do you recognize that?

11 A: I wouldn't know; it's in a brown bag.

12 Q: Do you have a list of the evidence that's kept in this

13 case?

14 A: I do.

15 Q: And so you'd be able to tell what all you had pertaining

16 to this case?

17 A: Correct.

18 Q: Is there a purse?

19 A: There is. That would be Group Number 25.

20 Q: Group 25?

21 A: At the bottom.

22 Q: Now, if an item gets in evidence, it stays with the case

23 doesn't it?

24 A: It does.

25 MR. HOLFORD: Can I mark this just for ID?

1 THE COURT: Yes. What number is that, please, ma'am?

2 COURT REPORTER: 29 for ID.

3 STATE'S EXHIBIT NUMBER 29

4 MARKED FOR IDENTIFICATION

5 MR. HOLFORD: I'm gonna approach with what's been marked  
6 as ID for State's 29, may I, Your Honor?

7 THE COURT: Yes, sir.

8 BY MR. HOLFORD:

9 Q: So, this says Item 25/1, right

10 A: Correct?

11 Q: And then what's on the bag?

12 A: It's the case number, our agency, MBPD, and then the date  
13 that it was actually processed into my room.

14 Q: Okay. And what's inside here? What does it say is  
15 inside?

16 A: It says peach-colored purse with contents Group 25/1.

17 Q: Okay. Now, if I actually hand you the purse -- it's got  
18 to stay with all this stuff, doesn't it?

19 A: If it's introduced as an exhibit, yes, sir.

20 THE COURT: Y'all come up here for just one second.

21 (REPORTER'S NOTE: A bench conference was held off the record  
22 in the presence of but out of hearing of the Jury.)

23 BY MR. HOLFORD:

24 Q: This bag is sealed, isn't it?

25 A: Correct.

1 Q: And why is that tape on that?

2 A: That's so nobody can tamper with it. So if it comes into  
3 my room and shows that the officer or the Crime Scene officer  
4 had secured it in that location and I can't or anybody else  
5 can't open it up and tamper with it.

6 Q: And are there other initials on there?

7 A: Initially they were Scott Williamson's and then mine  
8 initials after that.

9 Q: Okay. And so what do you when you tape it, you initial  
10 over it?

11 A: Initial and date and that shows that nobody else; this  
12 tape is very sticky. If you try to even open it up, it can  
13 show that it's tampered with and at that point, then you can  
14 tell that it's been either opened or tried to be opened.

15 Q: Okay. Will you open that up and tell the jury what's  
16 inside?

17 A: You want me to take it out? It looks like it's the peach  
18 colored purse.

19 Q: Like it says on the -- on your inventory sheet?

20 A: Correct.

21 Q: And what it said it was on the bag?

22 A: Correct.

23 Q: Now, you don't actually go out and collect any of this,  
24 do you?

25 A: I do not.

1 Q: You're just in charge of holding it?

2 A: Securing it in the location for us; we're just the  
3 custodians.

4 Q: Was there a -- was there clothing from the Defendant  
5 collected?

6 A: Yes, sir.

7 Q: What is that clothing?

8 A: I've got Group 19, says it's suspect clothing, shirt,  
9 fleece, socks, shorts and it continues on. I'm not sure what  
10 it says on that one. Then it's suspect's shoes, a pair of  
11 them, and the suspect underwear.

12 Q: And are there photographs of the suspect's clothing?

13 A: There are.

14 Q: Are those also kept?

15 A: Correct.

16 Q: They would be kept on a CD, right?

17 A: This might be actual photographs. I'd have to look at  
18 the envelope to see.

19 Q: You also have a 911 recording?

20 A: I do.

21 Q: So, you actually have a recording. If we would've played  
22 that in court already, it wouldn't be the one that's in  
23 evidence, but it'd be the same recording?

24 A: The same exact one.

25 MR. HOLFORD: Court's indulgence?

1 THE COURT: Yes, sir.

2 BY MR. HOLFORD:

3 Q: Do you keep a record of who turned the purse in to you?

4 A: Yes, sir.

5 Q: And who turned that purse in to you?

6 A: It was Scott Williamson, who was a Crime Scene officer.

7 Q: Okay. Now, he wouldn't tell you where he found it or  
8 anything like that, he just says this is associated with this  
9 case and I'm turning it in?

10 A: Correct, unless it was listed on the bag, I'd never know.

11 Q: But a Crime Scene officer, Scott Williamson, turned that  
12 purse in?

13 A: He did.

14 Q: And are there identifying information about who turns  
15 every piece of evidence in?

16 A: Yes, sir.

17 Q: Okay.

18 A: Date and time as well.

19 Q: Is there a black hat in evidence?

20 A: Yep, that would be Group Number 5.

21 COURT REPORTER: 30 for ID.

22 STATE'S EXHIBIT NUMBER 30

23 MARKED FOR IDENTIFICATION

24 MR. HOLFORD: May I approach, Your Honor?

25 THE COURT: Yes, sir.



1 BY MR. HOLFORD:

2 Q: This has been marked as State's 30 for ID. Is that a --  
3 can you tell me what's in that bag or what it says?

4 A: It states it's a black hat, Group 5, Item 1.

5 Q: Okay. And who turned that into you?

6 A: It looks like the seizing officer at the time was William  
7 Stair, who was at the time another Crime Scene officer.

8 Q: Okay. You don't know where he got it from, do you?

9 A: No.

10 Q: You just know he turned it into evidence?

11 A: Right.

12 Q: Is there a black hat in there? Can you open it?

13 A: Yeah. You want me to take it out?

14 Q: Yes.

15 A: (Witness complies.)

16 MR. HOLFORD: Your Honor, I have no further questions at  
17 this time.

18 THE COURT: All right. Cross examination?

19 MR. WILSON: Your Honor, if it please the Court?

20 THE COURT: Yes, sir.

21 CROSS EXAMINATION OF MALINDA SHADOAN BY MR. WILSON:

22 Q: And I apologize, how do you pronounce your last name, I'm  
23 sorry?

24 A: Shadoan.

25 Q: Shadoan. Officer Shadoan, how are you doing today?

1 A: Good thank you; how are you?

2 Q: Doing well. You also took possession of a CSC kit?

3 A: Yes, sir.

4 Q: In this case?

5 A: Sure.

6 Q: Can you tell the Court about what number that is and also  
7 about how you took possession of it and who you took  
8 possession from?

9 A: That would be Group Number 1.

10 Q: Group Number 1?

11 A: And it looks like it was Officer Humes, Tony Humes, and  
12 he was also a Crime Scene officer.

13 MR. WILSON: Court's indulgence, Your Honor?

14 THE COURT: Yes, sir.

15 MR. WILSON: May I approach the witness, Judge?

16 THE COURT: Yes, sir.

17 BY MR. WILSON:

18 Q: And can you tell the Court if you recognize that  
19 particular CSC Kit?

20 A: Yes, sir.

21 Q: Okay. And can you read the numbers that are on there and  
22 identify it for me?

23 A: The case number?

24 Q: Yes, ma'am.

25 A: 15000445 would be the case number, Group 1, Item 1.

1 Q: Very good. Thank you so much.

2 A: You're welcome.

3 MR. WILSON: Your Honor, at this time, I'd just like to  
4 have it marked for identification purposes only.

5 THE COURT: All right. Very good.

6 MR. WILSON: Thank you so much.

7 DEFENDANT'S EXHIBIT NUMBER 6

8 MARKED FOR IDENTIFICATION

9 MR. WILSON: This will be Defendant's identification  
10 only, Judge, number 6.

11 THE COURT: Thank you very much.

12 MR. WILSON: Thank you, Judge.

13 BY MR. WILSON:

14 Q: Now, you would have taken that into possession from  
15 Humes, correct?

16 A: Correct.

17 Q: Okay. And then what would you have done with that?

18 A: Something like that, like a CSC kit, it has to be housed  
19 in the refrigerator, so I would go ahead and label it like I  
20 did with all the other ones and put it right in the  
21 refrigerator.

22 Q: Okay.

23 MR. WILSON: Your Honor, may I approach the witness?

24 THE COURT: Yes, sir.

25 BY MR. WILSON:

1 Q: Okay. This is a certified copy from SLED, State Law  
2 Enforcement Division, who took possession of it; is that your  
3 signature on that document?

4 A: That would be mine.

5 Q: Okay. And then who would you have handed the document to  
6 and handed the materials off to?

7 A: One of the login techs; her name is Jennifer Aycok.

8 Q: Okay. All right. And you did hand it off to her?

9 A: I did.

10 Q: Thank you so much.

11 THE COURT: Your Honor, at this time, I'd like to have  
12 this marked for identification purposes only.

13 THE COURT: Yes, sir.

14 MR. WILSON: It's gone be Defendant's identification  
15 only, Number 7.

16 THE COURT: All right.

17 DEFENDANT'S EXHIBIT NUMBER 7

18 MARKED FOR IDENTIFICATION

19 THE COURT: All right.

20 MR. WILSON: Court's indulgence, Your Honor.

21 THE COURT: Yes, sir.

22 BY MR. WILSON:

23 Q: Now, you also took possession of a swab, a buccal swab;  
24 is that correct?

25 A: Yes, sir.

1 Q: Okay. And you know what group that's from?

2 A: There's a few of them. Which ones exactly were you  
3 looking for? We've got swabs from the vehicle.

4 Q: Yeah, you got a lot of them.

5 A: Yeah.

6 Q: You're right. Here I have a Group 11, Item 1, two swabs  
7 from the rear passenger side door and interior handle?

8 A: Correct.

9 Q: Okay. And you would've taken possession of this?

10 A: Correct.

11 Q: Okay. See if you can just identify -- you don't have to  
12 remove its contents, but you took possession of that?

13 A: Yes, sir.

14 Q: Okay. And was that forwarded to anyone?

15 A: This one, no.

16 Q: Okay. And why wouldn't that have been forwarded to  
17 anyone in this case?

18 A: No one has requested it for testing at the time.

19 Q: All right. And I apologize, Your Honor, may I enter this  
20 for identification purposes only?

21 THE COURT: Yes, sir.

22 MR. WILSON: Thank you, Judge. It will be Defendant's  
23 identification only Number 8.

24 THE COURT: All right.

25 DEFENDANT'S EXHIBIT NUMBER 8

MARKED FOR IDENTIFICATION

MR. WILSON: Thank you, ma'am, I appreciate that.

BY MR. WILSON:

Q: Now, just be clear, you said that someone would have to actually request that it be processed or request that it be tested?

A: Correct.

Q: Okay. So, it wouldn't be your responsibility to actually send it off, you would wait for a request from whom?

A: It would either be from the Solicitors, from the Crime Scene officers or the detective that's assigned to the case.

Q: Okay. This is Group 21, Item 1?

A: Okay.

Q: All right. And this would have also been sent to you, correct?

A: Yes.

Q: Okay.

MR. WILSON: May I approach the witness, Your Honor?

THE COURT: Yes, sir.

BY MR. WILSON:

Q: Now you'll have to open the contents ---

A: Thank you.

Q: Just tell the jury what that is and whether or not it was sent off for processing.

A: Yes, sir. It is the suspect underwear, Group 21; and

1 no, it was not.

2 Q: Okay. Thank you, ma'am.

3 A: You're welcome.

4 MR. WILSON: Your Honor, at this time, can I move this in  
5 for identification purposes only?

6 THE COURT: Yes, sir.

7 MR. WILSON: Thank you, Judge.

8 COURT REPORTER: Defendant's 9 for ID.

9 THE COURT: All right.

10 MR. WILSON: Defendant's 9, ID only, Judge.

11 THE COURT: All right. Very good.

12 MR. WILSON: Thank you, Your Honor.

13 DEFENDANT'S EXHIBIT NUMBER 9

14 MARKED FOR IDENTIFICATION

15 BY MR. WILSON:

16 Q: Okay. This is Group 12, Item 1, swabs from passenger  
17 side front door handle inside?

18 A: Yes, sir.

19 Q: Okay. And did you also receive this?

20 A: I did.

21 MR. WILSON: Judge, may I approach?

22 THE COURT: Yes, sir.

23 MR. WILSON: Thank you, Your Honor.

24 BY MR. WILSON:

25 Q: And can you tell the jury whether or not that was sent

1 off for processing or requested to be processed?

2 A: It was not.

3 Q: Okay. All right. And but you can identify this?

4 A: Yes, it's the swab passenger side front door handle  
5 inside, two of them.

6 Q: Thank you so much.

7 A: Okay.

8 MR. WILSON: Judge, if I could move this in for  
9 identification purposes only?

10 THE COURT: Yes, sir.

11 MR. WILSON: Thank you. Your Honor, this is gonna be  
12 identification purposes Number 10 Defense.

13 THE COURT: All right. Very good.

14 DEFENDANT'S EXHIBIT NUMBER 10

15 MARKED FOR IDENTIFICATION

16 BY MR. WILSON:

17 Q: And I'm holding in my hand, just to kind of move this  
18 along if the Court's willing?

19 THE COURT: Yes, sir.

20 Q: Group 13, Item 1; Group 14, Item 1; Group 16, Item 1,  
21 which is paperwork from the hospital, Item 1 also, CDs, search  
22 warrant residence; and then Group 22, Item 1, CD, suspect  
23 clothing; and then CSC Group 23, Item 1, and then this is the  
24 CDR scene with lab photographs?

25 A: Yes, sir.



1 Q: At one time, can you just tell me whether or not you  
2 recognize these items and if any of these items were sent off  
3 to be processed, if appropriate?

4 A: I wouldn't know if they're appropriate or not, but they  
5 did not go.

6 Q: Okay. All right. Very well. Thank you, ma'am.

7 A: You're welcome.

8 MR. WILSON: Your Honor, at this time, if there are no  
9 objections, I'd like to move all these into evidence?

10 THE COURT: As?

11 MR. WILSON: For identification purposes only, Judge.

12 THE COURT: As one or do you want them separately  
13 marked?

14 MR. WILSON: As one, Judge, if I could.

15 THE COURT: All right. Very good.

16 MR. WILSON: Is that possible?

17 THE COURT: Mr. Wilson?

18 MR. WILSON: Oh, thank you. Thank you.

19 COURT REPORTER: How many items are there?

20 MR. WILSON: There are 1, 2, 3, 4, 5, 6, 7, 8 items.

21 COURT REPORTER: And that's 11 for ID.

22 THE COURT: Thank you.

23 MR. WILSON: Yes, ma'am. Thank you, ma'am.

24 DEFENDANT'S EXHIBIT NUMBER 11

25 MARKED FOR IDENTIFICATION

1 MR. WILSON: Court's indulgence, Your Honor?

2 THE COURT: Yes, sir.

3 MR. WILSON: And this is gonna be the last one. May I  
4 approach, Judge?

5 THE COURT: Yes, sir, please.

6 BY MR. WILSON:

7 Q: Can you tell the jury what this is and whether or not it  
8 was also sent off to be processed or not?

9 A: This one is Group 10. It looks like two buccal swabs,  
10 DNA victim standards of Jerrica Nelson and, because it's in  
11 the SLED packaging, it did get sent off for testing.

12 Q: Okay. All right. And it would've been sent to who?

13 A: To SLED.

14 Q: Okay. All right. Thank you so much.

15 A: You're welcome.

16 MR. WILSON: Judge, at this time, I'd like to have this  
17 entered into evidence as just for identification purposes  
18 only.

19 THE COURT: All right, sir.

20 MR. WILSON: Thank you, ma'am.

21 COURT REPORTER: Defendant's 12 for ID.

22 MR. WILSON: Defendant's 12 for Defendant's ID.

23 DEFENDANT'S EXHIBIT NUMBER 12

24 MARKED FOR IDENTIFICATION

25 BY MR. WILSON:

1 Q: All right. Would you have received back results or  
2 anything like that?

3 A: No, I just receive back the items when they're done with  
4 the analysis?

5 Q: Okay. All right.

6 No further questions, Your Honor.

7 THE COURT: All right. Very good.

8 MR. WILSON: Thank you, Your Honor.

9 THE COURT: Redirect?

10 A: Thank you.

11 MR. HOLFORD: Nothing further, Your Honor.

12 THE COURT: Do you wish the witness to be excused?

13 MR. HOLFORD: Yes, Your Honor.

14 THE COURT: All right, ma'am, you're released from your  
15 subpoena and may go back to your regular duties. Before you  
16 do that, can you put those two items back in the bags that  
17 they belong in, please?

18 MR. HOLFORD: Your Honor, may we approach?

19 THE COURT: Sure.

20 (REPORTER'S NOTE: A bench conference was held off the record  
21 in the presence of but out of hearing of the Jury.)

22 BY THE COURT:

23 THE COURT: All right. Ladies and gentlemen, we'll take  
24 a short break at this time. If you'll go to your jury room  
25 for a short break, remember don't talk about the case and

1 don't allow anybody to talk to you about it. Okay?

2 Thank you very much.

3 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
4 place outside the presence of the Jury.)

5 THE COURT: All right. Solicitor, anything we need to do  
6 before we take a break?

7 MR. HOLFORD: No, Your Honor.

8 THE COURT: And, Mr. Wilson?

9 MR. WILSON: Nothing, Your Honor.

10 THE COURT: All right. Very good.

11 **(RECESS.)**

12 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

13 **(On the Record.)**

14 (REPORTER'S NOTE: The following takes place outside the  
15 presence of the Jury.)

16 THE COURT: All right. Solicitor, you ready for the jury  
17 to come in?

18 MOTION:

19 MR. HOLFORD: Your Honor, if we could put one matter on  
20 the record?

21 THE COURT: Sure.

22 MR. HOLFORD: I just realized, we talked about this back  
23 in Chambers about the issue of the search warrant where the  
24 bullets were found at the house.

25 THE COURT: Yes.

1           MR. HOLFORD: The State would like to introduce the fact  
2 that the bullets, .38 caliber bullets were found during that  
3 search warrant. We intend to do so during this witness,  
4 Detective Beam, we just want to place that in the record.

5           THE COURT: All right. Very good. And the position of  
6 the Defense, Mr. Wilson?

7           MR. WILSON: Judge, there is case law on this regarding  
8 that and we talked about this in Chambers, jumping from one  
9 inference to the other and what the State is asking the jury  
10 to do is use the actual bullets as a stepping stone to get to  
11 the gun and the bullets were found nowhere at the scene of the  
12 crime. They weren't found on the person of the Defendant and  
13 they weren't found near the actual apartment complex where  
14 they say all this happened. I think that it is highly  
15 prejudicial and the actual probative value of it, because  
16 again, these are old bullets. I've seen them; so has the  
17 prosecution. These are really old bullets that were found in  
18 a box in a house. I would ask the Court to deny their ability  
19 to actually put that stuff in; it's prejudicial. Again, I  
20 don't think it's relevant and, again, I'd liken it to on the  
21 record, having a baseball bat murder and then going to the  
22 house and finding a baseball and saying, look, they definitely  
23 had a baseball bat.

24           THE COURT: All right, sir.

25           MR. WILSON: Too far.

1           THE COURT: And I appreciate that.

2           Solicitor, what I'm gonna do at this point in time is I'm  
3 not gonna allow the State to present the bullets in evidence  
4 in its direct presentation of evidence. However, I'll reserve  
5 the issue of whether or not -- because I don't find them to be  
6 directly relevant to the issue that the -- that the  
7 prejudicial value outweighs the probative value at this point  
8 in time in this case. But, should the Defendant testify or  
9 should there be other witnesses that might testify on behalf  
10 of the Defendant, which would raise the issue that -- and I'm  
11 just using this as an example, not making any kind of ruling,  
12 but that the Defendant knows nothing about weapons, has never  
13 had a weapon in his life or anything of that nature, then it  
14 might then bridge that hurdle of becoming more probative than  
15 prejudicial at that -- at that point in time. So, in the  
16 State's direct presentation, I'm not gonna allow it, but it is  
17 not a absolute bar. It depends on what may develop through  
18 the Defendant's presentation of the case. We'll just see  
19 about that. All right?

20           MR. HOLFORD: Yes, Your Honor.

21           THE COURT: All right. Thank you very much.

22           MR. WILSON: Thank you, Judge.

23           THE COURT: Ask the jury to come in, please.

24           (REPORTER'S NOTE: Jury enters courtroom.)

25           THE COURT: All right, Solicitor, your next witness,

1 please.

2 MR. HOLFORD: Thank you, Your Honor. The State calls  
3 Detective Jeremiah Beam.

4 THE COURT: All right. Please come around to be sworn,  
5 sir.

6 CLERK: Please raise your right hand.

7 JEREMIAH BEAM, HAVING BEEN SWORN

8 TESTIFIES AS FOLLOWS:

9 CLERK: State your full name and spell your first and  
10 last name for the Court.

11 MR. BEAM: It's Jeremiah Beam; J-E-R-E-M-I-A-H, last name  
12 is Beam, B-E-A-M.

13 DIRECT EXAMINATION OF JEREMIAH BEAM BY MR. HOLFORD:

14 Q: Detective Beam, where are you currently employed?

15 A: With the City of Myrtle Beach Police Department.

16 Q: How long have you been a detective there?

17 A: Almost three years.

18 Q: And were you employed with Myrtle Beach before that?

19 A: Yes, sir.

20 Q: For how long?

21 A: Almost 13.

22 Q: Okay. So, you've been on the force about 16 years now  
23 total?

24 A: Thirteen.

25 Q: Thirteen.

1 A: So, 10 years before I joined the detectives.

2 Q: Okay. And are you tasked to a specific division?

3 A: I am. I'm assigned -- I'm one of six assigned to our

4 Violent Crimes Unit.

5 Q: Okay. And what type of training do you go through in

6 order to be a detective?

7 A: It varies. We have homicide training, different types of

8 training with crime scenes and stuff of that nature.

9 Q: What separates you from a patrol officer -- what's the

10 difference between a patrol officer and a detective?

11 A: Other than a fancy suit sometimes and a little bit more

12 training, you have to get promoted and test for it and it's --

13 typically, you've been there a certain amount of time and

14 you've excelled and done some things to do get to that point.

15 Q: Do you do more investigation?

16 A: Yes, sir.

17 Q: And so what happens when you're called out to a crime

18 scene?

19 A: It's usually we're summonsed by a on-scene patrol

20 supervisor and it meets a criteria, typically a violent crime

21 or something that needs additional follow-up that patrol may

22 not be able to handle.

23 Q: So, you're not usually the first one to show up to a

24 crime scene, are you?

25 A: No, sir, very rarely.



1 Q: Were you the first one to show up on this scene?

2 A: No, sir.

3 Q: When did you respond on January the 8th?

4 A: After I was notified, notified by the patrol supervisor.  
5 Corporal Bland notified me of what he had and that's when I  
6 responded.

7 Q: And what location did you respond to?

8 A: Initially, to the Belk's parking lot, sir.

9 Q: We've got a picture of the Belk that we've seen before,  
10 but it's the Belk by the mall, right?

11 A: Yes, sir.

12 Q: Okay. I've got a big map here. This is State's 19. And  
13 just for the jury's reference, can you show us where the Belk  
14 is on here?

15 A: That would be right in this area.

16 Q: Okay. So -- so, this is the mall right here?

17 A: Yes, sir; it appears to be from the aerial.

18 Q: Okay. And are you familiar with this area of Myrtle  
19 Beach?

20 A: Yes, sir.

21 Q: And you've been, like you said, with the force for 13  
22 years?

23 A: Yes, sir.

24 Q: I don't know if you actually call it the force or if  
25 that's something I saw in a movie, but -- this green dot right

1 here, what is that?

2 A: That should be the area of Belk's on that side of the  
3 Coastal Grande Mall.

4 Q: I'll bring it a little closer. That green dot at the top  
5 left?

6 A: Yes, sir.

7 Q: Is that on the other side?

8 A: Yeah, that's gonna be by Highway 17, the Bypass side,  
9 sir.

10 Q: Okay. Is Belk over here on the Pine Island side?

11 A: Yeah, it's closer to the Sticky Fingers and that side.

12 Q: Okay. Do you know what these dots are down here, the red  
13 dot?

14 A: Let me slide it over, sir.

15 Q: Down near Pridgen and Highway 15?

16 A: So, that's gonna be the apartment complex there. It  
17 looks like the yellow dot is gonna be Ramsey Drive, and then  
18 the blue dot here is off Jennings in the area of Oak and Pine.

19 Q: Okay. Let me -- let me get you a close-up actually. Let  
20 me back up. You were -- were you the lead detective on this  
21 case?

22 A: I was one; I was the lead, yes, sir.

23 Q: Okay. So you're familiar with, with the Defendant in  
24 this case?

25 A: Yes.

1 Q: You are familiar with the victim in this case?

2 A: Yes.

3 Q: Did you actually interview the victim?

4 A: I did.

5 Q: Okay. This is a close-up; this is State's 20. Those  
6 dots, are you able to tell it a little easier where they are  
7 -- just tell us, so we can have a record and so the jury can  
8 see, the red dot, what's the intersection there?

9 A: That's gonna be Bridgen Road this way and Highway 15 runs  
10 this way. So, that's gonna be the Town Square Apartments.

11 Q: The Town Square Apartments. Okay. And why is that  
12 relevant in this case?

13 A: That's where the sexual assault occurred in the parking  
14 lot.

15 Q: Okay. So, red dot is where the assault occurs?

16 A: Yes.

17 Q: Now, what about the blue dot? What's that on the corner  
18 of?

19 A: That's Jennings and Oak. That's actually where the  
20 Defendant resides.

21 Q: Okay. Do you know the Defendant's address?

22 A: I believe it's [REDACTED].

23 Q: [REDACTED] Oak. Now you've been in the courtroom the whole  
24 time, right?

25 A: Yes, sir.

1 Q: You kind of have that special privilege as the chief  
2 agent?

3 A: Yes, sir.

4 Q: So you know that other people have testified already?

5 A: Yes, sir.

6 Q: Do you also have this in your case notes though where the  
7 addresses are?

8 A: Yes, sir.

9 Q: Where was the purse found?

10 A: It was found -- I'm gonna refer to my notes, if that's  
11 all right, just so I don't -- so it's gonna be Officer  
12 Southerland responded to [REDACTED], which is across  
13 from [REDACTED].

14 Q: Okay. And is there a dot there?

15 A: Let's see; yep, there's a dot there.

16 Q: And what color is that?

17 A: That's purple.

18 Q: Purple?

19 A: Pink.

20 Q: Purple or pink is where the purse was found. Now, when  
21 was that purse found; was it the same night?

22 A: No, sir. It was approximately about a month later, I  
23 believe.

24 Q: Sometime in February?

25 A: Yes, sir.

1 Q: Okay. And then ---

2 A: February 3rd.

3 Q: There's a yellow dot on Pine Drive; what would that be  
4 referenced to?

5 A: That's gonna be where the Defendant was located after  
6 fleeing from the residence.

7 Q: Okay.

8 A: And that should be [REDACTED].

9 Q: [REDACTED]?

10 A: Yes, sir.

11 Q: Okay. So, blue is Defendant's residence, and yellow is  
12 where he was found, right?

13 A: Yes, sir.

14 Q: And were you there when you went to [REDACTED] Oak?

15 A: I was there; I was not involved in the pursuit.

16 Q: So, you didn't run after him?

17 A: I did not; no, sir.

18 Q: But did you know that law enforcement was going to look  
19 for him?

20 A: Yes, sir, I was -- I was in the area as they were  
21 knocking on the door, but I was not in the rear or involved in  
22 the pursuit.

23 Q: Okay. But you know they found him where that yellow dot  
24 is?

25 A: Yes, sir, I know that based off reports and radio traffic

1 as well.

2 Q: I actually want to ask you a question about -- you see  
3 across from Highway 15 where this red dot is by the Town  
4 Square -- on the corner of Pine and Highway 15, what is this  
5 right here; do you know what that is?

6 A: It's hard to tell from the aerial, sir. It looks like  
7 some type of maybe a parking lot or an entrance I can see. It  
8 looks like a very large driveway or parking lot there.

9 Q: Okay. In speaking with the victim, did she tell you  
10 where the Defendant fled after the assault?

11 A: He went down toward -- initially, she said that he was  
12 walking on foot and then once he got toward the end of that  
13 complex, that's when he ran and he ran toward Highway 15.

14 Q: Okay. So ---

15 A: It should be west if you need a direction, sir.

16 Q: And if I -- I'm holding this map where Highway 15 runs  
17 left to right?

18 A: Correct.

19 Q: So, if the Town Square Apartments are below Highway 15,  
20 is he running ---

21 A: He's running up.

22 Q: Up. Okay. And which direction is his house located?

23 A: Up.

24 Q: And in which direction is the purse located?

25 A: Up.

1 Q: Now, I'm sure this is gonna come up; I brought it up a  
2 little bit with Jerrica as well. You were pretty tough on her  
3 that night, weren't you?

4 A: I was. I try to be thorough and make sure I asked the  
5 right questions, make sure that I go over the story. I  
6 typically do that in all interviews to make sure they were not  
7 just, you know, doing it halfway. I wanted to make sure that  
8 I was thorough.

9 Q: In your job, could you even be able to ballpark how many  
10 complaints of sexual assault you get?

11 A: We get a lot. Unfortunately, we're a tourist town,  
12 Spring Break, college, it's a lot.

13 Q: And are you trained to vet these complaints?

14 A: We have to vet them just like any other case. So, yes,  
15 sir, we do our very best to try to vet it to make sure it  
16 appears to be credible and that it's true.

17 Q: And did you -- do you sometimes threaten them telling  
18 them they could be facing a felony if they're filing a false  
19 police report?

20 A: Sometimes. I personally try not to. Not often,  
21 especially for sexual assault, I'm not a big fan of that, but  
22 sometimes there is a time and place where you have to let them  
23 know that if it is a false report, that there are  
24 consequences.

25 Q: And in this case, did Jerrica ever deny that she was

1 sexually assaulted?

2 A: No, sir.

3 Q: Did she ever deny that she was robbed at gunpoint?

4 A: No, sir.

5 Q: Even when questioned hard by you, a trained detective,  
6 did she deny her story?

7 A: She never denied it. The story didn't really change.

8 MR. HOLFORD: May I approach with State's 31 and 32?

9 THE COURT: Yes, sir.

10 MR. HOLFORD: They have not been entered yet.

11 BY MR. HOLFORD:

12 Q: Do you recognize 31 and 32?

13 A: Yes, sir. Those appear to be the clothing that he was  
14 wearing at the time he was arrested.

15 Q: Do they appear a fair and accurate depiction of his  
16 clothing?

17 A: Yes, sir.

18 MR. HOLFORD: The State moves 31 and 32 into evidence.

19 THE COURT: Any objection.

20 MR. WILSON: No objection, Your Honor.

21 THE COURT: All right. So State's 31 and 32 are in  
22 evidence without objection.

23 STATE'S EXHIBITS NUMBERS 31 AND 32

24 ADMITTED INTO EVIDENCE

25 BY MR. HOLFORD:



1 Q: Now when you say clothing he was wearing, who are we  
2 talking about?

3 A: Mr. Welch.

4 Q: Okay. So, this is the clothing the Defendant was wearing  
5 at the time?

6 A: Yes, sir. After his arrest, Crime Scene responded to the  
7 Myrtle Beach Jail and his clothing was seized and  
8 photographed. So, that was photographed by our Crime Scene  
9 Unit.

10 Q: Now, walk me through the timeline. So, Myrtle Beach  
11 Police Department gets a call of a sexual assault; about what  
12 time was that?

13 A: I'm not sure of the exact time. I know I responded  
14 around 21:14, so around about 9:14, 9:15 is when I began my  
15 interview.

16 Q: Now, January the 8th, 2015, was it dark out at that  
17 point?

18 A: Yes, sir.

19 Q: How long had it been dark?

20 A: Fairly a while; I mean it was January, it's winter, so  
21 it's dark fairly early.

22 Q: So, you respond out at -- I'm sorry, remind me again,  
23 21:14?

24 A: Yes, sir.

25 Q: So ---

1 A: And that's when I began my initial interview. I was on  
2 scene for a few minutes and then began the interview.

3 Q: Okay. And then at what point do you go to [REDACTED] Oak to  
4 try and get the Defendant?

5 A: It was several hours later until we are at that point.

6 Q: Was it still on the 8th or could it have gone into early  
7 morning hours?

8 A: I believe it was early morning of the 9th.

9 Q: Okay. And so at some point you get the Defendant in  
10 custody?

11 A: Yes, sir.

12 Q: Do you question him at any point?

13 A: Not initially; it's later that following afternoon on the  
14 9th.

15 Q: Okay. But you were involved in that questioning?

16 A: I was; yes, sir.

17 Q: Do you give what's typically known as Miranda?

18 A: Yes, sir, Detective Jones and I conducted the interview  
19 and Miranda Rights were read to the Defendant.

20 Q: And explain to the jury -- I'm sure we've all seen T.V.,  
21 but what are Miranda Rights?

22 A: Miranda Rights are the rights we have to read to somebody  
23 if they're in custody in an interrogation setting such as jail  
24 after arrest. We have a form that we read per our policy and  
25 that was done with Mr. Welch.

1 Q: And you actually present them with the form?

2 A: Other departments don't have forms. Sometimes people  
3 have cards; we have to have a form and we read it line by line  
4 and usually check off after we read each right to acknowledge  
5 that they understand it.

6 Q: Is that necessary?

7 A: No, it's not necessary and sometimes it hinders us or  
8 it's more work, but it's what our policy is.

9 MR. HOLFORD: May I approach?

10 THE COURT: Yes, sir.

11 BY MR. HOLFORD:

12 Q: I'm gonna hand you what's been marked as State's 1. Are  
13 you familiar with that?

14 A: Yes, sir.

15 Q: And what is that?

16 A: That's the Miranda Form that we read that night.

17 MR. HOLFORD: Your Honor, the State would seek to  
18 introduce State's 1 into evidence.

19 THE COURT: Any objection?

20 MR. WILSON: No objection, Your Honor.

21 THE COURT: All right. It's into evidence without  
22 objection.

23 STATE'S EXHIBIT NUMBER 1

24 ADMITTED INTO EVIDENCE

25 BY MR. HOLFORD:

1 Q: And so this is a typical Miranda form, right?

2 A: Yes, sir.

3 Q: And was it signed?

4 A: It was; it's initialed. It looks like D.J.

5 Q: Okay. Is that the Defendant who signed it?

6 A: Yes, sir.

7 Q: Now, there's a printed name of a witness; it looks like  
8 H. Jones, who is that?

9 A: That's the other detective that was present with me in  
10 the interview and was the primary detective that did this  
11 interview.

12 Q: And the date 1/9/15?

13 A: Yes, sir.

14 Q: So, would you have interviewed the Defendant with  
15 Detective Jones on 1/9/15?

16 A: Yes, sir.

17 Q: Is there an audio of that interview?

18 A: Yes, sir. It was in our B.A. Room; there was no video,  
19 but there was audio. We used our digital recorder as we  
20 typically do.

21 Q: Have you had a chance to listen to it?

22 A: I have; yes, sir.

23 MR. HOLFORD: May I approach, Your Honor?

24 THE COURT: Yes, sir.

25 BY MR. HOLFORD:

1 Q: I'm approaching with what's been marked as State's 28 for  
2 ID at this point.

3 A: Yes, sir.

4 Q: And is that an audio recording of the interview you did  
5 with the Defendant?

6 A: Yes, sir; it appears so.

7 MR. HOLFORD: The State would move State's 28 into  
8 evidence.

9 THE COURT: Any objection?

10 MR. WILSON: No objections, Your Honor.

11 THE COURT: All right. State's 28 is in evidence without  
12 objection.

13 STATE'S EXHIBIT NUMBER 28

14 ADMITTED INTO EVIDENCE

15 MR. HOLFORD: May I publish?

16 THE COURT: Yes, sir.

17 BY MR. HOLFORD:

18 Q: So, at this point, you've read the Defendant his Miranda  
19 Rights?

20 A: Detective Jones did, yes, sir.

21 Q: Okay. You're in the room the whole time?

22 A: I'm present taking notes and he's the one speaking.

23 Q: Okay. And this is the day after, so this was on January  
24 the 9th, 2015?

25 A: Yes, sir; it was the afternoon hours.

1 Q: Okay. We'll probably hear a time on there, won't we?

2 A: You may -- you should, but I'm not sure if it's on there  
3 or not, but typically I will give a header with the date and  
4 time, location and who's present.

5 Q: We're gonna figure it out and get back to the audio  
6 portion.

7 Did you do search warrants for Facebook results in this  
8 case?

9 A: Yes, sir, I did two search warrants on both the  
10 Defendant's and the victim's Facebook account.

11 Q: And did you get Facebook results back?

12 A: I did; yes, sir.

13 Q: And does that show conversation between the Defendant and  
14 the victim in this case?

15 A: Yes, sir; it does.

16 Q: What name was the Defendant using on Facebook?

17 A: His Facebook user name was David Royal.

18 Q: Okay. But we know that that's the Defendant sitting in  
19 the courtroom?

20 A: Correct.

21 Q: This picture we've seen, 17, State's 17, did you pull  
22 that up on Facebook?

23 A: I did; yes, sir.

24 Q: And under what name did you pull it up?

25 A: It was under David Royal.

1 Q: Okay. And then the victim told you this was the person  
2 who had assaulted her and stolen her stuff?

3 A: That is correct.

4 Q: Did she ever change that story?

5 A: No, sir.

6 Q: She stuck to that to this day?

7 A: She did.

8 Q: This purse that we have pictures of in 7 and the contents  
9 we have in 8, whose purse is that?

10 A: That's the victim's purse.

11 Q: And that's the purse that we saw we found at that pink  
12 dot on [REDACTED] Street?

13 A: Yes, sir.

14 Q: When I say we, it was actually another individual, right?

15 A: Correct.

16 Q: All right. I'm gonna show you what's been entered as  
17 State's 22. This is Time Warner Cable response. We had the  
18 technician come in earlier. Can you read the phone number off  
19 there and tell me what address the subscriber information is?

20 A: Yes, sir. The phone number is [REDACTED]-6230 it's to an  
21 Edna Blackmon and the address is [REDACTED] Oak Drive, Myrtle Beach,  
22 South Carolina.

23 Q: Okay. So, [REDACTED] Oak Drive, that's the Defendant's  
24 residence?

25 A: Correct.

1 Q: Now, on State's 16, can you identify what the -- well,  
2 tell me what the phone number is associated with that account.

3 A: It doesn't say on here. Okay. Yeah, I'm sorry. It says  
4 this is the detail records for Jerrica Nelson and that's gonna  
5 be [REDACTED]-0233.

6 Q: Okay. Now, that's not the same number you just read?

7 A: No, sir.

8 Q: But the number of calls on -- the last number of calls on  
9 January the 8th, what number are they to?

10 A: [REDACTED]-6230.

11 Q: Is that the same as this Time Warner data that they told  
12 us was [REDACTED] Oak?

13 A: Yes, sir.

14 Q: That's a long drawn out to say that Jerrica Nelson was  
15 talking to someone at the Defendant's residence?

16 A: Correct.

17 Q: And that's back here at the blue on Oak Street?

18 A: Oak Drive, yes, sir.

19 Q: Oak Drive, I apologize. Hopefully, we've got the audio.  
20 When you respond to a scene and there's alleged to be sexual  
21 assault, what are some of the questions that you normally ask  
22 a victim?

23 A: Just standard questions; date, time, where it occurred,  
24 suspect information, what kind of sexual assault actually  
25 occurred. We ask questions about condoms, you know, looking



1 for forensic evidence, stuff of that nature.

2 Q: Do you take any -- do you take any swabs or is there a  
3 Crime Scene Unit that does that?

4 A: We call Crime Scene.

5 Q: Okay. So, you don't do that?

6 A: No, sir; I do not do that.

7 Q: But do you know what swabs are taken for?

8 A: Buccal swabs are for DNA swabs, typically is what they're  
9 used for.

10 Q: Okay. And -- Your Honor, Court's indulgence?

11 BY THE COURT:

12 THE COURT: Yes, sir. You need to take a break?

13 MR. HOLFORD: May we please?

14 THE COURT: Yes, sir.

15 All right, ladies and gentlemen, if you'd go to your jury  
16 room for a few minutes while they resolve technical  
17 difficulties.

18 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
19 place outside the presence of the Jury.)

20 THE COURT: All right. So we know it works because you  
21 and Mr. Wilson listened to it, right?

22 MR. WILSON: That's correct, Your Honor, and we didn't do  
23 anything to it, Judge.

24 THE COURT: All right. Y'all get it working and let me  
25 know. Thank you very much.

1 MR. WILSON: Yes, sir.

2 THE COURT: You can step down; just don't talk to  
3 anybody.

4 (RECESS.)

5 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

6 (On the Record.)

7 THE COURT: All right, Solicitor. Are you ready to  
8 proceed?

9 MR. HOLFORD: I believe so, Your Honor.

10 THE COURT: All right. Very good. Defense?

11 MR. WILSON: Yes, Your Honor.

12 THE COURT: All right. Good.

13 Ask the jury to come in, please.

14 (REPORTER'S NOTE: Jury enters courtroom.)

15 THE COURT: All right, Solicitor, you may proceed.

16 MR. HOLFORD: Thank you, Your Honor.

17 BY MR. HOLFORD:

18 Q: All right, Detective Beam. Let's try this one more time.

19 So, you interviewed the Defendant in this case, correct?

20 A: Correct.

21 Q: And that interview was audio recorded?

22 A: Correct.

23 Q: After you had done Miranda?

24 A: Yes, sir.

25 Q: And have you listened to that interview?

1 A: Yes, sir; I have.

2 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

3 (REPORTER'S NOTE: State's Exhibit 28 published, not  
4 transcribed herein.)

5 (On the Record.)

6 BY MR. HOLFORD:

7 Q: Is that the whole interview?

8 A: Yes, sir, I mean it was ---

9 Q: Did it end at that point?

10 A: Yes, sir.

11 Q: When he said he wanted to have a lawyer, you stopped?

12 A: And we cut off the recorder and he was given his warrants  
13 and taken back to his cell.

14 Q: You didn't keep asking him questions?

15 A: No, sir.

16 Q: So, at that point you had advised him he had the right to  
17 remain silent, he could talk to you if he wanted to?

18 A: Correct.

19 Q: That he could have a lawyer if he wanted to?

20 A: Detective Jones advised him of his -- yes, sir, Miranda  
21 Rights.

22 Q: And you were there?

23 A: Yes, sir.

24 Q: And he ended up signing that form, D.J.?

25 A: Yes, sir.

1 Q: He made those couple of brief statements and then he said  
2 he wanted a lawyer and he quit talking?

3 A: Yes, sir.

4 Q: And you respected that?

5 COURT REPORTER: Excuse me, your answer?

6 A: I'm sorry, yes, ma'am. I apologize. Yes.

7 BY MR. HOLFORD:

8 Q: When you asked, if he was talking to that girl that  
9 night, did he say I wasn't talking to any girl last night?

10 A: I believe that's what he said.

11 Q: And that he had met plenty of girls on Facebook?

12 A: Right.

13 Q: That was in response to, you know, I'm talking about that  
14 girl you met on Facebook, right?

15 A: Correct.

16 Q: He said he had met plenty of girls?

17 A: Plenty of girls.

18 Q: You asked, did you see a girl last night? What was his  
19 response?

20 A: No.

21 Q: And then he said, for one, no one caught me with no gun?

22 A: Correct.

23 Q: He wasn't caught with a gun, was he?

24 A: He was not. We did not recover a handgun.

25 Q: Now, the, the armed robbery and sexual assault occurred

1 before what time?

2 A: It was well before I responded. I mean, it was on  
3 January 8th, I believe.

4 Q: So, before at least 9 o'clock on January 8th?

5 A: Yes, sir.

6 Q: And he wasn't apprehended until early morning hours of  
7 January 9th?

8 A: Correct.

9 Q: So, there was some hours in between?

10 A: Sure.

11 Q: And then he just says he was family, he was with a bunch  
12 of people.

13 A: Right.

14 Q: And then asked for a lawyer and that's it?

15 A: Correct.

16 Q: But he denies being with a girl that night?

17 A: Correct.

18 Q: Town Square Apartments where all of this occurred on  
19 Pridgen Road and Highway 15 in Myrtle Beach, what county is  
20 that in?

21 A: That's in Horry County.

22 Q: A pretty common question, right?

23 A: Yes, sir, the city limits of Myrtle Beach in Horry  
24 County.

25 Q: That's within your jurisdiction?

1 A: Yes, it is.

2 Q: No further questions at this time.

3 THE COURT: All right.

4 Cross examination?

5 MR. WILSON: Your Honor, may we approach briefly?

6 THE COURT: Absolutely.

7 MR. WILSON: Thank you, Judge.

8 (REPORTER'S NOTE: A bench conference was held off the record  
9 in the presence of but out of hearing of the Jury.)

10 CROSS EXAMINATION OF JEREMIAH BEAM BY MR. WILSON:

11 Q: Good afternoon, Detective.

12 A: Good afternoon, sir.

13 Q: How are you doing?

14 A: Good, how are you?

15 Q: Pretty good, man. It's good to see you.

16 All right. Let's talk about earlier you testified under  
17 oath that, that Jerrica Nelson, when you talked to her that  
18 she didn't change her statement?

19 A: Not -- when I interviewed her, no, sir.

20 Q: Okay. Let me ask you this, do you recall in a  
21 conversation where you're talking to her, 52 minutes in, and  
22 she says to you, I was like, I told you, I don't have cash on  
23 me. He's like, I don't believe you, grabbed my purse out of  
24 the front seat and turned away towards the door, and I was  
25 like I have the handle, give me my purse. He was like, back

1 up. He held the gun out, I let the purse go. And do you  
2 recall responding to her saying that you let -- you left that  
3 whole thing out before about having the gun and when you got  
4 out -- when he got out. Do you recall saying that at all?

5 A: It was like well over an hour and a half interview, so  
6 ---

7 Q: Absolutely. But do you recall that is what I'm asking?

8 A: I don't recall that, but it sounds like you've got a  
9 transcript or you've got it, so I mean, that sounds like some  
10 -- a lot of questions that we spoke about.

11 Q: Okay. So, she did change her story?

12 A: I don't think she changed her story. There might have  
13 been some stuff that, as we continued to ask and re-ask it  
14 came out. I don't think it was changing her story.

15 Q: Well, let me ask you this, then why did you ask her --  
16 why did you say to her you left that whole thing out before?

17 A: It was a detail that I hadn't heard.

18 Q: Okay. All right. Fair enough. You also say to the  
19 jury, this was on direct examination that you don't believe  
20 she ever changed her story, right?

21 A: I don't believe the story changed.

22 Q: All right. You're the lead detective in this case,  
23 correct?

24 A: Yes, sir.

25 Q: All right. And you review all the evidence in this case?

1 A: I review the evidence.

2 Q: Okay. And my question to you is this, please tell the  
3 jury whether or not her story changed, whether or not she  
4 omitted things when she first called 911?

5 A: Yeah. Initially, she did not tell about the sexual  
6 assault.

7 Q: Okay. Let me ask you a question, are omissions lies in  
8 your book?

9 A: Omissions, it depends on the context, situational based.

10 Q: I've known you for a long time; you're a good detective?

11 A: Uh-huh (affirmative response).

12 Q: And you're very seasoned. So, if you go and you talk to  
13 anyone, a victim or you talk to someone who did something  
14 wrong, and they leave something out and it's pertinent to the  
15 case, would you consider it to be a lie, yes or no?

16 A: I think it depends on the intent and also she's a victim  
17 of sexual assault. So, I mean she's a trauma victim. So,  
18 there's explanations for her state of mind.

19 Q: Okay. And so the explanation for her state of mind here  
20 in your opinion was what?

21 A: She's been a victim of sexual assault and that, you know,  
22 we were speaking and continued to ask questions and gather  
23 details.

24 Q: Okay. Do you recall ever telling her that this just  
25 didn't add up?



1 A: Some of the stuff did not add up, initially, that's why  
2 we continued on with the questioning.

3 Q: Tell the jury what it is that -- and you're lead  
4 detective, tell the jury what it is that you meant when you  
5 said this is not adding up?

6 A: Yeah, and we discussed it earlier, going all the way to  
7 Belk instead of going to certain places, that didn't make  
8 sense to me; it didn't add up. But again, she testified, she  
9 gave a reason of why she went to Belk but, you know, to me,  
10 I'm not a victim of sexual assault, I'm not in her shoes, but  
11 to me that did not make sense.

12 Q: Okay. Now you've audio taped this entire interview,  
13 correct?

14 A: Yes, sir.

15 Q: Okay. All right. And this is basically an interview  
16 between you and Ms. Nelson; is that correct?

17 A: Yes, sir; that appears to be that, yes, sir.

18 Q: Is that correct? I just want to make sure.

19 A: Yes, sir; that appears to be correct.

20 Q: Now this has been marked as Defendant's Exhibit 5 for  
21 identification purposes only. I'll show this to the  
22 prosecution. Let me ask you to lay the foundation. Let me  
23 ask you this. Also in this interview, the mother actually  
24 comes in on this interview at the end, correct?

25 A: She does; yes, sir.

1 Q: Okay. All right. And you actually let her speak on this  
2 interview?

3 A: I did; yes, sir.

4 Q: All right. Is that something you typically do and record  
5 it?

6 A: Sometimes we'll do that especially dealing with young --  
7 young, young adults. Sometimes a parent can elicit responses  
8 or get the truth or it just helps to make sure that we're on  
9 the same page.

10 Q: Okay.

11 MR. WILSON: Your Honor, at this time, I'd move this into  
12 evidence as Defendant's Exhibit -- where we gonna be at?

13 COURT REPORTER: 5. It's marked 5 for ID, right?

14 MR. WILSON: Yes, ma'am.

15 COURT REPORTER: It's 5.

16 MR. WILSON: So 5, Judge.

17 THE COURT: Objection by the State?

18 MR. HOLFORD: Your Honor, if that's the audio recording  
19 of her interview and that's all then no objection.

20 THE COURT: So ---

21 MR. HOLFORD: Having not listened to the entirety of it,  
22 I don't know exactly what's on there. But I know we have  
23 turned over Nelson Interview Part 1 and Part 2.

24 THE COURT: All right. So ---

25 MR. WILSON: It is all inclusive, Judge. This is the

1 entire interview that goes from beginning when he first got on  
2 the scene and then at the very end.

3 THE COURT: All right, sir. With that, that it's that  
4 interview and nothing else?

5 MR. WILSON: Yes, sir, that's it.

6 THE COURT: All right. Very good. That's in evidence

7 ---

8 MR. WILSON: Yes, sir.

9 THE COURT: --- with that stipulation. Very good.

10 MR. WILSON: Thank you, Your Honor.

11 DEFENDANT'S EXHIBIT NUMBER 5

12 ADMITTED INTO EVIDENCE

13 MR. WILSON: Permission to publish, Judge?

14 THE COURT: Yes, sir.

15 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

16 (REPORTER'S NOTE: Defendant's Exhibit 5 published, not  
17 transcribed herein.)

18 **(On the Record.)**

19 MR. WILSON: Your Honor ---

20 THE COURT: Yes, sir.

21 MR. WILSON: I apologize. Part 2 is actually on a  
22 separate disc. It's not that long, Judge.

23 THE COURT: All right.

24 MR. WILSON: It won't take me long.

25 THE COURT: Well, we're gonna -- we're gonna ---

1 MR. WILSON: May I approach?

2 THE COURT: We're gonna be here until we're done with  
3 this witness.

4 MR. WILSON: Thank you, Your Honor, it won't be long,  
5 Judge.

6 BY MR. WILSON:

7 Q: Is that Part 2?

8 A: It appears to be, sir.

9 MR. WILSON: Judge, at this time, I ---

10 THE COURT: You need to mark it.

11 MR. WILSON: I apologize, Judge. Mark it for  
12 identification purposes only.

13 MR. HOLFORD: Your Honor, I don't object if this is the  
14 Detective, I guess, questioning the witness. My notes show  
15 that it's the mom questioning.

16 MR. WILSON: It's both of them talking to her, Judge.

17 THE COURT: All right.

18 MR. WILSON: I could be mistaken, but I think that's both  
19 of them.

20 COURT REPORTER: Defendant's 13 for identification.

21 MR. WILSON: Thank you, ma'am. Thank you.

22 BY MR. WILSON:

23 Q: This would be the actual interview with you present as  
24 well as the mother and Jerrica Nelson?

25 A: Yes, sir; it appears to be, sir.

1 Q: Okay.

2 MR. WILSON: Judge, can I move this in at this time?

3 THE COURT: Any objection?

4 MR. HOLFORD: No objection, Your Honor.

5 THE COURT: All right. So, that's in evidence without  
6 objection. You may proceed.

7 MR. WILSON: Thank you, Your Honor.

8 DEFENDANT'S EXHIBIT NUMBER 13

9 ADMITTED INTO EVIDENCE

10 MR. WILSON: May I publish to the jury?

11 THE COURT: Yes, sir.

12 MR. WILSON: Thank you, Judge.

13 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

14 (REPORTER'S NOTE: Defendant's Exhibit 13 published, not  
15 transcribed herein.)

16 **(On the Record.)**

17 BY MR. WILSON:

18 Q: Detective, let me ask you just a few questions and then  
19 I'll be done. When the mother comes up, do you recall what  
20 she was asking her daughter?

21 A: I don't. I remember stepping out giving her -- I think  
22 the first time that I stepped out, I was on the phone with  
23 them for a couple of minutes, that's when you heard a little  
24 bit of lag time.

25 Q: Okay.

1 A: And it took them some time to get there. I stepped out  
2 at one point and briefed them of the scenario and that's when  
3 we concluded with the second interview there, the second part.

4 Q: Okay. It's hardly audible, but I just want to ask you  
5 this, do you remember her saying when you got in the car a  
6 while ago, you didn't tell me that, you didn't tell me you  
7 were raped. Were you raped or did you just make a bad choice,  
8 Jerrica, and hook up with some guy you met? Do you recall her  
9 saying anything like that?

10 A: It's hard to hear, but that's very possible. I'm not  
11 saying that did not happen, sir.

12 Q: Okay. All right. Just a couple other questions. Y'all  
13 processed the car, correct?

14 A: Crime Scene, our Crime Scene Unit did, yes, sir.

15 Q: Yes, sir, and did y'all recover any evidence at all, any  
16 forensic evidence of rape?

17 A: I would have to defer to their Crime Scene Report or what  
18 they did. That's what they specialize in. My job was to get  
19 them over there.

20 Q: Okay.

21 A: We obtained written consent and the car was processed.

22 Q: All right. Did you go through the case file before you  
23 came here today?

24 A: Yes, sir.

25 Q: Okay. Did you find anything in the case file that was

1 recovered from that car?

2 A: When the case file was transmitted, sir, none of that was  
3 back from SLED. It takes, you know, years sometimes to get  
4 stuff back. So, I don't know what's come back and what hasn't  
5 come back as far as SLED evidence.

6 Q: Okay. All right. So, you're not aware of any evidence?

7 A: I'm not, no. I've heard some stuff this morning that I  
8 didn't know. So ---

9 MR. WILSON: No further questions, Judge.

10 THE COURT: All right. Redirect?

11 MR. HOLFORD: Briefly, Your Honor.

12 REDIRECT EXAMINATION OF JEREMIAH BEAM BY MR. HOLFORD:

13 Q: Detective Beam, in that interview, basically you go over  
14 the story with her about three times and then one more time  
15 with her mom?

16 A: We went over it, yes, sir, several times.

17 Q: And of course the jury is gonna have this recording back  
18 there so they can listen to it about what changes and what  
19 doesn't change, right?

20 A: Correct.

21 Q: But can we agree that some points never change?

22 A: It's my understanding that, you know, you can split hairs  
23 and say, you know, certain times, details were said or  
24 weren't, but the story did not change in my opinion.

25 Q: The Defendant used a gun?

1 A: Yes.

2 Q: He stole her purse and her phone?

3 A: Yes.

4 Q: He forcibly made her have sex at gunpoint?

5 A: Yes.

6 Q: It was at the Town Square Mall?

7 A: Yes, sir.

8 Q: There was a struggle ---

9 A: Town Square Apartments, I'm sorry.

10 Q: --- Time Square Apartments, I apologize. Okay. There

11 was a struggle over the purse?

12 A: Yes, sir.

13 Q: And the Defendant ran afterwards?

14 A: Correct.

15 Q: Even when pressed with her mom, by you multiple times,

16 she stuck to that story?

17 A: And a lot of times, in our experience, pressing you get

18 -- sometimes you're able to break them, whether it be a rape

19 allegation or any other kind of investigation, that's why we

20 go over it again and again to see if we get -- we're able to

21 get them to recant.

22 Q: No question you were skeptical at first?

23 A: Always -- not always but, you know, we have a lot of, of

24 sexual assaults. I mean, it's just the nature of Myrtle

25 Beach, unfortunately, and Horry County, and some of it did not



1 make sense to me initially.

2 Q: Did you do a further investigation after that interview?

3 A: I did; yes, sir.

4 Q: And did Myrtle Beach Police Department choose to charge  
5 this Defendant with criminal sexual conduct and kidnapping,  
6 armed robbery, and possession of a weapon during the  
7 commission of a violent crime?

8 A: Yes, sir; we did.

9 Q: And was he arrested for those offenses?

10 A: Yes, sir; he was.

11 Q: No further questions.

12 THE COURT: Questions on those just asked?

13 MR. WILSON: Yes, sir.

14 RE CROSS EXAMINATION OF JEREMIAH BEAM BY MR. WILSON:

15 Q: What additional evidence did you gather after all this?  
16 What other evidence was presented to you other than Jerrica's  
17 statement because that's what you based the charges on, right?

18 A: Yes, sir. We were able to get search warrants for  
19 Facebook, both accounts.

20 Q: All right.

21 A: That's additional evidence that corroborated what she was  
22 saying.

23 Q: That they had a Facebook conversation?

24 A: That they were talking, yes, sir; that was one element  
25 that we were able to corroborate, yes, sir.

1 Q: No, but what -- what he just asked you was, he says that  
2 kidnapping, CSC, armed robbery, he then says possession of a  
3 weapon during a violent offense. Does the Facebook messages  
4 give you any information that might add to those charges?

5 A: That doesn't add to that, but it corroborates some of  
6 what she said, sir.

7 Q: Okay. It doesn't add to the elements of those crimes,  
8 does it?

9 A: It doesn't change the elements of what was met or nor  
10 met; no, sir.

11 Q: That's right. All right. But there was a conversation  
12 that was had by them, right?

13 A: Yes, sir.

14 Q: Okay. But that night, that night in the car at the crime  
15 scene, what additional evidence do you have for this jury that  
16 this happened other than what Jerrica Nelson told you?

17 A: The primary basis was her statement, sir.

18 Q: Okay. All right. So, there was nothing additional, was  
19 there?

20 A: I don't know what's come back from SLED or what hasn't,  
21 sir.

22 Q: It's the day of trial and this man is on trial for some  
23 serious charges and you're telling the Court and the jury you  
24 don't have the additional SLED information and you're  
25 testifying today before the Court?

1 A: It wasn't brought to my attention, sir.

2 MR. WILSON: No further questions, Judge.

3 THE COURT: Anything else, Solicitor?

4 MR. HOLFORD: Nothing further, Your Honor.

5 THE COURT: All right, sir. You may step down, sir.

6 BY THE COURT:

7 THE COURT: All right, ladies and gentlemen, we're gonna  
8 stop for the evening. I'm going to ask you to be back  
9 tomorrow morning by 9:30. I know the Clerk's office again  
10 will have something for you in the jury room. So, I'm sure  
11 the Bailiff will have you come back a little bit earlier so  
12 that you're able to enjoy that before you come into the  
13 courtroom at 9:30.

14 I'll remind you as I've told you before, you go home, you  
15 see your husband, wife, boyfriend, girlfriend, person down the  
16 street, if they happen to know you're on a jury, that's fine,  
17 but obviously you can't talk to them about the case because  
18 intentionally or unintentionally, they would give you their  
19 opinion about it. They don't have one. Y'all shouldn't have  
20 one at this point in time because we haven't heard all the  
21 evidence in the case and you do not know the law that you must  
22 apply to the facts and evidence you have heard in this case.  
23 So, again, don't talk about it, don't allow anybody to talk to  
24 you about it. I'll see you back tomorrow morning at 9:30.

25 Thank you very much.

1 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
2 place outside the presence of the Jury.)

3 THE COURT: All right. Anything further from the State  
4 before we recess for the evening, at this point in time?

5 MR. HOLFORD: Nothing at this point, Your Honor.

6 THE COURT: All right. From the Defense?

7 MR. WILSON: Nothing right now, Judge.

8 THE COURT: All right. Again, I would like to if at all  
9 possible, we'd start right at 9:30. So, y'all make sure  
10 you're here by at least by 9:15 and if we can have the  
11 Defendant here at least by that time so that he can come on  
12 it. All right?

13 MR. WILSON: Yes, Your Honor.

14 MR. HOLFORD: Yes, Your Honor.

15 THE COURT: All right. Thank you very much.

16 MR. HOLFORD: Your Honor, if I could?

17 THE COURT: Yes.

18 MR. HOLFORD: Because it will come up in the morning  
19 anyway. Would I need to call someone to set what time sunset  
20 was on that day or would the Court be willing to take judicial  
21 notice of that?

22 THE COURT: Well, I think that's a question you would  
23 need to ask Mr. Wilson and see if he's in agreement with that.  
24 If not, then I'm assuming you're gone have to call somebody.

25 MR. HOLFORD: Okay.

1 THE COURT: All right. So, y'all talk about that okay?

2 MR. WILSON: Thank you, Judge.

3 THE COURT: Thank you very much.

4 MR. WILSON: Thank you, Your Honor.

5 **END OF DAY TWO**

6 (RECESS.)

7 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

8 (On the Record.)

9 **APRIL 19, 2017 - DAY THREE**

10 (REPORTER'S NOTE: The following takes place outside the  
11 presence of the Jury.)

12 MOTIONS:

13 THE COURT: All right. We had a matter presented to the  
14 Court's attention regarding the potential use of a exhibit  
15 that had been marked for identification, I believe. Which one  
16 was that, Mr. Wilson? what was the tape, was that Defendant's  
17 4?

18 MR. WILSON: I believe it was number 4, Judge.

19 THE COURT: Okay. The interview or contact that Myrtle  
20 Beach Police Officer ---

21 MR. WILSON: Sououd.

22 THE COURT: --- and the first name is Assia; is that  
23 correct, Assia Sououd?

24 MR. WILSON: Sououd.

25 THE COURT: Sououd, okay, had with the -- with the victim

1 in this matter. Tell me, Mr. Wilson, the situation regarding  
2 the subpoenas for that particular officer?

3 MR. WILSON: Your Honor, we attempted to serve the  
4 Assistant Chief. The Assistant Chief told us that the policy  
5 was to serve the attorney for the City. And, at that time,  
6 the private investigator went and attempted to serve the  
7 actual subpoenas on the City Attorney. The City Manager took  
8 possession of them and said that he would pass them on. He  
9 did pass them on and we have proof of service as well as the  
10 affidavit of service by the actual process server, the  
11 investigation company. And, we received a phone call from Mr.  
12 Ellenburg (spelled phonetically) saying that he didn't have  
13 time to serve them. And then after that I received a phone  
14 call from Mr. James Battle. I informed them that I would file  
15 a motion with the Court to compel. And Mr. James Battle,  
16 while he was on vacation, called me and said that he would  
17 then would try to take care of that and I got a call from  
18 Ellenburg saying that he would then attempt service and get  
19 back with us. We had two responses. Primarily, the issue  
20 regarding Officer Sououd is the important issue. We believe  
21 that she's germane to the Defense's case and that's the status  
22 at this point in time, Judge.

23 THE COURT: That particular officer had the -- one of the  
24 initial or initial contacts with the victim?

25 MR. WILSON: Correct, Your Honor. The Officer Sououd was

1 the first responding officer to make contact with the victim  
2 and we believe that -- that that contact -- and she was the  
3 first person, also, we believe that threatened her with  
4 charging her with a felony for making false statements to the  
5 police.

6 THE COURT: All right. And your intention would be to  
7 call this particular officer to the stand to identify the  
8 audio or video contact with the victim; is that correct?

9 MR. WILSON: That's correct, Your Honor.

10 THE COURT: All right. What's the State's position,  
11 Solicitor?

12 MR. HOLFORD: Your Honor, would you like to hear from  
13 James Battle?

14 THE COURT: I am going to hear from Mr. Battle in just a  
15 second, but I want to know the State's -- I'm assuming Mr.  
16 Wilson has -- and I suppose we should have it clear that your  
17 -- the information that you have regarding this particular  
18 officer is that the officer never got the subpoena and is out  
19 of the state at this point in time and unavailable at this  
20 point in time to be called by the Court to be a witness in  
21 this matter?

22 MR. WILSON: Your Honor, that's my understanding, Judge.

23 THE COURT: All right. Is that the State's understanding  
24 regarding that particular witness?

25 MR. HOLFORD: Your Honor, the State -- the State's

1 understanding is that we did not subpoena this -- this officer  
2 as a witness. They were not under a State subpoena. The  
3 State did not know the status of the Defense's subpoena with  
4 this witness. That was an issue between the Defense and the  
5 City Attorney which the State did not play a role in.

6 THE COURT: All right, sir.

7 Mr. Battle, can you illuminate the Court a little bit  
8 about what happened at the City regarding this?

9 MR. BATTLE: Certainly, Your Honor. So, the City  
10 Attorney got copies of Mr. Wilson's subpoenas. He then  
11 emailed the officer saying that if they wanted, he could be  
12 their agent of service. The City Attorney does not serve  
13 subpoenas, but they will contact officers and say I will be  
14 your agent to accept service.

15 THE COURT: And there was a large number of them, right?

16 MR. BATTLE: Yes, sir, Your Honor. This was early last  
17 week, 17 subpoenas got dropped off at City Hall.

18 THE COURT: All right.

19 MR. BATTLE: He emailed the officers, didn't hear back  
20 from any of them. But, with Officer Sououd, she was out of  
21 state. I called her yesterday. She said she was never served  
22 with a subpoena and that she was in Maryland and I wasn't  
23 authorized to accept service on her behalf.

24 THE COURT: Very good. All right. With this situation,  
25 I'm not -- two things I'm concerned with. One, Mr. Wilson, I



1 appreciate the fact that you tried to cooperate with the City  
2 of Myrtle Beach and to get their assistance and also try to  
3 work with them regarding the officers and not pulling 17  
4 people off duty and have them show up to court on Monday  
5 morning and trying to work with the City on that. But, when  
6 you did not get immediate assistance from the City of Myrtle  
7 Beach, your recourse should've been to drop off all of those  
8 17 subpoenas with the Sheriff's office and have them serve  
9 those individuals directly and, whatever impact that had on  
10 the City of Myrtle Beach regarding those 17 officers showing  
11 up on Monday morning, that's just the way it was.

12 MR. WILSON: Yes, Your Honor.

13 THE COURT: Okay?

14 MR. WILSON: Yes, Your Honor.

15 THE COURT: So, I appreciate you trying to work with the  
16 City, but you didn't do what you should've done to follow up  
17 on that.

18 MR. WILSON: Yes, sir.

19 THE COURT: Now -- that's fine, you can sit down. And  
20 then on the City's behalf, I appreciate the fact that they may  
21 or may not be the agent of service, but when you want the  
22 cooperation of counsel in trying to work around the officer's  
23 schedule and, however it may be viewed by the City, they did  
24 not accept the subpoenas, in reality, they did. So, I'm not  
25 thrilled with how the City approached this either. Now, the

1 Court's duty and responsibility is to do justice to all  
2 parties in this matter, the State and the Defense, and more  
3 importantly to have proper information presented to the jury  
4 so that they can -- the jury can make an informed decision in  
5 this matter with all available information.

6 Because of the situation as it is presented to the Court,  
7 what I'm going to do is I'm going to allow the Defense to call  
8 the Chief Investigating Officer, that is Detective Beam, to  
9 stand in the part of the Defense's case to identify that what  
10 has been marked as Defendant's for ID, for identification as  
11 part of the case file of this matter reflecting the initial  
12 contact with the victim by Officer Sououd. I am gonna allow  
13 the Defense to play the video/audio interview with the victim,  
14 which the Court would have allowed had Officer Sououd been  
15 present. I'm not doing something I wouldn't have done if  
16 Officer Sououd had been present.

17 What I would like the State and Defense to do is to go  
18 through that audio/video interview and make sure -- I want all  
19 matters that the State wants played before the jury and all  
20 matters that the Defense wants played before the jury to be  
21 played. But, if there is extraneous matters, matters that  
22 both the State and Defense agree that, you know, it's just,  
23 you know, scenery, driving one place to another or whatever it  
24 is that can be skipped, then I would ask you to do that, but  
25 if both of you feel that the matter, or either one of you feel

1 that it ought to be played in its' entirety, we're gonna play  
2 it in its entirety. That's just whatever time that it takes,  
3 but, you know, if there's some extraneous stuff that's not  
4 gonna help this jury and y'all can agree on that then I'll be  
5 glad for y'all to skip over that particular part. But, I am  
6 gonna allow the Defense in its presentation of its case to  
7 call -- re-call Detective Beam to identify that particular  
8 audio/video as part of the case file in this matter and then  
9 I'll allow the State -- I'm sorry -- allow the Defense to play  
10 that before. And, I'm doing that based upon the factual  
11 pattern as this has developed regarding the issue of subpoenas  
12 and the Court's ultimate responsibility to do justice to all  
13 parties in this matter and make sure the jury hears all the  
14 possible evidence that is proper to be played in this matter.

15 All right.. So, with that, we're still in the State's  
16 case. Solicitor, is the State ready for the next witness to  
17 be called?

18 MR. HOLFORD: Your Honor, the State has a stipulation  
19 between the parties that we'd like to read when the jury comes  
20 in and that will conclude the State's case.

21 THE COURT: Okay. All right. Like is it very brief or  
22 it a lengthy ---

23 MR. HOLFORD: Yes, Your Honor, very brief.

24 THE COURT: Okay. Well, if we're gonna do that then, I'm  
25 gonna call them in and you're gonna read it like two or three

1 minutes and then I'm gonna send them out for the motions on  
2 behalf of the Defense. Why don't we, at this point in time,  
3 that's a stipulation by both parties; I'm gonna allow that to  
4 be read to the -- read to the jury, but other than that, there  
5 is no other presentation by the -- by the State; is that  
6 correct?

7 MR. HOLFORD: That's correct, Your Honor, that's why I  
8 wanted to bring it up before the jury came in.

9 THE COURT: All right. So, go ahead and have it marked  
10 as a -- as an exhibit -- and you're in agreement with that  
11 stipulation, Mr. Wilson?

12 MR. WILSON: Your Honor, absolutely, without objection,  
13 Judge.

14 THE COURT: All right. So, we'll make that part of the  
15 record now. Obviously, I'll let you publish it to the jury  
16 when they come back in, but I'm gonna make it part of the  
17 record now and with that being part of the record, would that  
18 end the State's presentation?

19 MR. HOLFORD: Yes, Your Honor, the State ---

20 THE COURT: Would rest after that?

21 MR. HOLFORD: It would be State's ---

22 COURT REPORTER: 33.

23 MR. HOLFORD: 33, a stipulation as to sunrise, sunset and  
24 the weather on January the 8th of 2015 in Myrtle Beach. With  
25 that being published to the jury, the State would rest.

1           THE COURT: All right, sir. All right. The State allows  
2 -- the Court allows into evidence State's 33 without  
3 objection. That being the case and the case would rest after  
4 that. Again, I'm gone allow it to be published to the jury  
5 when they come in.

6                               STATE'S EXHIBIT NUMBER 33

7                               ADMITTED INTO EVIDENCE

8           THE COURT: Are there motions -- and Mr. Battle, I  
9 appreciate the -- you coming and being available and  
10 explaining the situation both here in Court and in Chambers.  
11 I appreciate it. I just ask if you would communicate with the  
12 City what they'd like me to do about this. Okay?

13          MR. BATTLE: Yes, sir. Thank you, Judge.

14          THE COURT: Thank you very much. I appreciate it very  
15 much, sir.

16          All right, Mr. Wilson, I'll be glad to hear from you  
17 regarding any motions that you might have.

18          MR. WILSON: Your Honor, at this point in time, the  
19 Defense would move for obviously a directed verdict, Judge.  
20 After listening to the testimony that's been presented,  
21 there's been no corroborating evidence. The case is -- the  
22 case law and I know the Court is very aware and I'm not going  
23 to belabor the point. There is case law that talks about  
24 whether or not the evidence is competent, whether or not the  
25 evidence is reliable in this matter. There's been nothing

1 else in the record other than the testimony of Jerrica Nelson,  
2 who was the alleged victim in this matter, that this crime  
3 ever occurred. My real concern is, is that after hearing all  
4 of the evidence and then hearing all of the -- the stories  
5 that were told to, not just 911, not just to her mother, but  
6 also to Officer Sououd and to Detective Beam, who also had his  
7 doubts about this whole thing. The question is what they  
8 found after that which would get them over suspicion.

9 Now, they arrested him on probable cause because that's  
10 what she said happened. Again, directed verdicts are used  
11 when the Court knows that there's no real competent or  
12 reliable evidence to go to a jury. And I would suggest to the  
13 Court that after all the inconsistent stories that this  
14 particular witness told and there's no other circumstantial  
15 evidence at all which supports it, no forensic evidence which  
16 supports it, I would ask the Court to -- ask the Court for a  
17 directed verdict for the Defendant in this matter and also for  
18 the interest of justice, Judge. And my concern obviously with  
19 this case going to a jury verdict with that type of evidence  
20 knowing the inconsistent stories, knowing the veracity of the  
21 witness obviously was attacked I think successfully. I'm  
22 really concerned, Judge. We just respectfully request.

23 THE COURT: Thank you. Solicitor, be glad to hear from  
24 you.

25 MR. HOLFORD: Yes, Your Honor. As to a directed verdict,

1 in the light most favorable to the State in a motion like  
2 this, Your Honor, the State would submit that there is  
3 substantial evidence to submit this case to the jury. There's  
4 direct evidence in the form of witness testimony. There's  
5 also circumstantial evidence. There's more than just witness  
6 testimony, there's Facebook records, phone records that  
7 corroborate, there's a story that remains the same throughout  
8 although more details are added. It all points to one  
9 Defendant in this case; that being James Welch or David James  
10 Welch that did commit these crimes. Each and every crime has  
11 been shown to the jury and they can make a decision based on  
12 the facts and the evidence in this case that the Defendant is  
13 guilty of each and every crime charged by the State.

14 THE COURT: All right, sir. Thank you. As indicated by  
15 the State and the Defense regarding a motion for directed  
16 verdict, the Court's concerned with the existence or non-  
17 existence of evidence, not with its weight, not with its  
18 credibility, not with its believability; that's the jury's job  
19 is credibility and believability. All I'm looking at is  
20 whether or not the evidence exists.

21 Now, obviously, a Defendant would be entitled to a  
22 directed verdict when the State fails to produce evidence of  
23 the offense charged, and the Court would grant a motion for a  
24 directed verdict if the evidence merely raises a suspicion  
25 that the accused is guilty. The Court has to view the

1 evidence and all reasonable inferences therefrom in the light  
2 most favorable to the non-moving party and that obviously here  
3 is the -- is the State. And if any direct evidence or  
4 substantial circumstantial evidence reasonably tends to prove  
5 the guilt of the accused, it would be the Court's  
6 responsibility to let the case be submitted to the jury.

7       In this particular case, there is direct evidence,  
8 testimony of the victim that directly accuses and directly  
9 states that the Defendant committed the crimes of criminal  
10 sexual conduct in the first degree, as it is defined by the  
11 law, that did take place; that she was confined or held  
12 against her will for some portion of time, that being the  
13 offense of kidnapping; that there was the use of a deadly  
14 weapon, that is a firearm, in the criminal sexual conduct and  
15 kidnapping and that with the use of the deadly weapon, an  
16 armed robbery took place, that is the purse and belongings of  
17 the Defendant did take place and that was removed from the  
18 victim in this matter by force and without her consent. And,  
19 criminal sexual conduct in the first degree, kidnapping, armed  
20 robbery, all those being most serious offenses, felonies, that  
21 also tends to prove the crime of possession of a weapon during  
22 the commission of a violent crime.

23       Whether or not the believability or the credibility of  
24 this particular witness has been or has not been successfully  
25 attacked by the Defense, again, that is not my job to assign



1 believability or credibility one way or another. The victim  
2 gave direct testimony that comports to the status of the law  
3 regarding the elements to be proved of all four crimes for  
4 which the Defendant is charged. Therefore, there is more than  
5 sufficient evidence, if that evidence is so believed by the  
6 jury, to convict the Defendant of all four crimes. Therefore,  
7 I find that the matter is properly -- shall be properly  
8 submitted to the jury. Directed verdict in this matter is  
9 denied.

10 Further motions on behalf of the Defense?

11 MR. WILSON: Nothing further, Your Honor.

12 THE COURT: All right. Is there anything that we need to  
13 talk about before we call the jury in, Solicitor?

14 MR. HOLFORD: Nothing further, Your Honor.

15 THE COURT: And from the Defense?

16 MR. WILSON: Judge, just one thing. Can we approach real  
17 quick?

18 THE COURT: Absolutely, sure.

19 MR. WILSON: Thank you.

20 (REPORTER'S NOTE: A bench conference was held off the  
21 record.)

22 THE COURT: Thank you.

23 All right. Ask the jury to come in please, sir.

24 (REPORTER'S NOTE: Jury enters courtroom.)

25 THE COURT: All right, Solicitor, your next matter

1 please?

2 STIPULATION OF COUNSEL:

3 MR. HOLFORD: Yes, Your Honor. The State has State's  
4 Exhibit 33, which has been entered into evidence. It's a  
5 stipulation of the parties. It reads that in the above  
6 captioned trial, both the State and Defendant consent and  
7 stipulate to the following facts as provided by the National  
8 Oceanic and Atmospheric Administration. The State would wish  
9 to publish this to the jury.

10 THE COURT: You may and that is the stipulation of the  
11 Defense, also; is that correct, Mr. Wilson?

12 MR. WILSON: That is correct, Your Honor, without  
13 objection.

14 THE COURT: All right. Very good. So you can go ahead  
15 and publish it to the jury.

16 MR. HOLFORD: Your Honor, it says that in Myrtle Beach,  
17 South Carolina, the weather for January the 8th, 2015, high  
18 32, low 17; sunrise 7:21 A.M. and Sunset 5:24 P.M. I would  
19 ask to publish it.

20 THE COURT: You may do so.

21 All right. With that stipulation being published to the  
22 jury, what's the position of the State?

23 MR. HOLFORD: Your Honor, at this point, the State  
24 rests.

25 THE COURT: All right. Very good. All right, Mr.

1 Wilson, you ready to proceed with the defense?

2 MR. WILSON: Your Honor, I am, Judge.

3 THE COURT: All right. Very good. Call your -- call  
4 your witness, please?

5 MR. WILSON: She's been sequestered. We're gonna go get  
6 her, Judge.

7 THE COURT: All right. Very good.

8 All right. Come all the way around. Just come around  
9 all the way up here and meet the Clerk's representative right  
10 at the corner over here, please, ma'am.

11 CLERK: Please raise your right hand and place your left  
12 hand on the Bible.

13 JESSICA STOWE, HAVING BEEN SWORN

14 TESTIFIES AS FOLLOWS:

15 CLERK: Please state your full name and spell your first  
16 and last name for the Court.

17 MS. STOWE: My name is Jessica Stowe, J-E-S-S-I-C-A,  
18 Stowe, S-T-O-W-E.

19 THE COURT: All right. Go ahead, Mr. Wilson.

20 MR. WILSON: Thank you, Your Honor.

21 DIRECT EXAMINATION OF JESSICA STOWE BY MR. WILSON:

22 Q: Ms. Stowe, where are you currently employed?

23 A: I currently work for the South Carolina Law Enforcement  
24 Division, often referred to as SLED.

25 Q: Okay. And how long have you worked at SLED?

1 A: Five years next month.

2 Q: Okay. And could you tell the jury briefly what you do at  
3 SLED?

4 A: Yes, I am a Forensic Serologist. So what Forensic  
5 Serology is, is it's the identification of body fluids such as  
6 blood, semen, saliva. We screen items of evidence from  
7 clothing, sexual assault kits, doors, knives, anything really,  
8 for body fluids that may contain DNA. We compress those  
9 samples into cuttings or swabs and forward those for DNA  
10 analysis. We generate reports based on our findings and we  
11 testify in court.

12 Q: All right. What sort of training or education would you  
13 have to be a Forensic Serologist?

14 A: I participated in SLED's in-house training program. It  
15 lasted about a year. At the end, we took a five-part  
16 competency exam that encompassed all aspects of being a  
17 Forensic Serologist and as far as my education is concerned, I  
18 have a Bachelor's of Science in Biology with a minor in  
19 Chemistry from the University of South Carolina.

20 Q: Okay. And how many times have you performed these exams  
21 on kits, if you will?

22 A: Oh gosh, hundreds.

23 Q: Okay. How many times have you testified at trial as an  
24 expert?

25 A: Nine.

1 MR. WILSON: Okay. Your Honor, I'd like to offer Ms.  
2 Stowe as an expert in the area of Forensic Serology at this  
3 time.

4 THE COURT: Solicitor, do you wish voir dire the witness  
5 regarding qualifications or challenge the offer by the  
6 Defense?

7 MR. HOLFORD: No, Your Honor, the State believes she's  
8 qualified.

9 THE COURT: All right. Very good. I'm gonna qualify her  
10 to give her opinion in this matter.

11 You may proceed.

12 MR. WILSON: Thank you, Your Honor.

13 BY MR. WILSON:

14 Q: Now, at some point in time, you would have received --  
15 you had some involvement in this matter?

16 A: Yes, I did.

17 Q: Okay. Can you tell the jury what your involvement was in  
18 this matter?

19 A: I screened the sexual assault kit.

20 Q: Okay.

21 MR. WILSON: May I approach the witness, Judge?

22 THE COURT: Yes, sir.

23 BY MR. WILSON:

24 Q: Okay. Now I'm now showing you what's been marked for  
25 identification purposes only, Defendant's Exhibit 6, ID.

1 A: Okay.

2 Q: Do you recognize that box and that item?

3 A: We do not typically routinely get the boxes. We get the  
4 internal contents, which I do recognize, Item 1 and Item 3.  
5 Item 1 is the sexual assault kit. Item 3 is the underwear. I  
6 recognize them with our SLED specific case number and my  
7 initials and the date on both packages.

8 Q: Okay.

9 A: There you go.

10 Q: Thank you. Now, you would've received these and then  
11 performed a analysis on these items?

12 A: That would be correct.

13 Q: Okay. All right.

14 MR. WILSON: Your Honor, at this point in time, I'd ask  
15 to move this into evidence as Defendant's Exhibit ---

16 COURT REPORTER: 14.

17 MR. WILSON: 14 and 15, Judge.

18 THE COURT: All right. 14 and 15, is there any objection  
19 to that from that State?

20 MR. HOLFORD: Your Honor, I would like to question as to  
21 the chain?

22 THE COURT: Yes, sir, be glad for you do to so.

23 EXAMINATION OF JESSICA STOWE BY MR. HOLFORD AS TO CHAIN OF  
24 CUSTODY:

25 Q: Do you go by agent?

1 A: You can just call me Ms. Stowe, whatever.

2 Q: Did you receive this evidence yourself?

3 A: Yes. I submitted a formal request to our Evidence  
4 Control area, they're the ones who store the evidence, and I  
5 received it from one of our evidence people.

6 Q: But Myrtle Beach Police didn't hand it to you  
7 specifically, did they?

8 A: No, they did not; huh-uh (negative response).

9 Q: Melinda Shadoan actually gave it to Jennifer Aycock?

10 A: That would be correct by looking at the chain of custody.

11 Q: And then Jennifer gave it to Doris Yarborough?

12 A: Jennifer then placed it on a DNA shelf, and when I  
13 requested it, Doris Yarborough received it from the DNA shelf  
14 and handed it to me.

15 Q: Are those both people who work at SLED?

16 A: Jennifer Aycock no longer works at SLED, but Doris  
17 Yarborough does.

18 Q: Is there a specific reason she doesn't work at SLED  
19 anymore?

20 A: I'm not sure of her reasoning, no.

21 Q: Was there any problem with her work?

22 A: Not that I'm aware of.

23 Q: Was she fired or did she quit?

24 A: I believe she moved to another position; she wasn't  
25 fired.

1 Q: And then after you handled it, you gave it back to  
2 Jennifer Aycock?

3 A: That would be correct.

4 Q: And then you gave it back to -- she gave it to Jackie  
5 Davis?

6 A: She placed it on another shelf where it was stored until  
7 the agency came to get it. And, in that case, Jackie Davis  
8 received it from that shelf that Jennifer placed the evidence  
9 on and then returned it to the agency.

10 Q: And then -- okay. And then it was returned to Myrtle  
11 Beach Police Department?

12 A: Uh-huh (affirmative response).

13 Q: And your report was -- was given to Tony Humes?

14 A: That's the -- that's who it was addressed to in our  
15 system so it automatically generates to Tony Humes.

16 Q: Okay. And he's someone with Myrtle Beach Police  
17 Department?

18 A: (Indicates affirmatively.)

19 Q: Okay. But you -- you don't have any knowledge of the  
20 point between Melinda, Jennifer; you just know when you got it  
21 after Doris, right?

22 A: Right, I'm not physically there.

23 MR. HOLFORD: No further questions, Your Honor.

24 THE COURT: All right. Do you have any matters for the  
25 Court that you want to -- the Court to address regarding those



1 questions?

2 MR. HOLFORD: No, Your Honor.

3 THE COURT: All right. Thank you very much.

4 You may proceed, Mr. Wilson?

5 MR. WILSON: Thank you, Your Honor.

6 CONTINUATION OF DIRECT EXAMINATION OF JESSICA STOWE BY MR.

7 WILSON:

8 Q: When you received this, you would not -- I apologize.

9 Yes, thank you. Thank you.

10 MR. WILSON: into evidence, I think without objection,  
11 Defendant's Exhibit 14, Judge, and then Defendant's Exhibit  
12 15?

13 THE COURT: All right. Why don't you have the witness  
14 tell you exactly which one is which, please?

15 MR. WILSON: Yes, Your Honor.

16 BY MR. WILSON:

17 Q: Will you please for the jury tell me which one this is,  
18 Defendant's Exhibit 14; what item is that?

19 A: This is Item 1, the sexual assault kit.

20 Q: Okay. And Defendant's Exhibit 15, which item is that?

21 A: This is Item 3, these are -- this is the underwear.

22 Q: Thank you.

23 A: Uh-huh (affirmative response).

24 THE COURT: All right. Based upon that, the Court allows  
25 into evidence Defendant's 14 and 15. Thank you very much.

1 MR. WILSON: Thank you, Your Honor.

2 DEFENDANT'S EXHIBITS NUMBERS 14 AND 15

3 ADMITTED INTO EVIDENCE

4 BY MR. WILSON:

5 Q: Now, when you receive these, they are always sealed,  
6 correct?

7 A: Yes.

8 Q: Okay. And what's your policy if they're not sealed?

9 A: If it's not sealed, we document, contact the submitter,  
10 if necessary, and we will always seal it ourselves.

11 Q: Okay. Now explain to the jury what process you would go  
12 through to do an analysis on this type of CSC rape kit?

13 A: Okay. The first thing I do is review the documentation  
14 that was submitted. We figure out what body fluid needs to be  
15 screened for. The sexual assault kit, as you see, comes in a  
16 box so it's our job to see what exactly was submitted. In  
17 this case, there was multiple items that were submitted within  
18 the sexual assault kit that was collected from the hospital.

19 Q: Okay. And do you have a copy of -- do you issue a report  
20 from the analysis?

21 A: Yes, we do.

22 Q: Okay. And did you perform the analysis yourself on these  
23 items?

24 A: I did.

25 Q: Okay. And as a result of that report, do you have a copy

1 with you today?

2 A: I do.

3 Q: Okay. Let me ask you if you recognize this document and  
4 if that looks familiar to you and if your signature is  
5 attached to that?

6 A: Yes, this appears to be a copy of my serology report with  
7 my signature.

8 Q: Okay. All right. Thank you, ma'am.

9 A: You're welcome.

10 MR. WILSON: Your Honor, at this time, I'd just like to  
11 have this marked for identification purposes only.

12 THE COURT: All right, sir. Any objection?

13 MR. HOLFORD: No objection.

14 COURT REPORTER: Defendant's 16 for identification.

15 THE COURT: All right. Thank you.

16 MR. WILSON: Thank you, ma'am.

17 DEFENDANT'S EXHIBIT NUMBER 16

18 MARKED FOR IDENTIFICATION

19 BY MR. WILSON:

20 Q: Now, inside of a sexual assault kit -- tell the jury what  
21 would commonly be in a sexual assault kit?

22 A: So, inside a sexual assault kit, are small envelopes.  
23 They contain collection devices that the nurse can use to  
24 collect from different parts of the body. You may have  
25 vaginal swabs, oral swabs, rectal swabs, pubic hair combings,

1 suspected saliva swabs, suspected body fluid swabs, a debris  
2 collection; there's multiple types of evidence collection.

3 Q: All right. And based on your report, did you perform a  
4 analysis regarding any smears from the vaginal or rectal area  
5 in this particular case?

6 A: Yes. Item 1.1 within the sexual assault evidence  
7 collection kit are smears, vaginal and rectal smears.

8 Q: Okay. And what was the result of that particular test?

9 A: No spermatozoa identified.

10 Q: And just for the purposes so -- I understand because I  
11 had to look it up myself -- what is spermatozoa?

12 A: Spermatozoa is the male sperm cell; it's the reproductive  
13 cell. It's very unique in form and is -- we do a microscopic  
14 examination looking for it.

15 Q: Okay. So, you do examination or microscopic examination  
16 looking for that particular cell?

17 A: That's correct, yes.

18 Q: Okay. All right. And was there also a vaginal swab  
19 done?

20 A: Yes, I examined 1.2 vaginal swabs.

21 Q: Okay. And what was the result of the vaginal  
22 examination?

23 A: Examinations for components of semen P30 and spermatozoa  
24 were negative; no semen identified.

25 Q: So, again you were looking for sperm?

1 A: We're -- well, I was looking for sperm, yes, but I was  
2 also looking for another component called P30. It's a protein  
3 found in high concentrations in male seminal fluid. So, we do  
4 two types of screening.

5 Q: Okay. And what would the P30 be indicative of, why  
6 would you be looking for that as well?

7 A: Like I said, it's found in high concentrations in male  
8 seminal fluid, semen; so, that's a good indicator that semen  
9 is present.

10 Q: And there was none found?

11 A: No.

12 Q: Okay. And did you also do a rectal swab in this matter?

13 A: Yes, I did.

14 Q: All right. And what was the result of the rectal swab?

15 A: Examinations for components of semen, P30 and  
16 spermatozoa, were negative, no semen identified.

17 Q: Okay. And did you also do a pubic hair combings  
18 analysis?

19 A: I did.

20 Q: Okay. Did you find any pubic hairs at all?

21 A: No hair found.

22 Q: Okay. All right. Did you also do a buccal swab analysis  
23 or did you not?

24 A: Victim buccal swabs were submitted in the kit, but no  
25 analysis was performed.

1 Q: Okay. And Item 1.6, suspected bodily fluids, can you  
2 explain what that is to the jury?

3 A: Uh-huh (affirmative response). The nurse collected, took  
4 swabs in a suspected body fluid envelope and they collected it  
5 from a specific part of the body, and I tested those for  
6 semen.

7 Q: Okay. And what was the results of that particular test?

8 A: Examinations for components of semen, P30 and  
9 spermatozoa, were negative, no semen identified.

10 Q: Okay. And in Number 2, buccal swabs from a Jerrica  
11 Nelson, you did no analysis?

12 A: That's correct.

13 Q: Okay. And on the underwear, what analysis did you do on  
14 the underwear?

15 A: I performed semen screening and looked for hair.

16 Q: Okay. And were there any results from that particular  
17 analysis?

18 A: Examination for a component of semen acid phosphatase was  
19 negative, no hair found.

20 Q: Okay. And as an expert in this field, these are your  
21 findings?

22 A: Yes.

23 Q: Okay.

24 MR. WILSON: Your Honor, at this point in time, I'd ask  
25 to move this report, the Serology Report, into evidence.

1 THE COURT: That's Defendant's 16?

2 MR. WILSON: That's correct, Your Honor.

3 THE COURT: Any objection?

4 MR. HOLFORD: No objection, Your Honor.

5 THE COURT: All right. It's into evidence without  
6 objection.

7 MR. WILSON: Thank you, Your Honor.

8 DEFENDANT'S NUMBER 16

9 ADMITTED INTO EVIDENCE

10 MR. WILSON: Court's indulgence, Your Honor.

11 THE COURT: Yes, sir.

12 BY MR. WILSON:

13 Q: Let me ask you if you recognize this document from SLED.  
14 Can you tell me what that is?

15 A: This appears to be the chain of custody.

16 Q: Okay. And explain what the chain of custody is to the  
17 jury. I know we've already gotten that out there, but just  
18 briefly.

19 A: The chain of custody is a business document that we have  
20 that essentially allows us to -- we can look at it at any time  
21 and see where the evidence is. We can see how the evidence  
22 has traveled, so it's important as a reference to see how the  
23 evidence moved throughout the laboratory.

24 Q: Okay. And is your name on that document?

25 A: It is.

1 Q: Okay. And why would your name appear on that document?

2 A: Because I took items of evidence in this case into my  
3 custody.

4 Q: Okay. All right.

5 MR. WILSON: Your Honor, at this point in time, I'd ask  
6 to move into evidence the certified chain of custody from  
7 SLED.

8 THE COURT: Any objection to that document?

9 MR. HOLFORD: No objection, Your Honor.

10 THE COURT: All right. What's the number, please?

11 COURT REPORTER: 17.

12 THE COURT: All right. Defendant's 17 is into evidence  
13 without objection. You may proceed.

14 MR. WILSON: Thank you, Your Honor.

15 DEFENDANT'S EXHIBIT NUMBER 17

16 ADMITTED INTO EVIDENCE

17 BY MR. WILSON:

18 Q: Did that end your involvement in this matter?

19 A: Yes.

20 Q: Okay. Did you have any further involvement in this  
21 matter?

22 A: I did not.

23 MR. WILSON: No further questions, Your Honor.

24 THE COURT: All right. Cross examination, please?

25 MR. HOLFORD: Thank you, Your Honor.



1 CROSS EXAMINATION OF JESSICA STOWE BY MR. HOLFORD:

2 Q: Ms. Stowe, is there a correct way to process one of these  
3 rape kits or to collect it at the scene?

4 A: To collect it at the scene?

5 Q: Yeah.

6 A: I'm not trained in collection at the scene, which would  
7 be the hospital where the nurse collects the evidence. So, I  
8 can't really answer to that.

9 Q: Do you know the nurse who collected these vaginal swabs  
10 and vaginal and rectal smears?

11 A: I do not.

12 Q: So you don't know if that nurse is trained?

13 A: I have no idea.

14 Q: Do you know if it was Tony Humes that did it?

15 A: I wouldn't think so since he is on the report as  
16 affiliated with the Myrtle Beach Police Department.

17 Q: Okay. So, it would be a nurse at the hospital that  
18 collected it?

19 A: Yes, I believe so or any medical personal, a doctor;  
20 we've had doctors collect it.

21 Q: There are actually certified nurses that -- that are  
22 supposed to perform these tests, right?

23 A: I don't know if they're supposed to but I know that  
24 nurses can receive training in this area.

25 Q: But sometimes a nurse who doesn't have training will --

1 will collect these types of swabs and smears?

2 MR. WILSON: Objection, Your Honor; speculation, Judge.

3 THE COURT: If she knows or if she doesn't know, I'll  
4 allow the witness to answer the question.

5 A: Can you repeat the question?

6 BY MR. HOLFORD:

7 Q: There are nurses who don't have this training that can  
8 collect those smears and swabs?

9 A: I -- I'm not sure. I guess that would depend on the  
10 hospital's policy.

11 Q: You wouldn't know?

12 A: I wouldn't know.

13 Q: Because by the time it gets to you, all you have is the  
14 smear or the swab itself?

15 A: Correct. Sometimes we can review documentation and we  
16 see that the nurses have stuff behind their name that may  
17 indicate that they're a sexual assault nurse, sometimes they  
18 don't, but just because they don't, doesn't mean that they're  
19 not trained.

20 Q: And so whether it was correctly properly or not, you  
21 wouldn't have any idea?

22 A: I would not know.

23 Q: Now, when it shows that on the smears and the vaginal  
24 swabs that there's no sperma -- no sperm; can we call it that?

25 A: Yeah, perfect, yeah.

1 Q: Or no semen ---

2 A: Uh-huh (affirmative response).

3 Q: That does not mean that the victim hadn't had sex, right?

4 A: That's correct; uh-huh (affirmative response).

5 Q: That doesn't mean that the victim wasn't raped?

6 A: That would be correct.

7 Q: Could a condom prevent semen from being collected?

8 A: Absolutely.

9 Q: Are these rare findings?

10 A: No, they are not.

11 Q: And again, that just -- it has no bearing on whether the  
12 Defendant -- or whether the victim was actually sexually  
13 assaulted in this case?

14 A: No, we're just looking for body fluids.

15 MR. HOLFORD: No further questions, Your Honor.

16 THE COURT: Any redirect?

17 MR. WILSON: Just briefly, Judge.

18 THE COURT: Yes, sir.

19 REDIRECT EXAMINATION OF JESSICA STOWE BY MR. WILSON:

20 Q: In sexual assault cases where there is contact -- and the  
21 prosecutor was asking you just now about whether or not there  
22 would be semen available or present. If someone was having  
23 sex with someone and you did a pubic hair swab, would you  
24 typically find pubic hair in the underwear or on the vaginal  
25 swab?

1 A: That completely depends. When we're looking for pubic  
2 hair, whether it's in the underwear, whether it's on pubic  
3 hair combings, we're looking for the subject's. So it  
4 completely depends if they shed hair or not.

5 Q: Okay. And the P30 that you were talking earlier, you  
6 look for that because it's smaller, it's a -- it's a --  
7 obviously highly present in the actual fluid from a male,  
8 correct?

9 A: That is correct.

10 Q: All right. So it could be something that could be  
11 transferred extremely easily, correct?

12 A: That would be correct if it's in liquid form, yes.

13 Q: Okay.

14 MR. WILSON: No further questions, Your Honor.

15 THE COURT: All right. Do you wish the witness to be  
16 excused?

17 MR. WILSON: Yes, Your Honor.

18 THE COURT: Any objection?

19 MR. HOLFORD: No objection, Your Honor.

20 THE COURT: All right, ma'am, you're released from your  
21 subpoena and may go back to your regular duties. Thank you.

22 A: Thank you.

23 THE COURT: All right. Mr. Wilson, the next matter?

24 MR. WILSON: Yes, Your Honor.

25 THE COURT: All right.

1 MR. WILSON: May we approach, Judge?

2 THE COURT: Yes, please.

3 (REPORTER'S NOTE: A bench conference was held off the record  
4 in the presence of but out of hearing of the Jury.)

5 BY THE COURT:

6 THE COURT: All right, ladies and gentlemen, we're gonna  
7 need to take a break. There's a presentation of an  
8 audio/video matter and it needs to be played in a fashion that  
9 the Court has approved and that requires the assistance of  
10 other personnel to make sure that the Court's directions are  
11 followed. So, I'll need for y'all to go the jury room and  
12 I'll call you out just as soon as I can. Okay?

13 Thank you very much.

14 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
15 place outside the presence of the Jury.)

16 THE COURT: All right, Counsel, y'all just let me know  
17 when you're ready. As I told you, when you're ready, we'll  
18 come back in and then we'll also do the matter regarding the  
19 Defendant's constitutional rights to testify. Okay?

20 MR. WILSON: Yes, Your Honor.

21 MR. HOLFORD: Yes, Your Honor.

22 THE COURT: Thank you very much.

23 **(RECESS.)**

24 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

25 **(On the Record.)**

1 (REPORTER'S NOTE: The following takes place outside the  
2 presence of the Jury.)

3 THE COURT: You ready for the jury to come in?

4 MR. HOLFORD: Your Honor, if we could put one matter on  
5 the record?

6 THE COURT: Sure.

7 MR. HOLFORD: I just realized and we talked about this  
8 back in chambers, but the issue of the search warrant where  
9 the bullets were found at the house?

10 THE COURT: Yes.

11 MR. HOLFORD: The State would like to introduce the fact  
12 that the bullets, .38 caliber bullets were found during that  
13 search warrant. We would intend to do so during this witness,  
14 Detective Beam. I just want to place that on the record.

15 THE COURT: All right. Very good. And the position of  
16 the Defense, Mr. Wilson?

17 MR. WILSON: Judge, there is case law on this regarding it  
18 and we talked about this in chambers, jumping from one  
19 inference to the other. And what the State is asking the  
20 jury to do is use the actual bullets as a stepping stone to  
21 get to the gun and the bullets were found nowhere else during  
22 the crime. They weren't found on the person of the Defendant,  
23 they weren't found near the actual apartment complex where  
24 they say all this happened. I think that it is highly  
25 prejudicial and the actual probative value of it, because

1 again, these are old bullets; I've seen them, so has the  
2 prosecution. These are really old bullets that were found in  
3 a box at a house. I would ask the Court to deny their ability  
4 to actually put that stuff in; it's prejudicial and again I  
5 don't think it's relevant and again I'd like it to, on the  
6 record, having a baseball bat murder and then going to the  
7 house and finding the baseball and saying look, they  
8 definitely had a baseball bat.

9 THE COURT: All right.

10 MR. WILSON: It's too far.

11 THE COURT: Well and I appreciate that. Solicitor, what  
12 I'm gonna do at this point in time is I'm not gonna allow the  
13 State to present the bullets in evidence in its direct exam --  
14 direct presentation of evidence. However, I'll reserve the  
15 issue of whether or not, because I don't find them to be  
16 directly relevant to the issue that the -- that the  
17 prejudicial value outweighs the probative value at this point  
18 in time in this case, but should the Defendant testify or  
19 should there be other witnesses that might testify on behalf  
20 of the Defendant which would raise the issue that, and I'm  
21 just using this as an example. I'm not making any kind of  
22 ruling, but that the Defendant knows nothing about weapons,  
23 has never had a weapon in his life or anything of that nature,  
24 then it might then bridge that hurdle of becoming more  
25 probative than prejudicial at that -- that point in time. So

1 in the State's direct presentation, I'm not gonna allow it,  
2 but it is not an absolute bar. It depends on what may develop  
3 through the Defendant's presentation of the case. We'll just  
4 see about that, all right?

5 MR. HOLFORD: Yes, Your Honor.

6 THE COURT: All right. Thank you very much.

7 MR. WILSON: Thank you, Judge.

8 THE COURT: So with that, are we ready for the jury then?

9 MR. WILSON: Yes, Your Honor.

10 THE COURT: All right. Ask the jury to come in.

11 (REPORTER'S NOTE: Jury enters courtroom.)

12 THE COURT: All right, ladies and gentlemen, I want to  
13 first apologize for the delay, but apparently when the counsel  
14 went to play this next audio/video found that it was in such a  
15 encrypted and protected mode that it took it a long time to go  
16 through the protocol such that it could be actually viewed.  
17 So that's what the delay was about. Sorry about that.

18 All right, Mr. Wilson.

19 MR. WILSON: Your Honor, it please the Court?

20 THE COURT: Yes, sir.

21 MR. WILSON: Your Honor, we call Detective Beam to the  
22 stand.

23 THE COURT: All right, sir, please come around, sir.

24 CLERK: Please raise your right hand.

25 JEREMIAH BEAM, HAVING BEEN SWORN



1     TESTIFIED AS FOLLOWS:

2             CLERK: State your full name and spell your first and  
3 last name for the Court?

4             MR. BEAM: Jeremiah Beam, J-E-R-E-M-I-A-H., last name is  
5 Beam, B-E-A-M.

6     DIRECT EXAMINATION OF JEREMIAH BEAM BY MR. WILSON:

7     Q: Good afternoon, Detective?

8     A: Good afternoon, sir.

9     Q: You're lead detective in this case, correct?

10    A: Yes, sir.

11    Q: All right. And as a part of any response to any sort of  
12 call to 911, they will get an initial officer on the scene?

13    A: Yes, sir.

14    Q: And the initial officer in this particular case was who?

15    A: Ms. Sououd.

16    Q: And she's a police officer on the force?

17    A: Yes, sir.

18    Q: And you know her?

19    A: Yes, sir.

20    Q: Okay. All right. And as a result of that, she would've  
21 actually had first contact with Ms. Jerrica Nelson?

22    A: Yes, sir.

23    Q: Okay. And she did actually have an interview with her?

24    A: Yes, sir.

25    Q: Okay. All right. Can you identify this for me?

1 A: This is her car video, her in-car video, sir.

2 MR. WILSON: Okay. All right. Judge, at this time, I'd  
3 ask this be moved into evidence; it is Defendant's Exhibit 4?

4 THE COURT: All right. Based upon the Court's previous  
5 ruling I will allow Defendant's 4 into evidence. Thank you  
6 very much.

7 MR. WILSON: Thank you, Your Honor.

8 DEFENDANT'S EXHIBIT NUMBER 4

9 ADMITTED INTO EVIDENCE

10 MR. WILSON: May I publish, Judge?

11 THE COURT: Yes, sir.

12 MR. WILSON: Thank you.

13 THE COURT: As far as the size, ladies and gentlemen,  
14 that's the best that it can be.

15 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

16 (REPORTER'S NOTE: Defendant's Exhibit 4 published, not  
17 transcribed herein.)

18 **(On the Record.)**

19 MR. WILSON: Your Honor, no further questions.

20 THE COURT: All right. Very good. Cross examination?

21 MR. HOLFORD: Briefly, Your Honor.

22 CROSS EXAMINATION OF JEREMIAH BEAM BY MR. HOLFORD:

23 Q: Detective Beam, the time stamp on that right now is  
24 21:07:47. Can you see that?

25 A: No, sir.

1 Q: Would you think that's true?

2 A: It sounds accurate.

3 Q: Okay. And earlier you told the -- you told the jury that  
4 you met with Jerrica at -- I'm trying to flip to it, I  
5 apologize -- 21:14?

6 A: Yes, sir.

7 Q: And so approximately seven minutes after that is when you  
8 come in and you start your whole interview, right?

9 A: Yes, sir, I was notified by the on-scene road supervisor  
10 and then I responded from our annex office.

11 Q: Okay. And that 21, that's all Eastern Standard Time?

12 A: Yes, sir.

13 Q: That's not UTC.

14 A: No, sir.

15 Q: So, that's the time it was here in Myrtle Beach?

16 A: Correct.

17 Q: And that would be 9:00, 9:07 on there, 9:14?

18 A: Yes, sir. That's military time.

19 Q: No further questions.

20 THE COURT: Anything on those questions, Mr. Wilson?

21 MR. WILSON: Nothing, Your Honor.

22 THE COURT: All right, sir. You may step down.

23 Y'all come talk to me for one second, please.

24 MR. WILSON: Yes, sir.

25 (REPORTER'S NOTE: A bench conference was held off the record

1 in the presence of but out of hearing of the Jury.)

2 THE COURT: All right, ladies and gentlemen, I'm gonna  
3 send y'all to lunch. I need to go over some things with the  
4 attorneys and I want y'all to be back, let's see, I want y'all  
5 to be back at 1:50, please. Be back at 1:50. All right?

6 Thank you very much.

7 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
8 place outside the presence of the Jury.)

9 THE COURT: All right, Mr. Wilson, other than potential  
10 testimony from the Defendant, Mr. Welch, is there anything --  
11 any other presentation of evidence from the Defense?

12 MR. WILSON: Nothing at all, Judge.

13 THE COURT: All right. Very good.

14 All right, Mr. Welch, if you'd please stand up.

15 Madam Clerk, place him under oath.

16 CLERK: Please raise your right hand.

17 DAVID JAMES WELCH, HAVING BEEN SWORN

18 TESTIFIED AS FOLLOWS:

19 THE COURT: All right, Mr. Welch, at this point in time,  
20 I'm going to explain to you certain of your constitutional  
21 rights. Now, if at any point in time you don't understand  
22 what I'm saying, you have a question about what I'm saying,  
23 there's any confusion of any kind, you need to indicate that  
24 to me. You can raise your hand, you can tell your attorney,  
25 but you've got to let me know that you're not understanding or

1 you have some question.

2 Are we in agreement there?

3 MR. WELCH: Yes, sir.

4 THE COURT: All right. Very good. We've reached the  
5 stage of the trial where you've been presenting your defense.  
6 Now, you have the right to testify. You also have the right  
7 to claim the protection given to you by the Fifth Amendment of  
8 the Constitution of the United States of America. Now that  
9 states in part that no person shall be compelled to be a  
10 witness in a case against themselves. That means nobody can  
11 make you testify. You can testify if you want to, but nobody  
12 can make you do that; you understand that?

13 MR. WELCH: Yes, sir.

14 THE COURT: All right, sir. Now, if you decide to  
15 testify, you'll be subject to the same rules that have  
16 governed all the other witnesses that have testified in this  
17 case. You'd be examined or questioned by your attorney and  
18 then the State would cross examine you or question you about  
19 matters that they believe and, if called upon, the Court would  
20 rule relevant in this particular matter. You understand that?

21 MR. WELCH: Yes, sir.

22 THE COURT: Now, Solicitor, is there any issue of a prior  
23 record regarding Mr. Welch?

24 MR. HOLFORD: Your Honor, the prior record includes a  
25 2013 -- I'm gonna read them all for the Court ---

1 THE COURT: Yes, sir.

2 MR. HOLFORD: Some of these may not be applicable.

3 THE COURT: All right. Very good.

4 MR. HOLFORD: 2013 simple possession of marijuana  
5 conviction; a 2014 driving without a license; a 2014  
6 possession of beer or wine by a minor; and I know he is on  
7 probation for strong armed robbery, that offense occurred in  
8 2013, however, the conviction -- I do not see the conviction,  
9 but I know he is on probation. I know he's convicted of  
10 strong armed robbery.

11 THE COURT: All right. So, other than the strong armed  
12 robbery, would -- do you believe any of those others would  
13 qualify under the rule regarding credibility or believability?

14 MR. HOLFORD: Your Honor, they're all less than a year  
15 and I -- the State would concede they did not.

16 THE COURT: All right, sir. So, any issue about the --  
17 the crime of strong armed robbery being one that the State  
18 could impeach the Defendant's testimony about?

19 MR. WILSON: Judge, I believe it qualifies under the  
20 rule.

21 THE COURT: All right. Very good.

22 So, Mr. Welch, you understand that if you decided to  
23 testify, the State would be allowed to ask you whether or not  
24 you had been convicted of the crime of strong armed or common  
25 law robbery in the past and they've established the date; you

1 understand that?

2 MR. WELCH: Yes, sir.

3 THE COURT: And if you admit that, that's the end of it.  
4 The State can't go any further into it or talk about the  
5 circumstances in any way. If you would deny it, then the  
6 State would be allowed to bring forth proof that the  
7 conviction actually occurred. You understand that?

8 MR. WELCH: Yes, sir.

9 THE COURT: All right, sir. Now, and the Court rules  
10 that is proper, the reason for that being that any, under our  
11 Criminal Rules of Evidence, the convictions involving  
12 dishonesty or crimes that are punishable by imprisonment for  
13 more than one year can be probative as to the issue of  
14 credibility or believability and I -- the Court does rule that  
15 the prejudice to you by the State asking you that question is  
16 outweighed by the probative value or the value of it to let  
17 the jury judge credibility and believability. So, I would  
18 allow the State to ask that question; you understand that?

19 MR. WELCH: Yes, sir.

20 THE COURT: All right, sir. Now, if you decide to  
21 testify, that's got to be your decision. It's got to be  
22 freely made, voluntarily, intelligently made, knowing what we  
23 have discussed about. Now, you are welcome to discuss that  
24 with your attorney, family members to make the decisions, but  
25 you understand, ultimately it's your decision in this

1 particular matter. You understand that?

2 MR. WELCH: Yes, sir.

3 THE COURT: All right, sir. If you decided not to  
4 testify, part of the Court's instructions to the jury will be  
5 that the jury cannot consider that fact whatsoever. They  
6 can't talk about it in the jury room, they can't use it  
7 mentally to make a decision. I will tell them it's not part  
8 of this particular case, the fact that you decided not to  
9 testify. They can't use it in any fashion in making this  
10 decision. Do you understand that?

11 MR. WELCH: Yes, sir.

12 THE COURT: All right, sir. Do you wish to talk to your  
13 attorney or any family member before I ask you what you want  
14 to do in this matter?

15 MR. WELCH: I do not. I've talked enough to everybody.  
16 I pretty much have in my mind made up about what I'm gonna do.

17 THE COURT: All right, sir. Well, I'm just giving you  
18 the opportunity now if you wanted to -- if you wanted to ask  
19 either Mr. Wilson or a family member, that's fine; if you  
20 don't, that's your choice, too.

21 MR. WELCH: Right.

22 THE COURT: All right, sir. So, do you understand  
23 everything that we've talked about?

24 MR. WELCH: Yes, sir.

25 THE COURT: All right, sir. Do you wish to testify in



1 this particular matter?

2 MR. WELCH: May I voice why I do not wish to testify just  
3 so everybody ---

4 THE COURT: Yes, sir, I'll be glad for you to make that  
5 statement; yes, sir.

6 MR. WELCH: I feel like it would be very prejudicial to  
7 bring in certain things from my past. When Jerrica Nelson was  
8 cross examined, we were not allowed to bring certain things  
9 up. Also, it's -- I just feel like the evidence should speak  
10 for itself in this case.

11 THE COURT: All right, sir. Very good.

12 MR. WELCH: Thank you.

13 THE COURT: So you've made a decision that you do not  
14 wish to testify in this case; is that correct?

15 MR. WELCH: Yes, sir.

16 THE COURT: Very good. Thank you very much.

17 All right. So, with that -- you can have a seat, sir,  
18 thank you.

19 All right. So, with that, Mr. Wilson, does the defense  
20 rest in this matter?

21 MR. WILSON: Yes, Your Honor.

22 THE COURT: All right. Very good.

23 Hold on one second.

24 Is there any reply testimony from the State?

25 MR. HOLFORD: No reply, Your Honor.

1 THE COURT: All right. Very good. All right.

2 So, with that, then the Court will hear any motions or  
3 renewed motions in this particular matter.

4 MOTIONS:

5 MR. WILSON: Your Honor, just a renewed motion for  
6 directed verdict, Judge. And, I understand the Court's  
7 ruling. I ask for reconsideration on that matter. That would  
8 be it, Judge, nothing else.

9 THE COURT: All right. Very good. Regarding the request  
10 for a directed verdict, I'm not gonna go over the -- the law  
11 that I previously talked about at the end of the State's case,  
12 but just emphasize the fact that my job is to look at the  
13 existence of evidence, not judge credibility or believability.  
14 And I do find that there is more than sufficient evidence that  
15 exists in the record, if that evidence is believed by the  
16 jury, and again that's their job and responsibility ---

17 MR. WILSON: Sure.

18 THE COURT: --- that would allow the jury to convict the  
19 Defendant of the crimes charged beyond a reasonable doubt and,  
20 on that basis, I respectfully decline to grant your motion for  
21 a directed verdict.

22 MR. WILSON: Thank you, Your Honor.

23 BY THE COURT:

24 THE COURT: All right, sir. All right. So, with that  
25 then I told them to come back at 1:50. It'd be my intention

1 at that point in time then for us to go into the closing  
2 arguments. At that point in time, since it has been such --  
3 are there any issues about who goes first or who goes second  
4 in this particular matter?

5 MR. HOLFORD: Your Honor, I believe that if I read it  
6 correctly, the current state of the law as passed down by the  
7 Supreme Court, maybe not the legislature but the Supreme  
8 Court, says that unless waived by the defense, since he  
9 presented evidence, then the State would have to open on the  
10 law and facts and then would have a chance to do a rebuttal  
11 after the defense.

12 THE COURT: That's my understanding. Is that your  
13 understanding also, Mr. Wilson?

14 MR. WILSON: That would be my understanding of the law,  
15 Judge.

16 CHARGE CONFERENCE:

17 THE COURT: All right. So, very good. So, that's how we  
18 will proceed. Now, as far as the charge on the law in this  
19 particular matter -- I'll have my Clerk go get all that -- but  
20 obviously we're gonna talk about the things that we normally  
21 talk about in any criminal case, credibility, believability,  
22 talk about those issues with -- with the jury, direct and  
23 circumstantial evidence. Again, as to the issue of  
24 circumstantial evidence, I will say that the law doesn't make  
25 any distinction between the weight or value to be given either

1 direct or circumstantial evidence and the greater degree of  
2 certainty is not required, but I will state to the extent that  
3 the State relies on any circumstantial evidence, all the  
4 circumstances must be consistent with each other and when  
5 taken together point conclusively to the guilt of the accused  
6 beyond a reasonable doubt. And if the circumstances merely  
7 portray the Defendant's behavior as suspicious, proof has  
8 failed in that the State has the burden of proving the  
9 Defendant guilty beyond a reasonable doubt and the burden  
10 rests with the State regardless of whether the State relies on  
11 direct or circumstantial evidence or some combination of the  
12 two.

13       Expert witnesses that -- that normally we don't allow  
14 people to give their opinion but, if somebody is qualified to  
15 give their opinion would do so, but it doesn't give it any  
16 greater degree of weight or certainty. The jury judges all  
17 those the same.

18       Y'all had a stipulation and so I'll just tell them that's  
19 an agreement that's binding upon the parties when they do  
20 that.

21       The statement about the Defendant, reiterating it to the  
22 jury that they have to make the decision whether it was the  
23 voluntary statement of the Defendant of his own free will,  
24 whether the Miranda warnings were given, they can also examine  
25 -- consider age, education, IQ, intelligence, background,

1 place and length of detention. And, again, the State has the  
2 burden of proving beyond a reasonable doubt that his statement  
3 was voluntary and was given with the proper Miranda warnings.

4 As I told Mr. Welch, I will instruct the jury about the  
5 fact that the Defendant didn't testify is not a fact to be  
6 considered by them in any way or in their consideration of the  
7 guilt or innocence of the Defendant. It's not to be  
8 considered by them, they're not to talk about it. I'll go  
9 over clearly with them.

10 Presumption of innocence, I'll go over that with them as  
11 we always do. Reasonable doubt, the kind of doubt that would  
12 cause a reasonable person to hesitate to act, proof that  
13 leaves you firmly convinced of the Defendant's guilt.

14 The law on first degree criminal sexual conduct, engaged  
15 in a sexual battery. The definition of sexual battery and  
16 then, if the jury finds that it did occur, they also have to  
17 decide if the Defendant used aggravated force to accomplish  
18 the sexual battery. Define aggravated force or the victim  
19 submitted to sexual battery while the victim was also the  
20 victim of forcible confinement, kidnapping, robbery,  
21 extortion, burglary, house breaking or some similar act or  
22 defense or offense. Again, obviously all that has to be  
23 proved by the State beyond a reasonable doubt.

24 Kidnapping, the State must prove beyond a reasonable  
25 doubt the Defendant knowingly and unlawfully seized, confined,

1 inveigled, decoyed, kidnapped, abducted or carried away  
2 another person without authority of law and to define those  
3 terms.

4       Armed robbery, that the Defendant took personal property  
5 from the person or presence of another. The State must also  
6 prove beyond a reasonable doubt that the Defendant carried the  
7 property away intending to permanently deprive the owner of it  
8 and the State has to prove beyond a reasonable doubt that the  
9 Defendant was armed with a deadly weapon during the robbery.  
10 A deadly weapon being any kind of article, instrument, or  
11 substance which is likely to cause death or great bodily harm.

12       Possession of weapon during the commission of or an  
13 attempt to commit a violent crime, the State has to prove  
14 beyond a reasonable doubt the Defendant was in possession of a  
15 firearm or visibly displayed what appeared to be a firearm  
16 during the commission of a violent crime and firearm means any  
17 type of gun, rifle, pistol, weapon, which will and is designed  
18 to expel a projectile. In order to find the Defendant guilty  
19 of the possession of a weapon during the commission of a  
20 violent crime, you must first find the Defendant guilty of  
21 committing a violent crime, and I will tell them that first  
22 degree criminal sexual conduct, kidnapping and armed robbery  
23 are all defined as violent crimes by the State of South  
24 Carolina. And, the State finally has to prove beyond a  
25 reasonable doubt that the weapon further advanced or helped in

1 the commission of a crime.

2 So, that would be the Court's intention in this matter.  
3 Obviously, when we've got to the verdict form, going over that  
4 with them, telling them they have to be unanimous and all of  
5 that. And, also, emphasize and I will emphasize to them that  
6 all the charges are separate. They have to be considered  
7 separately and each has to be proved separately by the State  
8 by proof that they believe beyond a reasonable doubt.

9 So, that in essence is the Court's intention. Is there  
10 anything the State would like me to add to that?

11 MR. HOLFORD: No, Your Honor.

12 THE COURT: From the Defense, Mr. Wilson?

13 MR. WILSON: Your Honor, briefly. I'm gonna ask that the  
14 Court add a charge to the jury for petit larceny. I think  
15 there is evidence that the jury, based on the testimony that  
16 came in through Detective Beam, who suggested that the  
17 Defendant could've possibly simply taken the purse, taken the  
18 cell phone from the Defendant. The value of those items could  
19 be obviously below, obviously, below the amount for petit  
20 larceny. My concern here obviously is that again that was  
21 stated. I'm gone obviously talk about it in closing about  
22 this being a petit larceny, possibly. I think the inference  
23 is there and the jury could infer that from what was said.  
24 Also, in the 911 call, again the -- Jerrica Nelson says, my  
25 purse was stolen. That's one of the things she says, and my

1 cell phone was stolen. So, I would ask that the Court would  
2 charge the jury on petit larceny as well, Judge.

3 THE COURT: All right, Solicitor, what's your -- what's  
4 your position?

5 MR. HOLFORD: Your Honor, the State would object to the  
6 petit larceny being included. Quite frankly, there's not --  
7 if a larceny charge is to be added, I don't think it's a  
8 lessor included on armed robbery. That would be the first  
9 objection and if it is, there's not sufficient evidence in the  
10 record to determine whether the value is over 2,000 making it  
11 grand larceny or under 2,000 making it petit larceny. There's  
12 alleged to have been a purse, a phone. There's some  
13 discussion of debit cards, ID cards, jewelry, and other items,  
14 a Vera Bradley wallet -- I don't know much a Vera Bradley  
15 wallet is -- a Jessica Simpson purse, a Galaxy S3. There's  
16 not testimony as to the value of those items. If the jury  
17 were to -- if it was a lessor included of armed robbery, which  
18 I don't think it is, the jury would then be left with trying  
19 to value somewhere between grand larceny and petit larceny.

20 MR. WILSON: Your Honor, if I may?

21 THE COURT: Yes, sir, please.

22 MR. WILSON: Judge, larceny is a trespass or taking and  
23 carrying away of personal property with intent to permanently  
24 deprive. The only thing that separates the element according  
25 to blockbuster -- *Blockburger*, the only thing that separates



1 the elements are the force that's applied with a weapon, which  
2 is what they've alleged. So, the larceny is a lessor included  
3 offense of armed robbery. I mean that is simply what the  
4 Court would read out to the jury, not necessarily trespassing  
5 but the rest of it would be a part of the actual taking from  
6 an armed robbery. It's no different.

7 THE COURT: All right. Hold on a second.

8 Looking at the elements of petit larceny or grand larceny  
9 it does not seem that the facts of this case would -- that  
10 there's any testimony that would cover the elements of petit  
11 or grand larceny. At best -- I'm not sure this is correct or  
12 that it actually has occurred -- but at best, there might be  
13 an issue of, if the State has not proved armed robbery, then  
14 the jury could consider robbery. But if you look at the  
15 elements -- and I'm inviting you to do so, Mr. Wilson -- look  
16 at the elements of larceny and explain to me how that can be a  
17 lessor included offense of armed robbery.

18 MR. WILSON: Yes, sir, Judge. When you talk about armed  
19 robbery, the only thing that separates armed robbery from  
20 simple larcenies or, excuse me, grand larceny or larceny are  
21 the amounts and then the force. The force being the really  
22 indicator for armed robbery.

23 THE COURT: Right.

24 MR. WILSON: The *Blockburger* test or *Blockburger* the  
25 actual test that they employed to determine whether or not the

1 lessor included offenses would apply, you look at the actual  
2 elements, each element. So, if I'm talking about larceny,  
3 which is the grand or petit, trespassing, the taking and  
4 carrying away of the personal property of another with the  
5 intent to permanently deprive. That actually is in Your  
6 Honor's charge already as part of the law. That would be  
7 larceny; that's what larceny is. And then you attach the  
8 value to it. If it's less than 2,000, it can be petit; if  
9 it's more than that, it's grand larceny. Again, the armed  
10 robbery, the only thing you add to it, the only element that's  
11 next is the force. Again, larceny on steroids; that's what it  
12 would be.

13 THE COURT: Solicitor, what's your position?

14 MR. HOLFORD: Your Honor, I think it fails the  
15 *Blockburger* test. In that, you could have an armed robbery of  
16 less than \$2,000, and so you have a situation -- if it were  
17 proven over \$2,000, an element of grand larceny adds that  
18 value over \$2,000, which is not included in the armed robbery  
19 statute. Therefore, you have an element in the grand larceny  
20 that is not included in the armed robbery and so it would fail  
21 the *Blockburger* test in that it adds an additional element.  
22 And so it would seem that the intent would not be to allow  
23 someone to claim protection under just petit larceny and not  
24 grand larceny, because grand larceny certainly couldn't be  
25 charged under the *Blockburger* test and so I don't think that

1 petit larceny could also be charged. It also adds this  
2 element of a dollar amount, a value that is not included in  
3 either strong armed robbery or armed robbery. There's no  
4 value. It just, there's no dollar amount value that's  
5 attached to it. The statute attaches a dollar amount value to  
6 the grand larceny and petit larceny but not to the strong  
7 armed robbery and common law robbery.

8 THE COURT: All right. Mr. Wilson, I just don't think,  
9 looking at the elements of larceny, grand larceny or petit  
10 larceny, that those elements are -- all of them are included  
11 in the crime of armed robbery, and that has to be -- if I'm  
12 going to say it's a lesser included offense, all the elements  
13 of grand larceny or petit larceny have to be subsumed and part  
14 of the crime of armed robbery and I find they are not. Now,  
15 I'll listen to you if you want me to consider common law  
16 robbery or strong armed robbery. Obviously, that has all the  
17 elements with the exception of the armed with a deadly weapon.  
18 Now, I'm not suggesting that I'm gonna do it but if you want  
19 to argue that, I'll be glad to listen to you and I'll give the  
20 State an opportunity to respond. But as to larceny and petit  
21 larceny, I just don't see that those elements, all of those  
22 elements that make up larceny and petit larceny are the same  
23 elements, all those same elements are in armed robbery and  
24 that would be the basis to decline to grant your request for a  
25 lesser of larceny or grand larceny or petit larceny. All

1 right?

2 MR. WILSON: Thank you, Your Honor.

3 THE COURT: Did you want to argue the other issue or not?

4 MR. WILSON: No, Your Honor.

5 THE COURT: All right. Very Good.

6 MR. WILSON: Thank you, Judge.

7 THE COURT: So then with that, the verdict form then will  
8 go to the jury with -- and let me just go over it with you  
9 real briefly then. Again, in talking to them about the  
10 verdict form, it has to be unanimous and all the charges again  
11 have to be considered separately, proved separately by the  
12 State, different degrees of proof beyond a reasonable doubt.  
13 First, the verdict form I have here has got the caption of the  
14 case, and then it has criminal sexual conduct in the first  
15 degree, On the charge of criminal sexual conduct in the first  
16 degree, we, the jury, by unanimous consent, find the Defendant  
17 -- and there's two choices. You got one, not guilty or  
18 guilty. And, I've got the note that, you know, when you reach  
19 a unanimous decision, you go on. The next one is kidnapping.  
20 It basically says the same thing. On the charge of  
21 kidnapping, we, the jury, by unanimous consent, find the  
22 Defendant not guilty or guilty. Armed robbery, On the charge  
23 of armed robbery, we, the jury, by unanimous consent, find the  
24 Defendant not guilty or guilty. Possession of a weapon during  
25 the commission of a violent crime, On the charge of possession

1 of a weapon during the commission of a violent crime, we, the  
2 jury, by unanimous consent, find the Defendant not guilty or  
3 guilty. And then the note, you know, once they've considered  
4 all those and reached a unanimous verdict on all of them, they  
5 knock on the door and let the Bailiff know they've reached a  
6 decision. All right?

7 So, anything else that you would like the Court to do,  
8 Solicitor?

9 MR. HOLFORD: Nothing further, Your Honor.

10 THE COURT: From the Defense?

11 MR. WILSON: Nothing, Your Honor.

12 THE COURT: All right. Very good. All right. So we'll  
13 be back at 1:50 then. Okay?

14 MR. WILSON: Thank you, Judge.

15 THE COURT: Thank y'all.

16 **(RECESS.)**

17 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

18 **(On the Record.)**

19 (REPORTER'S NOTE: The following takes place outside the  
20 presence of the Jury.)

21 THE COURT: You may be seated. Thank y'all. All right.  
22 One thing I want to talk to y'all about, and I'm -- apparently  
23 y'all have already talked about it is that Defendant's Exhibit  
24 Number 4, which we did allow into evidence.

25 Dixie, it still has ID on here. Do we need to change

1   that?   Okay.   Thank you.

2           That at the very end of it, as I understand it, there is  
3   -- when we stopped that there was a portion of the video that  
4   we didn't have the jury listen to because it was some comments  
5   by another officer about knowing or having contact with the  
6   Defendant, and so that's at the end of it.   So, what's the  
7   State's understanding and the Defense's understanding about  
8   Defendant's Exhibit 4 and going into the jury room?

9           MR. HOLFORD:   Your Honor, the State's understanding would  
10   be that typically all evidence goes in the jury room.   We've  
11   now formulated a system where they have a blank laptop that  
12   they can watch and view the audio.   We used to have them come  
13   out into the courtroom and actually view and listen to audio.  
14   In this case, for this specific piece of evidence, should they  
15   wish to hear or view that video again, the State would suggest  
16   that they be brought into the courtroom and view the audio  
17   like they used to probably a year or two ago.

18          THE COURT:   All right, sir.   What -- how about -- what's  
19   the Defense's position, Mr. Wilson?

20          MR. WILSON:   Your Honor, we concur.   We think that's  
21   appropriate.

22          THE COURT:   What I will do is at the very end when after  
23   we've gone through the charge to the jury and I'm telling that  
24   the bailiffs will be bringing in the exhibits to them.   I will  
25   tell them about we're gonna send in a laptop such as they can

1 view or listen to the -- the other disc and what I'll say  
2 about this one, Defendant's 4, is since I already talked to  
3 them about it, that it had the issues about encryption and --  
4 and security that if they do want to listen to that one then  
5 they'll need to come back into the courtroom for that. Okay?

6 MR. WILSON: Yes, sir,

7 MR. HOLFORD: Thank you, Your Honor.

8 THE COURT: All right. Very good.

9 All right. So, with that, is the State ready for the  
10 jury to come in?

11 MR. HOLFORD: Yes, Your Honor.

12 THE COURT: And Defense?

13 MR. WILSON: Yes, Your Honor.

14 THE COURT: Very good. Ask the jury to come in please,  
15 ma'am.

16 When the jury comes in, Mr. Wilson, I'll ask you about  
17 the status of the Defense's case and tell me that you rest.

18 MR. WILSON: Yes, Your Honor.

19 (REPORTER'S NOTE: Jury enters courtroom.)

20 BY THE COURT:

21 THE COURT: All right, Mr. Wilson, the status of the  
22 Defense?

23 MR. WILSON: Your Honor, the Defense rests at this time.

24 THE COURT: All right. Very good.

25 Any reply testimony from the State?

1 MR. HOLFORD: No, Your Honor.

2 THE COURT: All right. Very good.

3 All right, ladies and gentlemen, we have concluded the  
4 evidentiary portion of the trial in this matter. There will  
5 be no more evidence received in this matter. What we're going  
6 to do now is we are gonna go into the closing arguments of  
7 counsel and then I will give you the charge on the law or the  
8 law that you will apply to the facts and evidence you find to  
9 be true in this matter. And you remember at the very  
10 beginning, I told you about opening statements and closing  
11 arguments. Closing arguments are important. They're each  
12 side's summation to you of what they believe the evidence has  
13 shown to you during the course of the trial. You remember, of  
14 course, that you are the judges of the facts and understand  
15 that the attorneys' suggestion about what they believe, that's  
16 not evidence. That's their opinion, that's their position to  
17 you, what they're asking you to do as a result of your  
18 unanimous verdict but remembering, of course, that you are the  
19 judges of the facts. After that I will give you the law that  
20 you will apply in this particular matter. Thank you.

21 All right, Solicitor?

22 MR. HOLFORD: May it please the Court?

23 THE COURT: Yes, sir.

24 CLOSING BY HOLFORD:

25 MR. HOLFORD: Good afternoon. We all like to think that



1 in a traumatic situation that we'd be the super hero. I like  
2 to think that if someone comes at me with a gun that I'd be  
3 that person that would react quickly, snatch the gun from his  
4 hand, maybe scream, maybe run, maybe take the appropriate  
5 action. I've never been a 22-year-old female faced with that  
6 situation.

7 I'm sitting in the courtroom now with lights, with  
8 security and safety. It's easy for me to think about what I  
9 would do in a particular situation but it's much harder when  
10 I'm actually in that situation. When I'm laying in my bed at  
11 night at home and I hear a sound outside, I don't immediately  
12 think someone is breaking into my house to rob me. I wake up,  
13 turn over, go back to sleep. Do I immediately jump up, grab a  
14 gun and go confront someone? Generally, no. But I'd like to  
15 at this point think that I would have the wherewithal to make  
16 all those clear conscious decisions. That's not what happened  
17 in this case.

18 I'm not a 22-year-old female. I've never been put in  
19 that situation. I cannot say for certainty how I would react  
20 in that situation. What you know and what I can tell you is  
21 how Jerrica Nelson handled that situation. In retrospect it  
22 wasn't perfect. Was it the way that it would be the best? I  
23 don't know. The comments by how she could have done this or  
24 done that, what she should've said, how she should've acted?  
25 Possibly. Does that change the facts in this case? No. I've

1 never been raped before. I'd like to think that I would be  
2 strong, I'd be courageous, I would stand up and tell what  
3 happened. I know, as a prosecutor, that doesn't happen. Why  
4 not tell immediately when she calls 911? I don't know. But,  
5 what did she tell us? What did she say? Let's go through  
6 what have been called inconsistencies, what have been called  
7 lies, but I will submit to you are consistent statements  
8 furthering the truth, further facts of the truth, more  
9 forthcoming as the story develops.

10 911 call, 8:32 P.M., gun, silver, my phone and my purse  
11 was stolen at gunpoint by a white male, 19 to 20 or 21 and she  
12 gave a clothing description. Some type of khaki jeans, a  
13 sweatshirt, maybe a dark blue beanie. It was at the Burger  
14 King. I drove to the Belk and I called 911. Whenever the  
15 responding officer or the responding Officer Sououd arrives,  
16 8-something, something after 8:32 up until 9:07 that we heard.  
17 You guys watched it. I was at the Burger King, gun, silver,  
18 same; phone and purse were stolen at gunpoint; a white male.  
19 The same description as given before. Then she was directed  
20 in the car at Town Square Apartments. We saw as she directed  
21 the officer as she was directed by the Defendant at gunpoint  
22 to the Town Square Apartments. Then when she's questioned  
23 about the suspect, do you know him, could that have been him,  
24 when she's told that she could be facing a felony if she's  
25 filing a false police report, what did she do? She tells the

1 rest. This is not a lie; this is not an inconsistency. David  
2 that she met on Facebook, the Defendant, is a white male, 19  
3 to 20, same description that she gave to the officers. It's  
4 the same person. Now she's added another true fact, his name,  
5 David. We met on Facebook. How do we know that's true?  
6 Facebook records, which you'll be able to read. David Royal,  
7 Jerrica Nelson, a conversation, they met on Facebook. This is  
8 not a lie. When pressed, she was more truthful, she gives  
9 more.

10 Detective Beam comes about 9:14 and that conversation we  
11 listened to went on maybe an hour, an hour and a half; I'm not  
12 exactly sure how long. You can all listen again if you like.  
13 We met at the Burger King, gun, silver, David Royal, we met on  
14 Facebook. Yes, this is David Royal; we met on Facebook. The  
15 Defendant told her to drive to the Town Square Apartments. He  
16 took her phone and her purse and stole it at gunpoint. What  
17 did she add when pressed again? A sexual assault occurs. Why  
18 didn't she talk about the sexual assault at first? I don't  
19 know. Was she traumatized, was she embarrassed, was she  
20 ashamed; I can't tell you. I have not been in that situation.  
21 But what I can tell you is that it's true. You know it's true  
22 because you've heard it from her. You saw her mannerisms, you  
23 saw how she acted, you saw what she told you. You see the  
24 consistencies in her story, the Burger King, the silver gun,  
25 the purse that was stolen, the drive from the Burger King down

1 to the Town Square Apartments, the Defendant running around  
2 the corner.

3 David Royal is David Welch. He's the Defendant. We have  
4 her phone records. What does that do? That helps to show  
5 that she was telling the truth. [REDACTED]-0233, subscriber  
6 information is Jerry Nelson, and on the specific phone account  
7 itself because you can have multiple accounts on one name,  
8 Jerrica Nelson, detail for Jerrica Nelson, [REDACTED]-0233. She  
9 was telling the truth. This number, this [REDACTED]-6230 calls  
10 her seven or eight times, and then she calls back. That's the  
11 same story she told. That's the same story she told the  
12 detective. That's the same story she told you. That's proven  
13 by corroborating evidence because it's the truth.

14 That phone number I just read, we did a search warrant,  
15 [REDACTED]-6230, it's [REDACTED] Oak Drive in Myrtle Beach, subscriber  
16 information, Edna Blackmon. This is [REDACTED] Oak Drive, Myrtle  
17 Beach. This is the Defendant's residence where he lives.  
18 Like Jerrica told you with mom, grandma, aunts, uncles, other  
19 people. It makes sense that a 20-year-old boy would not have  
20 his name on the telephone. This is his house. It's  
21 corroborated by evidence. Now, we see this is [REDACTED] Oak. And,  
22 if you look at the closer map, [REDACTED] Oak, the blue. Is the  
23 story making sense, is it fitting together, that's what you  
24 have to ask yourselves. They drive to the Town Square  
25 Apartments, she's robbed at gunpoint, sexually assaulted,

1 raped, he runs around the corner and across Highway 15. Where  
2 is he headed? Towards his home.

3       What do we find in February? The pink dot, we find a  
4 purse. There's an abandoned house, [REDACTED]. And un  
5 -- Vanessa Thompson, she's not connected to the case in any  
6 other way, she just finds a purse and lets us know it's at  
7 this house. Does it just so happen to be a pink purse with a  
8 gold buckle with Jerrica Nelson's information, the exact same  
9 pink purse that she talks about in the 911 call? The exact  
10 same pink purse she told us about to Sououd, the exact same  
11 pink purse she told Beam, she told her mother, she told you.  
12 On the way to the Defendant's house. This is corroborating  
13 evidence to show you her story is true.

14       When the detectives realized that David Royal on Facebook  
15 is actually David Welch and they go to his house up here at  
16 [REDACTED] Oak, they surround the house. What's he do? He runs.  
17 He runs and he hides under a car. Are those actions of an  
18 innocent man? What was he wearing? Shorts, a hoodie of some  
19 sort, black shirt, and a beanie. I know what you're thinking,  
20 well, she said he was wearing pants. A couple of hours later,  
21 as we stipulated to, this is February the 8th, 2015, a high of  
22 32 and a low of 17; it is cold outside. Do you think he was  
23 wearing shorts all day long? I doubt it.

24       Ladies and gentlemen, when you're confronted with all the  
25 facts in this case, all the evidence that you have, all the

1 interviews you have to listen to -- I understand the want, the  
2 need to go and say, yeah, but at first she just said she was  
3 at Burger King and she was robbed. That's armed robbery.  
4 Okay. I'm not satisfied with it because this young lady was  
5 raped at gunpoint by that Defendant at the Town Square  
6 Apartments. She took the action she took, she did what she  
7 did, and I pass no judgment. But I'm asking you as the triers  
8 of fact in this case to pass judgment on the Defendant. He  
9 committed the act of criminal sexual conduct in the first  
10 degree. He committed the act of armed robbery. He committed  
11 the act of kidnapping when he led her by gunpoint from the  
12 Burger King down to the Town Square Apartments and he  
13 possessed a gun while committing these violent crimes.

14 I ask you to find him guilty of all offenses.

15 Thank you.

16 THE COURT: Mr. Wilson?

17 MR. WILSON: If it please the Court, Your Honor?

18 THE COURT: Yes, sir.

19 MR. WILSON: Thank you, Judge.

20 CLOSING BY WILSON:

21 MR. WILSON: Good afternoon, ladies and gentlemen; how  
22 you doing?

23 Let's talk about this and the prosecutor was talking  
24 about what she should've done or what we said she should've  
25 done or how we think she should've acted. Let's explore why

1 she lied. There's no doubt in anybody's mind, she admitted on  
2 the stand that she lied to 911. Why is it do you think that  
3 she refused to tell 911 his name? Let's say for a second that  
4 she was raped. Let's say that's true and she was traumatized.  
5 Why not tell 911 it's David Welch who robbed me. Even if you  
6 going with the Burger King story, why not identify him from  
7 the start? I'm gonna tell you why. She didn't want him to  
8 get in trouble. Not because he raped her, not because he  
9 committed armed robbery, she knew what she wanted and I'm  
10 gonna tell you what I believe that she wanted, and this is a  
11 civil case to be honest with you.

12 David Welch and this young lady, Jerrica Nelson, talking on  
13 Facebook, talking about meeting up, multiple conversations  
14 they're having. What she wanted was her purse and her phone  
15 back. What she wanted was a police report saying, look, my  
16 phone and my purse have been stolen. Think about it. She  
17 leaves Town Square, which is where she was at with him, she  
18 goes and drives to Belk. And I told you before, she passed  
19 tons of businesses and, if you know the area, you're from this  
20 area, you know what I'm talking about. I'm not gonna belabor  
21 the point. She passes businesses, she passes residences, she  
22 goes back to Belk and she concocts this story about being  
23 robbed at the Burger King. She says to 911, the first thing  
24 she says is somebody stole my purse and my cell phone. Listen  
25 to the 911 tape; I challenge you. That's the first thing she

1 says. Then the next story she tells -- that's the first story  
2 and I mind you she called her mother before that and told her  
3 mother nothing about a gun. Purse, cell phone stolen. But  
4 the problem with the story is if you're robbed at the actual  
5 Burger King, well, who in the world is gone up to Burger King  
6 and simply snatch a purse out your car? That's why she says  
7 that somebody followed her out of Burger King with a gun, put  
8 it in her back and then robbed her at Burger King, because the  
9 story doesn't make sense otherwise. If she had told 911,  
10 look, I was out with somebody, he snatched my purse, it was  
11 David Welch, fine. If she had said to 911, David Welch just  
12 ran off with my purse, fine, but that's not what she said.  
13 And the reason that she said it was because she had to have a  
14 story to tell them about how the purse got missing.  
15 Otherwise, she'd have to tell them, look, I met the guy on  
16 Facebook, we had some making out session in the car, we had  
17 gone to the apartment complex to have sexual relations or do  
18 whatever we wanted to do, she'd have to explain all that, but  
19 she didn't care about telling them that this man allegedly  
20 based on what she's saying, raped her. And it's tell-tale in  
21 the evidence, and it's tell-tale because the prosecutor also  
22 just got it wrong. That's not the last  
23 story she said that she actually went and that he actually  
24 made her with at gunpoint drive. Listen to the evidence.  
25 Look at the actual or listen to Detective Beam's conversation.



1       The last story she tells Detective Beam is that they  
2       drove -- he says that I want to go home. She says, okay, I'll  
3       take you home; where you live? He takes her to the apartment  
4       complex. Never a gun at the end of this conversation. She  
5       says he didn't pull the gun out until he said he wanted some  
6       sex. Remember? And he just told you that what she said was  
7       no, no, driving from Burger King because it's that convoluted.  
8       That's number three story.

9       Officer Sououd tells her in the car, we're gonna charge  
10      you because I know you're lying, basically. We're gonna  
11      charge you with a felony and the reason she's saying that is  
12      because she's accusing someone of actually putting a gun in  
13      somebody's back, of armed robbery, kidnapping. She's accusing  
14      someone of that. And, if you lie about that, they charge you  
15      with a felony. That's the first time she was threatened.

16      Then she goes on and she tells another story, and you can  
17      hear her on the tape. She says, look, she wants to change her  
18      story; that's what Sououd said. She's changing her story; I  
19      need a supervisor. And the reason she changed her story  
20      because then she was like, look, I'm locked into this gun  
21      story; now I got to roll with it, and she does. Then she  
22      says, well, no, Detective Beam, who pulls her out of the car  
23      and says, look, let's go over here and talk. And he himself  
24      tells her, look, I'm gonna talk to you about honesty off the  
25      tape and, off the tape, he's talking to her about being

1 honest. And when he gets on the tape, he's saying look, this  
2 does not add up. I told you at the beginning, it doesn't add  
3 up, and he's right. Detective Beam a seasoned detective; he  
4 knows when people are lying. And I know what he said about  
5 the omissions, but use your own common sense. If right now my  
6 daughter, and I got two of them, come and tells me,, Daddy, I'm  
7 going over to Jerrica's house or I'm going over to Tonya's  
8 house or I'm going over to Jessica's house, but leaves out the  
9 fact that Jeremy, if you will, or John Doe's gonna be there,  
10 she just lied to me. That is basic common sense. Omissions  
11 are lies.

12 Detective Beam says, look, this ain't adding up, Jerrica;  
13 it doesn't make sense. Tell me what really happened. And if  
14 this really happened this way, then y'all had consensual sex  
15 and this man ran off with your purse after that, tell me that.  
16 He gave her multiple opportunities to tell him and she said  
17 no, no, no, no, no, he had a silver gun -- and I agree with  
18 the prosecutor, but the gun couldn't leave the scenario  
19 because if she told them that she lied about that gun, they  
20 were gonna charge her. Beam then goes on again and says, look  
21 -- brings in her mother. I just want to get it right. When  
22 you got in the car a while ago, you didn't tell me that; you  
23 didn't tell me you were raped. Were you raped or did you just  
24 make a bad choice Jerrica to hook up with some guy you met?  
25 Her mother said that on tape and she testified that when she

1 first talked to her momma, she never told her about a gun.

2       This is a situation where two people, both of them made  
3 mistakes absolutely positively. And, if you look at the  
4 evidence very clearly, it's obvious. They met up willingly.  
5 They talk about these eight phone calls. She testified on the  
6 stand and you heard her testify about the number of minutes  
7 they were talking to each other, 13 minutes, one minute, five  
8 minutes, three minutes. These were conversations they were  
9 having with each other. Not a situation where this man was  
10 trying to go to her house, trying to track her down, bothering  
11 her, she waited for him at the Burger King. She testified he  
12 wasn't even there. Her testimony to you was she really didn't  
13 want to hang out. And I'll be honest with you, my time is  
14 very, very, very small that I have time available. If I don't  
15 want to hang out with somebody, I'm not hang out with you, and  
16 I definitely wait on you if you're late. But she says she  
17 didn't want to hang out; you heard her on the stand say that  
18 and you saw how she said it. Over and over again, I didn't  
19 want to hang out; I didn't want to hang out. Read the  
20 Facebook messages. In the Facebook messages, she says one  
21 day, when he says, look, I'm about to go outside and walk  
22 since you don't want to talk to me. She says, and have sex  
23 with somebody else?

24       She waits at the Burger King. He gets there and her  
25 story to you is that they talk, not about much. Let me tell

1 you what happened here. They get in the car, they go, they  
2 make out at Burger King. For whatever reason, they decide  
3 they're gonna leave and go to these apartment complexes. This  
4 apartment complex and you saw on the video that we played  
5 where Sououd went there, lit up, cars everywhere, cars  
6 everywhere. I told you 10 feet; it might've been shorter than  
7 that from one parking space right in front of the actual  
8 apartment complex. People driving in and out. And her  
9 testimony to you is that he pulls a gun and I apologize, but I  
10 got to go over this, plays with himself in the car while he's  
11 got the gun in his hand and then decides he's gonna take off  
12 her pants with the gun still somewhere on his person, still  
13 playing with himself and then reclined her chair and then she  
14 tells that then they're having a conversation. She's saying  
15 to him, hey, look here, I don't want to do this. He's saying  
16 why? She's saying, look, I want to do this, this is not  
17 something I want to do; I don't want to have sex. This is a  
18 normal conversation between two people, not between a somehow  
19 criminal, ravage rapist, which is what she makes him sound  
20 like. This is a normal conversation that two people are  
21 having in a car with each other. If you are afraid for your  
22 life -- and I might add, listen to the evidence, she never  
23 says one time she was fearful until Detective Beam prompts her  
24 and says, were you afraid? And she then says my heart was  
25 beating fast.

1       They're in the car, he's doing all this stuff and got a  
2 gun and telling her, look, you're gonna do it because it's --  
3 even though if you're unwilling, I still want to have sex. I  
4 want to have sex. That's what I want to do.

5       A kid who's got no money to his name, not a dime, not  
6 even a wallet, but he had a gun and a pack of condoms on him.  
7 They don't have money for food that night, either one of them.  
8 Get in the back seat, she says. He -- she gets in the back  
9 seat. He's still in the front seat. She doesn't leave. He  
10 then gets in the backseat. She says he's on one knee. Says  
11 he's about to have sex with her because her pant leg is down  
12 now and then as he penetrates her, he penetrates her, that's  
13 what she says. And then she says, look, whatever you  
14 thinking about doing, you can't do it. Here's a man who still  
15 has a gun, who has a gun and has threatened, based on her  
16 testimony, to shoot you dead. She says no, no, no, you can't  
17 do this. This is regular conversation. I would submit to you  
18 this is regular everyday conversation between two people who  
19 are about to have consensual sex. But then no less to make  
20 the story even quackier, she says stop; go get a condom. The  
21 rapist, the rapist then goes into his pocket, I guess his  
22 wallet or whatever he had, and says, hey, I've got a condom;  
23 that's what condoms are for because we're gonna do this rape.  
24 Puts on a condom with a gun still in his pocket on his person  
25 and then proceeds to have sex and says are you ready? I have

1    tried cases a lot of places. I have never heard a rapist say  
2    are you ready. Never heard a rapist saying does it feel good  
3    to you, never ever.

4           It's done, he's still got the gun, and she says that he  
5    then decides he's gonna take her purse with the gun. She  
6    didn't fight him at all over the sex. She testified to that  
7    on the stand and told Detective Beam the same thing. She then  
8    grabs the purse handle, that's her testimony; she's fighting  
9    him over that purse. Let it go; it's my purse. I'll show you  
10   I have no money; it's mine. Give me my phone back; that's  
11   mine. That's what happens in this car. She says she was  
12   raped at gunpoint. And then after the cell phone is stolen  
13   she says, her testimony is, is that she yelled out of the car  
14   and says to him, a man with a gun who just threatened to kill  
15   her twice, who rubbed a gun against her skin and its silver,  
16   oh, well, give me back my purse, give me back my purse. And  
17   I'll tell you something else, too, how is it he gets to the  
18   end of the building, he's walking, how do you think she saw  
19   him run then across Highway 15? Because she followed him.  
20   They were both outside that car.

21           If you listen to the evidence in this case, you will hear  
22   the truth. Listen to the evidence. The State has charged him  
23   with serious crimes. These are no laughing matters.  
24   Detective Beam, you heard him on the actual tape, he says,  
25   look, this is a 20 or 30 year offense, nothing to laugh about,

1 nothing to lie about, nothing to take trivially, 20 to 30  
2 years on the offense is what he says.

3 MR. HOLFORD: Objection, Your Honor.

4 THE COURT: Let's move along.

5 MR. WILSON: Thank you, Judge.

6 My concern here is this, all the lies, omissions,  
7 whatever the State wants to call them, really seem as if the  
8 credibility should come in question. Can you trust it; can  
9 you trust her testimony? And the answer is no, you can't;  
10 it's not possible.

11 The other issue I have is this, everyone in here -- and I  
12 said this earlier, we're all grown folks -- everyone in here  
13 either knows about how to open a condom or how it happens. If  
14 you have a condom and you open it, the first thing that man is  
15 gonna do is drop that thing on the floor; that's where it's  
16 going. It ain't going in his pocket if he's about to have  
17 sex; it definitely is not going in the pocket if he's about to  
18 rape you. No condom wrapper was found. No condom was found.  
19 The amazing thing is this, CSC Kit. In every case I've ever  
20 seen tried, everyone I've been a part of in trial, the State  
21 introduces this kit. The State does. It's a novel thing for  
22 me to have to introduce -- and I'll tell you this is my first  
23 time to introduce a CSC Kit, because they didn't introduce it  
24 to you, did they? And you know why they didn't introduce it?  
25 Because they knew what the results were of this CSC Kit. They

1 knew what the serology report said regarding P30, saliva,  
2 semen as well as follicle hair, pubic hair. You heard  
3 testimony that she went to the hospital. Did you hear a rape  
4 crisis expert come in here and testify? Did you hear a nurse  
5 from the hospital come in here and testify? The prosecutor  
6 talked about her while the expert from SLED was up on the  
7 stand. Well, what if that nurse made mistakes. They got  
8 subpoena power. The State is a powerful entity. They can  
9 call whoever they want to come into this and testify. You  
10 didn't see that, did you; you didn't hear that?

11 CSC first degree is forcible rape. It is forcible rape;  
12 that's what it is, somebody forced you and it's forcible rape,  
13 that's what it is. Somebody forced you to do something you  
14 didn't want to do, to have sex in a violent manner. In this  
15 case, with a gun. Kidnapping, confining somebody to a space  
16 they don't want to be confined. Armed robbery, that is when  
17 you take a gun or some deadly weapon and take something from  
18 somebody. Possession of a weapon in a violent offense, when  
19 you possess a weapon and you commit a violent offense like  
20 kidnapping or rape or CSC or whatever. These are the crimes  
21 they charged him with. These are the crimes they charged him  
22 with. The State can bring whatever charge it wants. The  
23 Solicitor has all power to decide what charge he wants to  
24 indict. They chose to indict this Defendant on these charges;  
25 that was their choice. What actually happened was something



1 quite different. This is not armed robbery, not an armed  
2 robbery. There was no weapon, no weapon whatsoever. You've  
3 got to crazy dumb kids out there doing things they probably  
4 shouldn't be doing and then one of them decides that, again,  
5 she wants to call the police and tell a story. The other one  
6 is doing dumb stuff like taking her cell phone because he  
7 thinks it's funny or wants to be a jerk. That's what happened  
8 in this case, but that's not armed robbery, that is not  
9 kidnapping and that is absolutely not possession of a weapon  
10 during a violent offense and that is not CSC in the first  
11 degree.

12       You swore an oath, each one of you, swore an oath to give  
13 the Defendant a fair trial based on the evidence, not on your  
14 gut feelings, you know, not on any intuitions you might have,  
15 on the evidence presented at trial and I would submit to you,  
16 the only evidence that was submitted regarding the four counts  
17 against this Defendant is the statement of Jerrica Nelson.  
18 That's it. There's nothing else, nothing else in the record.  
19 You can talk about Facebook messages, you can call every  
20 police officer up here and talk about pictures of David Welch  
21 and Facebook pictures of him and location of a purse, but  
22 nobody else got up here and said, I saw this. Nobody else  
23 said anything, no evidence was produced, no forensic, not one  
24 drop of forensic evidence and they went through that car. I  
25 asked the detective did they use swabs on that vehicle, did

1 they process that vehicle. And let me tell you something,  
2 they're good. They know how to process a vehicle. If there  
3 had been sperm, if there had been any fluids, any evidence,  
4 you would've heard it today on this stand; I promise you. You  
5 didn't hear anything else.

6 I'm not gonna belabor the point. I'm asking you to do  
7 your duty individually, not as a group, because I didn't  
8 select you and the prosecutor didn't select you as a group.  
9 Each individual swore an oath individually to go back in that  
10 room and deliberate fairly based on the evidence. I'm asking  
11 you to come back with the verdict unanimous of not guilty  
12 because he did not break the law the way they describe the law  
13 being broken. They could've charged him with anything. They  
14 could've charged him with larceny, they could've charged him  
15 with grand larceny, petit larceny, but they didn't do that.  
16 They chose these four charges. Not guilty.

17 Thank you so much.

18 THE COURT: Reply argument, Solicitor?

19 MR. HOLFORD: Yes, Your Honor, may it please the Court?

20 THE COURT: Certainly.

21 REPLY CLOSING BY HOLFORD:

22 MR. HOLFORD: Ladies and gentlemen, I want to address  
23 this CSC kit just briefly. I'm not hiding the ball. It's  
24 true, I know that the kit comes back with no semen. You know  
25 what he didn't tell you is that the State provides all this

1 evidence to them. I don't know what his argument is gonna be  
2 until we get here in court. Apparently now we're just arguing  
3 over the fact that it was consensual or not. Up until today,  
4 that would've come as a surprise. I have to prove to you that  
5 it's actually David Welch who is sitting in the car. If we  
6 had taken DNA swabs and those came back positive, what's that  
7 prove to you? He's in the car. Well he just admitted that.  
8 Okay. Would that help you make your determination? No. CSC  
9 kit coming back with no semen, easy to explain. As I asked  
10 her, is there gonna be semen present if a condom is worn?  
11 Could not be. Okay. A condom was worn in this case. Here's  
12 what we're talking about, apparently, a consensual act versus  
13 a non-consensual act. Let's talk about some things to see if  
14 they sound consensual to you. After consensual sex, a purse  
15 gets stolen, a phone gets stolen, so you can't call the police  
16 so you have to drive to Belk to call the police. The police  
17 immediately get called. You're pressed. Are you telling the  
18 truth? You stick to your story. We're gonna charge you with  
19 a felony; you stick to your story. Does that sound like  
20 consensual sex to you? So, apparently we're admitting now  
21 everything that happened took place. Yeah, we're at Town  
22 Square Apartments. So, don't even worry about that; check  
23 that off the list. He's saying it's a consensual act. That's  
24 ludicrous. Look at the evidence. Does this sound like  
25 consensual sex to you? Stolen purse, stolen phone. If it's

1 consensual, maybe we'd find the condom wrapper, maybe we'd  
2 find the condom. Why did he hide those? If it's consensual,  
3 do you run from the cops when they come to your house? No.  
4 If it's consensual, when you're questioned by the police, do  
5 you say, no, I didn't see a girl that night, I was with family  
6 and a bunch of people. Who's telling the truth?

7 This is not a consensual act. It never was; it never  
8 will be. The victim told you that.

9 Thank you.

10 THE COURT: Solicitor, if you don't mind could you move  
11 the ---

12 MR. HOLFORD: Yes, sir.

13 CHARGE TO JURY:

14 THE COURT: Yes, sir. All right, ladies and gentlemen,  
15 it's now my duty and responsibility to give you the law that  
16 you will apply to the facts and evidence you find to be true  
17 in this case. I told you at the very beginning, one of your  
18 job duties and responsibilities was to judge the credibility,  
19 that is the believability of the witnesses that came before  
20 you and testified in this particular case. Now, in doing so,  
21 you can believe one witness against several, several against  
22 one. You can believe a portion of what a witness says and  
23 disregard the remaining portion of it. If you've got a good  
24 sound reason for doing so, you can disregard it in its  
25 entirety the testimony of a particular witness.

1           You listen and you determine from that testimony, you can  
2 look at whether or not the witness has exhibited to you any  
3 kind of interest, motive, bias, prejudice they might have in  
4 giving you the testimony they gave you from the witness stand.  
5 Obviously, you consider the opportunity for knowledge, how  
6 they came about that information that they gave you. I told  
7 you at the very beginning, judging credibility and  
8 believability is something you do every single day of your  
9 life. You use your good common sense. You use your good  
10 judgments that you use in conducting your own affairs, apply  
11 it to the facts and evidence in this case and find that  
12 evidence that you find credible, that you find believable.  
13 You don't have any friends to reward. You don't have enemies  
14 to punish and your verdict can't be the result of any kind of  
15 passion, prejudice, or sympathy. It has to be an examination  
16 of the facts and evidence in this case and finding that  
17 evidence that you find to be credible and believable.

18           In general, there's two types of evidence, direct and  
19 circumstantial evidence. The law doesn't make any distinction  
20 between the two. Greater degree of certainty of one over the  
21 other, it's not required. Direct evidence, something happens  
22 in your presence and you say what happens in your presence or  
23 what you heard, what occurred; that's direct evidence.  
24 Circumstantial evidence is a chain of facts indicating the  
25 existence of a fact. To the extent that the State of South

1 Carolina relies on any circumstantial evidence, all of the  
2 circumstances must be consistent with each other and when  
3 taken together, point conclusively to the guilt of the accused  
4 beyond a reasonable doubt. If the circumstances merely  
5 portray a defendant's behavior as suspicious, that proof has  
6 failed. The State has the burden of proving to you the  
7 Defendant guilty of the crime or crimes charged beyond a  
8 reasonable doubt. That burden rests on the State whether the  
9 State relies on direct evidence, circumstantial evidence or  
10 some combination of the two.

11 I qualified one witness to give their opinion. Sometimes  
12 they're called expert witnesses. We don't normally allow  
13 people to give their opinion. Certain witnesses by reason of  
14 their training expertise in a certain field, we may allow them  
15 to give their opinion, but that doesn't give them any special  
16 status. You judge all the witnesses the same and you look at  
17 all the witnesses the same and judge their credibility and  
18 believability.

19 The parties presented to you a stipulation about a fact.  
20 That's an agreement, an admission, a concession in a judicial  
21 proceeding by both sides and it's binding upon them as an  
22 agreement and a fact, and you will take that stipulation that  
23 they agreed upon as being conclusively proven.

24 In this particular case, a statement alleged to have been  
25 made by the Defendant was admitted into evidence. The Court

1 allowed that into evidence. Now, while I determined that it  
2 was proper evidence for you to hear, it is your ultimate  
3 decision as to whether or not several things. Did the  
4 Defendant make the statement; was it a voluntary statement,  
5 did it make it of his own free will; was it the -- did it come  
6 about because of pressure, force, fear, threats? You consider  
7 the characteristics of the testimony, of the questioning, the  
8 age of the Defendant, his education or lack thereof,  
9 intelligence or IQ, background and environment, the nature of  
10 the questioning, and the advice or lack thereof of the  
11 Defendant of his constitutional rights. That includes the  
12 right to remain silent, and any statement that you make can be  
13 used against you in a court of law, that you have the right to  
14 have a lawyer present and if you cannot afford one, a  
15 appointed lawyer will represent you, and that you can stop  
16 making the statement at any time. The State again has the  
17 burden of proof on the statement, as the State has the burden  
18 of proof on everything. As I told you at the very beginning,  
19 the State must prove to you that the Defendant made the  
20 statement, it was voluntary, that he was given the proper  
21 Miranda warnings and then you find all that, then you give  
22 whatever weight you want to to that statement of the  
23 Defendant.

24 In this particular case, the Defendant did not testify.  
25 That is not a fact for you to consider in this case in your

1 deliberations in any way. You may not talk about it, you may  
2 not consider it, you may not think about it, you may not use  
3 it in your determination of whether or not the State has  
4 proven the Defendant guilty beyond a reasonable doubt. Every  
5 Defendant, every American, has the right to remain silent, a  
6 constitutional right and it cannot be used against them in any  
7 shape, manner or form. You will draw no conclusions from that  
8 whatsoever.

9         Presumption of innocence. I told you at the very  
10 beginning, the State levied, brought these charges against the  
11 Defendant to which the Defendant pled not guilty. That put  
12 the burden of proof upon the State of South Carolina to prove  
13 the Defendant guilty beyond a reasonable doubt of the charges  
14 levied or brought against him. Also at that point in time,  
15 the presumption of innocence came upon the Defendant. The  
16 Defendant is presumed innocent of the crimes if and until you  
17 decide from the evidence you find to be credible and  
18 believable that the State has proven the guilt of the  
19 Defendant beyond a reasonable doubt. This presumption of  
20 innocence didn't end at the start of the trial, it hadn't  
21 ended now. It only ends, if at all, if you find from the  
22 evidence you find to be credible and believable, the State has  
23 proved the Defendant guilty beyond a reasonable doubt.

24         We liken the presumption of innocence to a robe of  
25 righteousness. It's place on the shoulders of the Defendant



1 and it stays on the shoulders of the Defendant until the  
2 State, if it can, rips that robe of righteousness from the  
3 Defendant's shoulder by evidence which convinces you of the  
4 guilt of the Defendant beyond a reasonable doubt.

5       So what's reasonable doubt? The kind of doubt that would  
6 cause an ordinary, reasonable person to hesitate to act.  
7 Proof beyond a reasonable doubt is proof that leaves you  
8 firmly convinced of the Defendant's guilt. Now, there are  
9 very few things we can know with absolute certainty. The law  
10 doesn't require the State of South Carolina to give you that  
11 kind of proof. What is required is if based upon your  
12 consideration of the evidence, the evidence you find to be  
13 credible and believable, you are firmly convinced the  
14 Defendant is guilty of the crime charged, you must find the  
15 Defendant guilty. On the other hand, based upon the evidence  
16 you find to be credible and believable in this case, you are  
17 not firmly convinced that the Defendant is guilty of the crime  
18 charged, then you must give the Defendant the benefit of the  
19 doubt and find him not guilty. Now, I'll go over this fact  
20 again at the very end when I'm talking about the verdict form.

21       Each one of these four charges is a separate charge.  
22 It's like trying four cases in one. You must -- each crime  
23 has different elements -- we're gonna go over that in just a  
24 second -- but each crime has different elements that the State  
25 has to prove to you beyond a reasonable doubt. Because you

1 would find the Defendant guilty of one crime or not guilty of  
2 one crime has no effect and cannot have an effect on the other  
3 charges. The elements are different and the State has to  
4 prove the elements of that particular crime to you beyond a  
5 reasonable doubt.

6       So, what's the elements of the crime? First degree  
7 criminal sexual conduct, the first element which the State  
8 must prove to you beyond a reasonable doubt is that the  
9 Defendant engaged in a sexual battery with the victim. Now,  
10 sexual battery, that's intercourse, cunnilingus, fellatio,  
11 anal intercourse, any kind of intrusion, however slight, of  
12 any part of a person's body or object into the genital or anal  
13 openings of the other person. If you find the State has not  
14 shown beyond a reasonable doubt that a sexual battery  
15 occurred, you stop deliberating on that particular charge and  
16 find the Defendant not guilty. If you find a sexual battery  
17 did occur, then you must decide whether the State has proven  
18 to you beyond a reasonable doubt one of these two things:  
19 Either the Defendant used aggravated force to accomplish the  
20 sexual battery -- now aggravated force means use of physical  
21 force or violence to overcome a victim. It can include the  
22 threat of using a deadly weapon -- or the victim submitted to  
23 the sexual battery while the victim was also the victim of a  
24 forcible confinement, a kidnapping, a robbery, extortion,  
25 burglary or some other similar act or offense. So, it has to

1 be the combination beyond a reasonable doubt proven to you,  
2 sexual battery or one of those two items.

3       Kidnapping, the State has to prove to you beyond a  
4 reasonable doubt that the Defendant knowingly and unlawfully  
5 seized or confined or decoyed or kidnapped or abducted or  
6 carried away another person without authority of law. To do a  
7 thing unlawfully is to do it willfully against the law.  
8 Knowingly means consciously, not accidentally. Seized means  
9 to take hold of. Confine means to limit or restrict or  
10 enclose within bounds or shut in or keep in for any period of  
11 time. Inveigle means to lure, entice, or lead somebody astray  
12 by false representations. Decoy basically to entice someone  
13 into doing or into a trap. Kidnap is to remove a person  
14 against their will by unlawful force or fraud. Abduct means  
15 to carry off secretly or by force for an illegal purpose. The  
16 State doesn't have to prove all of those things to you, the  
17 State must prove to you that one of them occurred beyond a  
18 reasonable doubt. Something done without the authority of law  
19 is something which the law does not sanction, permit, allow or  
20 condone. And again, kidnapping doesn't have to be for any  
21 purpose, personal or monetary gain, but may be for any reason  
22 whatsoever.

23       Armed robbery, the State must prove to you beyond a  
24 reasonable doubt that the Defendant took personal property  
25 from the person or presence of another person. Property is

1 within the presence of a person if it's within their reach or  
2 inspection, observation or control so that the person could,  
3 if not overcome with violence or prevented by fear, keep  
4 possession of the property. The State must also prove to you  
5 beyond a reasonable doubt the Defendant carried the property  
6 away intending to permanently deprive the owner of the  
7 property and to keep the property for his own use. The  
8 slightest removal of the property or the complete possession  
9 of the property, even for an instant, by the Defendant is  
10 sufficient to show a taking and carrying away of the property.  
11 The taking and carrying away the property has to be done with  
12 violence or putting the owner of the property in fear of  
13 violence. The State has to prove to you beyond a reasonable  
14 doubt the Defendant was armed with a deadly weapon during the  
15 robbery. A deadly weapon, it's any kind of article,  
16 instrument, substance, which is likely to cause death or great  
17 bodily harm. Whether something has been used as a deadly  
18 weapon depends on the facts and circumstances of each case.

19 And the fourth charge the Defendant is facing is  
20 possession of a weapon during the commission of or attempt to  
21 commit a violent crime. The State must prove to you beyond a  
22 reasonable doubt that the Defendant was in possession of a  
23 firearm or visibly displayed what appeared to be a firearm  
24 during the commission of a violent crime. A firearm means any  
25 type of gun, rifle, revolver, pistol or any weapon which is

1 designed to expel a projectile. In order to find the  
2 Defendant guilty of possession of a weapon during the  
3 commission of a violent crime, you must have found the  
4 Defendant guilty of a violent crime before you can consider  
5 whether they had a weapon during the commission of a violent  
6 crime. And I'm telling you the law defines or classifies  
7 first degree criminal sexual conduct, kidnapping, armed  
8 robbery are all classified as violent offenses by the State of  
9 South Carolina. So, meaning to consider this last charge, you  
10 must have convicted the Defendant of at least one of those  
11 three prior to considering possession of the weapon. If you  
12 find the Defendant not guilty of those three, then you don't  
13 even consider this one because you have not convicted him of a  
14 violent crime. The final part of the possession of a weapon  
15 during the commission of a violent crime is that that weapon  
16 furthered or advanced or helped in the commission of that  
17 crime.

18       The verdict form, the Court has prepared for you a  
19 verdict form; they're pretty straightforward. I'm reiterating  
20 to you again, these four charges, they have to be considered  
21 separately. Each crime has different elements that the State  
22 has to prove to you beyond a reasonable doubt for the  
23 Defendant to be convicted of that particular crime. And just  
24 because you find the Defendant not guilty or guilty of one  
25 does not mean that same verdict must be of the others because

1 there's different elements. You consider each one of them  
2 separately. You arrive at a separate verdict for each crime.

3       The first one, criminal sexual conduct in the first  
4 degree. On the charge of criminal sexual conduct in the first  
5 degree, we, the jury, by unanimous consent, find the Defendant  
6 -- I have to put one before the other, don't assign anything  
7 to that; I've got to put one before the other -- not guilty or  
8 guilty. So, Madam Forelady, whatever your jury's unanimous  
9 verdict on that particular charge is, you reflect that on the  
10 verdict form, sign your name, and you go on to the next  
11 charge.

12       Kidnapping, on the charge of kidnapping, we, the jury, by  
13 unanimous consent, find the Defendant, again two choices, pick  
14 one unanimously, sign your name, put the correct date.

15       Armed robbery, on the charge of armed robbery, we, the  
16 jury, by unanimous consent, find the Defendant, again, not  
17 guilty or guilty.

18       And the final one, possession of a weapon during the  
19 commission of a violent crime. Again, if you have found the  
20 Defendant guilty of one of those prior three, at least one of  
21 those, then you consider that one. But if you have, on the  
22 charge of possession of a weapon during the commission of a  
23 violent crime, we, the jury, by unanimous consent, find the  
24 Defendant -- again two choices, not guilty or guilty. And  
25 once you've returned a verdict on all those matters, Madam

1 Forelady, y'all knock on the door and let the Bailiff know  
2 that the jury has reached a unanimous verdict on these  
3 matters.

4 I have said unanimous I don't know how many times, but it  
5 means exactly what you think it means. It means 12/0. It  
6 does not mean 11/1, 10/2 or any combination thereof. Whatever  
7 verdict you reach, it is the verdict of every single member of  
8 the jury. So, Madam Forelady, you check the appropriate  
9 block, whatever it is, you sign your name, put today's date on  
10 there, you bring this back into the courtroom, you are telling  
11 the Court that every single member of the jury agrees that's  
12 their verdict. So, if called upon by the Clerk of Court, once  
13 the verdict is read, to raise your right hand and say, yes,  
14 that is my verdict, all members of the jury will be able to do  
15 so.

16 Now, what I'm gonna ask that you do in just a minute,  
17 Madam Forelady, is to take yourself and the other 11 members  
18 of the regular jury back to the jury room. The two alternates  
19 will stay with us. Do not, do not begin your deliberations  
20 until the verdict form and all the exhibits come into the jury  
21 room from the Bailiff.

22 Now, I will tell you there were several CDs that were  
23 introduced into evidence. We're gonna give to you a laptop  
24 that can play several of the CDs, but that last one that we  
25 had the issues with that had the protection and the encryption

1 on that one, if you want to listen to any portion of that one,  
2 that one you're gonna have to come back from the jury room and  
3 we'll have to do that for you. That one, you can't listen to  
4 that one on the equipment that you have. So, all the rest of  
5 them you can listen to on the laptop that's gonna go back in.  
6 If you want to listen to this one, the Defendant's Exhibit 4,  
7 you need to send a note and you'll have to come back out to  
8 the courtroom and listen to it. All right?

9 So, if you will take the jury to the jury room. The two  
10 alternates, if you would stay with us please. Don't start  
11 your deliberations until I send this in to you.

12 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
13 place outside the presence of the Jury.)

14 BY THE COURT:

15 THE COURT: All right. As to the alternates in this  
16 matter, is there any reason the Court should not excuse the  
17 two alternates at this point in time from the State?

18 MR. HOLFORD: The State sees none, Your Honor.

19 THE COURT: From the Defense?

20 MR. WILSON: None, Your Honor.

21 THE COURT: All right. Very good.

22 I want to thank y'all for your service. I can't tell you  
23 how many times already this year we've had to substitute in an  
24 alternate for a regular member of the jury. It happens all  
25 the time. It just didn't happen in this particular case, but



1 that's why we need alternates because it just happens on a  
2 regular basis for some reason or another we've got to put an  
3 alternate in for somebody else that can't perform, they get  
4 sick or whatever the issue is.

5 Y'all have given your service for this particular week.  
6 I'm gonna excuse you from the rest of jury service for this  
7 week and you also earn that exemption for the next three  
8 years. If you get a summons from the Clerk of Court for jury  
9 duty, you can tell her that you did serve this particular week  
10 and with that, you are now excused. Thank you very much.

11 (REPORTER'S NOTE: Alternate jurors released.)

12 THE COURT: All right. Exceptions, deletions, additions  
13 to the charge from the State?

14 MR. HOLFORD: None, Your Honor.

15 THE COURT: From the Defense?

16 MR. WILSON: None, Your Honor.

17 THE COURT: All right. First, gentlemen, I want to thank  
18 you and all the counsel that participated in this matter. You  
19 did exactly what the Court expected of you to do. You  
20 represented your particular interest and your sides very well  
21 and I want to thank both of you or all of y'all for your  
22 representation in this matter. Thank you.

23 MR. WILSON: Thank you, Your Honor.

24 MR. HOLFORD: Thank you, Judge.

25 THE COURT: Please get with the Court Reporter and make

1 sure we have all the proper exhibits going into the jury room.

2 MR. WILSON: Yes, sir.

3 THE COURT: And that we send in the laptop with that.

4 And with that, we'll be at ease until the jury needs us. All  
5 right?

6 Thank you.

7 MR. WILSON: Thank you, Judge.

8 (REPORTER'S NOTE: Counsel stipulate to exhibits)

9 **(RECESS.)**

10 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

11 **(On the Record.)**

12 THE COURT: All right. Counsel, as I indicated to you,  
13 the jury sent us a note and wanted us to provide them a copy  
14 of the law and, as we discussed, we're gonna do that here in  
15 the courtroom on the record. I wrote back then and told them  
16 this is to be done on the record in the courtroom and do you  
17 wish the entire charge or some portion of it and the -- the  
18 written response was to read definitions again of criminal  
19 sexual conduct in the first degree and kidnapping. That being  
20 the jury's request, that's what I'm going to do. I will tell  
21 them obviously if there's anything else that they would like  
22 me to charge, I'll be glad to do so. I'll be guided by their  
23 requests.

24 Ask the jury to come in please.

25 (REPORTER'S NOTE: Jury enters courtroom.)

COURT'S EXHIBIT NUMBER 1ADMITTED INTO EVIDENCE

THE COURT: All right. Madam Forelady, ladies and gentlemen of the jury, I've got your note and I'm prepared to read that portion of the charge to you. I want to tell you that you obviously need to take it conjunction with the entire charge that I gave to you before and if there's anything else that you want me to charge to you, please let me know and I will be glad to do so.

Starting off with criminal sexual conduct in the first degree. The State has to prove beyond a reasonable doubt that the Defendant engaged in a sexual battery with the victim. Now, again sexual battery, that means intercourse, cunnilingus, fellatio, anal intercourse, any intrusion, however slight, of any part of a person's body or any object into the genital or anal openings of another person. Now, if you find the State has not proved that to you beyond a reasonable doubt that a sexual battery occurred, obviously that's the end of your discussion on that and you'll find the Defendant not guilty. If you find that a sexual battery did occur, then you have to go and determine whether or not the State has proven to you beyond a reasonable doubt one of these two elements. The first one being the Defendant used aggravated force to accomplish the sexual battery. Aggravated force means the use of physical force or violence, high and

1 aggravated nature to overcome a victim, but this includes and  
2 can include the threat of using a deadly weapon, or the victim  
3 submitted to sexual battery while the victim was also a victim  
4 of forcible confinement or kidnapping or robbery or burglary  
5 or some other similar act or offense. So the State has to  
6 prove the sexual battery occurred beyond a reasonable doubt  
7 and then one of those two other items or elements.

8       Kidnapping, the State has to prove beyond a reasonable  
9 doubt that the Defendant knowingly and unlawfully seized,  
10 confined, decoyed or kidnapped or abducted or carried away  
11 another person without authority of law. The State has to  
12 prove to you one of those, not all of them, one of those  
13 beyond a reasonable doubt. Knowingly means with knowledge,  
14 not accidentally. Seized means to take hold of. Confine means  
15 to limit or restrict or enclose within bounds or shut or keep  
16 in. Decoy means to lure, entice someone into a trap. Kidnap  
17 means to remove a person against their will. Abduct means to  
18 carry off or by force for an illegal purpose and carry away  
19 means to remove. Now the State has to prove one of those to  
20 you beyond a reasonable doubt. And again something done  
21 without authority of law means the law doesn't sanction it in  
22 any way or condone it, and kidnapping does not have to be for  
23 any personal or monetary gain or any illegal purpose, but it  
24 must -- or may be just for any purpose whatsoever. But again,  
25 the State has to prove it to you and all the items for both

1 these matters and the other crimes beyond a reasonable doubt.  
2 That's the State's burden.

3 All right?

4 JUROR 109: Yes, sir.

5 THE COURT: Thank you very much.

6 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
7 place outside the presence of the Jury.)

8 THE COURT: All right. Any objection, addition, deletion  
9 from the State?

10 MR. HOLFORD: No, Your Honor.

11 THE COURT: From the Defense?

12 MR. WILSON: None, Your Honor.

13 THE COURT: All right. Very good.

14 All right. Again we'll be at ease until the jury needs  
15 us.

16 Thank y'all very much.

17 MR. WILSON: Thank you, Judge.

18 (RECESS.)

19 \*\*\*\*\*OFF THE RECORD\*\*\*\*\*

20 (On the Record.)

21 THE COURT: All right. Counsel, I'm going to send the  
22 jury home for the evening. They're continuing to -- obviously  
23 continue to deliberate. And it being Wednesday, there's no  
24 sense in keeping them here all night to do that. So, I'm  
25 gonna call them in and give them instructions to obviously not

1 talk about it until they all reconvene tomorrow morning and  
2 then we'll come back tomorrow morning at 9:30. All right?

3 Ask the jury to come back in, please.

4 (REPORTER'S NOTE: Jury enters courtroom.)

5 THE COURT: All right, ladies and gentlemen, I'm gonna  
6 send y'all home for the evening as obviously I've explained to  
7 you more than once, you go home and see whoever, obviously you  
8 can't talk about this case. Don't allow anybody to talk to  
9 you about it. When you come back in the morning and we'll  
10 reconvene as we have the other days this week, but the little  
11 difference being is tomorrow morning when y'all reconvene,  
12 make sure that everyone is present in the jury room, Madam  
13 Forelady, before y'all start talking about the case. As soon  
14 as everyone is assembled, the Bailiff and deputies, they'll  
15 have the exhibits and all the documents there before you in  
16 the jury room and when everybody, all the jurors are assembled  
17 together, then you can resume your deliberations and then  
18 we'll be at your call whenever you reach a verdict in this  
19 matter. All right?

20 So, with that, I'll see y'all back tomorrow morning.

21 JURY 109: What time?

22 THE COURT: The time, as we did every day, we'll -- I  
23 want y'all to be there at least by 9:30. If you get there  
24 earlier and -- that's fine. I don't have a problem with you  
25 getting there early if y'all decide to do that, but again, you

1 cannot deliberate, cannot talk about the case until all 12 of  
2 you are present. But everybody decides and y'all want to get  
3 there earlier than that, I'm perfectly fine with that. I will  
4 be here; that's not a problem. All right?

5 Thank you very much.

6 (REPORTER'S NOTE: Jury exits courtroom.)

7 THE COURT: All right. I would like y'all to make sure  
8 you're here at least by 9:15 at the latest. Okay?

9 MR. HOLFORD: Yes, Your Honor.

10 MR. WILSON: Yes, Your Honor.

11 THE COURT: All right. Thank you very much.

12 MR. WILSON: Thank you, Judge.

13 MR. HOLFORD: Thank you, Your Honor.

14 **END OF DAY THREE**

15 **(RECESS.)**

16 **\*\*\*\*\*OFF THE RECORD\*\*\*\*\***

17 **(On the Record.)**

18 **APRIL 20, 2017 - DAY FOUR**

19 THE COURT: Thank you. All right. Counsel, as I  
20 understand the jury has returned a verdict in this matter. Is  
21 the State ready to receive it?

22 MR. HOLFORD: Yes, Your Honor.

23 THE COURT: And the Defense?

24 MR. WILSON: Yes, Your Honor.

25 THE COURT: All right. Very good.

1           Ask the jury to come in, please.

2   (REPORTER'S NOTE: Jury enters courtroom.)

3   VERDICT OF JURY:

4           THE COURT: All right. Madam Forelady, has your jury  
5 returned a verdict in this matter?

6           JUROR 109: Yes, sir; we have.

7           THE COURT: All right. Good. Could you hand the verdict  
8 forms to the Clerk's representative, please, ma'am? You can  
9 just stay right there; she'll come to you. That's all right.  
10 Thank you, ma'am.

11           All right. Thank you.

12           You may publish the verdicts.

13           CLERK: Indictment number 2015-GS-26-00969, Indictment  
14 number 2015-GS-26-00970, Indictment number 2015-GS-26-00971,  
15 Indictment number 2015-GS-26-00972,, State of South Carolina  
16 versus David James Welch. On the charge of criminal sexual  
17 conduct first degree, we, the jury, by unanimous consent, find  
18 the Defendant guilty. On the charge of kidnapping, we, the  
19 jury, by unanimous consent, find the Defendant guilty. On the  
20 charge of armed robbery, we, the jury, by unanimous consent,  
21 find the Defendant not guilty. On the charge of possession of  
22 a weapon during the commission of a violent crime, we, the  
23 jury, by unanimous consent, find the Defendant not guilty.  
24 Signed by Foreperson Emily DeMasters dated April 20th, 2017.

25           Ladies and gentlemen of the jury, if this is your



1 verdict, please so signify by raising your right hand.

2 THE COURT: Thank you.

3 All the jurors having affirmed the verdict by the raising  
4 of their right hand, does the State wish the jury polled?

5 MR. HOLFORD: No, Your Honor.

6 THE COURT: Does the Defense wish the jury polled?

7 MR. WILSON: Yes, Your Honor.

8 THE COURT: Madam Clerk, if you'll poll the jury by their  
9 juror number, please, ma'am.

10 POLLING OF JURY:

11 CLERK: Please stand when I call your number.. I'm gonna  
12 ask you two questions. After you answer them, please be  
13 seated.

14 Number 109, Emily DeMasters?

15 THE COURT: By their juror number only, Madam Clerk.  
16 Thank you.

17 CLERK: Is this your verdict?

18 JUROR 109: Yes, ma'am.

19 CLERK: Is this still your verdict?

20 JUROR 109: Yes, ma'am.

21 CLERK: You can be seated.

22 323. Is this your verdict?

23 JUROR 323: Yes, it is.

24 CLERK: Is this still your verdict?

25 JUROR 323: Yes, it is.

1 CLERK: You can be seated.  
2 217. Is this your verdict?  
3 JUROR 217: Yes, it is.  
4 CLERK: Is it still your verdict?  
5 JUROR 217: Yes, it is.  
6 CLERK: You can be seated.  
7 446. Is this your verdict?  
8 JUROR 446: Yes, ma'am.  
9 CLERK: Is it still your verdict?  
10 JUROR 446: Yes, ma'am.  
11 CLERK: Please be seated.  
12 58. Is this your verdict?  
13 JUROR 58: Yes, it is.  
14 CLERK: Is it still your verdict?  
15 JUROR 58: Yes.  
16 CLERK: 269.  
17 Is this your verdict?  
18 JUROR 269: Yes.  
19 CLERK: Is it still your verdict?  
20 JUROR 269: Yes.  
21 CLERK: 153. Is this your verdict?  
22 JUROR 153: Yes, ma'am.  
23 CLERK: Is it still your verdict?  
24 JUROR 153: Yes, ma'am.  
25 CLERK: 104. Is this your verdict?

1 JUROR 104: Yes.

2 CLERK: Is it still your verdict?

3 JUROR 104: Yes.

4 CLERK: 440. Is this your verdict?

5 JUROR 440: Yes, ma'am.

6 CLERK: Is it still your verdict?

7 JUROR 440: Yes, ma'am.

8 CLERK: 166. Is this your verdict?

9 JUROR 166: Yes.

10 CLERK: Is it still your verdict?

11 JUROR 166: Yes.

12 CLERK: 357. Is this your verdict?

13 JUROR 357: Yes, ma'am.

14 CLERK: Is it still your verdict?

15 JUROR 357: Yes, ma'am.

16 CLERK: And 131; is this your verdict?

17 JUROR 131: Yes, ma'am.

18 CLERK: Is it still your verdict?

19 JUROR 131: Yes, ma'am.

20 THE COURT: Thank you, ma'am. The jury having been  
21 polled by the Clerk and affirming the verdict in this matter,  
22 is there anything as to the jury from the State?

23 MR. HOLFORD: Nothing, Your Honor.

24 THE COURT: From the Defense?

25 MR. WILSON: Nothing, Your Honor.

1 BY THE COURT:

2       THE COURT: Ladies and gentlemen of the jury, I want to  
3 thank you for your service in this case. You did everything  
4 that the Court asked you to do in this case, that is well and  
5 truly try this case and listen to all the facts and evidence  
6 and arrive at a true and just verdict in this matter. I want  
7 to thank you for your service. Please remember you earned  
8 that exemption from coming back and seeing us for the next  
9 three years from Circuit Court jury duty. As far as the  
10 proceedings that are left, the Court will in a short period of  
11 time go into sentencing. It's not necessary for you to remain  
12 for that. I will excuse all of y'all to go back to the jury  
13 room. If you want to come back in the courtroom, the bailiffs  
14 will take you around and bring you back the other way.. But  
15 with that and with my thanks, you are now excused.

16       Thank you very much.

17 (REPORTER'S NOTE: Jury exits courtroom. The following takes  
18 place outside the presence of the Jury.)

19 MOTIONS:

20       THE COURT: Motions, Mr. Wilson?

21       MR. WILSON: Your Honor, Judge, at this time, I'm going  
22 to ask the Court to set aside the jury's verdict and ask the  
23 Court, motion the Court for a judgment of acquittal and let me  
24 explain why.

25       Two things, one yesterday the jury came back with two

1 questions. Both questions were regarding the CSC first degree  
2 and the kidnapping. Your Honor then allowed the jury to go  
3 home at 6:00, I think a little bit before 6 o'clock, and now  
4 the jury comes back with a guilty verdict on both of those  
5 issues. Two things, one there was no instruction yesterday on  
6 letting them know that they were not supposed to do any  
7 research or go online or anything like that. Your Honor,  
8 explained to them that they were simply not to talk about the  
9 case. My other concern is this, Judge, is that the verdict  
10 itself is inconsistent with the evidence that was put up  
11 before the jury. The jury found him not guilty on possession  
12 of a weapon during a violent offense. The jury also found him  
13 not guilty on the actual charge of armed robbery. So the jury  
14 is saying, look, we don't believe he had a gun because if they  
15 found him guilty of the CSC first degree and the kidnapping  
16 they could easily jump to the possession of a weapon which  
17 Your Honor explained to them. So they're not saying that he  
18 had a gun. They're saying he committed the CSC first degree  
19 and then they're saying that he kidnapped Jerrica Nelson.  
20 That's what the jury is coming back saying without a gun at  
21 all. And the testimony that was presented is very clear that  
22 he and her drove willingly from Burger King. She testified  
23 they drove from Burger King to the apartments. She was  
24 driving; he wasn't driving. And if the jury doesn't believe  
25 he has a gun, how is he forcing her to drive? That fact was

1 never in evidence; that was a story that she told, but it was  
2 never something that she ended up telling Detective Beam and  
3 she told Detective Beam that he didn't pull a gun on her until  
4 he wanted sex, which would have been about forcing her to have  
5 sex and there was no gun. So that verdict is inconsistent  
6 with -- I apologize, Judge.

7 THE COURT: Go ahead.

8 MR. WILSON: The verdict was inconsistent with what  
9 Jerrica Nelson testified to as to the actual CSC first degree.  
10 And obviously when it comes down to kidnapping, he would have  
11 to lure or somehow decoy her or somehow confine her to her own  
12 vehicle and she never testified that he lured her there. She  
13 never testified that she was decoyed there. She said, for the  
14 record, that she was actually held at gunpoint there. And if  
15 she was held at gunpoint, if they believed that, the jury  
16 would have found him guilty also, Judge, of the possession of  
17 a weapon during a violent offense because that's how he would  
18 hold her there. Otherwise, there's no other testimony in the  
19 record, Judge, to support that he held her there against her  
20 will. My concern here is that justice and -- again, my  
21 concern from the beginning of this case was about the  
22 different stories that were being told and I explained to the  
23 Court, I had real serious concerns about believability and  
24 credibility and the jury obviously struggled that as well  
25 which is why they came back asking the questions about those

1 issues.

2 I am asking the Court, I know it is a rare act, it is a  
3 rare act, I'm asking the Court either to grant him a new trial  
4 because the verdict itself is inconsistent with the evidence  
5 that was put up. There was no other evidence of kidnapping.  
6 There was no other evidence of a CSC first degree, nothing,  
7 not forensically, not in the car, not video evidence, nothing  
8 at all supported. About forcible rape, the only thing they  
9 say about forcible rape was that she was forced at gunpoint.  
10 That's what she says and this Defendant forced her at  
11 gunpoint. And so now the jury has come back and said, look,  
12 we're gonna give the CSC against him and the kidnapping.  
13 Well, how did that get accomplished? Nothing in evidence  
14 supports that, Judge. I'm asking for either a new trial or a  
15 judgment of acquittal from the Court based on what was found  
16 by the jury and what was put up and this Court does have that  
17 authority. It has that power to look at whether or not it is  
18 consistent with the actual law and the facts that are  
19 presented at trial.

20 THE COURT: Thank you, sir.

21 MR. WILSON: Thank you, Your Honor.

22 THE COURT: Your reply, Solicitor?

23 MR. HOLFORD: Yes, Your Honor. I believe in South  
24 Carolina the inconsistent verdicts by juries are accepted.  
25 That's the first point. Further, the State would urge the

1 Court to see that these are consistent verdicts actually. If  
2 the jury believed that there was not a gun, therefore there  
3 was not an armed robbery, they could still easily believe that  
4 there was a kidnapping or a -- or a robbery without a gun.  
5 Kidnapping includes decoy, inveigle, trickery causing her as  
6 the direct evidence would show in this case, there's ample  
7 evidence for the jury to conclude that there was a kidnapping  
8 as they did. They obviously found the victim credible in this  
9 case. They believed at least portions of her testimony.  
10 There's enough testimony in the record and enough evidence in  
11 the record to support their finding of kidnapping that he  
12 directed her down to those apartments for -- for a false  
13 reason. And further, that in doing so, he did kidnap her and  
14 then afterwards performed a sexual battery on her during the  
15 commission of a robbery or kidnapping, which is CSC in the  
16 first degree.

17 So, even if we were to look at the verdict as believing  
18 the jury didn't believe there was a gun, there's still ample  
19 evidence in the record to be believed by the jury to support  
20 the finding of kidnapping and therefore to support CSC in the  
21 first degree during the commission of a robbery or a  
22 kidnapping. Your Honor, I believe the evidence speaks for  
23 itself in this case, it is strong, it's direct and there is  
24 circumstantial evidence that, if believed, supports the jury's  
25 verdicts in this case. I would ask that the Court accept the



1 jury's verdict and proceed with sentencing in this case.

2 THE COURT: All right, sir. Thank you.

3 Yes, sir, Mr. Wilson, anything else you wanted to say?

4 MR. WILSON: Judge, just lastly. Your Honor, going  
5 through this trial and listening to all the evidence in this  
6 particular case, I know the Court has been attentive to what's  
7 been going on. In this particular case, the entire  
8 allegation, the entire case in chief of the State was that she  
9 was held at gunpoint. That's what she said when she lied  
10 about the Burger King incident; that's what she said when she  
11 told Sououd that she was at gunpoint, that she was held at  
12 gunpoint. Trickery was never even an issue. That was never a  
13 issue that they raised, that he tricked her somehow. The  
14 evidence showed that they drove there and stopped the car and  
15 that they cut the lights off and then something began. The  
16 jury didn't believe he had a gun. There was no evidence that  
17 she said on the record, well he tricked me into going down  
18 there or he lured me down there or he called me down to the  
19 Town Square Apartments. They drove down together, willingly,  
20 voluntarily. And, I would ask the Court again, it is  
21 appropriate in this matter considering the fact that the jury  
22 came back with this really strange and inconsistent verdict  
23 where they're saying there's no weapon, no armed robbery, but  
24 the CSC first and the kidnapping occurred, when the only  
25 evidence is that she voluntarily drove from the Burger King,

1 met him out there, had Facebook messages with him and then  
2 they were there together at this particular place.

3 Thank you, Your Honor.

4 THE COURT: All right, sir. Regarding your motion for a  
5 new trial or a motion for a verdict in arrest of judgment to  
6 vent the entry of judgment of guilt on the two charges that  
7 the jury returned the verdict on. The Court respectfully  
8 declines to grant your motions. The jury returned the verdict  
9 of guilty on the charge of criminal sexual conduct and  
10 kidnapping. Criminal sexual conduct is defined that the State  
11 must prove beyond a reasonable doubt that the Defendant  
12 engaged in the sexual battery with the victim. There is more  
13 than sufficient testimony in the record to sustain the jury's  
14 verdict that the Defendant did indeed engage in a sexual  
15 battery with the victim as defined by the statute and as I  
16 defined it to the jury. There being sufficient evidence to  
17 find that a sexual battery occurred, the jury then had to find  
18 either that the Defendant used aggravated force to accomplish  
19 the sexual battery. Aggravated force means the use of  
20 physical force or physical violence of a high and aggravated  
21 nature to overcome the victim, this includes the threat of  
22 using a deadly weapon, or the victim submitted to sexual  
23 battery while the victim was also the victim of a forcible  
24 confinement, kidnapping, or some other similar act or offense.

25 Regarding the offense of kidnapping, the State had to

1 prove beyond a reasonable doubt that the Defendant knowingly  
2 and unlawfully either seized or confined or inveigled or  
3 decoyed or kidnapped or abducted or carried away another  
4 person without authority of law. Seize means to take hold of  
5 suddenly or forcibly. There's certainly more than sufficient  
6 evidence in the record to sustain that. Confine means to  
7 limit or restrict or enclose within bounds. There was  
8 certainly more than sufficient evidence to sustain the jury  
9 regarding that particular issue. Inveigle means to lure,  
10 entice or lead astray by false representation, promise or  
11 other deceitful means. Whether or not the State emphasized  
12 that, it is clear that from the testimony, the Defendant told  
13 and asked the victim to take him to a place where he said he  
14 lived, which he did not, and she agreed to do so. Decoy means  
15 to lure by or as if by decoy -- decoy is something to entice a  
16 person into a trap. Kidnap, removing a person against their  
17 will and abduct, carrying them away. Now, there is more than  
18 sufficient evidence in the record and the jury must have  
19 believed that evidence to find the Defendant guilty of the  
20 crime of kidnapping to sustain the jury's verdict of  
21 kidnapping.

22       You combine that with the elements of criminal sexual  
23 conduct in the first degree, the Court finds that the evidence  
24 in the record is more than sufficient to convict the Defendant  
25 of the two crimes for which he was found guilty,

1 notwithstanding the jury finding him not guilty of the crime  
2 of armed robbery or possession of a weapon. It is unnecessary  
3 for the jury to have found him guilty on the two charges of  
4 CSC first and kidnapping for there to have been a weapon.  
5 There is more than sufficient testimony in the record to  
6 sustain the jury's verdict on the elements of those two crimes  
7 even without the use of a weapon, based upon the testimony  
8 presented by the victim in this matter. Therefore, the Court  
9 respectfully declines to grant your motion for a directed  
10 verdict or a verdict in arrest of judgment.

11 Anything further from the Defense?

12 MR. WILSON: Yes, Your Honor. One last motion for a new  
13 trial, Judge. I asked yesterday for the -- Your Honor to  
14 charge the jury on petit larceny and there was an issue about  
15 whether or not petit larceny was a lesser included offense. I  
16 found South Carolina case law which I'd like to submit to the  
17 Court where petit larceny and grand larceny or lesser included  
18 offenses of strong armed robbery and strong armed robbery is a  
19 lesser included offense of armed robbery, Judge, if the Court  
20 would be so willing. I'll renew the motion at this time.

21 THE COURT: I'll be glad for you to renew the motion.  
22 You, of course, declined to have the Court charge the jury for  
23 strong armed robbery.

24 MR. WILSON: That's correct.

25 THE COURT: I specifically asked you and you asked the

1 Court not to do so.

2 MR. WILSON: Absolutely, Judge.

3 THE COURT: So, the logic does not flow then that you  
4 would then have the elements of grand larceny and petit  
5 larceny, but anyway, besides -- with that, I do not find that  
6 the evidence as presented in this case allowed the Court to  
7 submit the issue of grand larceny and petit larceny. Those  
8 elements of those crimes were not testified to, were not  
9 present in the evidence that was presented to the jury,  
10 especially as to valuation. They're not present. That would  
11 cause the jury to speculate. The Defense did not put any  
12 issue evaluation in; the State did not put any issue  
13 evaluation in. And that would cause the jury to completely  
14 speculate as to what value of the items are, on top of the  
15 fact that the jury found the Defendant not guilty of the crime  
16 of armed robbery. So, that to me, in and of itself, would  
17 negate this argument since the Defendant has been found not  
18 guilty of that particular crime.

19 MR. WILSON: Thank you, Your Honor.

20 THE COURT: All right. Thank you very much.

21 Anything, any further motions from the Defense?

22 MR. WILSON: No further motions, Judge.

23 THE COURT: All right. Very good.

24 BY THE COURT:

25 THE COURT: All right. We'll proceed with sentencing at

1 this time. Is the State ready?

2 MR. HOLFORD: Court's indulgence; may I have one moment?

3 THE COURT: Yes, sir, please.

4 MR. HOLFORD: The State's ready to proceed, Your Honor.

5 THE COURT: All right, sir. Very good.

6 ARGUMENT AS TO SENTENCING BY HOLFORD:

7 MR. HOLFORD: Your Honor, as to Indictment 2015-GS-26-  
8 00969 for kidnapping, that's an offense that carries zero to  
9 30 years; it's violent and most serious. The Defendant was  
10 convicted. As to Indictment 2015-GS-26-00971 for criminal  
11 sexual conduct first degree, an offense that carries zero to  
12 30 years is violent and most serious. It's a sexually violent  
13 offense and it requires sex offender registry. The Defendant  
14 was convicted.

15 If I may approach with the sentence sheets?

16 THE COURT: Please. Did you wish to look at how they  
17 were presented to the -- to the Court, Mr. Wilson?

18 MR. WILSON: Your Honor, if I could review them briefly.

19 THE COURT: Sure, absolutely.

20 MR. WILSON: May I approach, Your Honor?

21 THE COURT: Absolutely, please.

22 MR. HOLFORD: Your Honor, may I also approach?

23 THE COURT: Certainly.

24 MR. HOLFORD: I just handed Defense Counsel a copy and  
25 I'll explain it in one second.

1 THE COURT: All right. Very good.

2 MR. WILSON: Thank you, Your Honor.

3 THE COURT: Yes, sir.

4 Yes, Solicitor, I'll be glad to hear from you?

5 MR. HOLFORD: Yes, Your Honor, the Defendant is 21 at  
6 this time. His birthday is [REDACTED] of '95. So, he's  
7 young; he has not had a lot of time to get a criminal record,  
8 but I do show on his criminal record NCIC from an offense date  
9 of April 29th, 2013 for strong armed or common law robbery.  
10 He was convicted under a guilty plea in September -- on  
11 September 15th, 2014. Of that offense for strong armed  
12 robbery, he was sentenced to YOA not to exceed six years  
13 suspended to probation. He is currently on probation for that  
14 offense. In addition to that offense, a 2013 simple  
15 possession of marijuana and a traffic offense in 2014 and a  
16 minor in possession of alcohol in June of 2014. In addition  
17 to his adult criminal record, I have handed Defense Counsel as  
18 well as Your Honor and presented to the Court, these are  
19 orders for the Family Court, the Juvenile Court. They involve  
20 his juvenile infractions.

21 Your Honor, if I could make that a part of the record  
22 without reading into the record his juvenile infractions. I  
23 believe they're appropriate for the Court to consider in all  
24 sentencing matters although I would not publicly disclose his  
25 juvenile record.

1           THE COURT: What's your position, Mr. Wilson?

2           MR. WILSON: Your Honor, I would object. Again this is  
3 juvenile issues. He is now an adult. This crime didn't occur  
4 when he was a juvenile. I would ask the Court to keep this  
5 out of the record. It is not related to or should not hold  
6 any weight to what Your Honor does as far as sentencing goes,  
7 Judge.

8           THE COURT: I will state for the record that this Court's  
9 sentencing is going to be based upon the facts and  
10 circumstances of this particular case and the adult criminal  
11 record of the Defendant, and I will not be taking into  
12 consideration regarding the sentencing, any crimes or  
13 misdemeanors he may have committed as a juvenile.

14           Thank you.

15           MR. HOLFORD: Yes, Your Honor.

16           At the appropriate time, the mother of the victim would  
17 like to speak.

18           Your Honor, on behalf of the State, the State would ask  
19 the Court for the maximum punishment in this case.

20           THE COURT: All right, sir.

21           All right. Ma'am, if you'd like to come forward, I'll be  
22 glad for you to state your name and then I'll be glad for you  
23 to speak to me.

24           Yes, ma'am?

25           STATEMENT TO COURT BY MICHELLE LEWIS:



1 MS. LEWIS: My name is Michelle Lewis; I'm Jerrica's  
2 mother.

3 THE COURT: Yes, ma'am.

4 MS. LEWIS: I've watched Jerrica for the last couple of  
5 years withdraw and go into a form of denial. She's very  
6 stoic; she always has been. But, it's changed our life and  
7 it's just been a nightmare for the last two years. While I  
8 respect what the jury has decided and I understand their  
9 choice, I believe a lot of the reasons they didn't go with the  
10 armed robbery is because there was no physical evidence of a  
11 weapon, but we all know that that doesn't necessarily mean  
12 there wasn't one. So, I have heard my daughter tell the story  
13 of what happened to her multiple times and I know she's not a  
14 liar, and I know he did everything she said. And I just would  
15 like to ask for you to please consider maximum sentencing on  
16 the charges that he was found guilty for. Thank you.

17 THE COURT: Thank you, ma'am.

18 Anything further from the State?

19 MR. HOLFORD: Your Honor, the -- I believe the record  
20 speaks for itself. I don't need to go into detail about that.  
21 It was a particularly violent and heinous crime perpetrated by  
22 the Defendant, although he is young at this time, he started  
23 at a very young age. He was already on probation for strong  
24 armed robbery and he continued to commit crimes. Your Honor,  
25 the State would ask the Court for the maximum sentence in this

1 case in light of his behavior.

2 THE COURT: All right. I did ask for the Probation  
3 Department to be present. It appears that this particular  
4 Defendant, Mr. David James Welch, is currently on probation  
5 for the crime of strong armed or common law robbery from a  
6 prior sentence where he received a youthful offender sentence  
7 suspended to a probationary period. The jury has now  
8 convicted him this date of criminal sexual conduct in the  
9 first degree and kidnapping. Therefore, I found it proper to  
10 notify the Probation Department since he is currently on  
11 probation for another offense.

12 MR. ANDERSON: Thank you, Judge.

13 THE COURT: All right, sir. Mr. Wilson, I'll be glad to  
14 hear from you?

15 ARGUMENT AS TO SENTENCING BY WILSON:

16 MR. WILSON: Your Honor, if it please the Court, Judge.  
17 Your Honor, CSC first and kidnapping carry zero to 30 years,  
18 both statutes. Congress intended, even for a CSC first  
19 degree, that there would be degrees of severity to the actual  
20 crime itself. That is considered in the statute. That's  
21 something they intended. And when you look at this particular  
22 case, with the jury finding him not guilty of the armed  
23 robbery, not guilty of the actual possession of a weapon  
24 during the violent offense, and then no evidence presented  
25 that her clothes were torn, no evidence presented in this case

1 that she was hurt physically. There was a rape kit that was  
2 submitted to the hospital in this case. There was testimony  
3 and evidence of that coming in. No submission of anything  
4 about tears or bleeding or anything that would be consistent  
5 with some sort of violent rape that would've occurred.

6 Sexual battery could be a number of things and I'm not  
7 sitting here I know what the jury was thinking when they  
8 thought sexual battery. It is such a vague term in our law.  
9 It could be anything; it could be fellatio, it could be  
10 kissing someone, it could be anything. Sexual battery is  
11 simply a touching of someone that is unwanted. That's what it  
12 is. And again in this particular case, unlike most rapes  
13 which are violent and heinous, that evidence did not come  
14 through in this particular case.

15 The kidnapping, where somebody is held and confined to a  
16 location secretly for hours or days did not occur in this  
17 situation. There is evidence in this particular case and I  
18 think the Court eluded to it earlier, where again even if he  
19 held her for a moment down, and that's what the jury could've  
20 been thinking, for that moment. We don't know if the jury  
21 though, okay, well look, at some point in time, this may've  
22 become consensual. We don't know if they thought, okay, well  
23 it wasn't consensual. I don't know what they were thinking.  
24 But, I do know that when you look at battery itself, that  
25 could occur in a moment. Even rubbing somebody's leg could be

1 a sexual battery.

2 I would submit to the Court if you look at the evidence  
3 in this matter and you look at what came through on the stand  
4 that this is the lessor of the CSC cases that you see and I  
5 would remind the Court that they didn't find that he had a gun  
6 during all this, which would add to the first prong and the  
7 second part of CSC first, which would be the aggravated  
8 circumstances that there was a weapon involved, which was what  
9 the State was claiming.

10 The other issue is that again, if there were no injuries,  
11 if there was nothing done to her physically that hurt her and  
12 that there was no evidence that came across of that on the  
13 stand, I would submit to the Court again that that is not  
14 evidence of a violent attack or rape.

15 I am asking the Court -- he is 22 years old at this point  
16 in time, I'm asking the Court to consider a sentence of  
17 anywhere between zero to five years. He's gonna be violated  
18 on the probation under the Youthful Offenders Act. I'm asking  
19 the Court to also turn that into an adult sentence for him and  
20 then allow him to go and either serve his time, but not to  
21 give him 30 years, Judge. And yes, he has a strong armed  
22 robbery, but that is common law robbery and Your Honor is  
23 aware of how those cases are and why they plead out and this  
24 was a plea, not a conviction. That strong armed robbery, my  
25 understanding is he was somewhere, wasn't identified by

1 anybody, and he pled guilty just to get the case done with, to  
2 be done with the case, and that happens. And I understand the  
3 Court has to obviously lay down punishment for him. He was  
4 convicted by a jury and we have to accept that verdict, and he  
5 understands that as well, but this is not one of those cases  
6 where the State's requesting that he get 30 years in prison  
7 and spend the rest of his youthful life in jail. I don't  
8 think that's appropriate. I don't think that in light of what  
9 we know about this case and in light of what came across on  
10 the stand that that is appropriate at all. I think it's very  
11 telling that the jury came back and asked questions  
12 specifically about those two crimes and I would submit to the  
13 Court my belief is that they had already found him not guilty  
14 of the armed robbery and the possession of a weapon in a  
15 violent offense. What they were struggling with was, how you  
16 define and what creates sexual battery, what creates  
17 kidnapping? How quickly can it occur? And literally right  
18 now, if I held somebody down right here, that could be  
19 technically considered as kidnapping, if I hold you for a  
20 second, and Your Honor made that -- but this is slight  
21 compared to what would probably see in a CSC first or  
22 kidnapping case, Judge. And again, I'm asking the Court for  
23 -- I'm asking for the minimal commitment, allow him to be  
24 terminated -- excuse me -- allowed to be sentenced under the  
25 YOA Act or converted to an adult sentence and then give him a

1 chance to get out of jail during his youthful life. He has a  
2 child who is two years old. He has family here who loves him.  
3 His mother, who I know wants to speak at the appropriate time.  
4 His grandmother is- here. They've been here the entire time.  
5 And he has a, obviously, a family that he lived with. And  
6 just for the record, so the record is clear for the purposes,  
7 I was appointed to this case on a 608 contract, Judge.  
8 Originally, his lawyer was Tom Floyd and then he asked me to  
9 step in as first chair and Tom was going to be second chair,  
10 but then Tom was removed and I simply took over in November to  
11 prep him for trial and get ready for it. He's not a man of  
12 great means. They don't have a lot of money. So, again I  
13 would ask the Court to take all these things into  
14 consideration. He has a 9th grade education. And, you know,  
15 this situation, I think, is just tragic. That's what I  
16 believe about the situation. I think this whole thing is just  
17 tragic.

18 I think his momma would like to speak at the appropriate  
19 time, Your Honor, if the Court is so willing?

20 THE COURT: I'll be glad to hear from her.

21 Has the Defendant, he's been incarcerated for some period  
22 of time, do you know when that occurred?

23 MR. WILSON: Court's indulgence?

24 THE COURT: And while you're looking at that up, I'll be  
25 glad to hear from his mother if she'd like to come around and

1 -- and speak to the Court?

2 MR. WILSON: Yes, Your Honor.

3 THE COURT: Yes, ma'am. If you'd just tell me your name  
4 and then I'll be glad to hear from you.

5 MS. WELCH: Okay. My name is Teresa Welch.

6 THE COURT: Yes, ma'am.

7 STATEMENT BY TERESA WELCH:

8 MS. WELCH: And I'm not here to disrespect anybody or how  
9 they're feeling, but when -- when she says their lives have  
10 changed; so has mine. Now, I've watched on Facebook everyday  
11 how her daughter's life has changed and it's not changed. And  
12 the innocence that she's proclaiming, that's hers, but I know  
13 different. I'm reading it, I'm seeing it, I'm listening to  
14 her friends. It's not the first time, and unfortunately I  
15 don't think it's gonna be the last time, so I really -- I have  
16 a grandson who is two years old. He's gonna grow up and he's  
17 not gonna know his father and that's gonna be the same thing  
18 that happened to D.J. He grew up and didn't know his father.  
19 So, I'm asking you to give my grandson a chance to know his  
20 father. Just because someone is saying they're innocent, you  
21 as a Judge, know that that's not true. I am begging you to  
22 give my grandson a chance to know his father. I do believe  
23 that he's innocent and I'll stand by that, but I would like my  
24 grandson to know his father.

25 BY THE COURT:

1 THE COURT: Thank you, ma'am.

2 Yes, sir?

3 MR. WILSON: Your Honor, he has been incarcerated now at  
4 the time two years and 94 days, Judge.

5 THE COURT: And I'm sorry, tell me that again, please?

6 MR. WILSON: Two years and 94 days, Judge, by our  
7 calculations.

8 THE COURT: Thank you very much.

9 MR. HOLFORD: Your Honor, he was out on home detention  
10 for a period of that time. Now, he got revoked multiple times  
11 while on home detention, but there were times where he bonded  
12 out and was out and then violated and got put back in and  
13 bonded out and was out and then violated and got put back in.  
14 That doesn't mean he was in custody the entire time.

15 THE COURT: All right. Thank you.

16 MR. WILSON: Judge, he was only out three or four days.

17 THE COURT: All right.

18 Agent, did you wish to present the matter to the Court at  
19 this time?

20 MR. ANDERSON: Yes, Your Honor.

21 THE COURT: I'll be glad to hear from you, sir.

22 MR. ANDERSON: Judge, he is currently on YOA suspended to  
23 probation. He was sentenced on 9/15/2014, and that was a  
24 strong armed robbery. He got YOA six years suspended to  
25 probation and it appears today's conviction will be the



1 violation.

2 THE COURT: All right, sir. Thank you very much.

3 SENTENCE OF THE COURT:

4 THE COURT: All right. Mr. Welch, stand up, please, sir.

5 Regarding the matter of the probation violation, I do  
6 find there's been a willful violation of the terms and  
7 condition of the probation. I'm revoking the sentence,  
8 turning it into an adult sentence for the time of six years.

9 MR. ANDERSON: Thank you, Judge.

10 THE COURT: That will run concurrent with the sentence in  
11 2015-GS-26-971. Regarding that particular offense, the State  
12 of South Carolina, County of Horry, versus David James Welch,  
13 the sentence of criminal sexual conduct first degree. The  
14 sentence of the Court is the Defendant is committed to the  
15 State Department of Corrections for a determinate term of 24  
16 years. The Defendant is given credit for the time that he has  
17 already served. Sex offender registry is required. This is a  
18 sexually violent offense. I am not giving him credit for the  
19 home detention time due to the violations.

20 2015-GS-26-969, kidnapping, the sentence is the same,  
21 determinate term of 24 years concurrent with 2015-GS-26-971.

22 Thank you very much.

23 MR. WILSON: Thank you, Your Honor.

24 MR. HOLFORD: Thank you, Your Honor.

25 END OF DAY FOUR - ADJOURNED.

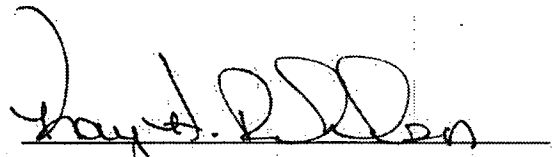
State v. Welch - 2015-GS-26-969,970,971,972  
CERTIFICATE OF COURT REPORTER

395

C E R T I F I C A T E

I, the undersigned, Kay H. Richardson, Official Court Reporter for the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the hearing held in the case of State of South Carolina versus David James Welch, held in the Court of General Sessions for Horry County, Horry County Courthouse, Conway, South Carolina, on April 17-20, 2017, as reported by Dixie C. Eubank.

I do hereby certify that I am neither of kin, counsel, nor interest to any party hereto.



Kay H. Richardson

Official Court Reporter

July 17, 2017.



**City of Myrtle Beach**  
**Police Department**  
**SOUTH CAROLINA**

Scher  
gth you be

**YOUR RIGHTS**

☒ You have the right to remain silent, and refuse to answer any questions.

☒ Anything you say can be used against you in a court of law.

☒ You have the right to talk to an attorney and have him present with you while you are being questioned.

☒ If you cannot afford an attorney, one will be provided at government expense before any questioning, if you wish.

☒ If you desire to make a statement or answer questions, you have the right to stop at any time.

The above rights have been explained to me and I understand each one of them.

Signed: X DT

[Signature]  
Witness as to Defendant's signatures:

1-9-15  
Date:

Il. Jones  
Printed Name of Witness:

**STATE'S  
EXHIBIT**

See 1  
4-17-17

## WITNESSES

J Beam Myrtle Beach Police Department

## ARREST WARRANT NUMBER

2015A2620600106  
 CDR: 0085 16-03-0910  
 DOA: 1/9/2015

## ACTION OF GRAND JURY

TRUE BILL

*Ben Harris*  
 Foreperson of Grand Jury  
 Date:

## VERDICT

Foreperson of Petit Jury  
 Date:

DOCKET NO. 2015-GS-26- 00969

## The State of South Carolina

County of Horry

Martin D. Sprafkin

15H00330

COURT OF GENERAL SESSIONS

MARCH, 2015 TERM

THE STATE

vs.

David James Welch  
 W/ M  
 Oak Drive  
 Myrtle Beach, SC 29577  
 DOB: 1995-  
 SSN:

*Ralph Wilson Jr.*  
 ATTORNEY: *W. Thomas Floyd*

Indictment for

KIDNAPPING

Jimmy A. Richardson, II, Solicitor

ORIGINAL

FILED  
HORRY COUNTY

MAR 27 PM 4:28

MELANIE HIGGINS-WARD  
CLERK OF COURTDATE RECEIVED FROM  
GRAND JURY

STATE OF SOUTH CAROLINA     )  
                                           )  
 COUNTY OF HORRY                )

## INDICTMENT

At a Court of General Sessions, convened on March 26, 2015, the Grand Jurors of Horry County present upon their oath:

KIDNAPPING

CDR: 0095 16-03-0910

That David James Welch did in Horry County on or about January 8, 2015, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Jerrica N., without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
 JIMMY A. RICHARDSON, II  
 FIFTEENTH CIRCUIT SOLICITOR

17:00  
 CANCELLED  
 Date 3/26/15

RECEIVED  
 3/26/15 10:45 AM

## WITNESSES

J Beam Myrtle Beach Police Department

DOCKET NO. 2015-GS-26- 00971

## The State of South Carolina

County of Horry.

Martin D. Spratlin

15H00330

COURT OF GENERAL SESSIONS

MARCH, 2015 TERM

FILED  
HORRY COUNTY  
2015 MAR 27 PM 4:28  
MELANIE HUGGINS-WARD  
CLERK OF COURTDATE RECEIVED FROM  
GRAND JURY

## ARREST WARRANT NUMBER

2015A2620600109

CDR: 0160 16-03-0652

DOA: 1/9/2015

THE STATE

VS.

David James Welch

W/L M

Oak Drive

Myrtle Beach, SC 29577

DOB: 1995-11-11

SSN: [REDACTED]

Ralph Wilson Jr.

ATTORNEY: W. Thomas Floyd

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury  
Date: MAR 26 2015

VERDICT

Indictment for

CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

Jimmy A. Richardson, II, Solicitor

ORIGINAL

Foreperson of Petit Jury  
Date:

STATE OF SOUTH CAROLINA     )  
                                                   )  
COUNTY OF HORRY             )

## INDICTMENT

At a Court of General Sessions, convened on March 26, 2015, the Grand Jurors of Horry County present upon their oath:

**CRIMINAL SEXUAL CONDUCT, FIRST DEGREE**

CDR: 0160 16-03-0652

That David James Welch did in Horry on or about January 8, 2015, engage in sexual battery with Jerrica N. (victim), using aggravated force and/or said Defendant did engage in a sexual battery with the victim while the victim was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act, all in violation of Section 16-03-0652(1)(a) and/or (b), S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

  
JIMMY A. RICHARDSON, II  
FIFTEENTH CIRCUIT SOLICITOR

65-03-0652

COUNTY OF Horry  
 STATE VS.  
David James Welch  
 AKA:  
 Race: WHITE Sex: M Age: 21  
 DOB: 1995 SS#: [REDACTED]  
 Address: Oak Drive  
 City, State, Zip: Myrtle Beach, SC 29577  
 DL#: [REDACTED] SID#: [REDACTED]

\*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was  
 TO: Criminal Sexual Conduct - 1st Degree (0-30 years)

INDICTMENT/CASE#: 2015GS2600971

A/W#: 2015A2620600109

Date of Offense: 1/8/2015

S.C. Code §: 16-03-0652

CDR Code #: 0160

## SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

in violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS/CSC ☐ §17-25-45

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:

Holford, Joshua D.

SCB80071

SC 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 24 ~~years~~ years or ☐ under the Youthful Offender Act not to exceed        years  
 and/or to pay a fine of \$       ; provided that upon the service of        days/months/years and/or payment  
 of \$       ; 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.

☐ 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: resolutions.

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$        plus 20% fee: \$       

Payment Terms:       

☐ Set by SCDPPPS       

Recipient:       

\*Fine: \$         
 § 14-1-206 (Assessments 107.5 %) \$         
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$ 100.00  
 § 14-1-211(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 \$ 25.00  
 § 14-1-213 (Drug Court Surcharge) \$150 \$         
 § 50-21-114(BUI Breath Test Fee) \$50 \$         
 § 56-5-2942(J) (Vehicle Assessment) \$40/ea \$         
 3% to County (if paid in installments) \$ 3.75

TOTAL \$ 178.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

Lenee N. Ellis  
Dixie Eubank

PTUP

       days/hours Public Service/ Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.       

May serve W/E beginning       

Substance Abuse Counseling. ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly  
 pmts. of \$ 25.00 beginning 5/20/2017

\$        paid to Public Defender Fund

Other:       

☐ 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: 4/20/17



STATE OF SOUTH CAROLINA

COUNTY OF  
STATE

Horry

VS.

David James Welch

AKA:

Race: WHITE Sex: M Age: 21

DOB: 1995 SS#:

Address: Oak Drive

City, State, Zip: Myrtle Beach, SC 29577

DL#: 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 years)

in 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 2nd 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:

SCB80071

Holford, Joshua D.

SC 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 24 years or ☐ under the Youthful Offender Act not to exceed years  
and/or to pay a fine of \$ ; provided that upon the service of days/months/years and/or payment  
of \$ ; 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.

☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135. (Domestic  
Violence) to ship, transport, possess, or receive a firearm or ammunition. to multiple victims

### SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

| *Fine:                                 | \$      |
|----------------------------------------|---------|
| § 14-1-206 (Assessments 107.5 %)       | \$      |
| § 14-1-211(A)(1) (Conv. Surcharge)     | \$100   |
| § 14-1-211(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    |
| § 14-1-213 (Drug Court Surcharge)      | \$150   |
| § 50-21-114(BUI Breath Test Fee)       | \$50    |
| § 56-5-2942(J) (Vehicle Assessment)    | \$40/ea |
| 3% to County (if paid in installments) | \$ 3.75 |

TOTAL

\$ 128.75 + 40.00 = 168.75

Clerk of Court/ Deputy Clerk

Court Reporter:

SCCA/217 (07/2016)

### IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2015GS2600969

A/W#: 2015A2620600106

Date of Offense: 1/8/2015

S.C. Code § : 16-03-0910

CDR Code #: 0095

### SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐

Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly

pmts. of \$ 250 beginning 5/20/2014

\$ paid to Public Defender Fund

Other:

☐ 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: 4/20/17

## 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 30th day of January, 2018.

**RECEIVED**  
JAN 30 2018  
SC Court of Appeals