

STATE OF SOUTH CAROLINA
IN THE SUPREME COURT

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S.C. SUPREME COURT

Certiorari to Spartanburg County

Honorable R. Ferrell Cothran, Circuit Court Judge

WALTER MONROE LANCE,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-001966

APPENDIX

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1 STATE OF SOUTH CAROLINA
2 COUNTY OF SPARTANBURG

} IN THE COURT OF GENERAL SESSIONS

3
4 In. Re:
5 Jury qualification

} TRANSCRIPT OF RECORD
} May 7, 2012
} Spartanburg, South Carolina

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11 B E F O R E:

12 HONORABLE ROGER L. COUCH, JUDGE
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19 Linda D. Moffitt
20 Circuit Court Reporter
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1 (Portion of proceedings after the roll call of the jury
2 and qualification of the jury.)

3 THE COURT: Now, there are some matters that I want to
4 go over with you, and they may have already talked to you
5 about this, but I want to be sure I emphasize these things
6 to you concerning your service on a jury so that hopefully
7 it'll make things go better for all of us.

8 The first thing I want to make you aware of, our chief
9 justice who is the -- who runs the court system in South
10 Carolina has issued an order banning communication devices
11 from the courtroom.

12 So if you have a cell phone, a pager, a walkie-talkie,
13 a--- they have all kinds of names. I just call them
14 communication devices. But if you have one of those and it
15 does go off and it disturbs the jury panel or the process
16 of a trial, the Court is required to confiscate that item.

17 Now, I realize those things have a lot of useful
18 information on there for you. But you won't have that any
19 more.

20 So leave it outside the courtroom. Turn it off.
21 Render it mute. Don't put us in a position of having to
22 take those things. I can assure you I don't have any
23 desire to have your communication device, but I can also
24 assure you that I will enforce the chief justice's order.
25 So please leave those things outside of the courtroom.

1 The bailiffs will be glad to take charge of them, put
2 them in a place where they won't bother us. If you have to
3 have it here at the courthouse, then you can look at it
4 during breaks and things of that nature. But please don't
5 bring it into the courtroom because if it disturbs court
6 proceedings it will be lost.

7 Also, I want you to realize now that you're here now
8 in an official capacity. You're here as a member of the
9 jury panel that's going to be trying cases this week.

10 I want to make you aware that jury tampering, trying
11 to influence a jury, is a felony in South Carolina. I'm
12 going to caution you that as you come and go from your
13 duties here this week please don't stop and talk to anyone.

14 Thank goodness Spartanburg is still a small enough
15 community that you probably know someone here at the
16 courthouse, either a friend or acquaintance or things of
17 that nature.

18 And I hope you realize that even the most innocent
19 conversation that you have might have with someone that you
20 know that's here at the courthouse -- if that person's
21 involved in litigation and that conversation is viewed by
22 someone on the other side of that litigation it can be
23 taken in the wrong way. It can be taken as an effort to
24 try to influence the outcome of a trial.

25 And if that kind of activity is reported to the Court

1 we're required to investigate those matters, and I don't
2 think you want to be a subject of one of those
3 investigations.

4 My best advice to you is to just act a little stuck up
5 as you come and go from your duties. Go straight to the
6 room that you're going to be in, the jury room. Don't talk
7 to anyone. Get your work done. When we let you go at the
8 end of the day go straight home and don't talk to anyone.

9 Now, next week when you're no longer on the jury panel
10 if you want to come back to the courthouse, it's a public
11 building. We're glad to have you. You can talk to anyone
12 you'd like to here. But I do hope you realize that as a
13 juror on a jury panel you're an important person to a lot
14 of people around this courthouse this week, and your
15 activities will be observed by people who are here.

16 So please don't get involved in that situation. Don't
17 talk -- stop and talk to people. You have no idea what
18 role they may have in some trial and how that might affect
19 some litigation here at the courthouse. So please don't do
20 that.

21 Also, I'm going to ask you to be prompt. Be here when
22 we ask you to be here. We can't start court proceedings if
23 you're on a jury panel and we can't locate you. That means
24 your fellow jurors will be sitting in a jury room quite
25 often without windows with no entertainment waiting on you

1 to get here. So they may not be very happy with you when
2 you arrive. And of course all the litigants and people
3 involved in the trials can't forward until you've been
4 located.

5 For that reason if you have any difficulty in getting
6 here on time call the clerk's office. Let them know that
7 you're having a problem.

8 If you have transportation problems there are
9 sheriff's deputies throughout the county. They are very
10 cooperative with the court system. We can get you here if
11 we need to get you here.

12 So please let us know if you have a problem in getting
13 to court on time. And if you do we'll assist you in that
14 matter. Otherwise, be here when we ask you to, and we'll
15 try to get started as close to on time as we can, and work
16 should move along very well.

17 Now, I realize we've gone over a lot of things with
18 you this morning. I realize things can happen. An
19 emergency can occur -- a death in the family, a severe
20 illness, accidents, things of that nature.

21 If something like that is going to affect your jury
22 service please call the clerk as soon as you're aware that
23 you have that problem. That way we can take you off the
24 list. We won't be sending sheriff's deputies out to try to
25 find you if we can't find you, and we'll be able to work

1 around your emergency if you let us know about that
2 problem.

3 So please let us know if you have any difficulties
4 like that. I can assure you we've heard -- we've dealt
5 with just about everything that can come up. And we'll try
6 to work with you if you have an emergency that occurs this
7 week.

8 Now, we have a separate jury assembly room. That's
9 where you reported to this morning, where you got your
10 badge and you checked in.

11 Now, if you've been selected to serve on a jury in a
12 trial you don't go back to that room when you report.
13 You'll be going back to the jury room in use for that
14 trial.

15 So just be aware of what -- where you need to go in
16 the courthouse when you report back. We'll try to make you
17 aware of that. But don't go back to the assembly room if
18 you're serving on a jury panel. You'll be in the wrong
19 place. And, again, we'll be looking for you and trying to
20 find you.

21 Now, the general operating hours of this courthouse
22 are from around 9:00 o'clock in the morning until around
23 5:00 o'clock in the afternoon. When I say around, that's
24 what I mean, because sometimes we'll go to 5:00 or
25 5:30 with a trial depending on when a witness is going to

1 testify or finish his testimony. Sometimes witnesses will
2 travel from out of town to come in. So we have to get that
3 done. So we can go as late as 5:30. Generally, I stop my
4 court always at 5:30 in the afternoon.

5 Lunch break is from around 12:30. In my courtroom we
6 take about an hour and 15 minutes to give you a chance to
7 run an errand if you need to.

8 I know you're here against your will, and you may have
9 something you need to take care of. And so we try to give
10 you an opportunity to do that at lunch if you need to. But
11 that's the general operating hours.

12 I will tell you sometimes if a jury's in deliberation
13 we'll go past 5:00, 5:30 in the afternoon. If we do that
14 we'll be willing to call family members and let them know
15 where you are so that they'll be aware that we've
16 temporarily kidnapped you while you're here in
17 deliberations. So that doesn't happen very often, but if
18 it does we'll certainly let people know where you are and
19 what you're doing.

20 We do have a call-in system. That's the telephone
21 number that's on the brochure that's been given to you.
22 That's for your convenience as well as ours.

23 When I started practicing law back in the 1970's, we
24 didn't have those answering machines back then. Jurors
25 were required to appear every morning at 9:00 o'clock.

1 during the term of court and remain until we decided
2 whether we needed you or not. That's very disruptive to
3 your schedule. It's very difficult for us to administer.

4 For that reason we'll put messages on that machine for
5 you. Some days it may be that you won't even have to
6 report at all if trials are ongoing and we don't need a
7 jury panel. So we can let you know whether we need you,
8 and if we need you, when we need you, so that you're not
9 wasting time sitting here at the courthouse waiting on
10 something to get started.

11 So be sure you have that number with you when you
12 leave here today if you're leaving so that you can call in
13 and get further instructions and we can be as -- have as
14 little disruption in your life as possible.

15 Now, ladies and gentlemen, that completes the
16 qualification process. I know Judge Cole will be selecting
17 a jury in his first trial shortly.

18 So I'm going to release you to go back to the jury
19 assembly room. I look forward to working with you this
20 week. Again, thank you for your willingness to serve. We
21 do appreciate your service. The bailiff will show you back
22 to the assembly room. Thank you very much.

23 END OF REQUESTED PORTION OF JURY QUALIFICATION
24
25

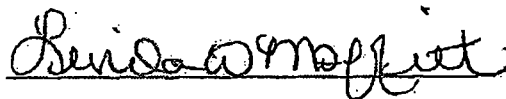
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of a portion of the jury qualification, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 7th day of May 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

December 15, 2012



Linda D. Moffitt
Circuit Court Reporter

1 STATE OF SOUTH CAROLINA)
 2 COUNTY OF SPARTANBURG) IN THE COURT OF GENERAL SESSIONS
 3
 4 The State,)
 5 -vs-) TRANSCRIPT OF RECORD
 6 Walter Monroe Lance,) 2012-GS-42-201(A)(B);203
 7 Defendant.) May 7 - 8, 2012
 8) Spartanburg, South Carolina
 9

10 B E F O R E:

11 HONORABLE J. DERHAM COLE, JUDGE; and a jury
 12
 13

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

15 BARRY J. BARNETTE, ESQUIRE
 16 TIMI POULOS, ESQUIRE
 17 Attorneys for the State

18 ROBERT HALL, ESQUIRE
 19 Attorney for the Defendant

20
 21
 22 Linda D. Moffitt
 23 Circuit Court Reporter
 24
 25

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5	S-1.1.1	Dried blood sample from victim	51	176
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EXHIBITS

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1 (Proceedings May 7, 2012)

2 THE COURT: All right. Are there any matters we need
3 to address prior to the jury panel being brought around?

4 MR. HALL: Yes, sir, Your Honor. There is one matter
5 from the jury qualifications with Judge Couch.

6 I've spoken with the solicitor about this, and I did
7 make a note of it to Judge Couch.

8 One of his final comments to the jury, Your Honor, was
9 when -- if we -- scheduling the Court, we usually stop at
10 5:00, sometimes we run to 5:30. If we run past 5:30 we'll
11 let you make the phone calls to notify people, because we
12 don't want anyone to think we're kidnapping you or you're
13 being kidnapped or something to that effect. And one of
14 the charges in this matter is -- against Mr. Lance is the
15 charge of kidnapping.

16 I think that makes light or humor of the charge of
17 kidnapping, Your Honor. And I discussed it with my client,
18 and we would move to quash this jury panel and have another
19 jury panel on another date to try this case based on that
20 comment.

21 THE COURT: All right. Solicitor Barnette.

22 MR. BARNETTE: Your Honor, Judge Couch didn't mean
23 anything by it. It was in a joking manner in that
24 situation.

25 Obviously, he didn't know what case was coming to

1 general sessions. He's handling common pleas this week.

2 I don't see any prejudice whatsoever, and I know the
3 judge will instruct them the proper law to follow in this
4 case.

5 MR. HALL: Your Honor, it's making light. It's making
6 a joke of it, I think is the issue. It lessens the
7 severity of the charge.

8 THE COURT: All right. Well, I understand.

9 well, I think the jury will understand that -- I can
10 only imagine what the -- what the evidence might reveal,
11 but I'm satisfied the jury will not take it in a
12 light-hearted fashion.

13 They understand these are serious cases with serious
14 consequences.

15 And so your motion to quash the panel is denied.

16 Any other matters we need to address before the jury
17 is brought in?

18 MR. BARNETTE: Your Honor, I think we had directly
19 indicted him on a strong arm robbery count, as well as the
20 lesser included offenses of assault with intent to C.S.C.
21 first degree.

22 Your Honor, I think -- I've talked with Mr. Hall, and
23 he's going to waive his right to arraignment on that case,
24 on those two charges.

25 MR. HALL: Yes. We waive arraignment.

1 I've gone over the charges with my client, and he
2 understands the charges, Your Honor. And if we're going to
3 forward, we had as soon go ahead and move forward and
4 select the jury.

5 THE COURT: Well, do I have those indictments?

6 MR. BARNETTE: Yes, sir. It should be Indictment 201.
7 It's 12-GS-42-201 and 203. 201 should have three counts on
8 it, Your Honor.

9 THE COURT: Oh, I have that.

10 MR. BARNETTE: And then 203 I think is a kidnapping
11 warrant.

12 THE COURT: Oh, he was not initially charged with
13 strong arm robbery or kidnapping?

14 MR. BARNETTE: Yeah, he was with the kidnapping, Your
15 Honor. It's the strong arm robbery, he was not initially
16 charged.

17 He was charged with grand larceny, which we are
18 dismissing that, Your Honor, and going forward on the
19 common law robbery.

20 THE COURT: Okay.

21 MR. BARNETTE: The grand larceny is on 12-GS-42-202,
22 Your Honor.

23 THE COURT: All right. You're Walter Monroe Lance.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Mr. Lance, Mr. Hall is your lawyer. Has

1 he been over each of these indictments with you?

2 THE DEFENDANT: Yes, sir.

3 THE COURT: Do you understand you're charged with
4 criminal sexual conduct in the first degree?

5 THE DEFENDANT: Yes, sir.

6 THE COURT: You're charged with assault with intent to
7 commit criminal sexual conduct in the first degree.

8 THE DEFENDANT: Yes, sir.

9 THE COURT: You're charged with common law or strong
10 arm robbery.

11 THE DEFENDANT: Yes, sir.

12 THE COURT: And you're charged with kidnapping.

13 THE DEFENDANT: Yes, sir.

14 THE COURT: And you've understood that --

15 THE DEFENDANT: Yes, sir.

16 THE COURT: -- for some time now, I'm guessing. Is
17 that true?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: All right. Mr. Hall, does your client
20 wish to waive arraignment on any of the charges for which
21 he was directly indicted?

22 MR. HALL: Yes, sir. He was directly indicted on the
23 strong arm robbery. I've gone over that, and he waives
24 arraignment and will go forward.

25 THE COURT: Okay. All right. Any other matters we

Jury qualification

1 need to address before the jury is brought in?

2 MR. BARNETTE: Your Honor, there's some motions that
3 we're going to deal with, but we'll probably deal with
4 those after the jury selection.

5 THE COURT: Okay. All right. Bring the panel around,
6 please.

7 (The following takes place in the presence of the jury
8 venire.)

9 THE COURT: Good morning, ladies and gentlemen of the
10 jury panel.

11 Judge Couch may have told you but my name is Derham
12 Cole. I am a resident judge here in the 7th Judicial
13 Circuit.

14 I will be presiding over a term of general sessions
15 court this week. General sessions is the criminal side of
16 the circuit court. Common pleas is the civil side of the
17 circuit court. And while he is handling cases of a civil
18 nature I will be handling cases of a criminal nature.

19 The first case that we have that's going to require
20 some of your participation is the case of the State vs.
21 Walter Monroe Lance.

22 Mr. Lance has been accused by the prosecutor of having
23 committed four separate and distinct offenses, although
24 those offenses are alleged to have arisen out of one
25 particular event or a course of events which the state

Jury qualification

1 alleges occurred back on October the 30th of 2011.

2 When a person is charged with a crime where the
3 jurisdiction lies in this court they are brought to this
4 court by way of a document called an indictment. The
5 indictment is like a warrant. It sets forth the charge
6 that is made against the person charged who is referred to
7 as a defendant.

8 In this case the defendant is Walter Monroe Lance, and
9 he's charged in two indictments. One has three charges in
10 it. The other has just one.

11 But he's charged in count one of an indictment with
12 criminal sexual conduct in the first degree. The State
13 alleges that he did here in Spartanburg County on or about
14 October the 30th of 2011 engage in a sexual battery with a
15 victim, that victim being Kerstin Helga Joslin-Venus.

16 The indictment alleges that that sexual battery was
17 accomplished under one or more of the following
18 circumstances: One, that the defendant used aggravated
19 force to accomplish the battery; and/or that the victim
20 submitted to a sexual battery under circumstances where she
21 was also the victim of a forcible confinement or robbery or
22 some other similar offense or act.

23 In count two of the indictment the defendant is
24 charged with an assault with intent to commit criminal
25 sexual conduct in the first degree alleging the similar

Jury qualification

1 allegations as set forth in count one of the indictment.

2 The third count of the indictment charges Mr. Lance
3 with the crime of common law robbery. They allege that on
4 October the 30th of 2011 he did take, steal and carry away
5 from the person or presence of Kerstin Helga Joslin-Venus
6 by the use of force, violence or intimidation either goods
7 or monies being described as her keys and a -- an
8 automobile, and that he intended to deprive her of use and
9 possession of her property permanently.

10 He's also charged in a second indictment with the
11 crime of kidnapping in that he did on October the 30th of
12 2011 unlawfully seize or confine or kidnap or abduct one
13 Kerstin Helga Joslin-Venus without any authority of law.

14 Now, as to those allegations and as to each of the
15 charges contained in those indictments the defendant has
16 entered a plea of not guilty.

17 A plea of not guilty places upon the state the burden
18 of proving the allegations that are set forth in each of
19 those indictments, the burden of proving each of the
20 essential elements of the crimes the state alleges against
21 the defendant; and therefore the burden is upon the state
22 to establish his guilt to the satisfaction of 12 jurors
23 beyond a reasonable doubt before any verdict of guilty
24 could be returned as to any of the separate charges.

25 Now, before we begin with jury selection in the case

Jury qualification

1 I'm going to introduce some people to you. Those are the
2 people that are going to be involved in the trial of the
3 case, whether they are the defendant, whether they are the
4 alleged victim, whether they are family members, whether
5 they are police officers or investigators or other lay
6 witnesses that might be testifying during the trial. And I
7 will also introduce the lawyers to you.

8 The reason that these people are going to be
9 introduced to you is because I need to find out if you are
10 connected by blood or by marriage to any of these people,
11 as well as whether or not you have any connection with
12 them, whether it be a social connection, an employment
13 connection, a church connection, or you know them in some
14 other way, you've met them somewhere. So I just need to
15 find out if there's any connection with any juror to
16 anybody involved in the case.

17 After that I'll also ask you some additional questions
18 in order to determine whether or not there's some reason
19 why any one of you jurors should not be selected to
20 participate in the trial of this particular case.

21 And so as these questions are asked you're going to
22 need to respond to them by standing. And I'll address
23 those answers with you in the event some question should
24 apply to you and you need to provide me with that
25 information. But I have to have all of the information

Jury qualification

1 before we begin with that jury selection.

2 Now, first of all, as I told you, the defendant in the
3 case, the person who is accused of having committed these
4 offenses, is Walter Monroe Lance.

5 Mr. Lance, if you will, please stand and face the jury
6 panel.

7 (Whereupon, the defendant and Mr. Hall stood.)

8 THE COURT: Mr. Lance is the one who is standing to
9 your left and to my right. He does not have a coat on. He
10 has a blue shirt and a tie and some cream colored pants.
11 That's Mr. Lance.

12 Standing with Mr. Lance is Robert Hall. Mr. Hall is
13 his lawyer. He'll be assisting him in the trial of this
14 case. Mr. Hall is employed in the 7th Judicial Circuit
15 Public Defender's Office.

16 Thank you. You may each be seated.

17 The person who is alleged to be the victim of these
18 offenses is Kerstin Helga Joslin-Venus. If you will,
19 please stand and face the jury panel so that they may see
20 who you are.

21 (Whereupon, the victim stood.)

22 THE COURT: Thank you. You may be seated.

23 Presenting the case on behalf of the state is your
24 circuit solicitor, Barry Barnette. Along with Mr. Barnette
25 is Timi Poulos. She's an assistant circuit solicitor, each

Jury qualification

1 for the 7th Judicial Circuit.

2 Potential witnesses additionally that might be called
3 during the trial of the case include -- and all of these
4 that I'm going to name right now are employed by the
5 Spartanburg County Sheriff's Department -- Spartanburg
6 County Sheriff's Department.

7 They include Anita Mullinax, Jason Bohon, Marc Miller,
8 Robert Talanges, Curtis Norwood, Lathier Graham, Dan
9 Piggins, Tracy Moss and Anthony Knighten. Also, Angela
10 Nelson.

11 This next group that I'm going to announce are
12 employed by the state law enforcement division, commonly
13 referred to as SLED.

14 And they include Nikki Hughes, Katie Urka, Stephanie
15 Stanley, Jan Bryson, Sheree Brown, Patricia Crooks.

16 We also have Rachael McDowell employed at Spartanburg
17 Regional Medical Center.

18 And we also have Selena Kinard who is also employed at
19 SLED and Justin Horton who is employed by the Spartanburg
20 County Sheriff's Department.

21 These remaining list of witnesses I'm going to
22 announce are civilian residents of Spartanburg and/or
23 Inman. And so as I announce their names if you know
24 somebody by that name but you're not certain if it's the
25 same one, just stand so that we can try to identify or

Jury qualification

1 narrow down the identification, because you may know
2 somebody that has the same name but it's not the same
3 individual.

4 So those witnesses include Stephanie Martin, Calvin
5 Wright, Jr., Mark Mangum, Robert Dunn, Lisa Wofford, Amy
6 Cunningham, Heiki Tonhaeuser, Jackie Lance, and Freddie
7 Thompson who's employed with the 9-1-1.

8 All right. So if any juror knows any of those
9 witnesses or has any particular connection with them, I
10 would ask that you please stand. And I'll address those
11 matters with you now individually.

12 Oh, and let me ask you this too. As I told you, Mr.
13 Barnette is the circuit solicitor. Mr. Hall is employed in
14 the public defender's office.

15 So I also need to know if any juror knows any person
16 who is employed in the 7th Judicial Circuit solicitor's
17 Office, as well as the 7th Judicial Circuit Public
18 Defender's Office. If so, please stand.

19 All right. I've got three witnesses standing. I'll
20 start with you, sir, the one closest to me if you'll give
21 me your name and your juror number. And then tell me how
22 that question relates to you.

23 JUROR NO. 135: David Pace, Juror 135. I was a key
24 witness in a case with the solicitor's office.

25 THE COURT: All right. And how long ago was that?

Jury qualification

1 JUROR NO. 135: That was in --

2 THE COURT: About how long?

3 JUROR NO. 135: '06.

4 THE COURT: Okay. And is there anything about that
5 experience or about that connection that would have any
6 bearing upon your decision in this particular case?

7 JUROR NO. 135: No, sir.

8 THE COURT: All right. Thank you. You may be seated.
9 Yes, ma'am.

10 JUROR NO. 40: Darlene Deyoung, No. 40. Freddie
11 Thompson with 9-1-1. I have dealings with him --

12 THE COURT: All right.

13 JUROR NO. 40: -- as to the fire department. And
14 Angela Nelson is the wife of one of our employees.

15 THE COURT: All right. And would either of those
16 facts or either of those connections have any bearing upon
17 your decision in this case if you were called upon to
18 serve?

19 JUROR NO. 40: No, sir.

20 THE COURT: Thank you. You may be seated.
21 Yes, sir.

22 JUROR NO. 74: Matthew Henderson, Juror No. 74. I
23 work at Spartanburg County 9-1-1 and know all of the
24 sheriff deputies involved, plus Freddie Thompson.

25 THE COURT: Okay. And would that fact have any

Jury qualification

1 bearing upon your decision in this case?

2 JUROR NO. 74: No, sir.

3 THE COURT: And you could put that aside and not allow
4 it to influence your judgment?

5 JUROR NO. 74: No, sir.

6 THE COURT: You could or could not?

7 JUROR NO. 74: I could put it aside, yes, sir. I
8 could put it aside.

9 THE COURT: Okay. Thank you. You may be seated.
10 Yes, sir.

11 JUROR NO. 193: Cameron Pace, Juror No. 193. I know
12 Justin Horton.

13 THE COURT: And how do you know Mr. Horton?

14 JUROR NO. 193: I went to school with him.

15 THE COURT: All right. Would that have any bearing
16 upon your decision in the case?

17 JUROR NO. 193: No.

18 THE COURT: Thank you. You may be seated.

19 Anyone else need to respond to that question? If so,
20 please stand.

21 (No response.)

22 THE COURT: This is an event, as I told you, that the
23 state alleges occurred back on October the 30th of 2011.

24 It is alleged to have occurred at the Milliken Park
25 located out off of James F. Byrnes Boulevard on that date.

Jury qualification

1 And of course I've read the allegations in the indictment
2 to you, allegations the defendant denies.

3 Is there any member of this jury panel who has heard,
4 seen or read any circumstances or about any circumstances
5 that relate to this case?

6 In other words, have you seen anything on the
7 television; have you heard anything on the radio; have you
8 read anything in the newspaper; have you heard any
9 discussions about people just talking about the case?

10 In other words, have you in any way been exposed to
11 any type of information that might relate to this
12 particular case or these particular events? If so, please
13 stand.

14 All right. Yes, ma'am, if you will, give me your name
15 and your juror number, please.

16 JUROR NO. 7: Ashley Bishop, No. 7.

17 THE COURT: All right. And, Ms. Bishop, you think you
18 have heard, seen or -- let me ask you to sit just a minute.
19 Do you think you have heard, seen or read something about
20 the case?

21 JUROR NO. 7: I believe -- incident where she had dogs
22 with her?

23 THE COURT: Well, I'm not certain about that, but that
24 may be true.

25 The allegations are that Ms. Joslin-venus was attacked

Jury qualification

1 by Mr. Lance at Milliken Park on October 30th of 2011.

2 JUROR NO. 7: I think my husband works with her
3 husband, so, yes.

4 THE COURT: Okay. And where is your husband employed?

5 JUROR NO. 7: At Pazadan McMillian Smith Architecture
6 in Spartanburg.

7 THE COURT: okay. Is that a fact?

8 MR. BARNETTE: I think so, Your Honor.

9 THE VICTIM'S HUSBAND: That's where I work, yes, sir.

10 THE COURT: That is where her husband is employed or
11 worked. And so you think you have heard something about
12 it?

13 JUROR NO. 7: Yes, sir. I know about it.

14 THE COURT: All right. And did you just happen to
15 hear discussions about individuals talking about it, or
16 were you exposed to some type of media coverage?

17 JUROR NO. 7: Well, both.

18 THE COURT: I just need a yes or no right now, please,
19 ma'am.

20 So you've been exposed to both. You've heard
21 discussions and you've been exposed to some type of media
22 coverage that relates to the case.

23 JUROR NO. 7: Yes, sir.

24 THE COURT: And from what media source were you
25 exposed to information?

Jury qualification

1 JUROR NO. 7: Like T.V. and newspaper.

2 THE COURT: T.V. and newspaper. And what's the most
3 recent exposure that you've had?

4 JUROR NO. 7: Probably when it happened in October.

5 THE COURT: All right. So you've heard, seen or read
6 nothing since that day that you recall.

7 JUROR NO. 7: No, sir.

8 THE COURT: Okay. And do you recall many specific
9 details about what you have been exposed to that relate to
10 the case?

11 JUROR NO. 7: No, sir.

12 THE COURT: All right. And is there anything about
13 what you have seen, heard or read that relates to this case
14 that would prevent you from being able to be fair and
15 impartial to both sides in this case if you were called
16 upon to serve as a juror?

17 JUROR NO. 7: No, sir.

18 THE COURT: In other words, are you able and willing
19 to put aside anything that you've been exposed to that
20 might relate to this case and not allow it to influence
21 your decision if you're called upon to serve as a juror?

22 JUROR NO. 7: Yes, sir.

23 THE COURT: Okay. Thank you, ma'am.
24 That's Juror No. 7.

25 All right. Next juror. I had another juror over

Jury qualification

1 here.

2 Yes, ma'am.

3 JUROR NO. 153: If it's the case --

4 THE COURT: Give me your name and number, please.

5 JUROR NO. 153: I'm sorry. Pam Shields, 153.

6 THE COURT: 153.

7 JUROR NO. 153: Yes, sir.

8 THE COURT: All right. And you've heard my discussion
9 with Ms. Bishop. You think you've heard, seen or read
10 something about the case?

11 JUROR NO. 153: If it's the one I think it is, it was
12 all over the media.

13 THE COURT: There was media coverage.

14 JUROR NO. 153: Okay.

15 THE COURT: And were you exposed to that by way of
16 television, radio or newspaper?

17 JUROR NO. 153: All three.

18 THE COURT: All three. And what's the most recent
19 exposure that you've experienced?

20 JUROR NO. 153: It would have been in the fall.

21 THE COURT: Back, back shortly after the event --

22 JUROR NO. 153: Yeah.

23 THE COURT: -- is alleged to have occurred?

24 JUROR NO. 153: Uh-huh.

25 THE COURT: All right. And is there anything about

Jury qualification

1 that exposure that you recall so far as specific details
2 are concerned?

3 JUROR NO. 153: I mean, no, other than it happening at
4 Milliken and then --

5 THE COURT: Just generally what I told you this
6 morning?

7 JUROR NO. 153: Yes, sir.

8 THE COURT: Can you think of anything else that you
9 recall? Don't tell me what it is. But do you remember any
10 other details that you've not been exposed to already this
11 morning?

12 JUROR NO. 153: Not necessarily, no.

13 THE COURT: Okay. And are you able and willing to put
14 that information aside and not allow it to influence your
15 judgment if you're called upon to serve in the case?

16 JUROR NO. 153: Yes, sir.

17 THE COURT: And is there anything about that exposure
18 that would prevent you from being able to be fair and
19 impartial?

20 JUROR NO. 153: No, sir.

21 THE COURT: All right. Thank you. You may be seated.
22 Yes, sir.

23 JUROR NO. 6: Brian Bennett, No. 6.

24 THE COURT: No. 6.

25 JUROR NO. 6: Yes, sir.

Jury qualification

1 THE COURT: Your last name was --

2 JUROR NO. 6: Bennett -- Bennett.

3 THE COURT: Bennett?

4 JUROR NO. 6: Yes, sir.

5 THE COURT: Okay. Mr. Bennett, you've been exposed to
6 some type of information that relates to the case?

7 JUROR NO. 6: News media -- T.V. and newspaper.

8 THE COURT: And how -- what's the most recent exposure
9 you've experienced?

10 JUROR NO. 6: Probably back at the time in October.

11 THE COURT: And do you have any recollection as to
12 specific details from that exposure?

13 JUROR NO. 6: Not exactly.

14 THE COURT: More than what you've heard this morning
15 as I've read these allegations to you and told you
16 basically what the case is about.

17 JUROR NO. 6: Just what I read in the paper and seen
18 on T.V.

19 THE COURT: All right. And is there anything about
20 what you were exposed to that would prevent you from being
21 able to be fair and impartial in this case if you were
22 selected to serve?

23 JUROR NO. 6: Besides being disgusted by it?

24 THE COURT: Well, Mr. Bennett, let me ask it this way.
25 Do you understand that everything that you see or read

Jury qualification

1 may be based upon some fact but it may not be accurate, it
2 may not be true and it may not relate to particular
3 individuals that are being tried in court? Do you
4 understand that's the jury's purpose and function, is to
5 decide facts and to apply law --

6 JUROR NO. 6: Yes. I understand.

7 THE COURT: -- and to determine -- and to determine if
8 a person accused of a crime is, in fact, guilty of the
9 crime they are accused of committing?

10 JUROR NO. 6: Yes, sir. I understand that.

11 THE COURT: And that's what I'm asking.

12 Do you think that based upon what you have experienced
13 that you could be fair in this particular case? And it
14 just requires a yes or a no answer.

15 JUROR NO. 6: No.

16 THE COURT: All right. Then we'll excuse Juror No. 6
17 from service in the case. But don't leave yet.

18 All right. Next juror. Yes, sir.

19 JUROR NO. 74: 74, Matt Henderson again.

20 THE COURT: All right. And --

21 JUROR NO. 74: I was working that day.

22 THE COURT: All right. And so you've been exposed to
23 information about these allegations?

24 JUROR NO. 74: Yes, sir.

25 THE COURT: And is there anything about what you were

Jury qualification

1 exposed to that would affect your judgment in the case?

2 JUROR NO. 74: No, sir.

3 THE COURT: Were you involved in the case in any way
4 other than just having to be at work?

5 JUROR NO. 74: No, sir.

6 THE COURT: Okay. And could you put aside any
7 information you've received about the case and not allow it
8 to influence your decision?

9 JUROR NO. 74: Yes, sir.

10 THE COURT: And the information that you received was
11 while you were at work?

12 JUROR NO. 74: Yes, sir, it was.

13 THE COURT: Did you also -- were you also exposed to
14 some type of media coverage?

15 JUROR NO. 74: T.V. and newspaper, yes.

16 THE COURT: All right. And do you have any specific
17 details about the case that you recall that you've not
18 already been exposed to this morning?

19 JUROR NO. 74: Yes, sir.

20 THE COURT: All right. And are you able and willing
21 to put aside that information and not allow it to influence
22 your decision?

23 JUROR NO. 74: Yes, sir.

24 THE COURT: All right. That's Juror 47.

25 You may be seated.

Jury qualification

1 All right. Any other jurors need to respond to the
2 question of exposure to information about the case?

3 JUROR NO. 66: Yes, sir.

4 THE COURT: All right. Your name and number, please.

5 JUROR NO. 66: Ryon Hamilton, 66.

6 THE COURT: Okay. And from what source did you
7 receive information?

8 JUROR NO. 66: Internal communications at Milliken.

9 THE COURT: You work at Milliken.

10 JUROR NO. 66: Yes, sir.

11 THE COURT: All right. And did you receive
12 information from any other source?

13 JUROR NO. 66: T.V.

14 THE COURT: All right. And did you -- do you recall
15 any specific facts or details that I've not told you about
16 this morning as to what the allegations are?

17 JUROR NO. 66: Yes, sir.

18 THE COURT: Okay. And are you able to recall what
19 those details are?

20 JUROR NO. 66: Yes, sir.

21 THE COURT: Are you able to put those details aside
22 and not allow that information to influence your judgment
23 in any way?

24 JUROR NO. 66: Yes, sir.

25 THE COURT: All right. Do you believe that the

Jury qualification

1 information that you have would any way impair your ability
2 to be fair and impartial to both sides?

3 JUROR NO. 66: No, sir.

4 THE COURT: Okay. Thank you. You may be seated.

5 Any other jurors need to respond to that question?

6 (No response.)

7 THE COURT: Ladies and gentlemen, the purpose of these
8 questions of course is you -- I'm sure you understand, but
9 I'll emphasize the fact that any time a juror is called
10 upon to serve in any case -- civil, criminal, doesn't
11 matter -- any time you're called upon to serve you've got
12 to be able to base your decision solely upon what is
13 presented during the trial of the case, and you can't be
14 influenced by any outside consideration, because your
15 verdict has to be based upon the evidence presented during
16 the trial.

17 Sometimes you have outside information, and sometimes
18 that information might not even be accurate. It might not
19 be correct. And that's why you have to base a decision
20 upon what's presented during the trial. And you can't
21 allow outside influences to impair your ability to fairly
22 judge the case based upon the evidence that exists that's
23 going to be presented during the trial.

24 So that's the purpose of the questions of course, is
25 to find out if you can be fair and impartial and comply

Jury qualification

1 with your oath, which is to base a verdict upon the
2 testimony and evidence received during the trial.

3 Now, I also need to find out if any member of this
4 jury panel or any members of your immediate family -- and
5 I'm going to define an immediate family member as a parent
6 or a spouse or a child or a sibling -- a parent, spouse,
7 child or sibling.

8 Have you or any members of your immediate family as I
9 just defined it ever been the victim of any type of
10 criminal offense that might be characterized or classified
11 as violent.

12 And I also need to know not only have you or a family
13 member been the victim of such, but I need to know if you
14 or a family member has ever been accused of having
15 committed a similar type of an offense.

16 And I'm going to include in that definition of violent
17 offenses -- to include the crimes of murder, manslaughter,
18 armed robbery, criminal sexual conduct, burglary, criminal
19 domestic violence of a high and aggravated nature or any
20 other similar type of an -- carjacking -- or any other
21 similar type of an offense.

22 I need to know if you or a family member has ever been
23 the victim of such, as well as whether you or a family
24 member has ever been accused of having committed such. So
25 if that applies to any juror, I would ask that you please

Jury qualification

1 stand.

2 All right. Is everyone standing that needs to respond
3 to the question? Everyone understands the question?

4 All right. I'm going to start to my right, and I'll
5 work my way front to back. And then I'll jump the aisle
6 and we'll discuss it with those on the other side.

7 The first lady, if you'll give me your name and your
8 number, please.

9 JUROR NO. 105: 105, Ramonita Marks.

10 THE COURT: All right. Now, I don't know what the
11 criminal offenses are that you or a family member may have
12 been the victim of or you or a family member may have been
13 accused of, and I don't want you to provide me with any
14 details of the case.

15 But if it's such that you don't want to discuss it in
16 front of the audience, feel free to step down here, and you
17 can provide me with that information privately.

18 If you don't mind answering the questions where you
19 are, then it's just easier if we do it that way. But
20 you're not required to do that.

21 So I'll begin with you, ma'am, Juror 105. Do you want
22 to --

23 JUROR NO. 105: Approach the bench.

24 THE COURT: You want to approach. Okay.

25 (Bench conference held off the record with counsel and

Jury qualification

1 Juror No. 105.)

2 THE COURT: 105 is excused from service in this case.

3 Next, you, ma'am.

4 JUROR NO. 160: Back in '67.

5 THE COURT: Tell me your name and number, please.

6 That's for everybody. I'm going to need your name and
7 number first, and then you tell how that relates to you.

8 JUROR NO. 160: Marjorie Starrett, 160.

9 THE COURT: And was it you or a family member?

10 JUROR NO. 160: It was my sister.

11 THE COURT: It was your sister.

12 JUROR NO. 160: My sister and --

13 THE COURT: Was she a victim or accused?

14 JUROR NO. 160: Victim.

15 THE COURT: She was a victim. And the crime was what?

16 JUROR NO. 160: She was kidnapped along with my aunt
17 and uncle family from a --

18 THE COURT: That's all I need to know, just the nature
19 of the crime, no details.

20 Okay. And would that fact or that experience that
21 your sister had, would that affect your judgment in this
22 case?

23 JUROR NO. 160: No, sir.

24 THE COURT: Could you put aside that event and not
25 allow it to influence your decision?

Jury qualification

1 JUROR NO. 160: Yes, I could put it aside.

2 THE COURT: Thank you. You may be seated. That's
3 160.

4 JUROR NO. 39: Richard Declue, No. 39. My wife, bank
5 robbery.

6 THE COURT: And would that fact in any way impair your
7 ability to be fair in this case?

8 JUROR NO. 39: No.

9 THE COURT: Thank you. Be seated.
10 Yes, ma'am.

11 JUROR NO. 55: No. 55, Doris Glenn. I have a niece
12 that was sexually assaulted.

13 THE COURT: And would that fact in any way impair your
14 ability to be fair?

15 JUROR NO. 55: I think it would.

16 THE COURT: All right. We will excuse Juror No. 55
17 from service in the case. But don't leave yet.

18 Next juror.

19 JUROR NO. 30: Angie Collins, No. 30.

20 THE COURT: All right. And was it you or a family
21 member?

22 JUROR NO. 30: Family member.

23 THE COURT: And what was the connection?

24 JUROR NO. 30: May I approach?

25 THE COURT: You may. Sure.

Jury qualification

1 (Bench conference held off the record with counsel and
2 Juror No. 30.)

3 THE COURT: All right. Mr. Bennett, I've already
4 excused you, so you won't need to answer any further
5 questions, but thank you. But don't leave yet.

6 All right. Yes, ma'am.

7 JUROR NO. 141: Nancy Plumley, No. 141.

8 THE COURT: And was it you or a family member?

9 JUROR NO. 141: Myself.

10 THE COURT: And were you a victim or accused?

11 JUROR NO. 141: Victim.

12 THE COURT: And the nature of the case was what?

13 JUROR NO. 141: May I approach, Your Honor?

14 THE COURT: Yes, ma'am.

15 (Bench conference held off the record with counsel and
16 Juror No. 141.)

17 THE COURT: Juror 141 is excused from service in this
18 case.

19 All right. Yes, ma'am.

20 JUROR NO. 11: Brittany Boyce, No. 11. Home invasion
21 victim.

22 THE COURT: And you were the victim of a home
23 invasion?

24 JUROR NO. 11: Yes, sir.

25 THE COURT: All right. And was someone charged with

Jury qualification

1 that?

2 JUROR NO. 11: No, sir.

3 THE COURT: Okay. Is there anything about that
4 experience that would affect your judgment if you were
5 called upon to serve in this case?

6 JUROR NO. 11: No, sir.

7 THE COURT: All right. Thank you. You may be seated.
8 Next.

9 JUROR NO. 20: Joseph Burke, No. 20. My brother was
10 sexually harassed.

11 THE COURT: All right. And would that fact have any
12 bearing upon your decision in this case?

13 JUROR NO. 20: No, sir.

14 THE COURT: Thank you. You may be seated.
15 Yes, sir.

16 JUROR NO. 59: Joel Gregory, No. 59.

17 THE COURT: Fifty-nine?

18 JUROR NO. 59: I need to come up there.

19 THE COURT: Okay.

20 (Bench conference held off the record with counsel and
21 Juror No. 59.)

22 THE COURT: All right. Next row.

23 I believe it's you, ma'am.

24 JUROR NO. 93: Anitria Jones, No. 93.

25 THE COURT: And is it you or a family member?

Jury qualification

1 JUROR NO. 93: Family member.

2 THE COURT: And what was the relation?

3 JUROR NO. 93: I would like to approach.

4 THE COURT: Okay.

5 (Bench conference held off the record with counsel and
6 Juror No. 93.)

7 THE COURT: All right. Next juror.

8 JUROR NO. 177: Verilyn Waters, No. 177.

9 THE COURT: And was it you or a family member?

10 JUROR NO. 177: Family member.

11 THE COURT: And what was the connection with the
12 family member?

13 JUROR NO. 177: May I come up?

14 THE COURT: Okay.

15 (Bench conference held off the record with counsel and
16 Juror No. 177.)

17 THE COURT: All right. Any other jurors that need to
18 respond to that question about having you or a family
19 member who's been the victim or been accused of having
20 committed some type of criminally violent offense? If so,
21 please stand.

22 (No response.)

23 THE COURT: Has any member of the jury panel ever
24 been -- as well as you have any family member who has ever
25 been -- or is now employed as any type of law enforcement

Jury qualification

1 officer? Have you or a family member -- are you now or
2 have you ever been employed as any type of law enforcement
3 officer? If so, please stand. Okay.

4 JUROR NO. 66: No. 66, Ryon Hamilton. I've got a
5 grandfather who worked with SLED and the Bureau of
6 Technical Services for 30 something years.

7 THE COURT: Okay. Thank you. Be seated.

8 Mr. Bennett, I'm going to let you go ahead and answer
9 that question because somebody else might want that later
10 on in the week. So you've got a military -- I mean, a law
11 enforcement relative, or you?

12 JUROR NO. 6: No, relative.

13 THE COURT: And who is it?

14 JUROR NO. 6: It's a nephew-in-law and nephew.

15 THE COURT: And what department?

16 JUROR NO. 6: Police.

17 THE COURT: In South Carolina or somewhere else?

18 JUROR NO. 6: No. New Jersey.

19 THE COURT: Okay. Thank you, sir. Be seated.

20 Yes, ma'am, in the yellow.

21 JUROR NO. 147: Janet Schaumburg, No. 147. My husband
22 was employed by U.S. State Department Medical Security.

23 THE COURT: Okay. Thank you, ma'am. You may be
24 seated.

25 Next row.

Jury qualification

1 JUROR NO. 40: Darlene Deyoung, No. 40. My father was
2 police for Spartanburg County, and I have a nephew that's
3 on the sheriff's department now.

4 THE COURT: And your nephew's name is what?

5 JUROR NO. 40: Brian Snow.

6 THE COURT: Okay. Thank you, ma'am. You may be
7 seated.

8 Yes, ma'am.

9 JUROR NO. 87: Brenda Johnson, 87, and my stepdad is a
10 highway patrolman.

11 THE COURT: In Spartanburg?

12 JUROR NO. 87: Uh-huh.

13 THE COURT: All right. Thank you. You may be seated.

14 Yes, sir.

15 JUROR NO. 74: Matt Henderson, 74. My dad is a
16 retired city officer, and so is my mother.

17 THE COURT: Okay. Thank you. Be seated.

18 Yes, sir.

19 JUROR NO. 34: Aaron Corbin, Juror 34. I worked for
20 the United States Border Patrol for a couple of years.

21 THE COURT: Okay. Thank you. You may be seated.

22 Is there any member of the jury panel who belongs to
23 or contributes time or money to any type of organizations
24 that might be characterized or described as law enforcement
25 support or victims support or victims advocacy type groups

Jury qualification

1 or organizations? Do you belong to any; do you contribute
2 money to any; or do you contribute time to any of those
3 types of organizations?

4 And that includes organizations like Mothers Against
5 Drunk Drivers, Citizens Against Violent Crime, the
6 Children's Advocacy Center, fraternal order of police, the
7 honorary sheriffs' association, the police benevolence
8 society, a neighborhood watch program or any similar type
9 of organization.

10 Do you belong to any or contribute time or money to
11 any? If so, please stand.

12 All right. I'll start with you, ma'am. Name and
13 number.

14 JUROR NO. 28: Sandra Codespoti, 28. Just a
15 contribution.

16 THE COURT: Okay. To what?

17 JUROR NO. 28: Police. I don't really remember.

18 THE COURT: Okay. Thank you. That's fine.

19 Yes, sir.

20 JUROR NO. 39: Richard Declue, No. 39. I've given to
21 the fraternal order of police and the sheriff's department.
22 I don't remember the exact amount it was.

23 THE COURT: Okay. Thank you.

24 Yes, ma'am.

25 JUROR NO. 110: Shelby McKinney. I'm Juror No. 110.

Jury qualification

1 I'm a child advocacy minor with a concentration in sexual
2 exploitation. And I have an internship with the C.O.C. at
3 U.C.S. Upstate.

4 THE COURT: Okay. Thank you, ma'am. You may be
5 seated.

6 Has any member of the jury panel ever been called to
7 testify as a witness in a criminal case either for the
8 state or for a defendant, or just you were called because
9 you had some type of information that somebody wanted?
10 Have you been previously called to testify as a witness in
11 a criminal case? If so, please stand.

12 All right. You're -- let me go -- I'll start over
13 here again. Thirty-nine, was it?

14 JUROR NO. 39: Yes.

15 THE COURT: All right.

16 JUROR NO. 39: I was involved myself in a case where I
17 had to give testimony.

18 THE COURT: Okay. You were called by the prosecution
19 or by the defense?

20 JUROR NO. 39: It was a civil case.

21 THE COURT: A civil case. Okay. Thank you, sir. You
22 may be seated.

23 Yes, sir.

24 JUROR NO. 59: Fifty-nine, Joel Gregory. Same case I
25 mentioned to you up there.

Jury qualification

1 THE COURT: Okay. Thank you. You may be seated.

2 Yes, sir.

3 JUROR NO. 135: David Pace, Juror 135. It was the
4 case I mentioned earlier with the solicitor's office.

5 THE COURT: Okay. Thank you. You may be seated.

6 All right. Is there any member of the jury panel who
7 has already formed an opinion or made up your mind as to
8 what you think the ultimate decisions in this case ought to
9 be based upon what you've heard up to this point or based
10 upon any other consideration? I just need to know if
11 you've already made up your mind as to the ultimate
12 outcome. If so, please stand.

13 (No response.)

14 THE COURT: Let me ask you this. Now that you've had
15 time to hear all of my questions, and hear my discussions
16 with your fellow jurors who've responded and you've had
17 time to think about it, is there anybody else that
18 something else has come to mind that you might recall about
19 the case or about some person or some witness that you need
20 to tell me about? If so, please stand.

21 (No response.)

22 THE COURT: Does any member of this panel know of any
23 reason whatsoever whether I've asked you about it or not,
24 do you know of any reason whatsoever why you cannot be fair
25 and impartial if you are called upon to serve as a juror in

Jury qualification

1 this particular case? If so, please stand.

2 (No response.)

3 THE COURT: None responding.

4 Any other questions requested by the state?

5 MR. BARNETTE: None, Your Honor.

6 THE COURT: By the defendant?

7 MR. HALL: None, Your Honor.

8 THE COURT: All right. Draw us a jury please, ma'am.

9 The way a jury is selected in the criminal court, it's
10 different than it is in civil court, and so you might
11 experience both this week.

12 But in criminal court the computer draws your name,
13 draws your names randomly from the jury list. But you're
14 going to be asked to come forward as your name is called.
15 And you'll just come down.

16 And you see the desks where the lawyers are seated.
17 If you'll come towards me about two steps each side is
18 going to have an opportunity to have you seated for service
19 in the case or to excuse from service in this case.

20 If either asks that you be excused just go back and
21 have a seat where you are in the audience. If both agree
22 to have you seated you'll be having a seat in that jury box
23 to your right and to my left.

24 So if you'll please simply come forward as your name
25 is called you'll be instructed if you've been selected for

Jury qualification

1 service or excused from service in the case.

2 If you're close to the middle aisle you can just come
3 down the middle aisle, and, as I say, come about two steps
4 past where the desks are just in the center and look
5 towards your fellow jurors.

6 If you're closer to the wall you can come around the
7 desks where they're seated. But take your stance in the
8 same place that I just indicated.

9 (Whereupon, a jury was impaneled.)

10 THE COURT: All right. Those of you who have been
11 selected, I'll ask you to please go with the bailiff to a
12 jury room, and I'll bring you back in just a few minutes to
13 let you go to lunch.

14 (The following takes place outside the presence of the
15 jury.)

16 THE COURT: Are there any matters that need to be
17 addressed regarding jury selection by the state?

18 MR. BARNETTE: None from the state, Your Honor.

19 THE COURT: By the defendant?

20 MR. HALL: None from the defense, Your Honor.

21 (Whereupon, the remaining members of the jury venire
22 were excused.)

23 THE COURT: All right. Mr. Hall and Mr. Lance, I
24 understand from a discussion with your lawyer and solicitor
25 Barnette that the state intends to introduce into evidence

1 during the trial of this case some statement written and/or
2 oral that you may have made --

3 THE DEFENDANT: Yes, sir.

4 THE COURT: -- either prior to or pursuant to
5 interrogation by law enforcement.

6 When the state intends to introduce a statement that
7 you've made you have a right for the court to make its own
8 determination as to whether or not any statement that you
9 made was freely and voluntarily made. And you can have a
10 hearing in order for me to make that determination. But we
11 don't have that hearing if it's not contested, if the
12 statement was voluntarily made.

13 Now, you and Mr. Hall have discussed any statement
14 that the state intends to introduce in the trial of your
15 case that they contend you made to someone about the case,
16 is that right?

17 THE DEFENDANT: Yeah, yes, sir.

18 THE COURT: All right. And so you know what
19 statements they intend to introduce.

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And was that statement or any of those
22 statements made by you -- is there any question about the
23 voluntariness of those statements?

24 THE DEFENDANT: No, sir.

25 THE COURT: In other words, were you threatened in any

1 way, were you pressured in any fashion, were you forced or
2 promised some kind of reward if you talked to them?

3 THE DEFENDANT: No, sir.

4 THE COURT: You knew what you were doing when you made
5 the statement?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: And you voluntarily made the statement of
8 your own free will and accord?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. Thank you.

11 All right. Any other matters we need to address
12 before we excuse the jury for lunch?

13 MR. BARNETTE: Your Honor, there was two stipulations
14 that's been made, Your Honor. We went ahead and gave a
15 copy to the defendant and his -- Mr. Hall.

16 They have signed it, Your Honor. We'd like to put
17 those as Court's Exhibits 1 and 2, enter them at the
18 appropriate time if needed.

19 THE COURT: Okay. Anything else?

20 MR. BARNETTE: Nothing from the state at this point,
21 Your Honor.

22 MR. HALL: No, sir.

23 THE COURT: All right. Bring in jury in, please.

24 (Stipulation marked Court's Exhibit No. 1; stipulation
25 marked Court's Exhibit No. 2.)

1 (The following takes place in the presence of the
2 jury.)

3 THE COURT: All right. Ladies and gentlemen, I am
4 going to excuse you so that you can have lunch, and then
5 we'll start with the trial of the case this afternoon. But
6 before we do that I've got some matters to address with
7 you.

8 As I discussed prior to your selection, you'll take an
9 oath as a juror, and part of your oath and requirement of
10 the jury is to base a decision solely upon the testimony
11 and evidence received during the trial of the case. You're
12 not permitted to allow yourselves to be influenced by any
13 outside consideration.

14 We have the greatest judicial system in the world, and
15 it's been developed over 200-plus years. And that system
16 is based upon rules and it's based upon certain conduct and
17 the following of instructions. And that's why it works.

18 And that's why I remind you that under your oath as
19 jurors you not only have to base your decision solely upon
20 the testimony and evidence received during the trial of the
21 case, but you also have to follow any instruction provided
22 you by the Court. The purpose of those instructions is to
23 see that every case is fairly decided.

24 So now that you have been selected you are not
25 permitted in any way whatsoever, in any fashion whatsoever,

1 to discuss this case with any person.

2 Now, I know that you may have spouses or children or
3 friends, and they may know that you have jury duty this
4 week and they may want to talk to you about what you're
5 doing and what kind of case you got selected in and what's
6 it about and that kind of thing.

7 You can't talk about it. You can talk about it after
8 you've reached your decision. But until your decision has
9 been reached you are not permitted to discuss this case at
10 all in any fashion whatsoever with any person whatsoever.

11 That includes your fellow jurors. You can't even
12 discuss it among yourselves unless and until you are
13 involved in jury deliberations, and that won't be until the
14 end of the trial after all of the evidence has been
15 received and I've instructed you on the law that's
16 applicable in the case. So keep in mind during the trial
17 no discussions of any kind with any person about this case.

18 Also, as I say, you've got to base your decision upon
19 the evidence presented during the trial. You can't be
20 influenced by any outside consideration. That of course is
21 why you can't have those discussions. But it's also the
22 reason that you can't allow yourselves to be exposed to any
23 type of media coverage that might relate to the case.

24 There might be something on television; there might be
25 something on the radio. There may be something appearing

1 in a newspaper. You are not allowed to be exposed to any
2 type of that coverage. So avoid television; avoid radio;
3 avoid newspaper coverage of anything that relates to the
4 trial. And that's because as I alluded to earlier, there
5 might be something that you see or hear that's not even an
6 accurate fact that relates to the case, or perhaps they
7 might be talking about some other case and you think it's
8 this one, and so you get influenced by it. So that's the
9 reason that you cannot allow yourselves to be exposed to
10 any type of media coverage that relates to the case.

11 And also, as I say, because you have to base your
12 decision solely upon the evidence presented during the
13 trial, you can't supplement that knowledge by conducting
14 any outside research or doing your own investigation into
15 any issue that might arise during the trial.

16 You base your decision upon the evidence or lack of
17 evidence in a particular case, but you have to base your
18 decision upon what occurs here in the courtroom and what
19 you see and hear during the trial of the case. You can't
20 supplement that knowledge by doing outside research.

21 So under your oath as a juror you must follow that
22 instruction. With that instruction in mind, you are going
23 to be excused for lunch.

24 And I've got some matters I'm going to be addressing
25 that don't relate to this case, but we should be in a

1 position to begin with the trial of this case at
2 3:00 o'clock, at 3:00 o'clock this afternoon.

3 So you're going to be excused right now for lunch.
4 I'll ask that you please when you come back report to the
5 jury room that you've just been shown to. Report to that
6 jury room at 3:00 o'clock this afternoon.

7 If you're not sure how to get back to that room be
8 sure you talk to the bailiff. They'll provide you with
9 those instructions.

10 And also so that there's no potential for you to be
11 exposed to conversations or discussions about the case from
12 people around the courthouse or whatever, I'm going to ask
13 that when you leave, please leave the courthouse property
14 directly and go wherever you're going for lunch. But when
15 you come back please go directly to your jury room.

16 In other words, don't stand out on the sidewalk and
17 chat or smoke cigarettes or something. Just come directly
18 back and go directly to your jury room. That way there
19 won't be any potential for you to be exposed to information
20 or discussions about the case that -- or you might think
21 relate to this case by people in various places around the
22 courthouse.

23 Okay. No discussion, no media exposure, no research,
24 no investigation.

25 Do have a good lunch. Please report to your jury room

1 at 3:00 o'clock this afternoon, 3:00 o'clock this
2 afternoon. Have a good lunch.

3 (The following takes place outside the presence of the
4 jury.)

5 THE COURT: Have y'all got exhibits you want to mark?

6 MR. BARNETTE: Yes, sir. We talked to Ms. Moffitt,
7 and we thought about doing that when we came back from
8 lunch.

9 THE COURT: Okay. That's fine.

10 Court is in recess until 3:00 o'clock.

11 (SLED CSC rape kit marked State's Exhibit No. 1 for
12 Identification; blood sample marked State's Exhibit No. 1.1
13 for Identification; dried blood marked State's Exhibit No.
14 1.1.1 for Identification; swab marked State's Exhibit No.
15 1.7 for Identification; miscellaneous materials packet
16 marked State's Exhibit No. 1.9 for Identification; map
17 marked State's Exhibit No. 2 for Identification; buccal swab
18 marked State's Exhibit No. 3 for Identification; photograph
19 marked State's Exhibit No. 4 for Identification; photograph
20 marked State's Exhibit No. 5 for Identification; photograph
21 marked State's Exhibit No. 6 for Identification; no State's
22 Exhibit No. 7 at the request of the solicitor; photograph
23 marked State's Exhibit No. 8 for Identification; photograph
24 marked State's Exhibit No. 9 for Identification; photograph
25 marked State's Exhibit No. 10 for Identification; photograph

1 marked State's Exhibit No. 11 for Identification; photograph
2 marked State's Exhibit No. 12 for Identification; photograph
3 marked State's Exhibit No. 13 for Identification; photograph
4 marked State's Exhibit No. 14 for Identification; photograph
5 marked State's Exhibit No. 15 for Identification; map marked
6 State's Exhibit No. 16 for Identification; defendant's
7 waiver of rights marked State's Exhibit No. 17 for
8 Identification; defendant's written statement marked State's
9 Exhibit No. 18 for Identification; defendant's consent to
10 search marked State's Exhibit No. 19 for Identification; Jan
11 Bryson's report marked State's Exhibit No. 20 for
12 Identification; SLED DNA Forensic report marked State's
13 Exhibit No. 21 for Identification; 9-1-1 call from victim
14 marked State's Exhibit No. 22 for Identification; light blue
15 jacket marked State's Exhibit No. 23 for Identification.)

16 (Whereupon, a recess was taken.)

17 THE COURT: Are there any matters we need to address
18 before the jury panel is brought in?

19 MR. BARNETTE: Your Honor, just for the record, we've
20 agreed to two stipulations. I think earlier I mentioned
21 this, Court's Exhibits 1 and 2. I think the defense has
22 signed them. Both the defendant and his attorney has
23 signed those.

24 We had a third-party guilt motion. From what Mr. Hall
25 has told me, there's not going to be any third-party guilt

1 in this case.

2 I made a rape-shield statute motion, and I believe he
3 says there's nothing at this point that would appear as to
4 the rape shield statute. That's the way it was stated.

5 And then the Rule 609 motion will be held in abeyance
6 until a later time.

7 THE COURT: All right.

8 MR. HALL: That's correct, Your Honor.

9 THE COURT: All right. Bring the jury in. Ask Mr.
10 Mullins to take the foreperson's seat -- Mr. Mullins.

11 (The following takes place in the presence of the
12 jury.)

13 THE COURT: Can I ask everybody on the back row to
14 please move down one seat? Thank you.

15 Good afternoon, ladies and gentlemen.

16 We are ready to begin with the trial of the case for
17 which each of you have been selected.

18 And, Mr. Mullins, I'm going to ask you to serve as the
19 foreperson of the jury. As the foreperson you're going to
20 have three specific duties that none of the other jurors
21 will have.

22 No. 1, you'll be asked to serve as the spokesperson
23 for the jury. And that just means if during this trial
24 something arises that needs to be brought to my
25 attention -- you or a fellow juror has some difficulty,

1 problem or question -- you either let me know directly or
2 through the bailiff, and I'll address those issues or
3 answer those questions.

4 Secondly, you'll be called upon to preside over jury
5 deliberations when that time comes at the trial's
6 conclusion when you're asked to go back to begin
7 deliberations. You will preside over that process in the
8 jury room simply to ensure that those deliberations are
9 carried out in some orderly fashion.

10 Thirdly, you'll be asked to actually write the
11 verdicts and the decisions of the jury. You'll do that on
12 a verdict form that I'll provide you at the trial's
13 conclusion on which you will indicate the jury's unanimous
14 decisions as to each of the separate indictments.

15 The foreperson has those specific duties that I have
16 just indicated. That does not however mean that he is any
17 more important than any of you other jurors, and that's
18 because the decision of a jury is the unanimous consensus
19 opinion of all 12 jurors. And so all of you will have an
20 equal say and an equal vote in what the ultimate decisions
21 will be in this case.

22 Someone simply has to be delegated those
23 responsibilities that I have just indicated, and I have
24 delegated those to Mr. Mullins in appointing him as the
25 foreperson. But each of you are equally important so far

1 as the ultimate decision is concerned, because, as I've
2 stated, the verdicts have to be unanimous. All 12 of you
3 must be in agreement.

4 Now, we have two alternate jurors. Those are
5 Mr. Brown and Mr. Collins. And each of you have been
6 selected as alternate jurors. And the function of an
7 alternate juror is to take the place of one of the original
8 12 jurors if during this trial one of those jurors cannot
9 continue to serve for some reason.

10 And if one, or two for that matter, are called away
11 and cannot continue to serve, then one or both of you would
12 be called upon to take those jurors' places. In that event
13 you would become the 12th juror. In that event you would
14 participate throughout the trial including the jury
15 deliberations.

16 If however when the time does come for the
17 deliberations to begin if each of the original 12 jurors
18 are able to participate in that function, then your service
19 ends as alternates, and you don't participate any further.
20 And that's because the decision of the jury is that of 12,
21 and no more than 12 are permitted to engage in that
22 deliberation process.

23 But it is important that each of you pay just as
24 careful attention as we ask of all of the jurors in this
25 case because it does occur from time to time for one reason

1 or another one of these original 12 may be called away. In
2 that event one or both of you would be called upon to
3 participate and also to participate in deliberations.

4 So we do thank each of you certainly as alternate
5 jurors, just as we appreciate the service of each of you
6 jurors who have been selected for the purpose of deciding
7 the verdicts in this particular case.

8 You may swear the panel.

9 (Whereupon, the jury was duly sworn.)

10 THE COURT: And let me address one other thing so far
11 as the foreperson and the alternates are concerned.

12 Mr. Foreman, you'll always occupy the first seat on
13 the front row as you are now.

14 And the two alternate jurors, you will always occupy
15 those two seats on the back row to my left.

16 The rest of those seats are not reserved seating, so
17 you just pick a seat you like and let everybody else know
18 that's the one you want, and you can have it, but those
19 aren't designated seats, but these three are.

20 Now, ladies and gentlemen, as you know, you have been
21 selected to decide the verdicts in the case of the State
22 vs. Walter Monroe Lance.

23 As you know, Mr. Lance has been accused by the
24 prosecutor of having committed four separate and distinct
25 offenses, although they are alleged to have arisen out of

1 one particular event or a course of events which the state
2 alleges occurred back on October the 30th of 2011.

3 But by way of these two indictments the state has
4 accused Mr. Lance of having committed the crimes of
5 criminal sexual conduct in the first degree, assault with
6 intent to commit criminal sexual conduct in the first
7 degree, strong arm robbery and kidnapping. And I read
8 those allegations to you prior to your selection.

9 As to those allegations and as to each of those
10 charges the defendant has entered a plea of not guilty. A
11 plea of not guilty places upon the state because they have
12 brought the charge against another to establish that
13 person's guilt beyond a reasonable doubt.

14 They have the burden of establishing the allegations
15 they have set forth in the indictment. They have the
16 burden of proving each of the essential elements of each of
17 the crimes that are alleged against the defendant. And
18 therefore, as I say, they have the burden of proving the
19 defendant guilty of a crime beyond a reasonable doubt.

20 The burden is never upon a defendant or a person
21 accused of a crime to prove that they are not guilty or to
22 prove that they are innocent because in some cases that
23 might not even be possible.

24 The burden is always upon the state because they've
25 brought the charge to establish the defendant's guilt

1 beyond a reasonable doubt.

2 In fact, every person who is accused of a crime -- and
3 it doesn't matter how serious the offense might be for
4 which that person stands charged -- every person accused of
5 a crime is presumed to be innocent of that crime.

6 That presumption of innocence remains with any
7 defendant, as it does with this defendant, from the time
8 that he is placed under arrest, throughout the course of
9 the criminal process and even throughout the course of the
10 actual trial in the case.

11 That presumption of innocence will be with Mr. Lance
12 even at this trial's conclusion as you go back to begin
13 with your deliberations in the case. And that presumption
14 of innocence will be with him in your jury room, and it'll
15 be with him forever unless you 12 jurors determine that
16 he's no longer entitled to that presumption of innocence.

17 In other words, after you've carefully considered all
18 of the testimony and other evidence in the case and after
19 considering that evidence you have decided what you believe
20 to be the true facts as they relate to these allegations,
21 and once you decide those facts you apply the law that I
22 will have provided you, if you 12 jurors unanimously
23 determine that his guilt has been proven as to some crime
24 beyond a reasonable doubt, then he would no longer be
25 entitled to the presumption of innocence as it relates to

1 that charge. But it's only if, unless and until you are
2 satisfied of his guilt beyond a reasonable doubt that the
3 presumption of innocence would no longer be applicable.

4 Now, the way the trial will proceed is that in a
5 moment the lawyers are going to address you in what are
6 called openings statements.

7 There are two occasions in the trial of a case where
8 lawyers are permitted to address the jury, and that is at
9 the beginning of the trial before any evidence has been
10 introduced and then again at the conclusion of the trial
11 after all of the evidence has been received.

12 Keep in mind however that the lawyers' statements are
13 not evidence in the case. You're not to rely upon any
14 statement made by a lawyer to establish any fact in the
15 case. And that's because the lawyers don't know anything
16 about this case of their own personal knowledge or
17 perception like witnesses will be testifying to.

18 The lawyers aren't going to take the witness stand.
19 They're not going to be placed under oath. They will not
20 be subjected to direct and cross-examination like each of
21 the witnesses will be.

22 And what they tell you in their statements is not to
23 be construed by you as being any evidence upon which you
24 will base your ultimate decision. But it is important that
25 you listen to what the lawyers have to say because those

1 statements do serve a purpose.

2 The opening statements will serve to provide you with
3 a basic understanding as to what this case is about from
4 both the perspective of the state and of the defense so
5 that you will have some context in which to place the
6 evidence that we will be receiving shortly thereafter.

7 The closing statements occur after the evidence has
8 been received. And, again, while those statements are not
9 evidence, it does afford the lawyers an opportunity to
10 discuss with you the evidence that you have seen and heard
11 during the trial of the case. And through that discussion
12 each will have an opportunity to try to persuade you or to
13 convince you that that evidence does or does not support a
14 particular decision.

15 And, as I say, it's in between their opening and
16 closing statements that we actually receive the evidence
17 upon which you will base your decision.

18 The state, as you know, has the burden of proof, so
19 they will go forward first in their presentation of
20 evidence. Once they've concluded a defendant has the same
21 opportunity to testify, to call witnesses and to present
22 evidence.

23 But please understand, as I've told you, the state
24 does have the burden of proof. They have to prove the
25 defendant's guilt beyond a reasonable doubt.

1 But a defendant has no corresponding duty. A
2 defendant doesn't have to prove anything. A defendant
3 doesn't even have to testify or call a witness or introduce
4 evidence, because, as I told you, the burden is not upon a
5 person charged to prove that they are not guilty because in
6 some cases they couldn't. But every defendant is afforded
7 an opportunity to testify or present evidence if he or she
8 wishes to do so.

9 So after all of the evidence has been received and
10 after you hear the final summations of the lawyers I will
11 then instruct you fully on the law as it relates to the
12 criminal law generally and as it relates to these four
13 specific crimes particularly.

14 And then after you have received that instruction
15 you'll go back and begin with your deliberations. And
16 through that process you're simply going to be called upon
17 through the exercise of good judgment and common sense
18 conscientiously applied to the testimony and evidence in
19 the case to decide what you believe to be the true facts as
20 they relate to these allegations.

21 Once you decide those facts you'll then apply the law
22 that I will have provided you, and you will determine
23 whether or not the defendant has been proven guilty of some
24 particular crime based upon your own discretion.

25 If a defendant, the defendant, has been proven guilty

1 of a crime, then your verdict would be guilty. If he has
2 not been so proven, then your verdict would be not guilty
3 as it relates to that particular charge.

4 So all that we're going to ask for you to do is to pay
5 careful attention throughout the course of the trial. Give
6 every witness the same degree of attention as they testify,
7 because sometimes in cases there may be a conflict in
8 testimony. And that conflict might relate to a material
9 fact that has to be resolved in order for you to arrive at
10 a decision.

11 So it is always your prerogative to determine what is
12 the most credible and believable testimony and other
13 evidence. And that's the evidence you should accept, and
14 you should reject any evidence and testimony that you find
15 not to be credible or believable.

16 But in order to be in a proper position to evaluate
17 the credibility of witness testimony you've got to pay
18 attention from the beginning until the end, from the first
19 witness until the last witness, so that when you go back to
20 begin deliberations you'll be in a proper position to be
21 able to assess a witness' credibility in light of not just
22 that witness' testimony but in light of all of the
23 testimony and all of the evidence received during the trial
24 of the case.

25 And of course it's also important that you keep an

1 open mind throughout the course of the trial, and that just
2 simply means that you are not to begin making up your minds
3 or formulating your opinions as to what you think the
4 ultimate decisions ought to be in the case until all of the
5 evidence has been received, until you've been instructed on
6 the law and until you've been asked to begin with your
7 deliberations.

8 That is the process that is designed for you 12 jurors
9 to arrive at a fair and just decision in the case.

10 So I do want to thank you in advance for your
11 attention, as well as for your participation in the trial.

12 I would ask that you please give the lawyers your
13 attention now as they give you their opening statements.

14 And let me address one other thing before we do that.
15 Some one or more of you have asked for a pad to take notes
16 with, and that's perfectly acceptable. But please
17 understand -- and all jurors need to understand this.

18 That notetaking is for the personal benefit of the
19 person that's actually taking those notes. It's not to be
20 shared with any other juror. No other juror should reply
21 upon the notetaking of another as being the establishment
22 of any fact that's in issue.

23 So if you all want to take notes, that's fine, but
24 understand that the notetaking is solely for the personal
25 benefit of the person taking those notes. And they're not

Opening statements

1 to be relied upon by any other juror unless it simply
2 coincides with your recollection as to what the testimony
3 was or what the evidence has shown.

4 All right. Solicitor.

5 MS. POULOS: Thank you, Your Honor.

6 THE COURT: Ms. Poulos.

7 MS. POULOS: Yes, sir.

8 On October the 30th of 2011 a woman was left in the
9 woods alone terrified, trembling, naked and stunned. That
10 woman was Kerstin Joslin-Venus, a 49-year-old woman of
11 German decent, a Spartanburg native for several years who
12 lives here with her husband Bill and dog Lucas, a real
13 estate agent for Caldwell Banker who regularly walks her
14 dog at Milliken Park.

15 October 30th of 2011 is a bright sunny day. It was a
16 Sunday. About 2:30 p.m. that afternoon Kerstin decides to
17 take her dog Lucas for a walk and to enjoy the sunshine.

18 She had done that many times before at Milliken Park.
19 On this day at Milliken Park it was filled with tons of
20 people. There were families with their children feeding
21 the ducks, taking pictures, walking around. Everyone was
22 there to enjoy a warm sunny day.

23 Kerstin got to Milliken Park and parked her car on the
24 frontage road, got out and noticed a man nearby. That man
25 was dressed in all black from head to toe. And he was

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1 sitting on the grass by himself.

2 She gets out, gets her dog out and notices that man
3 staring at her. It seems a little strange. She gets out
4 and starts on her walk and notices that man walking in her
5 direction at a fast pace like he was on a mission. She
6 keeps on walking. He disappears.

7 She continues on the trail when suddenly that man
8 jumps out of the bushes and starts talking to her. At this
9 point she has a really eerie feeling. Something just does
10 not seem right.

11 And then all of a sudden he grabs her and he starts
12 choking her and drags her into the woods. Deeper and
13 further they went. She's begging and screaming for him to
14 leave her alone. He tells her that he has a gun and he
15 will kill her if she does not stop screaming.

16 His breath smells of alcohol. His eyes were cold and
17 deep.

18 When he gets to a stopping point in the woods he
19 demands that she take off all of her clothes. What does
20 she do? Tried to save her life. She slowly obeys hoping
21 and praying that somebody, anybody, would come by to her
22 rescue to save her.

23 She's begging and pleading with him, please don't hurt
24 me, please don't kill me, please don't do this. And then
25 he begins attacking her on the ground.

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1 She tries to fight him off, but he was too strong for
2 her. And then he begins his attempts at sexually
3 assaulting her.

4 Her dog Lucas is still right by her side. And when he
5 is ready, he stands up. And he asked her to take him to
6 Boiling Springs.

7 She thinks this is it, he's going to take me somewhere
8 and hurt me or kill me. But instead he warns her that if
9 she dared call police he was going to find her and he was
10 going to kill her. And he takes her keys and her car and
11 flees the scene leaving her alone in the woods shocked,
12 shaken and naked.

13 Ladies and gentlemen, I know we met earlier, but,
14 again, my name is Timi Poulos, and I along with solicitor
15 Barnette are prosecutors here in Spartanburg County.

16 Why are we all here today? We are here because the
17 state has brought charges against the defendant, Walter
18 Lance, for assault with intent to commit criminal sexual
19 conduct in the first degree, kidnapping and strong arm
20 robbery.

21 And we, the state, have the burden or the
22 responsibility of proving each element of those charges to
23 you beyond a reasonable doubt.

24 Now, I know a lot of y'all watch T.V. shows and legal
25 dramas, "Law and Order" and "C.S.I." And I'm going to be

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1 honest with y'all. This case isn't going to solved in a
2 1-hour time slot. And we might not have all the answers as
3 to why this happened.

4 But we believe that the evidence will place the
5 defendant, Walter Lance, at the scene of this crime at
6 Milliken Park, and we will prove to you that he assaulted
7 the victim, tried to rape her, held her against her will,
8 threatened to kill her and took her car. That's what we're
9 here to prove.

10 Now, during the course of this trial you're going to
11 hear testimony from several witnesses. Each person is
12 going to have something to add to this case. So pay
13 attention to their testimony. But, most importantly, you
14 will get to hear Kerstin herself.

15 She will tell you how the events took place on that
16 horrific day. And what started out to be a bright sunny
17 day turned out to be the darkest day of her life. And she
18 will explain to you why that day will be etched in her mind
19 forever.

20 On behalf of the state I want to thank you for your
21 service as jurors. During the course of this trial all we
22 can ask of y'all is this. Be fair to the state, be fair to
23 the defense. Pay close attention to the testimony and just
24 remember to use your good old common sense.

25 THE COURT: Mr. Hall.

opening statements

1 MR. HALL: May it please the Court.

2 Mr. Foreman, members of the jury, as the judge told
3 you before, I'm Robert Hall. I represent Walter Lance.

4 I can agree with what a lot of what has been said so
5 far. We're here because some charges have been brought
6 against my client. He's here for trial. That's all he has
7 to do. He has to be here for trial. He doesn't have to do
8 anything else, because the burden of proof is on the state.

9 Your job as the jury is to decide whether the state
10 has carried their burden of proof beyond a reasonable doubt
11 at the conclusion of the case after the presentation of the
12 evidence and after the judge tells you what the law is.

13 It sounds pretty simple, but to do that you must pay
14 attention. You must take in what's presented during the
15 trial, because it's from that that you'll have to decide
16 what the facts are at the appropriate time. If you just
17 sit here and don't pay attention you're not doing your job.

18 Our system is based on the state bringing an action,
19 but that's not the end of it. We can present it to a jury.
20 Twelve people in our society, 12 people from our community,
21 have to decide whether or not the state has done their job
22 or not, whether they have proved the defendant guilty
23 beyond a reasonable doubt.

24 Trials like this aren't pleasant. They're not
25 pleasant for anyone, not for people serving on the jury.

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1 But we could not do our job. The solicitor couldn't
2 present their case, I couldn't defend my client without you
3 here.

4 Small things in the case can be big. But you have to
5 remember Mr. Lance is presumed to be innocent until he's
6 been proven guilty beyond a reasonable doubt.

7 There is not going to be that much in controversy. I
8 don't think there's going to be any question they both were
9 there. It's just what happened while there.

10 Listen. Take in what's being said, but don't start to
11 decide until everything is presented, as the judge told
12 you. You are like sponges that just absorb what is
13 presented during the trial. You don't start to make a
14 decision. If that was the case you could read the charges
15 and decide it, look at the people and decide it.

16 That's not the way our system is. Our system puts the
17 burden of proof on the state, the burden of proof to prove
18 the defendant guilty of each and every element of the
19 offenses beyond a reasonable doubt or you can't find him
20 guilty.

21 It's better to let a man go than to have a man proven
22 or found guilty for less than proof beyond a reasonable
23 doubt.

24 I do thank you on behalf of Mr. Lance and myself for
25 your being here, for your serving. And I thank you in

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1 advance for your paying attention, because that's what you
2 are going to do to do your job. Thank you.

3 THE COURT: Mr. Barnette.

4 MR. BARNETTE: May it please the Court, Your Honor.

5 I would like to call Joslin-Venus to the stand please.

6 KERSTIN HELGA JOSLIN-VENUS,
7 having been first duly sworn, testified as follows:

8 DIRECT EXAMINATION BY MR. BARNETTE

9 Q Kerstin, I'm going to have to ask you to raise your
10 voice to make sure they can hear y'all the way in the back
11 of the room.

12 A Okay.

13 Q If you would, give me your full name, please.

14 A Okay. Full name is Kerstin Joslin-Venus.

15 Q And where do you live at, ma'am?

16 A I live on the east side of Spartanburg.

17 Q And what do you do, ma'am?

18 A I work in real estate called Caldwell Banker. And all
19 of my colleagues are here today.

20 Q And how long have you been with Caldwell Banker?

21 A Five years maybe.

22 Q And who do you work with there, ma'am?

23 A I work with Frances Little, Kay McEntyre, with Kay
24 Cox -- is my broker in charge, and I work with --

25 Q One second. I'm going to have to ask you --

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Direct examination by Mr. Barnette

1 THE COURT: The court reporter is having some
2 difficulty in understanding you. So you're going to have
3 to speak up louder so we can all hear. And use that
4 microphone.

5 A Okay. Is that better?

6 Q Yes, ma'am. Go through those names again, please.

7 A Okay. I work with Frances Little, Beth Beach, Kay
8 McEntyre, Eva Sanford -- with -- with all the agents.

9 Q All of these folks are here today.

10 A All are here today, yes.

11 Q And in the real estate business do you go --
12 obviously, selling homes, rentals?

13 A Yes, I do. I try to sell, of course, because I live
14 on the east side, and I try to focus on the east side. But
15 I also work with B.M.W. and try to work with people getting
16 relocated from B.M.W. because I am bilingual.

17 Q Yes, ma'am. And your husband is Bill, is that right?

18 A Yeah. He's right there.

19 Q And where does he work at, ma'am?

20 A He's an architect with McMillian Pazadan Smith. He's
21 also working on the east side.

22 Q When we're talking about the east side, we're talking
23 about the east side Spartanburg?

24 A Yes, the east side of Spartanburg, yes.

25 Q Do you have a dog, ma'am?

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1 A Yes, I have a dog, and his name is Lucas.

2 Q Okay. And what is -- what breed is Lucas?

3 A Lucas is a yellow lab. He's 85 pounds heavy, and he's
4 a very gentle dog. And everybody knows Lucas, I think.

5 Q And does he -- do you walk with him often?

6 A Yeah. I mean, when we moved here he was a puppy. And
7 since then he's nearly six years old. And I go to Milliken
8 Park every -- pretty much every day -- on the weekends,
9 during the week, every day. I know pretty much
10 everywhere -- everybody out there.

11 Q And do you walk by yourself sometimes or --

12 A Mostly we walk with friends. I have some dog friends.
13 I made some great friends there. We all are crazy
14 dog-loving people. It's mostly women. So, but if we are
15 not together we always sometimes -- not any more -- but we
16 walked on our own, but until this happened to me.

17 Q And obviously since then you've walked with groups,
18 walked with other people.

19 A Yes.

20 Q Let me take you back to October 30th of 2011. On that
21 day can you tell me what -- how you started your day or
22 how -- were you at home that day?

23 A Yes, I was at home at that day. And actually I asked
24 Bill if he wanted to join me. But he loves to garden on
25 the weekend. So, and because I had done several times, I

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1 said, well, I go on my own and I will probably be back in a
2 good hour. And that's what I did. I just left the house,
3 and I think around 2:30.

4 Q And how was the weather that day?

5 A It was beautiful. It was just not a cloud in the sky.

6 Q And when you went to Milliken where did you park at,
7 ma'am?

8 A I usually -- we always usually take the first spot,
9 the frontage road, because this is the exit where the dogs
10 can run a little bit even when -- you know, we take them on
11 leash. But sometimes we just let them run and play a
12 little bit and walk the whole round around the park.

13 Q So you parked towards the lower end. Like if you're
14 saying the frontage road right beside Pine Street
15 or Business 585.

16 A Yeah. If you -- if you leave California Avenue you go
17 on frontage road. And then the first outlet to the park,
18 that's where we always parked.

19 MR. BARNETTE: Your Honor, I would like to enter
20 State's Exhibit No. 2, which is a map of the Milliken area.
21 I showed that to Mr. Hall in this case.

22 MR. HALL: No objection, Your Honor.

23 THE COURT: It's admitted.

24 (Map marked State's Exhibit No. 2.)

25 MR. BARNETTE: Your Honor, I'd like to publish it to

Kerstin Helga Joslin-Venus
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1 the jury.

2 THE COURT: You may.

3 Q If you would, ma'am, please step down. I'm going to
4 have to ask you to step up so they can hear you there.

5 (Whereupon, the witness left the stand.)

6 Q If you would, show approximately using this --

7 A Uh-huh.

8 Q -- where you parked at approximately, ma'am.

9 A How does this thing work?

10 Q Just use the pointer. Take your time.

11 THE COURT: Excuse me just a minute.

12 Let me ask you. Do you see this microphone hanging
13 from the ceiling right there? If you'll come over and
14 stand sort of beneath that it'll pick up your voice if
15 you -- you don't have to look up at it.

16 BY MR. BARNETTE

17 Q You don't have to look up. If you will, look at the
18 jury here.

19 A Okay. I look at the car at the same time. Sorry. I
20 think this card should be pushed further out because this
21 is usually -- this is where -- where we all parked every
22 day.

23 Q And why did you park there, again?

24 A Because we take the whole round. We took the whole
25 round, around here, around the pond, this way, all around

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1 there, around the ponds again. And then we come back into
2 the part of the frontage road.

3 THE COURT: You don't have to look up at it. It'll
4 pick you up. I just want you in the vicinity of the
5 microphone.

6 THE WITNESS: I'm sorry. Okay.

7 BY MR. BARNETTE

8 Q You're good.

9 Now, down at the duck pond, where is it approximately?
10 Is it down on the other side of the building?

11 A This is the pond. The duck pond is this one here.
12 The flag is here, and this is where the duck pond is
13 right --

14 THE COURT: Excuse me just a minute. Just a minute.
15 Every time you turn your back to this court reporter
16 she doesn't hear.

17 THE WITNESS: Sorry.

18 THE COURT: The purpose of projecting your voice
19 towards that microphone is so that everybody can pick it
20 up. So don't turn away from the microphone or her when you
21 speak.

22 THE WITNESS: Okay.

23 BY MR. BARNETTE

24 Q And so y'all would park down because obviously the
25 dogs may get distracted by --

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1 A Yeah. And a nice long like round too because I think
2 altogether it's nearly 3 miles or something. It's a nice
3 walk, like 40 minutes, or 45-minute walk.

4 Q And this is something you traditionally did almost
5 daily, is that right?

6 A Yes.

7 Q What type of car do you drive, ma'am?

8 A An S.U.V. Hyundai, I think, 2006.

9 Q If you would, please go and have a seat again. Thank
10 you, ma'am.

11 (Whereupon, the witness returned to the stand.)

12 Q And when you got there that afternoon, ma'am, what did
13 you see once you parked your car?

14 A I parked the car as I described it. Then there was
15 this man sitting all in black and looked a little scary,
16 because the sky was so blue and there was this man sitting
17 just in black.

18 But there were people leaving at the same time, just
19 another couple with dogs. And they just laughed. And
20 there were other people around. So I didn't think any more
21 about this guy, but I knew he was dressed all in black.
22 This was kind of strange.

23 Q What did you do after that, ma'am?

24 A I like normal, I just locked all of my stuff in my
25 glove -- glove department. And I took my dog and my stuff

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1 and my leash. And I remember when I locked the car the
2 battery of the remote control didn't work correctly. So I
3 had to turn around. And I noticed that he turned around
4 the same -- the same man when I turned around. So I
5 thought a second, hum, and I thought, well, it's Sunday,
6 it's 2:30, there are people in the park. I had my dog. I
7 do what I always do.

8 Q And so did you walk, ma'am?

9 A Yes. I started walking, and I walked around. I just
10 described to you.

11 Q Let me go ahead and let you -- just stay right there
12 so it'll be easier for her to pick up there.

13 A So and when I -- I walked this around here behind the
14 first pond. This is an area where sometimes joggers come.

15 So I remember I turned around three times and there
16 was nobody behind me. Nobody was following me. Because
17 sometimes they can scare you. If they come without a
18 warning it scares you to death. It's like somebody's
19 behind you. So I didn't see anybody. So I continued to
20 walk. But there was nobody at this time.

21 Q And a lot of times do joggers also scare Lucas also --
22 sometimes?

23 A Yes. He's just scared. He wants to play with them.
24 That's all he wants to do, just running with them some.

25 Q If you would, please continue.

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1 A And then I walked behind the pond. And when I was at
2 this point -- and I think this is very important -- I
3 wanted to show that. When I was at this point I saw that
4 man from here. And I want to show you what he did. Can I
5 do that, or can I not?

6 Q Yes, ma'am. If you would, please come down, and stand
7 over here so they can hear.

8 (Whereupon, the witness left the stand.)

9 A It was just like --

10 Q Here, ma'am. Take your time.

11 A It was just like all black. And I thought, oh, my
12 God, I'm in trouble. And my -- and I had -- I had so
13 much --

14 Q Please have a seat.

15 (Whereupon, the witness returned to the stand.)

16 A I was just scared. And I thought that I would be in
17 trouble because he was focusing on me, coming towards my
18 direction.

19 So, but I had no way to go back. Going back, I would
20 have been deeper in the woods. Moving forward, I had the
21 chance to go to these people up there, which I saw them
22 before I entered the pond. There are people picking pecans
23 that day. So the only chance I had -- I had is to move
24 forward to this corner here.

25 Q when you head that direction, what happened then,

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1 ma'am?

2 A So, first of all, I -- I would like to show this again
3 if I can.

4 Q Yes, ma'am.

5 (Whereupon, the witness left the stand.)

6 A He was hiding here. I was coming from there. And he
7 bent down, and he said, "Hey, puppy, hey, puppy," like he
8 wanted to -- to touch my dog and wanted to make sure that
9 he's friendly.

10 Q Yes, ma'am.

11 A At the same -- and the second thing that I realized
12 that I was in trouble, he caught me, like I even told this
13 is a bear hug, like in a bear-hug position that I couldn't
14 breathe.

15 Q Yes, ma'am. If you'd like to show, demonstrate on me,
16 you can demonstrate.

17 A I better not.

18 Q Okay. Better not. Okay. I understand.

19 A I can show it to you. He --

20 Q Uh-huh.

21 A And I knew he thought I'd pass out. So and he said,
22 "Come here." And I was scared. And I said, "Oh, my God,"
23 and then he started choking me. And he said -- and I start
24 screaming, and I scream. And he said, "If you scream, I
25 will shoot you in your head, I will shoot you in your

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1 head."

2 Q And then what happened next, ma'am?

3 A I fell. I remember that I fell. And I got up and I
4 screamed again. And he again -- he said he would kill me
5 if I would scream again, he would kill me. And I tried to
6 push him -- and pulling me into the woods with a -- with
7 his elbow behind my neck, and he nearly broke my neck doing
8 this from behind.

9 Q Can you show on me real quick?

10 A Like this.

11 Q Yes, ma'am.

12 A I'm sorry.

13 Q That's okay. I understand.

14 (Whereupon, the witness returned to the stand.)

15 Q And then what happened, ma'am?

16 A He pulled me and pushed me into the woods deeper and
17 deeper. And my dog was -- my dog -- I thought sometimes
18 you see, because I leashed him. I thought maybe he could
19 help me. You see this on T.V. Sometimes they'll do this.
20 But my dog is so -- just stayed with me there in the woods.

21 Q So Lucas stayed with you in the woods.

22 A Yes, on my head. He was sitting right at my head, so.

23 Q As he grabbed you and was dragging you into the woods
24 by the neck, what happened then, ma'am?

25 A Then he stopped and he have forced me to undress.

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1 Q And did he tell you what he was going to do if you
2 kept screaming and so forth?

3 A Yeah. He would kill me. He would kill me if I don't
4 do what he -- what he says, he would kill me. And he said
5 it again.

6 Q Did you undress, ma'am?

7 A Yes, I had to, yeah.

8 Q And what did you have on, ma'am?

9 A What I had on the day?

10 Q Yes, ma'am.

11 A I had walking shoes like I always had. I had socks
12 on; I had jeans on; I had a shirt on; I had my little
13 Caldwell Banker jacket on; and I had a vest on, so because
14 it was a little chilly. So actually I was thinking what to
15 take. A scarf, I remember that. But-and I thought, no,
16 it's warm enough. No scarf. But I was dressed like for a
17 nice fall.

18 Q Going back to what happened, you said you undressed.
19 What happens then, ma'am?

20 A He choked me with one hand, and with the other hand he
21 tried to get an erection to penetrate me. And he did it
22 again and again and again. And he licked me over my body.
23 And he said, "I won't touch, I won't touch you, if you do
24 something else I will kill you. I will kill you."

25 THE COURT REPORTER: I don't know what she is saying.

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1 THE COURT: Ma'am, I'm sorry.

2 Sometimes you get close to the microphone and it's
3 distorting the sound. So just be careful of the
4 microphone.

5 THE WITNESS: Sorry.

6 THE COURT: You'll need to repeat your last answer for
7 the benefit of the court reporter.

8 BY MR. BARNETTE

9 Q Could you repeat what he said to you, ma'am?

10 A He said, "I will kill you if you don't do what I want
11 you to do, or I won't hurt you if you do what I do. I will
12 kill you."

13 Q After he attempted several times, what happened then,
14 ma'am?

15 A I was hoping -- I was pleading for my life the entire
16 time. I was pleading for my life, I mean, just that he
17 should let me go. And I was just crying and crying and
18 crying and begging for my life.

19 And then finally he stopped, and I think because he
20 got aware that -- that people could come by. I was hoping
21 that somebody would come by to hear me crying. I mean, it
22 was in the middle of the day.

23 Q What happened next, ma'am?

24 A And he said to me, "You have to give me a ride to
25 Boiling Springs." And I thought this is my end, if that

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1 guy gets me into the car, in the car, I mean, this is mine.

2 If he takes me wherever he lives, then this will be the
3 end.

4 Q Then what happened, ma'am?

5 A Somehow, somehow -- I don't remember now how this
6 happened.

7 He said -- he thought about it, what I said. He said,
8 "Give me your -- your car key, give me your key, give me
9 your key." And I said, "I'll give you my key right away."
10 And I give him my key. And he -- what did he say? Yes.
11 He said, "I take your key. And if you call 9-1-1 I will
12 kill you. I will find you wherever you are. I will find
13 you and I will kill you."

14 Q Did he take your keys, ma'am?

15 A Yes, he took my keys.

16 Q Did he leave?

17 A He left. He left that way.

18 Q Which way did he go, ma'am?

19 A That way.

20 Q Back towards the woods?

21 A Yeah, towards -- towards the pond. And I was running
22 Lucas this way to the people that collecting pecans.

23 Q Before you did that did you put your clothes back on,
24 ma'am?

25 A Yeah, yeah, I did put my clothes back on.

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- 1 Q And did you run up -- did you call 9-1-1?
- 2 A Yes. I called 9-1-1 right away.
- 3 Q Did you still have your cell phone?
- 4 A Yeah.
- 5 Q And when you called 9-1-1 did you run to the people at
- 6 the trees, the pecan trees?
- 7 A Yes.
- 8 Q And did you get to them?
- 9 A Yes, I did.
- 10 Q And --
- 11 A And I cried, and I asked them why did you not hear me
- 12 crying.
- 13 Q I understand.
- 14 A I was screaming. Sorry for that, but I did ask them
- 15 that.
- 16 Q Do you see the man in the courtroom that did this to
- 17 you, ma'am?
- 18 A Yes.
- 19 Q If you would, point at him and describe what he's
- 20 wearing.
- 21 A This man with the blue shirt and pants and with the
- 22 tie on.
- 23 MR. BARNETTE: Your Honor, I would ask the record
- 24 reflect that she has identified the defendant.
- 25 THE COURT: It shall.

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Direct examination by Mr. Barnette

1 BY MR. BARNETTE

2 Q Afterwards, ma'am, did you talk to the law
3 enforcement?

4 A Yes.

5 Q And did you go to Spartanburg Regional Medical Center?

6 A Yes, I did.

7 Q And did they examine, do a rape exit and examine you?

8 A Yeah. They did all that, and I had to take all the
9 pills against AIDS and stuff, because that's what they do.
10 And he smelled. I forgot that. He -- he -- he had a
11 horrible smell and the scariest eyes I had ever seen. I
12 still have nightmares from that.

13 Q And did they take your clothes at the hospital?

14 A Yes. They took everything.

15 Q Okay. Let me show you what's been premarked as
16 State's Exhibit 23.

17 Ma'am, is this your jacket that you was wearing that
18 day?

19 A Yes, it is my jacket.

20 MR. BARNETTE: Your Honor, I would like to enter this
21 as State's Exhibit No. 23.

22 MR. HALL: No objection.

23 THE COURT: It's admitted.

24 (Jacket marked State's Exhibit No. 23.)

25 Q And the fabric that's on this, is this what's around

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1 the neck, ma'am?

2 A Uh-huh, yes, sir.

3 Q During the examination by the nurse at the hospital
4 did she take some pictures of you, ma'am?

5 A Yes, she did take pictures.

6 Q Let me show you what's been marked as State's Exhibits
7 9 through 13. Are those the pictures that was -- please
8 take a look at them real quick.

9 A Yeah.

10 Q Make sure those are the pictures that were taken at
11 the hospital, ma'am.

12 A That's correct. They were taken at the hospital.

13 Q Do those pictures fairly represent what they were
14 taking at the hospital that day?

15 A Yes.

16 MR. BARNETTE: Your Honor, I'd like to move these into
17 evidence at this time.

18 MR. HALL: Subject to the -- he doesn't have -- the
19 person that took the picture hasn't been here. He said she
20 will be here to testify. I'd ask that it be marked for
21 identification at this point until the person that took
22 them --

23 MR. BARNETTE: Your Honor, I think she can identify
24 the mark left on her neck.

25 THE COURT: If she can lay the proper foundation, then

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1 they can come in.

2 Let me see y'all just a minute before you do that.

3 MR. BARNETTE: Yes, sir.

4 (Bench conference held off the record in the presence
5 of the jury but out of the hearing of the jury.)

6 THE COURT: Lay the foundation.

7 MR. BARNETTE: Yes, sir.

8 BY MR. BARNETTE

9 Q Look at these pictures, ma'am. Was there marks left
10 on your neck from the attack?

11 A Yes. The next day they came out.

12 Q And did you see them that day when the nurse took
13 them?

14 A No. There was a little something here. Do you see
15 that from the --

16 Q No. What I mean is was this the marks on your neck
17 that was left taken from that day.

18 A Yes, yeah. The other day he came out and my whole
19 neck was swollen. And I went back to the emergency room
20 also because I could hardly move.

21 Q Yes, ma'am. I understand. But these pictures -- you
22 saw these marks. I mean, obviously it came out more the
23 next day. But these are the marks you saw that day.

24 A Yes, that's correct, yes.

25 Q And you visibly saw these marks on your neck. Like I

Kerstin Helga Joslin-Venus
Direct examination by Mr. Barnette

1 said, they're not as pronounced as they were the next day.

2 But you saw them that day.

3 A Yes.

4 Q And these pictures fairly represent what those marks
5 looked like on October the 30th.

6 A Yes.

7 MR. BARNETTE: Your Honor, I'd like to move into
8 evidence at this time.

9 MR. HALL: No objection.

10 THE COURT: They're admitted.

11 (Photograph marked State's Exhibits Nos. 9 through 13.)

12 MR. BARNETTE: Your Honor, I'd like publish them to
13 jury at this time.

14 THE COURT: You may.

15 MR. BARNETTE: Publishing State's Exhibit No. 9.

16 BY MR. BARNETTE

17 Q Let me ask you, ma'am. Is this the mark that was left
18 after the attack on that day?

19 A Yes.

20 Q And this is the neck of your jacket, is that correct?

21 A That's correct.

22 Q And your -- is that similar to the imprints on your
23 jacket collar?

24 A Yes.

25 Q Showing you State's Exhibit No. 10, closeup picture of

Kerstin Helga Joslin-Venus
Direct examination by Mr. Barnette

1 that. Is that the mark that was left from his attack?

2 A Yes.

3 Q And I believe this is on the left side of your neck,
4 is that right?

5 A Yes.

6 Q And State's Exhibit No. 11, is that another picture of
7 that mark?

8 A Yes.

9 Q Let me show you State's Exhibit No. 12. This is the
10 other side of your neck, is that right?

11 A Yes.

12 Q Which would be the right side.

13 A Yes.

14 Q Is that the mark that was left from the attack?

15 A Yes.

16 Q State's Exhibit 13, was that a mark left from the
17 attack?

18 A Yes.

19 Q And you were talking about the next day. Did your
20 husband take the picture, ma'am?

21 A Yes.

22 Q Let me show you State's Exhibit No. 14. Is that a
23 picture of your neck the next day?

24 A Yes.

25 Q Let me ask you a couple more questions about those

Kerstin Helga Joslin-Venus
Direct examination by Mr. Barnette

1 pictures.

2 A Yes, please.

3 Q You said you went to the hospital the next day.

4 A Yes.

5 Q Was this picture taken by your husband the next day at
6 the hospital?

7 A Yes, no. Yeah. Not at the hospital. At home. Yeah.

8 Q That was actually taken at home.

9 A Yes.

10 Q And it was taken. Did this fairly represent what your
11 neck looked like the next day?

12 A Yes, because it was swelling and it was just hurting.

13 Q Yes, ma'am.

14 MR. BARNETTE: Your Honor, I'd like to move this into
15 evidence at this time.

16 MR. HALL: No other objection, Your Honor.

17 THE COURT: It's admitted.

18 (Photograph marked State's Exhibit No. 14.)

19 MR. BARNETTE: May I publish it to the jury, Your
20 Honor?

21 THE COURT: You may.

22 BY MR. BARNETTE

23 Q Is that your neck the next day, ma'am?

24 A Yes, that's my neck.

25 Q And let me show you State's Exhibit No. 8. Is this a

Kerstin Helga Joslin-Venus
Direct examination by Mr. Barnette

1 picture of the area that you were dragged into, ma'am?

2 A That's correct, sir.

3 Q Was this at Milliken?

4 A Yes.

5 THE COURT: Eight's admitted.

6 MR. BARNETTE: Your Honor, I would like to enter
7 State's Exhibit No. 8 into evidence at this time.

8 THE COURT: It's admitted.

9 (Photograph marked State's Exhibit No. 8.)

10 MR. BARNETTE: May I publish it, Your Honor?

11 THE COURT: You may.

12 BY MR. BARNETTE

13 Q Was this the picture of the area that you were taken
14 into, ma'am?

15 A That's correct, yes. He pulled me into this, what's
16 there, right there.

17 Q And let me let you use the laser pointer for a second,
18 ma'am.

19 A Pulled me deep in the woods there.

20 Q And then State's Exhibit No. 15, is this a picture of
21 your vehicle, ma'am?

22 A Yes. That's our car.

23 Q Okay. And obviously your vehicle was not on the
24 frontage road. You found out later it --

25 A Yeah. That's correct.

Kerstin Helga Joslin-Venus
Direct examination by Mr. Barnette

1 Q Okay. And did the sheriff's department later find it
2 for you?

3 A Yes, they found it.

4 MR. HALL: No objection.

5 MR. BARNETTE: Your Honor, may I enter State's Exhibit
6 No. 15?

7 THE COURT: It's admitted.

8 (Photograph marked State's Exhibit No. 15.)

9 Q Is this a picture of your vehicle?

10 A Yes. That's our car.

11 Q And you did not park it there, is that correct?

12 A No, I did not park it there. I parked it on frontage
13 road.

14 Q The last time you saw it it was on frontage road.

15 A Yes.

16 Q So it wasn't at this location.

17 A No.

18 Q And you didn't park it there and nobody you --

19 A No. I don't even know where that is.

20 Q And obviously you did not give him permission to take
21 your car.

22 A No.

23 Q You gave him the key.

24 A Yes.

25 Q Why did you give him the key?

Kerstin Helga Joslin-Venus
Direct examination by Mr. Barnette

1 A Because he threatened me, to kill me, so I better gave
2 him the car key.

3 MR. BARNETTE: One moment, Your Honor, please.

4 Q And at the -- at the E.R., the Regional that day --

5 A Yes.

6 Q -- when the nurse asked you to take your clothes off,
7 was there grass and --

8 A Yeah. I had leaves and stuff in my -- in my pants and
9 everywhere, yeah.

10 Q And they brushed that off obviously.

11 A Yes.

12 Q And that was collected as part of the kit too?

13 A Yes.

14 Q And the nurse did that?

15 A Yes.

16 Q Just to make sure, that's a picture of the day that
17 happened, is that right?

18 A Yes, sir.

19 Q And that's the outline of your jacket on your neck?

20 A Yes.

21 Q And that's State's Exhibit No. 9. And was it on both
22 sides of your neck, ma'am?

23 A Yes, it was.

24 Q And State's Exhibit No. 14 is the next day, is that
25 right?

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

1 A Yes, that's right.

2 MR. BARNETTE: One moment, Your Honor, please.

3 (Pause.)

4 Q Thank you, ma'am. If you would, please answer any
5 questions Mr. Hall may have for you.

6 CROSS-EXAMINATION

7 BY MR. HALL

8 Q Now, let me get it straight in my mind of the
9 timeframe. What time did you go to Milliken Park?

10 A I think I left around -- I would think 2:15, 2:30.

11 Q Okay. Is it ten minutes to get there?

12 A From my house, it is, yeah, maybe, yeah, 12, ten
13 minutes. On a Sunday probably ten.

14 Q Okay. Now, do you remember giving a statement to the
15 sheriff's department?

16 A Yes.

17 Q Okay. And I have --

18 MR. HALL: If I may approach the witness, Your Honor.

19 Q I have highlighted the first sentence there.

20 A My glasses. That's right, yeah, could be.

21 Q And what time does that say?

22 A 2:00 o'clock.

23 Q 2:00 o'clock. Okay.

24 MR. HALL: So we don't have the overhead -- Milliken
25 Park.

Kerstin Helga Joslin-Venus.
Cross-examination by Mr. Hall

1 MR. BARNETTE: Do you want the map?

2 MR. HALL: Yeah.

3 THE COURT: Ma'am, let me ask you.

4 Please be careful. Don't blow into that microphone.

5 THE WITNESS: Excuse me?

6 THE COURT: Don't blow into the microphone.

7 BY MR. HALL

8 Q Now, it takes you about ten minutes.

9 A Ten to 15.

10 Q Ten to 15 minutes to get there.

11 A Uh-huh.

12 Q So do you -- was it 2:00 o'clock when you left, or

13 2:30?

14 A I did not know exactly. I left 2:00, maybe five after
15 or quarter after. I don't know exactly.

16 Q Sometime between 2:00 and 2:30 you left your home.

17 A Yeah.

18 Q Okay. So that would be getting here to Milliken Park
19 anywhere from 2:10 to 2:45.

20 A Yeah. I think so.

21 Q Okay. Now, at Milliken Park there's kind of off
22 Milliken Road, that frontage road --

23 A Uh-huh.

24 Q -- there's kind of a parking lane. The road -- you
25 come off California Avenue. You have a 2-lane road.

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

- 1 A Uh-huh. One goes straight and one goes --
2 Q When you're coming -- you got California Avenue here.
3 A Uh-huh, uh-huh.
4 Q And this is Milliken Road running here.
5 A Frontage road. I call it frontage road.
6 Q Okay. All right. Frontage road.
7 A Yeah.
8 Q But when it's up here at California Avenue, it's just
9 a 2-lane road.
10 A Uh-huh.
11 Q Right. But when you get down here closer to this pond
12 there's some parking. It widens for parking, doesn't it?
13 A Yeah. Always had parking when you --
14 Q Yes, ma'am. You said you parked your car down there.
15 But it starts -- this is a -- this area right here is a
16 pond, isn't it?
17 A Uh-huh. That's correct.
18 Q And the parking starts somewhere in this area --
19 A Yes.
20 Q -- close to that pond.
21 A The first outlet, uh-huh.
22 Q Okay. How far up did you park? You said you parked
23 in the first available spot. Where was the first available
24 spot?
25 A Right behind this couple when they're just dropped,

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

1 packed their dog in the car.

2 Can you enlarge this map a little bit somewhat?

3 MR. BARNETTE: I can try.

4 THE COURT: Why don't you just give her that map and
5 let her look at it? And then she can get herself oriented
6 without craning her neck.

7 BY MR. HALL

8 A Okay. I would think around, around here. Here where
9 all the parking lots are, right here.

10 THE COURT: They'll have to put it back up on the
11 screen. I just wanted you to be able to see it so you can
12 orient yourself.

13 BY MR. HALL

14 Q So you were pointing like right in here?

15 A Yeah. So that -- yeah. I would think, yeah, because
16 I just had the loop around the lake.

17 THE COURT: You'll have to use the microphone.

18 A This is where all -- yes. This is where the parking
19 outlets are, where everybody parks. And there was --
20 that's where I parked, correct.

21 Q So you're just past or even with that first pond down
22 there.

23 A A little bit further. I don't know if you know the
24 location.

25 Q Yes, ma'am.

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

- 1 A It was right behind that I can dia -- dia -- can -- I
2 can walk around the pond, yes. I can see the pond from the
3 parking lot, yes, sir.
- 4 Q This, that pond, if you're below this pond towards
5 California Avenue, slopes down that area, doesn't it?
- 6 A Slopes down? I don't -- I didn't park where it slopes
7 down.
- 8 Q Yes, ma'am. But the path --
- 9 A I don't understand the question. I'm sorry.
- 10 Q The path goes beside this pond, does it not, your walk
11 path right through here?
- 12 A A little bit, but just maybe two steps, and then
13 you're back up.
- 14 Q I see. But the pond has like a pathway that's a
15 little higher.
- 16 A Yes.
- 17 Q The pond is to your left if you're walking by it.
- 18 A Uh-huh.
- 19 Q And it slopes off for drainage to your right, doesn't
20 it?
- 21 A Yes, that, yeah.
- 22 Q All right. You said you got there, you parked, you
23 saw a man looking at you that you say --
- 24 A No, no, wait a second.
- 25 The man was sitting there already in the woods. He

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

1 was in the woods in the grass when I arrived.

2 Q That's what I'm asking you, what I was going to get
3 to.

4 where was he sitting?

5 A He was sitting right there that everybody could see
6 him. He was sitting in the middle of the grass when I
7 arrived.

8 Q All right. Let me so you don't have to crane your
9 neck again if you will.

10 A That's fine. I would think right there.

11 Q Okay. All right if I let her make a mark on that?

12 MR. BARNETTE: That's fine.

13 A Yeah. Right there. And I don't have my glasses, but
14 here is the pond and he is about here. And he was sitting
15 right there.

16 Q Okay.

17 A Just everybody could see him.

18 Q Okay. I don't know if you can. This is the mark you
19 just made?

20 A It's -- yeah.

21 Q But just sitting there on the grass in plain view of
22 everybody.

23 A Yes, sitting there, just sitting there.

24 Q Now, the events occurred around this pond that's up
25 here --

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

- 1 A That's correct.
- 2 Q -- that I pointed to.
- 3 A That's correct.
- 4 Q All right. And I guess there's -- it looks like
- 5 there's a walkway around the pond on both sides of the
- 6 pond.
- 7 A Exactly.
- 8 Q All right. So you were going along this line of
- 9 trees.
- 10 A Yes.
- 11 Q All right. And I have to assume from what you've
- 12 testified to we're going to be up towards -- borrow the
- 13 pointer. Is in this area --
- 14 A Uh-huh.
- 15 Q -- is where the assault occurred.
- 16 A Let's say this way. That's where I saw him the first
- 17 time. But when I -- when he came out of the bushes was at
- 18 the end of the pond.
- 19 Q Okay. But this is the pond, the end of the pond.
- 20 A Yes. And I saw him when I was there and then when he
- 21 was in the bushes. This is --
- 22 Q Okay. You can point.
- 23 A May I?
- 24 Q Yes, ma'am.
- 25 (Whereupon, the witness left the stand.)

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

1 A That's where -- where he was hiding right here. And I
2 saw him coming this way when I was already here.

3 Q Okay. Now, you never saw a gun.

4 A No.

5 Q Now, and you said you didn't have your glasses, but
6 have you reviewed the statement you gave to Detective Bobo
7 on that day, that evening?

8 A Yeah, I have. I read it in the middle of the night,
9 that's correct.

10 Q Okay. Do you remember in that statement when you
11 said -- right after he said take me to Boiling Springs, you
12 said take my keys, take my car.

13 A Yeah, because he wanted to take me -- taking him
14 there, yes.

15 Q Now, from what you said before about the location
16 where your car was found --

17 A Uh-huh.

18 Q -- you don't know anything about that.

19 A No.

20 Q Okay. Let me ask you. Strike that.

21 MR. HALL: Beg the Court's indulgence.

22 (Pause.)

23 Q Now, do you know about how long it takes you to walk
24 from where you parked over to where the --

25 A I would think usually because I walk quickly maybe

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

1 five to seven minutes.

2 Q Okay.

3 A Depending on how much --

4 Q Now, I think in the opening statement the solicitor
5 said there was a ton of people there.

6 A Uh-huh.

7 Q Where?

8 A There were, for example, as I mentioned this couple.
9 I think they were an older couple. They just opened their
10 car to let their dog back in.

11 And before I entered the second pond I saw some people
12 from far collecting pecans, which is very close to the
13 Milliken Road around there -- around there. They were the
14 people collecting pecans.

15 Q And by Milliken Road you mean the road that runs
16 through the middle of Milliken property --

17 A Exactly.

18 Q -- as opposed to the frontage road.

19 A Exactly.

20 Q The frontage road runs in Milliken Road there.

21 A Uh-huh.

22 Q Okay. And I believe you said back up here, the
23 building, there's -- looks like a couple of ponds.

24 A Uh-huh.

25 Q Looks like one of them. Those are the duck ponds.

Kerstin Helga Joslin-Venus
Cross-examination by Mr. Hall

- 1 A Yes.
- 2 Q All right. Were people up there?
- 3 A I didn't park there that day, so I don't know if they
- 4 were there.
- 5 Q Okay. But down where you parked, were there any
- 6 people down in this area?
- 7 A I saw cars, yes.
- 8 Q All right. Were there other people down there?
- 9 A The couple who just left, and nobody else.
- 10 Q Okay. Just cars.
- 11 A Yeah, uh-huh.
- 12 Q All right. Ms. Kerstin, do you know how that path you
- 13 say you walked, the 45-minute path or whatever --
- 14 A Uh-huh.
- 15 Q -- how long -- how far that is?
- 16 A I think around 3 miles or maybe a little bit more.
- 17 One of the girls had measured once. I think it's three --
- 18 three and a half miles.
- 19 Q And your usual walk would start where you were, about
- 20 the first pond.
- 21 A Uh-huh, around.
- 22 Q This way.
- 23 A Yes. And the second pond, then straight up out to the
- 24 road, turn left and then go back.
- 25 Q On this side?

Kerstin Helga Joslin-Venus
Redirect examination by Mr. Barnette

1 A Parallel, yes, and then come back to the point where
2 we started. This was actually always our starting point
3 where I parked that day. It has never been since then.

4 Q Okay. So you were a quarter of the way around, close
5 to a quarter of the way around, when this happened. A
6 little less than a quarter.

7 A A little less, I would say.

8 Q Okay. All right. Now, you say Mr. Lance that day --
9 I think we have a picture -- he was dressed in a black
10 jacket.

11 A In all black.

12 Q In all black. Okay. Do you recall if he was wearing
13 glasses or not?

14 A He did not wear glasses.

15 Q Okay.

16 MR. HALL: I have no further questions of this
17 witness, Your Honor.

18 MR. BARNETTE: I have a couple on redirect.

19 REDIRECT EXAMINATION

20 BY MR. BARNETTE

21 Q Just for clarification, ma'am, in answering Mr. Hall's
22 questions --

23 A Yes.

24 Q -- you originally saw the defendant right in this
25 area, is that right?

Kerstin Helga Joslin-Venus
Redirect examination by Mr. Barnette

1 A Exactly. He was sitting there in the grass.

2 Q That's the first time you actually saw him.

3 A Yes. That's correct.

4 Q Had you ever seen him before then?

5 A Never. I've never seen this man before.

6 Q And then the second time you saw him was actually
7 going towards the pond here.

8 A That's correct.

9 Q And then you tried -- you thought it would be safer to
10 walk this way than to go the other way.

11 A Yes, because if I would have gone back I would be deep
12 away from where I can reach up to these people that were
13 there.

14 Q So as you --

15 A My only way was moving forward, moving towards his
16 direction.

17 Q But he came up to you, like you said.

18 A Yes. He was hiding on the left side in the bushes and
19 touched my dog first and said, hey, puppy. That's how it
20 all started.

21 Q Let me show you State's Exhibits 4 and 5.

22 A Yes, yes.

23 Q Is that the gentleman?

24 A Yes.

25 Q Is that what he was wearing that day?

Kerstin Helga Joslin-Venus
Redirect examination by Mr. Barnette

1 A Yes. But no glasses. He did not wear glasses.

2 Q And these pictures fairly represent everything except
3 the glasses.

4 A Yes.

5 MR. BARNETTE: Your Honor, I'd like to enter State's
6 Exhibits 4 and 5 into evidence.

7 MR. HALL: No objection.

8 THE COURT: They're admitted.

9 (Photograph marked State's Exhibit No. 4; photograph
10 marked State's Exhibit No. 5.)

11 MR. BARNETTE: May I publish them at this time, Your
12 Honor?

13 THE COURT: You may.

14 BY MR. BARNETTE

15 Q Showing you State's Exhibit --

16 A He had the jacket on from the other picture, yes.

17 Q Let me show you State's Exhibit No. 4. So this is
18 actually what he was wearing that day --

19 A Yes, exactly.

20 Q -- when he attacked you.

21 A Yes.

22 MR. BARNETTE: One moment, Your Honor.

23 (Pause.)

24 Q Going to the pecans, you saw him earlier just walking
25 around the park.

Kerstin Helga Joslin-Venus
Redirect examination by Mr. Barnette

1 A Yes, uh-huh.

2 Q You know did -- obviously you was crying.

3 A I was screaming three times as loud as I could. I
4 screamed three times, and the rest I was crying and
5 pleading for my life. That's correct.

6 Q And you quit screaming because he told you?

7 A Because he told me, to force me. He said he would
8 kill me if I scream any further.

9 Q Now, the people up at the pecan trees --

10 A Uh-huh.

11 Q -- they're uphill, aren't they, away from you?

12 A Uphill, yeah, quite a distance.

13 But depending on the time of the season if the trees
14 still have their leaves you can look from the pecan
15 location to where it happened, yes.

16 Q And of course you ran to them later.

17 A Yes. I just ran and ran and kept on running.

18 Q Okay. And you called 9-1-1 as you was running.

19 A Yes, while I was running, yes.

20 Q Thank you, ma'am. Please answer any questions
21 Mr. Hall has for you.

22 MR. HALL: Nothing further, Your Honor.

23 THE COURT: All right. You may step down.

24 MR. BARNETTE: May it please the Court, Your Honor.
25 We would like to call Freddie Thompson to the stand.

Fred David Thompson
Direct examination by Mr. Barnette

- 1 FRED DAVID THOMPSON, having
2 been first duly sworn, testified as follows:
3 DIRECT EXAMINATION BY MR. BARNETTE
4 Q If you would, sir, please state your full name for the
5 record.
6 A Fred David Thompson.
7 Q Where do you work at, sir?
8 A Spartanburg County Communications, 9-1-1 department.
9 Q And what is your duties there, sir?
10 A Varied responsibilities, one of which is being
11 custodian of records.
12 Q And what's your position there?
13 A Assistant Director of Communications.
14 Q And one of your duties is maintaining the records for
15 9-1-1, sir?
16 A Yes, sir.
17 Q Did I ask you to listen to or get a 9-1-1 tape from
18 October 30th concerning this incident?
19 A Yes, sir.
20 Q Let me show you State's Exhibit No. 22. Is that a
21 copy of it, sir?
22 A Yes.
23 Q Okay. And what we can do, sir, I can just put it in
24 over here. We'll do that. Let me go ahead and make sure
25 we enter it into evidence. I've got a speaker over here so

Fred David Thompson
Cross-examination by Mr. Hall

1 the jury can hear.

2 MR. BARNETTE: Your Honor, I'd like to enter this into
3 evidence at this time.

4 MR. HALL: No objection.

5 THE COURT: It's admitted.

6 (DVD marked State's Exhibit No. 22.)

7 MR. BARNETTE: May we publish it to the jury at this
8 time?

9 THE COURT: You may.

10 (Whereupon, the DVD was played for the jury.)

11 Q Thank you, Mr. Thompson. Please answer any questions
12 Mr. Hall may have for you, sir.

13 CROSS-EXAMINATION

14 BY MR. HALL

15 Q Do you know what time that call came in?

16 A I do not. I'd have to see the report to tell you
17 that, sir.

18 Q Okay.

19 MR. HALL: No further questions.

20 THE COURT: You may step down.

21 MR. BARNETTE: We'd ask this witness be excused, Your
22 Honor.

23 THE COURT: He may be.

24 MR. BARNETTE: May we approach one second, Your Honor?
25 (Bench conference held off the record in the presence

Mark Mangum
Direct examination by Mr. Barnette

1 of the jury but out of the hearing of the jury.)

2 MS. POULOS: Your Honor, the state calls Mark Mangum.

3 MARK A. MANGUM, having been
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION BY MS. POULOS

6 Q If you would, please give your name.

7 A It's Mark A. Mangum.

8 Q And when are you currently employed?

9 A I have two jobs right at the present. The primary is
10 with Smile Makers, which is a division of Staples. And on
11 the weekends I'm a shift supervisor with Milliken security.

12 Q And were you working on October 30th of 2011?

13 A Yes, ma'am, I was.

14 Q And where were you around 2:00 or 2:30 that day?

15 A Approximately around 2:30 I had just finished a detex
16 round, which basically is a bar code strip that's located
17 in different parts of the complex. They can basically give
18 a recorded history of where our visual encounters of the
19 complex are.

20 I had just physically finished one up, and at that
21 time was about 2:30 or 20 till 3:00. I was coming off a
22 service road that is right next to where our waste
23 treatment pond's located. Coming off of that would be on
24 macadam surface. It's towards the No. 9 Milliken entrance.
25 That's approximately what time I was --

Mark Mangum
Direct examination by Mr. Barnette

1 Q What do you recall happening that day?

2 A Well, when I came to the end of the service the -- the
3 gravel service yard, when I was getting onto the macadam
4 surface I looked at a 45-degree angle, which is -- excuse
5 me -- was probably closer to a 90-degree angle.

6 We have a grove of pecan trees. And at that time of
7 year we have a lot of people who would come in and pick up
8 some of the pecans.

9 I had noticed that there were several vehicles that
10 were parked on the grass off of our main drive area. And
11 Milliken policy is that they -- they don't want to have
12 vehicles parked.

13 So as I was -- visually saw the vehicles I noticed
14 there was a bunch of people picking pecans. And I elected
15 to go into there to basically ask them if they'd be kind
16 enough to move their vehicles into the parking lot.

17 As I got into the grove from my peripheral vision I
18 saw a lady that was running towards me that was
19 basically -- had an untethered animal, you know, a dog -- I
20 assume was her pet -- that was following her at a high rate
21 of speed.

22 She basically ran up to me, and she was totally
23 incoherent. She was disheveled and looked like she had
24 been in -- some type of situation had occurred.

25 Q What was she saying to you?

Mark Mangum
Direct examination by Mr. Barnette

1 A At that present just saying that she had been
2 attacked. And consequently at that point I calmed her down
3 and tethered the vehicle, I mean, the animal to the side of
4 the security truck.

5 I asked her to sit down, and I did a visual inspection
6 to make sure whether or not there was any bleeding or
7 anything and just asked her to be calm.

8 Of course she was almost at the point of
9 hyperventilating. I could see that her clothes were
10 disheveled and so froth. And I basically just had her
11 there while I called my officers -- they were at the front
12 desk -- to notify the site supervisor, the E.M.S. and also
13 the county police, which basically I stayed on site for
14 maybe another ten or 15 minutes until my supervisor came
15 with the county, and at which time I left.

16 Q Where was her dog?

17 A I beg your pardon, ma'am?

18 Q Where was her dog?

19 A Her dog?

20 Q Did you notice her dog?

21 A Her dog was running after -- she was running, and the
22 dog was running after her with the tether, you know, just
23 basically flapping in the wind.

24 Q Had you ever seen the victim at Milliken Park before?

25 A Yes, ma'am, I had seen her on a couple of times but

Robert M. Dunn
Direct examination by Mr. Barnette

1 a -- working weekends I didn't always see her. But when I
2 did see her a lot of times it was later in the afternoon
3 with a -- with another walking party. That was normally
4 around 3:30 or 4:00 o'clock. But I had seen her on the
5 complex before.

6 Q And you had seen her walking her dog before.

7 A Yes, ma'am.

8 Q Thank you. Please answer any questions Mr. Hall may
9 have for you.

10 MR. HALL: No questions.

11 THE COURT: You may step down.

12 MS. POULOS: Your Honor, may the witness be excused?

13 THE COURT: He may be.

14 (Whereupon, the witness was excused.)

15 MR. BARNETTE: Your Honor, we'd like to call Robert
16 Dunn to the stand, please.

17 ROBERT M. DUNN, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q If you would, sir, please state your full name for the
21 record.

22 A My name is Robert M. Dunn.

23 Q And where do you work at, sir?

24 A I'm employed by Security Forces. I'm site supervisor
25 for security at the Roger Milliken Center.

Robert M. Dunn
Direct examination by Mr. Barnette

- 1 Q And how long have you been there, sir?
- 2 A Been there two years.
- 3 Q Prior to that was you in law enforcement, sir?
- 4 A Yes, sir, I was.
- 5 Q And for how many years was you in law enforcement?
- 6 A Fifteen years.
- 7 Q Do you know Ms. Joslin-venus? Do you know Kerstin?
- 8 A Yes, I do.
- 9 Q Had you seen her on the grounds before?
- 10 A Yes, sir, probably several times a week.
- 11 Q And when you would see her on the grounds what was she
- 12 usually doing?
- 13 A Normally speaking, by the time that I see her she and
- 14 the ladies that she normally walks with their dogs are
- 15 sitting over by one of the ponds just enjoying the sight,
- 16 or they're out walking around the various areas.
- 17 Q So one of your duties is to watch people on the
- 18 property and keep an eye on things?
- 19 A That's correct.
- 20 Q So you notice people that are on the grounds.
- 21 A That's correct.
- 22 Q And obviously you've seen her out there numerous
- 23 times.
- 24 A Yes, sir.
- 25 Q And was she has always walking her dog?

Robert M. Dunn
Cross-examination by Mr. Hall

1 A That's correct.

2 Q Prior to October 30th -- you weren't there that day,
3 is that correct?

4 A I was off that afternoon, yes, sir.

5 Q Prior to that day had you seen the defendant on the
6 grounds before?

7 A I had observed the defendant one previous time.

8 Q You had seen him on the grounds before?

9 A Yes, sir.

10 MR. BARNETTE: Your Honor, that would be all the
11 questions of this witness.

12 One more question, Your Honor.

13 Q And this is in Spartanburg County, this location.

14 A Yes, it is.

15 Q Thank you. Please answer any questions Mr. Hall may
16 have for you.

17 CROSS-EXAMINATION

18 BY MR. HALL

19 Q Do you know when you saw him?

20 A It had been within a couple of days.

21 Q A couple of days.

22 A Yeah.

23 Q All right. And what time of day was he there that you
24 say you saw him?

25 A It would have been in the afternoon, because normally

Lisa Ann Wofford
Direct examination by Mr. Barnette

1 speaking I spend most of my afternoons out on the grounds
2 making rounds. And it is the -- by the nature of that I
3 try to keep track of who I see, people that I see for the
4 first time or see subsequent times, or just out there.

5 MR. HALL: No further questions.

6 MR. BARNETTE: We would ask for this witness to be
7 excused, Your Honor.

8 THE COURT: You may step down. You may also be
9 excused.

10 (Whereupon, the witness was excused.)

11 MR. BARNETTE: Your Honor, I would like to call Lisa
12 Wofford to the stand.

13 LISA ANN WOFFORD, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. BARNETTE

16 Q Ms. Walker, please give your full name, please.

17 A Lisa Ann Wofford.

18 Q And what town do you live in, ma'am?

19 A Spartanburg.

20 Q And what's your profession and what do you do?

21 A I'm a teacher.

22 Q And what level?

23 A High school.

24 Q Okay. Going back to October 30th of 2011, did you go
25 to Milliken Park that day, ma'am?

Lisa Ann Wofford
Direct examination by Mr. Barnette

- 1 A I did.
- 2 Q And when you got there -- why did you go to the park?
- 3 A To take my dogs for a walk, enjoy the weather.
- 4 Q And how many dogs do you have, ma'am?
- 5 A Two.
- 6 Q What kind of dogs are they?
- 7 A Australian terriers.
- 8 Q And what's their names?
- 9 A Toby is a little red Australian and Georgee is a black
10 and red Australian.
- 11 Q And did you park on frontage road that day?
- 12 A I did.
- 13 Q Okay. And was this in the afternoon?
- 14 A It was.
- 15 Q And when you parked there did you get out of the car?
- 16 A Of course, yes.
- 17 Q And did you take your dogs out?
- 18 A Yes.
- 19 Q Did you see a man there?
- 20 A Yes, I did.
- 21 Q And what was that man dressed in?
- 22 A All black.
- 23 Q Okay.
- 24 A Black jacket, black pants, everything.
- 25 Q Let me show you what's been marked as State's Exhibit

Lisa Ann Wofford
Direct examination by Mr. Barnette

1 No. 4. And it's on there. Is this what the man was
2 wearing that day?

3 A Yes, sir.

4 Q And what you -- what made him stand out to you?

5 A Well, I didn't park as far down as the other lady, but
6 when I parked there, that's usually where she's right --
7 most all of the dog folks park there to get out of the way
8 of the -- the main pond where the ducks are and the
9 children are.

10 But this gentleman was sitting on the bank just laid
11 back in the grass. And that was rather odd for anywhere in
12 the park for me. For me -- I don't go there every day.
13 But that was really odd to me.

14 And he looked -- he looked out of place. He didn't
15 look like he belonged there that day, not just with what he
16 was wearing, but he just looked kind of out of it and just,
17 I mean, like he was really enjoying the day like everybody
18 else there.

19 So when I got out I made sure I walked my dogs at an
20 angle away from him. And I've never looked over my
21 shoulder constantly at Milliken, but I did that day.

22 Q Did you go back to your car after you -- did you walk
23 the path?

24 A I did. I walked -- you know, I really wasn't paying
25 that close attention at the time, but I walked at least,

Lisa Ann Wofford
Direct examination by Mr. Barnette

1 you know, 45 or 50 minutes or so, took my dogs back to the
2 car to get a drink of water and actually was going to walk
3 them longer if they wanted to. Sometimes we walk a little
4 longer and sometimes not. I mean, they're small dogs.
5 They're not really big dogs. So you can't always walk them
6 as long.

7 so and it was pretty. It was a little cool, but it
8 was hot enough for dogs that you don't want to overdo it.
9 So as we were getting water I saw the gentleman kind of
10 staring the opposite direction. My car was here, and he
11 was kind of staring that way. And I saw the -- the lady,
12 and I saw her dog.

13 Q You saw this lady right here?

14 A Yes, sir.

15 Q Kerstin in this case?

16 A Yes, sir.

17 Q And did you see her dog?

18 A I did.

19 Q And was her dog a light colored dog?

20 A It was a lab, yeah, a light colored yellow lab.

21 Q And once you saw her get out of the car, what did you
22 see then?

23 A She walked toward the -- and I'm not as good with
24 maps, but she was walking toward the -- what I've always
25 called the outer loop for the cross country path that

Lisa Ann Wofford
Cross-examination by Mr. Hall

1 Milliken has. And it is like a drainage ditch on one side,
2 but it's not really a bridge, but it looks like a little
3 bridge where it kinda goes up a little bit and down.

4 And she was walking that way. And that's exactly
5 where I was getting ready to go. My dogs were tired. So I
6 put my dogs in the car. But I did watch this gentleman
7 watching her, and it made me feel uneasy. But he had
8 watched everybody all day, or I felt like he had watched me
9 since I got there. So I just really when I left felt like
10 he was going to watch everybody. And obviously I felt
11 horrible the next morning when I saw the news.

12 Q But obviously he wasn't with her or anything like
13 that.

14 A No, sir, not at all.

15 Q So he had been there watching all kinds of people.

16 A He was there when I got there, and he was still there
17 watching when I left, when I was leaving.

18 MR. BARNETTE: One moment, Your Honor, please.

19 (Pause.)

20 Q Please answer any questions Mr. Hall may have for you.
21 Thank you, ma'am.

22 A Thank you.

23 CROSS-EXAMINATION

24 BY MR. HALL

25 Q Now, Ms. Wofford, did you pick anybody out of a lineup

Lisa Ann Wofford
Cross-examination by Mr. Hall

- 1 when you talked to the police?
- 2 A No, sir.
- 3 Q Did they show you a lineup?
- 4 A Yes, sir.
- 5 Q So you know you saw a man in black watching people at
- 6 Milliken Park on a nice cool, pretty afternoon.
- 7 A I saw that gentleman, yes, sir.
- 8 Q But here today you're saying it was him?
- 9 A Yes, sir.
- 10 Q But you couldn't identify him before.
- 11 A No, sir. The pictures I was shown did not look
- 12 anything like this gentleman to me.
- 13 Q All right. And you were there for, you say, about 45
- 14 minutes.
- 15 A 45 minutes to an hour.
- 16 Q Okay. And you left a little before 3:00 or --
- 17 A It was -- it was probably ten till 3:00, something
- 18 like that.
- 19 Q Okay. Now, it wasn't unusual that somebody had on a
- 20 jacket that day, was it?
- 21 A I guess not. To me it was a little warm for a jacket,
- 22 but I guess not.
- 23 Q Did you notice the other people with jackets on there?
- 24 A Walking their dogs and playing with their kids around
- 25 the ponds, I'm sure folks had on sweaters, jackets,

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 long-sleeve shirts. But nobody was there just sitting
2 staring at everybody.

3 Q So you were at a place there. If you were sitting and
4 not as opposed to --

5 A If you're watching people drive up and park and get
6 out, yes, sir.

7 Q Okay.

8 A As a female, yes, you're aware of that.

9 MR. HALL: No further questions.

10 MR. BARNETTE: No further questions, Your Honor. We
11 ask the witness be excused.

12 THE COURT: You may step down. You may also be
13 excused.

14 (Whereupon, the witness was excused.)

15 MS. POULOS: Your Honor, the state calls Rachael
16 McDowell.

17 RACHAEL ANN MCDOWELL, having
18 been first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MS. POULOS

20 Q If you would, please, state your full name.

21 A Rachael Ann McDowell.

22 Q And where are you currently employed?

23 A Spartanburg Regional Emergency Center.

24 Q What's your current position at Spartanburg Regional?

25 A I'm a staff nurse in the emergency room.

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 Q And are you a SANE nurse?

2 A Yes, I am.

3 Q And can you explain to the jury what SANE stands for?

4 A I'm a sexual assault nurse examiner.

5 Q What type of education and training have you had?

6 A I have a bachelor's degree in nursing. And then I
7 also have special certification in rape nursing. We took a
8 40-hour didactic class, and then we had to do 20 pelvic
9 exams with a physician.

10 Q And how long have you been a SANE nurse?

11 A Approximately four years.

12 Q And how many sexual assault examinations would you say
13 that you have conducted?

14 A Probably about a hundred.

15 Q On October 30th of 2011 did you conduct a sexual
16 examination on the victim, Kerstin Joslin-Venus?

17 A Yes, I did.

18 Q Was anyone else present during that exam?

19 A No, they weren't.

20 Q Is there a protocol or a check list that you go by
21 when you're conducting an exam?

22 A Yes, there is.

23 Q Is that developed by SLED, South Carolina Law
24 Enforcement Division?

25 A Yes, it is.

Rachael Ann McDowell
Direct examination by Mr. Poulos

- 1 Q Can you explain what a Wood's lamp is?
- 2 A Yes, ma'am. It's a specialized lamp that helps detect
- 3 semen that's on the body that you wouldn't be able to see
- 4 with the naked eye.
- 5 Q Was a Wood's lamp used in this case?
- 6 A Yes, it was.
- 7 Q And what were the findings?
- 8 A I didn't observe anything with it.
- 9 Q Was a Wood's lamp used on the victim's underwear?
- 10 A No, ma'am.
- 11 Q Did the victim report penetration?
- 12 A She stated that he attempted to but his penis was
- 13 flaccid and he was unable to penetrate.
- 14 Q Did you conduct a pelvic exam on the victim?
- 15 A Yes, I did.
- 16 Q And did you take swabs from that exam?
- 17 A Yes, I did.
- 18 Q Based on the information that you receive from the
- 19 victim do you normally swab other areas of the body?
- 20 A Yes, ma'am. If the victim tells me that the assailant
- 21 bit her or licked her or kissed her anywhere on her body,
- 22 then I would swab those sites.
- 23 Q And in this case did you swab a certain area of the
- 24 victim's body?
- 25 A Yes, I did, her right breast.

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 Q What is --

2 A Her right breast.

3 Q Did the victim report or did she have any marks on her
4 body?

5 A Yes, ma'am. She had red linear marks on both sides of
6 her lateral neck or on the outsides of her neck.

7 Q Did you take pictures of those injuries?

8 A Yes, I did.

9 Q I am showing you what's already been admitted into
10 evidence as State's Exhibits 9, 10, 11, 12 and 13. Would
11 you take a look at those photographs? Are those the
12 pictures that you took?

13 A Yes, ma'am.

14 Q And can you describe in each photograph what those
15 injuries are?

16 A So these would be what we would consider petechia.
17 Petechia are red or purple marks that are on the skin. In
18 this case that would be caused by blunt force trauma or
19 like a grasp or a strangulation injury.

20 Q And did you note red linear marks on your report?

21 A Yes, I did.

22 Q And in those photographs do you see those red marks on
23 the victim's neck?

24 A Yes. I did.

25 Q And were they both on the left and right side of her

Rachael Ann McDowell
Direct examination by Mr. Poulos

- 1 neck?
- 2 A Yes, sir, they were.
- 3 Q I'm showing you what's already been admitted as
- 4 State's Exhibit 14. What is petechia?
- 5 A Petechia are red or purple marks that are on the skin.
- 6 Q And do you see evidence of petechia in that
- 7 photograph?
- 8 A Yes, I do.
- 9 Q Is petechia normally -- does that normally indicate
- 10 some type of strangulation or strong force to the neck?
- 11 A Yes, yes.
- 12 Q And you said that you have conducted about a hundred
- 13 sexual assault exams.
- 14 A Yes.
- 15 Q And are the marks in the victim's -- on the victim's
- 16 neck consistent with other sexual assault cases that you
- 17 come across?
- 18 A Yes.
- 19 Q How did the victim appear emotionally when she
- 20 arrived?
- 21 A She was very upset, notably upset. But she was able
- 22 to answer all of my questions appropriately. But she was
- 23 very tearful.
- 24 Q Did she appear to be well groomed?
- 25 A Very much so, yes.

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 Q Ms. McDowell, I'm showing you what's been marked as
2 State's Exhibit 1 for identification purposes. Now, can
3 you identify what I've handed you?

4 A Yes, ma'am. This is the back of the sexual assault
5 evidence collection kit. This is the chain of custody
6 portion on the back of the box.

7 Q Okay. And is that part of the -- that is the top of
8 it. It is normally in the shape of a box or a kit, is that
9 correct?

10 A Correct, yes, ma'am. A cardboard box, yes, ma'am.

11 Q And is that the box that you put all of the evidence
12 and the packets and everything that you collect into once
13 you have performed the exam?

14 A Well, minus the clothing, yes, ma'am.

15 Q Minus the clothing. Okay. And is that kit kept
16 sealed once you put all the evidence inside?

17 A Yes, ma'am. With red law enforcement evidence tape.

18 Q Okay. And is your signature on the top of that?

19 A It is.

20 Q And do you also sign or initial the seal?

21 A I do.

22 MS. POULOS: Your Honor, at this time we would ask
23 that State's Exhibit 1 be admitted into evidence.

24 MR. HALL: No objection.

25 THE COURT: It's admitted.

Rachael Ann McDowell
Direct examination by Mr. Poulos

- 1 (SLED CSC rape kit marked State's Exhibit No. 1.)
- 2 Q And you said you prepared the sexual assault kit on
- 3 the victim.
- 4 A I did.
- 5 Q Did you draw blood for the D.N.A. sample?
- 6 A Yes, I did.
- 7 MR. HALL: No objection.
- 8 Q Ms. McDowell, I'm showing you what's been marked for
- 9 identification purposes as State's Exhibit 1.1. Do you
- 10 recognize what I've handed you?
- 11 A Yes, ma'am. That's the blood that I've shown on the
- 12 victim.
- 13 Q Okay. And when you drew that blood was it then put
- 14 into the vial and sealed?
- 15 A Yes, ma'am.
- 16 Q And that's part of what is put into the collection
- 17 kit.
- 18 A Correct.
- 19 Q Do you have your signature or your initials on that
- 20 tube?
- 21 A On the tube itself, no. Let me see. I initialed
- 22 where I sealed it, but on the tube itself, no.
- 23 Q And did you place it inside the bubble wrap that it is
- 24 in?
- 25 A Yes, ma'am.

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 Q And that is, once again, put into the box.

2 A Yes.

3 Q Which is then sealed.

4 A Yes, ma'am.

5 MS. POULOS: Your Honor, at this time we would ask
6 that State's Exhibit 1.1 be admitted into evidence.

7 MR. HALL: I have no objection, Your Honor.

8 THE COURT: It's admitted.

9 (Blood sample marked State's Exhibit No. 1.1)

10 Q Ms. McDowell, you mentioned earlier that you swabbed
11 the victim's right breast. Can you explain that process?

12 A Yes, ma'am. I take a sterile Q-tip. I mix it with
13 sterile water, and then I swab in a circular motion to that
14 area that the victim reports the injury.

15 Q All right. I'm showing you what's been marked for
16 identification purposes as State's Exhibit 1.7. Do you
17 recognize what I've handed you?

18 A Yes, I do.

19 Q Okay. What is that?

20 A This is swab marked -- excuse me -- the swab that I
21 used to collect on her right breast.

22 Q And is that your handwriting on the outside of the
23 envelope?

24 A It is.

25 Q And can you please read that?

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 A Yes, ma'am. Swab, right breast, due to assailant
2 licked victim. No body injuries noted.

3 Q Was that envelope then sealed --

4 A Yes, it was.

5 Q -- with the swab inside?

6 A Yes, it was.

7 Q And you did you sign or initial the seal?

8 A I did.

9 Q And that, again, was placed into the kit.

10 A It was.

11 MS. POULOS: Your Honor, at this time I would ask that
12 State's Exhibit 1.7 be admitted.

13 MR. HALL: No objection.

14 THE COURT: It's admitted.

15 (Swab marked State's Exhibit No. 1.7.)

16 Q Ms. McDowell, what is the process for collecting
17 debris?

18 A If the victim came in and stated that she was on a red
19 bedspread and she had like red fibers or something on her
20 visual person I would collect those and put those in a
21 specialized envelope.

22 But with her she reported that was she was at Milliken
23 Park and that he took her over to a portion and made her
24 lay down in some leaves. So she had leaves and grass on
25 her everywhere. So for me to pick all of those off of her

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 would have took a very long time.

2 So what I did with her was I put down a piece of paper
3 that's in the kit itself onto the floor and had her remove
4 all of her clothing in the perimeter of that paper, thereby
5 catching all the pieces of grass and leaves that fell off
6 her clothing.

7 Q All right. I'm showing you what's been marked for
8 identification purposes as State's Exhibit 1.9. Do you
9 recognize what I've handed you?

10 A Yes, I do.

11 Q And what is that?

12 A Well, there's two components in here. The first one
13 is the debris sheet. This is a sheet that I told you that
14 I had her stand on. And this is where all the leaves and
15 the grass fell.

16 The other envelope is the envelope that I told you
17 that again told me that they were in a certain place that
18 had certain things like -- the example I used was the red
19 bedspread and had red fibers on. I would pull those off
20 and put those in this envelope.

21 But for her case since she had so much grass and so
22 many leaves on her, I just made a notation that states
23 miscellaneous materials, none noted, however grass and
24 leaves on the clothing and the evidence sheet to mark them
25 that they were here.

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 Q And the sheet with the debris that fell off the victim
2 and that other envelope, they were both placed inside the
3 rape kit.

4 A Yes.

5 Q And that was also sealed.

6 A Yes.

7 MS. POULOS: Your Honor, we would ask that State's
8 Exhibit 1.9 be admitted into evidence.

9 MR. HALL: No objection.

10 THE COURT: It's admitted.

11 (Miscellaneous materials packet marked State's Exhibit
12 No. 1.9.)

13 Q Now, did you also collect the victim's underwear?

14 A I did.

15 Q I'm showing you what's been marked State's Exhibit 6
16 for identification purposes. Do you recognize that?

17 A Yes, I do.

18 Q And what is that?

19 A These are the panties that I collected from the
20 victim.

21 Q And once you collected those panties did you sign or
22 initial?

23 A Yes, ma'am. I always sign in the clothing right where
24 the tag --

25 Q Where the tag is?

Rachael Ann McDowell
Direct examination by Mr. Poulos

1 A Yes, ma'am.

2 Q And you sealed it?

3 A Yes, ma'am. I do that.

4 Q And did all become part of the rape kit?

5 A Yes, it did. This part goes into the kit itself. It
6 does not go into the bag with the clothing. It stays with
7 the rest of the kit where all of these packets came from.

8 Q The packets. Okay.

9 MS. POULOS: Your Honor, at this time we'd ask that
10 State's Exhibit 6 be admitted into evidence.

11 MR. HALL: We have no objection, Your Honor.

12 THE COURT: It's admitted.

13 (Victim's underwear marked State's Exhibit No. 6.)

14 Q For clarification purposes, you placed the vial with
15 the victim's blood, the swab of her breasts, the debris and
16 the underwear all inside of the rape kit.

17 A Yes, I did.

18 Q Okay. And that was again sealed. It was sealed and
19 you signed.

20 A Yes, ma'am.

21 Q And you also signed the seal.

22 A Yes, ma'am.

23 Q And did you turn that kit over to law enforcement?

24 A Yes, I did.

25 Q Did you also collect the victim's clothing as well?

Rachael Ann McDowell
Direct examination by Mr. Poulos

- 1 A Yes, I did.
- 2 Q And did you -- was that placed in a separate bag?
- 3 A It was.
- 4 Q And that was turned over to law enforcement?
- 5 A Yes, ma'am.
- 6 Q Do you remember specifically what items of clothing
- 7 you collected?
- 8 A Yes, ma'am. I collected a white Huffy-ugly jacket, a
- 9 pair of Banana Republic jeans. And I believe she had on a
- 10 blue shirt. I can look through my documentation if you'd
- 11 like.
- 12 (Pause.)
- 13 A Okay. I charted that I collected a bluish tee
- 14 bland -- brand Ann Taylor loft, a pair of jeans that were
- 15 size 30, brand Banana Republic, a bra that was cream in
- 16 color, and gray tennis shoes, size ten, and a yellow and
- 17 blue jacket.
- 18 Q Ms. McDowell, is this the jacket that you collected
- 19 from the victim?
- 20 A Yes, ma'am, it is. There's my initials to prove that
- 21 I collected it.
- 22 Q Your initials right here, R.M.?
- 23 A Yes, ma'am.
- 24 Q Okay, okay. And you turned over this jacket and the
- 25 other items of clothing to Deputy Knighten with the

Rachael Ann McDowell
Cross-examination by Mr. Hall

1 sheriff's office?

2 A Yes, ma'am, Deputy Knighten.

3 Q As well as the sexual assault kit as well.

4 A Yes, ma'am.

5 Q You turned that over to Deputy Knighten with the
6 sheriff's office.

7 A I did, yes.

8 Q Thank you. Please answer any questions Mr. Hall may
9 have for you.

10 CROSS-EXAMINATION

11 BY MR. HALL

12 Q Now, you say you've done these kits about a hundred
13 times.

14 A Yes, sir.

15 Q And you answered that the petechia -- is that right?

16 A Petechia, yes, sir, petechia.

17 Q Petechia. You saw on that photograph. I think you
18 didn't -- you didn't take that photograph, did you?

19 A This one I did not.

20 Q Okay.

21 A However these I did.

22 Q And did you -- have you ever seen this photograph
23 before?

24 A Yes, sir, I have.

25 Q And when did you see it?

Rachael Ann McDowell
Cross-examination by Mr. Hall

- 1 A with the solicitor's office.
- 2 Q When was that?
- 3 A I don't have the exact date, sir. I'm sorry.
- 4 Q A few months ago?
- 5 A Maybe approximately a few weeks ago.
- 6 Q Okay. And you said that's consistent with how many of
- 7 the hundred cases you've seen?
- 8 A It just depends on the -- the pattern, the injury. So
- 9 this would be -- petechia are caused by blunt force trauma.
- 10 So if the victim reported a strangulation injury and
- 11 this -- these markings match the injury that the victim
- 12 reported.
- 13 Q So you can't tell me how many out of a hundred. I
- 14 thought you said it was consistent with some of your cases.
- 15 A It's consistent with it when the victim reports a
- 16 strangulation injury.
- 17 Q Yes, ma'am. But do you know how many hundred cases
- 18 that are strangulation injuries?
- 19 A I'd have to go through my documentation, sir.
- 20 Let's -- let's estimate 20 to 30. Each rape is different.
- 21 Q Have you seen injuries like that that weren't from a
- 22 sexual assault?
- 23 A Well, I work in the emergency room, so, yes, sir, when
- 24 other assaults come in I see injuries such as that, yes.
- 25 MR. HALL: No further questions.

1 MS. POULOS: Nothing further, Your Honor.

2 THE COURT: You may step down. You may also be
3 excused. Thank you.

4 (Whereupon, the witness was excused.)

5 THE COURT: Ladies and gentlemen of the jury, we're
6 going to break for the afternoon.

7 So as you leave remember the instructions I've
8 previously given you. No discussions about the case with
9 anyone; no exposure to any type of media coverage --
10 television, radio or newspaper; no research; no
11 investigation into any issue that relates to this case.

12 Do have a good evening, and please report to your jury
13 room at 9:30 in the morning, 9:30 in the morning.

14 Those that have notepads, if you'll give those to the
15 bailiff -- put your name on the top of it. The bailiff is
16 going to give those to me. I'm going to put them in an
17 envelope and seal them overnight. They'll be back with you
18 in the morning when you arrive at the jury room. You can
19 open the envelope and take your notepads back out.

20 How many notepads do we have?

21 THE BAILIFF: Just two right now.

22 THE COURT: Does anybody else want a notepad in the
23 morning? Well, you can give it to them in the morning.

24 (The following takes place outside the presence of the
25 jury.)

1 THE COURT: All right. Any matters that need to be
2 addressed before we recess?

3 MR. BARNETTE: None from the state.

4 MR. HALL: None from the defense, Your Honor.

5 THE COURT: Court is in recess until 9:30 in the
6 morning.

7 END OF PROCEEDINGS MAY 7, 2012

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1 (Proceedings May 8, 2012)

2 (The following takes place outside the presence of the
3 jury.)

4 THE COURT: Are there any matters that need to be
5 addressed before the jury is brought in?

6 MR. BARNETTE: None from the state, Your Honor.

7 MR. HALL: None from the defense, Your Honor.

8 THE COURT: Okay. Bring them in, please.

9 (The following takes place in the presence of the
10 jury.)

11 THE COURT: Good morning, ladies and gentlemen.

12 As you know, when we recessed yesterday the state was
13 in the midst of their presentation. So we're going to
14 continue with presentation this morning.

15 Before we do that let me inquire as to whether or not
16 any juror has had any discussions about the case with any
17 person whatsoever. Have you been exposed to any type of
18 media coverage that might relate to the trial or have you
19 done any sort of research or investigation?

20 (No response.)

21 THE COURT: Everyone has followed the instruction? If
22 you have been exposed to any media coverage or you've had
23 any discussion or someone has tried to discuss the case
24 with you, I need for you to indicate so by raising your
25 hand.

Lathier Graham
Direct examination by Mr. Barnette

1 (No response.)

2 THE COURT: All right. All jurors have responded in
3 the negative.

4 You may proceed, Solicitor.

5 MR. BARNETTE: Thank you, Your Honor. May it please
6 the court. I'd like to call Investigator Bland to the
7 stand, please.

8 LATHIER GRAHAM, having been
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE.

11 Q If you would, sir, please state your full name for the
12 record.

13 A Investigator Lathier Graham.

14 Q And where do you work at, sir?

15 A Spartanburg County Sheriff's Office.

16 Q And what's your position, sir?

17 A I'm a forensics officer.

18 Q And how long have you been at the sheriff's office,
19 sir?

20 A Seven years.

21 Q Going back to October 30th of this year, was you
22 working that day, sir?

23 A Yes, sir, I was.

24 Q And what shift do you normally work, sir?

25 A Third shift.

Lathier Graham
Direct examination by Mr. Barnette

1 Q And did you just come off third shift today?

2 A Yes, sir, I did.

3 Q Came straight from there.

4 At the sheriff's department did you meet the defendant,
5 Walter Lance?

6 A Briefly, sir, upstairs.

7 Q Yes, sir. And during that time was Detective Bohon
8 also present?

9 A Affirmative.

10 Q And did y'all ask permission to search and get -- did
11 y'all fill out a form and he sign it?

12 A Yes, sir. That's correct.

13 Q And did he consent to give you a buccal scab?

14 A Yes, sir, he did.

15 Q And did you take a buccal swab, sir?

16 A Yes, sir, I did.

17 Q Let me show you State's Exhibit No. 3. Is that the
18 package which you put the buccal swab inside, sir?

19 A Yes, sir, it is.

20 Q If you would, go ahead and open it.

21 MR. BARNETTE: Before I do that, Your Honor, I would
22 like to move State's Exhibit 3, as well as State's
23 Exhibit 19, into evidence at this time.

24 MR. HALL: No objection.

25 THE COURT: They are admitted.

Lathier Graham
Direct examination by Mr. Barnette

1 (Buccal swab marked State's Exhibit No. 3; defendant's
2 consent to search marked State's Exhibit No. 19.)

3 Q And you actually was working the third shift, I guess,
4 October 31st, that early morning hours.

5 A Yes, sir, I was.

6 Q And you went in. And when did he give you consent to
7 search, sir?

8 A When Investigator Bohon requested I come upstairs and
9 witness the signature and take his buccal swab.

10 Q And was this around 2:30 in the morning?

11 A Yes, sir, it was.

12 Q And is this the buccal swab that you took from him,
13 sir?

14 A Yes, sir, it is.

15 Q If you would, go ahead and open that, sir.

16 A Do you want me to open it?

17 Q Yes, sir. If you would, sir, please, go ahead.

18 Was this the -- if you would, go ahead and open that,
19 sir. Is that where you put the buccal swab inside, sir?

20 A Yes, sir, it is.

21 Q And if you would, explain to the jury how you collect
22 a buccal swab for D.N.A. testing from a suspect.

23 A We take two of these swabs. It comes two to a pack.
24 We open them in front of the person we're going to perform
25 the buccal swab on, advise them that we're going to do

Lathier Graham
Cross-examination by Mr. Hall

1 this -- also along -- this is after they signed the consent
2 to search, permission to search.

3 We advise them to open their mouth. We take one swab
4 of the left cheek, inside the left cheek, and take the
5 other one and swab the inside of the right cheek.

6 Once we're done we place them back into the box like
7 so and close it up and place it into the brown envelope and
8 seal it with the evidence tape and place it into a locked
9 evidence locker inside our evidence.

10 Q And was that given to Investigator Angie Nelson or
11 evidence room, sir?

12 A At the time on that -- that time of night it's usually
13 placed into a locked evidence locker until they come in the
14 next morning.

15 Q And then she would have collected it the next morning
16 or whatever.

17 A Yes, sir.

18 MR. BARNETTE: One moment, Your Honor, please.

19 (Pause.)

20 Q Please answer any questions Mr. Hall may have for you.

21 CROSS-EXAMINATION

22 BY MR. HALL

23 Q All right. Investigator Graham, was this your only
24 contact with this case?

25 A Yes, sir, other than collecting his clothing that same

Lathier Graham
Cross-examination by Mr. Hall

1 night.

2 Q Did he cooperate with you?

3 A Yes, sir.

4 Q Did he give you any kind of trouble?

5 A No, sir, he did not.

6 Q Did he ask you any questions about consent or what you
7 were doing, or just go on?

8 A No, sir. He -- he was presented this
9 permission-to-search form. He read it, and then he filled
10 it out and signed it. And from there he complied with
11 everything I requested.

12 Q Was he wearing glasses?

13 A Yes, sir. I believe he was.

14 Q Do you recall if he -- when he was reading that form,
15 if he had to hold it up close? Did he take glasses off
16 like some people do? Did he -- do you remember anything
17 about that?

18 A I do not recall that, sir.

19 Q Okay. Did you notice any injuries he had?

20 A No, sir, I did not.

21 Q Specifically, did he show you his right hand with
22 stitches?

23 A With some stitches.

24 Q Yeah.

25 A I photographed him. I didn't see any injuries. When

Lathier Graham
Redirect examination by Mr. Barnette

1 I photographed him he didn't state to me injury that he
2 had, any injuries at the time.

3 Q Okay.

4 MR. HALL: No further questions.

5 MR. BARNETTE: Just one or two on redirect, Your
6 Honor.

7 REDIRECT EXAMINATION

8 BY MR. BARNETTE

9 Q Let me show you State's Exhibits 4 and 5. Did you
10 take those pictures, sir?

11 A Yes, sir, I did.

12 Q And I believe these are already entered into evidence.
13 Was it -- how was he dressed?

14 A He was dressed with a black leather jacket on.

15 MR. BARNETTE: Your Honor, may I just publish these to
16 the jury? I've just shown them the pictures.

17 THE COURT: You may.

18 Q And you collected his clothing, sir?

19 A Yes, sir, I did.

20 Q okay. Thank you, sir.

21 MR. HALL: Nothing further, Your Honor.

22 THE COURT: You may step down.

23 MR. BARNETTE: We'd ask the witness be excused, Your
24 Honor.

25 THE COURT: He may be.

Dan Piggins
Direct examination by Ms. Poulos

1 (Whereupon, the witness was excused.)

2 MS. POULOS: Thank you, Your Honor.

3 The state calls Sergeant Dan Piggins.

4 DAN PIGGINS, having been first
5 duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MS. POULOS

7 Q If you would, please state your name for the jury.

8 A Dan Piggins.

9 Q And where are you currently employed?

10 A Spartanburg County Sheriff's Office.

11 Q How long have you been employed with the sheriff's
12 office?

13 A Just shy of 15 years.

14 Q And were you on duty October 30th of 2011?

15 A Yes, ma'am, I was.

16 Q How did you first become involved in this case?

17 A I was the supervisor assigned the shift that day.

18 I heard the call go out on the radio. I initially
19 respond to the scene at Milliken.

20 After the other road deputies responded I coordinated
21 some things through the vehicle. And then at that point
22 investigation was notified and I at that point left the
23 scene.

24 Q Okay. Where did you then go?

25 A I went actually looking for the vehicle. We had a

Dan Piggins
Direct examination by Ms. Poulos

1 good description of the vehicle. I didn't really go any
2 place in particular. I'm assigned to the
3 Una-Saxon-Fairforest area. So I simply went and rode my
4 area looking for that vehicle.

5 Q And did you recover the vehicle?

6 A I did.

7 Q Where did you recover it?

8 A I believe it was the Una New Life Baptist Church or
9 something to that effect. It is at the corner of Sibley
10 Street and Seminole Drive in Una.

11 Q I'm going to show you what's already been admitted
12 into evidence as State's Exhibit 15.

13 A Yes, ma'am.

14 Q Is that the vehicle that you recovered?

15 A Yes, ma'am, it is.

16 MS. POULOS: Your Honor, permission to publish to the
17 jury.

18 THE COURT: You may.

19 Q And do you recall, were the keys inside the vehicle?

20 A Yes, ma'am, they were. They were still in the
21 ignition.

22 Q Was the victim's purse inside the vehicle?

23 A Yes, it was. It was in the -- if I remember correctly
24 it was in the back -- the back floorboard.

25 Q Do you recall about what time this was?

Dan Piggins
Cross-examination by Mr. Hall

1 A It was a little bit after 5:00 o'clock, maybe 20
2 minutes after 5:00.

3 Q Sergeant Piggins, is that where the car was found,
4 where it was photographed?

5 A Yes, yes. It was not moved until we notified. I
6 believe Investigator Bohon notified the husband and he came
7 after I.D. responded and picked up the vehicle.

8 Q Thank you. Please answer any questions Mr. Hall may
9 have.

10 A Yes, ma'am.

11 CROSS-EXAMINATION

12 BY MR. HALL

13 Q Now, you did a short report.

14 A Yes, sir.

15 Q Okay.

16 MR. HALL: May I approach the witness, Your Honor?

17 THE COURT: You may.

18 Q We've got a name on that. Was that your report?

19 A Yes, sir, it is.

20 Q And this was at what church?

21 A It's Una Freewill Baptist or New Life or something to
22 that effect. I don't know the name, the proper name, of
23 it.

24 Q This is your area of patrol.

25 A It is.

Dan Piggins
Cross-examination by Mr. Hall

1 Q And that's -- is it kind of -- isn't there a community
2 center there or something?

3 A There is, yes, sir.

4 Q Is that part of the church or --

5 A I believe it is. The vehicle was actually parked in
6 front of the front of the -- in front of the community
7 center.

8 Q Okay. Now, have you been by this church when people
9 are coming and going?

10 A I have.

11 Q Is it a predominantly white church like some are or
12 predominantly black or predominantly mixed or both?

13 A To my knowledge it's a predominantly black church.

14 Q And do you know, do they have their service times
15 posted or anything?

16 A I can't answer that with a -- with enough knowledge to
17 give you a definite answer if they do or they don't.

18 Q Now, were there other cars in the parking lot?

19 A Not in this parking lot. And I'm not sure if there
20 was some around the front of the church.

21 Q Okay. And the front of the church in your picture
22 here would be this way?

23 A To the right, yes, sir. The front of the church
24 actually if you're familiar with the area faces Sibley
25 Street. That parking lot is off of Seminole Drive.

Dan Piggins
Cross-examination by Mr. Hall

1 Q Okay. And your involvement then was to notify
2 somebody that you found it.

3 A Yes, sir. I called for our I.D. and I called for -- I
4 made contact with Investigator Bohon to let him know that
5 we had recovered the vehicle.

6 Q And did you have any other involvement in this?

7 A No, sir.

8 Q Okay. You didn't take a picture, but that's what you
9 found.

10 A That's what I found, yes, sir.

11 Q Okay. And was the car locked or unlocked?

12 A I believe it was unlocked.

13 Q Did you open the door?

14 A I did not.

15 Q Just looked through the window.

16 A Yes, sir.

17 Q Okay. And a pocketbook?

18 A Yes, sir.

19 Q Keys?

20 A Yes, sir.

21 Q Where were the keys?

22 A In the ignition.

23 Q In the ignition. All right. And who did you turn
24 that over to?

25 A To the victim's husband.

Dan Piggins
Cross-examination by Mr. Hall

1 Q Okay.

2 A And who was there with Investigator Bohon.

3 Q All right. I guess I'd say who did you -- once you
4 find a potential piece of evidence --

5 A Right.

6 Q -- you either process it -- if that's not your job,
7 you turn it over to somebody else.

8 A Correct, yes.

9 Q So you turned it over to Investigator Bohon?

10 A He came out and our I.D. came out, yes, sir,
11 forensics.

12 Q And then that's when you left.

13 A I left when -- when they -- when the gentleman took
14 the car.

15 Q You were there for the entire processing of the
16 vehicle?

17 A Yeah. But I wasn't part of the processing of the
18 vehicle, sir.

19 Q Okay. You were just -- you were a supervisor, so you
20 were supervising?

21 A More or less, yes.

22 Q Okay.

23 MR. HALL: Beg the Court's indulgence.

24 (Pause.)

25 MR. HALL: No further questions, Your Honor.

Justin Horton
Direct examination by Mr. Barnette

1 MS. POULOS: Nothing further, Your Honor.

2 THE COURT: You may step down.

3 MS. POULOS: May the witness be excused, Your Honor?

4 THE COURT: He may be.

5 (Whereupon, the witness was excused.)

6 MR. BARNETTE: Your Honor, the state would like to
7 call Deputy Horton to the stand.

8 JUSTIN HORTON, having been
9 first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE

11 Q If you would, sir, please state your full name for the
12 record.

13 A Deputy Justin Horton.

14 Q Where do you work at, sir?

15 A Spartanburg County Sheriff's office.

16 Q And what's your position there, sir?

17 A Uniform patrol.

18 Q And how long have you been at the sheriff's
19 department, sir?

20 A Just short of five years.

21 Q Back on October 30th and October 31st, was you on
22 patrol that day, sir?

23 A Yes, sir.

24 Q Did y'all receive information about the defendant,
25 Mr. Lance?

Justin Horton
Direct examination by Mr. Barnette

1 A Yes, sir, I did.

2 Q And was y'all looking for him?

3 A Yes, sir.

4 Q And where did you find him at, sir?

5 A

6 Q Is that in Una or near Una?

7 A Una-Saxon area, you know, depends on the -- I guess
8 the zip code -- but it's all within the same area.

9 Q And when you got to the house, what did you do?

10 A As -- through the investigation that led us to [REDACTED]
11 Street, you know, upon approaching the house a
12 younger gentleman was coming out of the house. Spoke with
13 him and told him who I was there looking for as in the
14 defendant, Mr. Lance.

15 The front door was open. Mr. Lance from inside said
16 I'm Walter Lance. At that time I spoke with Mr. Lance.

17 Due to being several people in the house, I asked
18 Mr. Lance if he could put some more clothes on and come
19 outside and speak with me. And at that time he did. And I
20 spoke with him out in the front yard.

21 Q And what clothes did he put on, sir?

22 A He put on a black shirt, black jacket and some dark
23 colored pants.

24 Q Let me show you State's Exhibits 4 and 5 which have
25 already been placed into evidence. Was that the clothes he

Justin Horton
Direct examination by Mr. Barnette

1 was wearing, sir?

2 A Yes, sir.

3 Q And did you ask him to come down to the sheriff's
4 department, sir?

5 A I informed him that Investigator Bohon was working the
6 case and would like to speak to him in regards to it and
7 asked him if he'd be willing to come down and speak with
8 him about the particular case he was working.

9 Q And did he go with you?

10 A He -- yes, sir, he went. He went freely and
11 voluntarily.

12 Q And did y'all take him to the sheriff's department?

13 A At that time, we did, yes, sir.

14 Q Let me show you State's Exhibit No. 16.

15 MR. BARNETTE: I'd like to enter this into evidence at
16 this time, a map of the area.

17 MR. HALL: No objection, Your Honor.

18 THE COURT: It's admitted.

19 (Map marked State's Exhibit No. 16.)

20 Q Let me show it to you before I publish it here.

21 Where the Front Street is, is it
22 located on that map, sir?

23 A Yes, sir.

24 Q And the Una Baptist Church, Una's life center that
25 we're talking about, is located on Sibley Street, is that

Justin Horton
Direct examination by Mr. Barnette

1 correct?

2 A Yes, sir.

3 Q Is it right in that location there, sir?

4 A Yeah, about where the blue top building would be.

5 MR. BARNETTE: Your Honor, I'd like to publish this to
6 the jury at this time.

7 THE COURT: You may.

8 Q While that is warming up, about how far from where the
9 car was found to where Mr. Lance was found, where the car
10 of the victim was found?

11 A I would say roughly 800 meters, less than a half a
12 mile.

13 Q Less than a half mile from the location where the car
14 was found to where he was found?

15 A Yes, sir, yes, sir.

16 Q If you would, sir, please step down for a second.

17 (Whereupon, the witness left the stand.)

18 Q If you would, just stay outside underneath the mic so
19 the court reporter can hear it.

20 A Okay.

21 Q If you would, show the spot where Mr. Lance was
22 found -- the defendant.

23 A That right there is roughly It
24 fronts Cleveland.

25 Q Okay. And where was the car found at or the Una life

Justin Horton
Cross-examination by Mr. Hall

1 center at?

2 A Roughly where that blue-top building is, right in that
3 area.

4 Q Do you consider that being walking distance?

5 A Yes, sir. There's actually a sidewalk that runs from
6 the life center down over the railroad tracks across the
7 road all the way down to

8 Q And all of this is located in Spartanburg County?

9 A Yes, sir, it is.

10 Q As well as Milliken Park where the assault occurred?

11 A Yes, sir.

12 Q Thank you sir. Please have a seat.

13 (Whereupon, the witness returned to the stand.)

14 Q Please answer any questions Mr. Hall may have for you,
15 sir.

16 A Yes, sir.

17 CROSS-EXAMINATION

18 BY MR. HALL

19 Q Now, I believe you -- somebody went around asking
20 questions looking for Mr. Lance.

21 A Yes, sir.

22 Q And you got the address,

23 A Yes, sir.

24 Q Do you recall how many people were there?

25 A Not completely. I know that there was a younger white

Justin Horton
Cross-examination by Mr. Hall

1 male that came out that I made contact with initially. I
2 believe that there was two more females. I know there was
3 an older female in the living room laying on the couch.
4 Just based on my experience in going to that address,
5 there's usually several people that live at that residence
6 or visit that residence frequently.

7 Q But your attention was focused on Mr. Lance when he
8 answered you.

9 A Yes, sir. Speaking with Mr. Lance, that was my main
10 focus, yes, sir.

11 Q All right. Now, did you go in the house, or did he
12 come out?

13 A I briefly stepped into the doorway when he said that
14 he was in the front right bedroom saying, you know, come in
15 and speak with me.

16 When I went in I noticed that there were people.
17 Obviously, it was late in the evening, so there was people
18 sleeping, and asked him if he could put some more clothes
19 on and come outside and speak with me at that time.

20 Q What time did you say?

21 A Excuse me, sir?

22 Q Approximately what time was it?

23 A Roughly the midnight hour. I'm not sure exactly the
24 exact timeframe that we spoke with him at the -- at his
25 residence.

Justin Horton
Cross-examination by Mr. Hall

- 1 Q I assume you did a report.
- 2 A I did, yes, sir, Your Honor, yes, sir.
- 3 Q And that's -- okay. This is what I got in discovery,
- 4 I think. This is where yours is. That's your supplement?
- 5 A Yes, sir.
- 6 Q Okay. Does that help you with the time?
- 7 A Yes, sir. It was roughly, roughly the midnight hour,
- 8 because we started working on it before midnight, and it
- 9 carried on over into right after midnight on the 31st.
- 10 Q 5:00 till 10:00?
- 11 A Roughly that, yes, sir.
- 12 Q So you got this young male at the door.
- 13 A Uh-huh.
- 14 Q You asked for Walter Lance.
- 15 A Yes, sir.
- 16 Q He answered.
- 17 A Yes, sir.
- 18 Q He didn't try to get away from you?
- 19 A No, sir.
- 20 Q Did when you requested him to put on clothes and come
- 21 out, he did that?
- 22 A Yes, sir.
- 23 Q And when you asked him to go to the sheriff's
- 24 department, he agreed.
- 25 A Yes, sir.

Justin Horton
Cross-examination by Mr. Hall

1 Q Even after you told him you were going to have to
2 handcuff him, he went.

3 A Based on our policy if we're going to transport
4 anybody in a patrol car they have to be handcuffed.
5 However, we did advise Mr. Lance that we would place the
6 handcuffs in the front for his comfort at least until we
7 got to the sheriff's office. Once he got to the sheriff's
8 office and into the investigation-division area of the
9 sheriff's office the handcuffs were removed.

10 Q So that's a transportation issue.

11 A Yes, sir, it's a transportation issue.

12 Q You don't want anybody grabbing the steering wheel.

13 A That's right.

14 Q Did you notice if he had any injuries to his hands,
15 stitches or anything?

16 A No, sir. When I spoke with him he didn't complain of
17 any type of an injury.

18 Q And basically your part was to transport him to the
19 sheriff's department?

20 A My part of the investigation was locating Mr. Lance.
21 I'm a canine officer, so I can't transport. So another
22 officer transported him to the sheriff's office at that
23 time.

24 Q Who was that officer?

25 A Deputy Norwood.

Justin Horton
Cross-examination by Mr. Hall

- 1 Q You are a canine officer.
- 2 A Yes, sir.
- 3 Q There are different kinds of canine, aren't there?
- 4 A Yes, sir.
- 5 Q Some are drug dogs. Some are -- what does your dog
- 6 do?
- 7 A My dog is a red bone bloodhound for tracking.
- 8 Q Tracking.
- 9 A Yes, sir.
- 10 Q But you didn't use your dog that evening or any time?
- 11 A I was not on duty at the time of the initial incident.
- 12 And at the time of the recovery my shift had not come onto
- 13 work yet.
- 14 Q Now, was it your cuffs or Norwood's cuffs that got put
- 15 on him?
- 16 A I believe it was Norwood's cuffs.
- 17 Q Okay. So maybe you didn't handcuff him. Maybe it was
- 18 Norwood?
- 19 A I -- I advised him of the policy and procedures as to
- 20 how we have to transport.
- 21 MR. HALL: No further questions.
- 22 MR. BARNETTE: Your Honor, we ask for the witness to
- 23 be excused.
- 24 THE COURT: You may step down. You may also be
- 25 excused. Thank you.

Anthony Knighten
Direct examination by Ms. Poulos

1 (Whereupon, the witness was excused.)

2 MS. POULOS: Your Honor, the state calls Deputy
3 Knighten.

4 ANTHONY KNIGHTEN, having been
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION BY MS. POULOS

7 Q If you would, please state your name.

8 A Anthony Knighten.

9 Q And where are you currently employed?

10 A Spartanburg County Sheriff's Office.

11 Q How long have you been employed at the sheriff's
12 office?

13 A Just over five years.

14 Q And what's your current position there?

15 A Forensics officer.

16 Q Were you on duty on October the 30th of 2011?

17 A Yes, ma'am.

18 Q And did you go to Spartanburg Regional in connection
19 with this case?

20 A Yes, ma'am.

21 Q Did you take custody of a sexual assault kit from
22 Rachael McDowell at the hospital?

23 A Yes, ma'am.

24 Q I'm showing you what's already been admitted into
25 evidence as State's Exhibit 1. Is that your signature?

Anthony Knighten
Direct examination by Ms. Poulos

- 1 A Yes, ma'am, it is.
- 2 Q And is that top of the red collection kit, the box
- 3 that you recovered from the nurse at the hospital?
- 4 A Yes, ma'am.
- 5 Q And was that kit sealed when it came into your
- 6 possession?
- 7 A Yes, ma'am, it was.
- 8 Q And did it appear to be tampered with in any way?
- 9 A No, ma'am.
- 10 Q What did you do with that kit?
- 11 A I transported it back to the sheriff's office, placed
- 12 the kit into our refrigerator in our crime lab, locked the
- 13 refrigerator -- that's per policy -- and placed the
- 14 clothing bags that were with it into a locked locker,
- 15 evidence locker.
- 16 Q So you also collect clothing from the nurse at the
- 17 hospital?
- 18 A Yes, ma'am.
- 19 Q The victim's clothing. What items of clothing did you
- 20 collect?
- 21 A It was two sealed bags, one white bag, brown bag and
- 22 they were stating -- the brown -- the white bag stating it
- 23 contained one cream-colored bra, one blue t-shirt, one gray
- 24 sweatshirt, one pair of blue jeans, white vest and brown --
- 25 brown clothing bag stated contained pair of black socks and

Anthony Knighten
Cross-examination by Mr. Hall

1 a pair of gray tennis shoes.

2 Q And those clothes were placed into evidence bags?

3 A Yes, ma'am.

4 Q Were they sealed?

5 A Yes, ma'am.

6 Q And did you sign the seal?

7 A Yes, ma'am.

8 Q And did you take them to the sheriff's office?

9 A Yes, ma'am.

10 Q And were they placed in a secure location?

11 A Yes, ma'am.

12 Q Please answer any questions Mr. Hall may have for you.

13 CROSS-EXAMINATION

14 BY MR. HALL

15 Q Now, were the clothes already sealed up when you got
16 there?

17 A Yes, sir.

18 Q So the little inventory you just went through is from
19 the bag?

20 A Yes, sir.

21 Q What it said in the bag.

22 A Yes, sir.

23 Q But you didn't have personal knowledge what was in it.

24 A No, sir. That's what the report stated to have
25 contained.

Angela Faulkner Nelson
Direct examination by Mr. Barnette

1 Q And somewhere on that bag it says what was in it.

2 A Yes, sir.

3 Q You made notes of that for your records.

4 A Yes, sir.

5 Q So you were a mode of transportation for these things
6 to get back to evidence.

7 A Yes, sir. Transport security.

8 MR. HALL: No other questions.

9 MS. POULOS: Nothing further, Your Honor. May he be
10 excused?

11 THE COURT: You may step down.

12 (Whereupon, the witness was excused.)

13 MR. BARNETTE: Your Honor, I'd like to call Deputy
14 Nelson to the stand.

15 ANGELA FAULKNER NELSON, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q Ma'am, if you would, give your full name for the
19 record, please.

20 A Angela Faulkner Nelson.

21 Q And where do you work at, ma'am?

22 A Spartanburg County Sheriff's Office.

23 Q And what is your position there?

24 A I am a deputy sheriff assigned to the evidence
25 department.

Angela Faulkner Nelson
Direct examination by Mr. Barnette

1 Q How long have you been at the sheriff's department,
2 ma'am?

3 A Just shy of four years.

4 Q Investigator Knighten had brought in the rape kit
5 concerning this case, is that correct?

6 A Yes, sir.

7 Q And did you take it out of the locked evidence and put
8 it into evidence, ma'am?

9 A I did.

10 Q And showing you what's part of State's Exhibit No. 1.
11 Was that the form -- was that the box -- I know it is a box
12 originally, but was that part of the box?

13 A It was.

14 Q And was that sealed?

15 A It was.

16 Q And it was not opened by you or anyone.

17 A No, sir.

18 Q Okay. And did you also receive the victim's clothes
19 in this case also?

20 A Yes, sir.

21 Q And was it in the two bags that they talked about?

22 A Yes, sir.

23 Q And was those bags sealed when you got them?

24 A They were.

25 Q And were they placed into evidence also?

Anita Mullinax
Direct examination by Mr. Barnette

1 A They were also.

2 Q Okay. Please answer any questions that Mr. Hall may
3 have for you.

4 MR. HALL: No questions.

5 THE COURT: You may step down.

6 MR. BARNETTE: Ask for the witness to be excused Your
7 Honor.

8 THE COURT: She may.

9 (Whereupon, the witness was excused.)

10 MR. BARNETTE: I would like to call Deputy Mullinax to
11 the stand, please.

12 ANITA MULLINAX having been
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION BY MR. BARNETTE

15 Q Ma'am, please give your full name for the record.

16 A Anita Mullinax.

17 Q And where do you work at, ma'am?

18 A Spartanburg County sheriff's office.

19 Q And what's your position there, ma'am?

20 A I'm a master deputy assigned to the evidence.

21 Q And how long have you been with the sheriff's
22 department, ma'am?

23 A A little over 29 years.

24 Q And did you transport evidence in this case to SLED,
25 the state law enforcement division?

Anita Mullinax
Direct examination by Mr. Barnette

1 A I did.

2 Q And let me show you, which is actually I guess in this
3 form first. It's State's Exhibit No. 3.

4 Was part of that the D.N.A. buccal swab of the
5 defendant in this case, Mr. Walter Lance?

6 A It was.

7 Q And was it sealed in the evidence bag there, ma'am?

8 A Yes. It was in this envelope.

9 Q And was it stealed when it got to your possession?

10 A It was.

11 Q And did you open it in any way when you took it to
12 SLED or anything?

13 A No, I did not open it.

14 Q Okay. And did you receive State's Exhibit No. 1,
15 which part of it is the rape kit in this case, ma'am?

16 A Yes, I did.

17 Q I'll give you this too. Okay. And did you take that
18 to SLED also, ma'am?

19 A I did.

20 Q Okay. And those items -- the rape kit, was it sealed
21 too in the box?

22 A It was.

23 Q And when you took it out of evidence to take to
24 SLED -- SLED's in Columbia, is that right?

25 A It is. We transport it.

Anita Mullinax
Direct examination by Mr. Barnette

1 Q And was all of that sealed?

2 A It was.

3 Q And you didn't tamper with it in any way.

4 A Absolutely not.

5 Q And when you got to Columbia to go to the state law
6 enforcement division did you meet with Nikki Hughes at
7 SLED?

8 A She is the one that accepted the evidence from me,
9 yes.

10 Q And when you get there, explain to the jury what
11 happens with the evidence once you get there.

12 A What we do is we -- we have what they call an I-lab.
13 It's just -- it's just an internet-lab request. And we just
14 select all of the items that they want to go.

15 We pull them from the case. We take them to SLED. We
16 sign the form saying that we're going to take it to SLED.
17 They sign the sheet also saying they received it.

18 In our presence they heat seal these items. And on it
19 it's got like my name, the day that I transport it. And
20 then they assign a lab number for that case.

21 They heat seal it. So it's sealed so that when it
22 goes to whoever at SLED that trans -- you know, that
23 actually does the analysis they will unopen it at that
24 time. But it goes to them sealed in this envelope, and
25 then they seal it in our presence. So we know it stays

Anita Mullinax
Direct examination by Mr. Barnette

1 sealed.

2 Q So you saw them actually seal this in your presence in
3 the heat-sealed bags.

4 A Yes.

5 Q And like you say, is that your initials on top, ma'am?

6 A It is.

7 Q And showing these two bags here.

8 MR. BARNETTE: May I publish these to the jury, Your
9 Honor?

10 THE COURT: You may.

11 Q Showing that. That would be your initials at the top,
12 is that right, ma'am?

13 A It is. It's just showing that I -- saying that it is
14 sealed.

15 Q And also -- and this is where the buccal swab of the
16 defendant was also.

17 A That's correct.

18 Q I think that's part of State's Exhibit No. 3. And you
19 released those to SLED at that time, is that right, ma'am?

20 A I did.

21 MR. BARNETTE: One moment, Your Honor, please.

22 (Pause.)

23 Q Please answer any questions Mr. Hall may have for you,
24 ma'am.

25 MR. HALL: No questions, Your Honor.

Nikki Perry Hughes
Direct examination by Mr. Barnette

1 THE COURT: You may step down.

2 MR. BARNETTE: We ask this witness be excused, Your
3 Honor.

4 THE COURT: She may be.

5 (Whereupon, the witness was excused.)

6 MR. BARNETTE: Your Honor, I would like to call Nikki
7 Hughes to the stand.

8 NIKKI PERRY HUGHES, having
9 been first duly sworn, testified as follows:

10 DIRECT EXAMINATION BY MR. BARNETTE

11 Q Ms. Hughes, if you would, give your full name for the
12 record.

13 A Nikki Perry Hughes.

14 Q And where do you work at, ma'am?

15 A I'm employed with the South Carolina Law Enforcement
16 Division, commonly known as SLED.

17 Q And what is your position there, ma'am?

18 A I'm a forensic technician in the evidence control
19 department.

20 Q And what do you do, ma'am? What duties do you do?

21 A I log-in, package and transfer evidence brought to the
22 forensic lab for forensic analysis.

23 Q And how long have you been with SLED, ma'am?

24 A Approximately six years.

25 Q And was you present when Deputy Mullinax brought the

Nikki Perry Hughes
Direct examination by Mr. Barnette

1 evidence down from the sheriff's department?

2 A Yes, sir.

3 Q And did you accept these items, which include the rape
4 kit, as well as the D.N.A. swab from the defendant?

5 A Yes, sir.

6 Q And if you would, tell the procedures that y'all
7 follow in that case, ma'am.

8 A The officers will come into the forensic lab. They
9 begin in my department, in the evidence control department.

10 what they do is provide us with what we call a packing
11 slip that they have filled out. It will provide the case
12 information, as well as the items that they will be
13 submitting to the lab, and the forensic requests.

14 I will then log that into the computer. Our computer
15 will generate a unique lab number for that case and an item
16 number for each item.

17 We will then take the evidence that is sealed when we
18 receive it. We will place it in a heat-sealed pouch where
19 we will seal it in their presence.

20 We have the officer initial and date the seal and sign
21 and date the front of the bag. And then I will place the
22 unique bar code label on the front of the bag that states
23 the lab number and the item number of that item.

24 Q And State's Exhibits 1 and 3 you accepted into
25 evidence, is that -- or into SLED, is that correct? That's

Nikki Perry Hughes
Direct examination by Mr. Barnette

1 actually -- put this in there.

2 A Okay.

3 Q And that's actually the one which had the rape kit in
4 it.

5 A Yes, sir. It did.

6 Q And you gave the unique, like I said, the bar code.

7 MR. BARNETTE: May I publish these to the jury, Your
8 Honor?

9 THE COURT: You may.

10 Q Showing you State's Exhibit No. 1, for example. This
11 would be the bar code and the lab number that you give it,
12 ma'am?

13 A Yes, sir.

14 Q And this was sealed. Once you got the items you
15 sealed it in the presence of Deputy Mullinax, is that
16 correct?

17 A That is correct.

18 Q Okay. And then once that's done that's sealed and
19 then placed into SLED evidence, is that right, or holding?

20 A Yes, sir. We place it into an intake storage area in
21 our locked evidence room.

22 Q And that'll be picked by the people that need to take
23 care and do the analysis afterwards, is that right?

24 A Yes, sir.

25 Q If you would, ma'am, please answer any questions

Nikki Perry Hughes
Cross-examination by Mr. Hall

1 Mr. Hall may have for you.

2 CROSS-EXAMINATION

3 BY MR. HALL

4 Q So you're just one more step in processing this to get
5 items looked at.

6 A Yes, sir.

7 Q All right. No other questions.

8 THE COURT: You may step down.

9 MR. BARNETTE: We would ask the witness be excused,
10 Your Honor.

11 THE COURT: She may be.

12 (Whereupon, the witness was excused.)

13 MR. BARNETTE: May we approach one second, Your Honor?

14 THE COURT: Yes, sir.

15 (Bench conference held off the record in the presence
16 of the jury but out of the hearing of the jury.)

17 THE COURT: Ladies and gentlemen, we're going to have
18 to take a short break. So I'm going to ask you to please
19 go to your jury room. Do not discuss the case. I'll bring
20 you back after that short break.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Court is in recess for ten minutes.

24 (Whereupon, a recess was taken.)

25 THE COURT: Ready for the jury?

Sheree Brown
Direct examination by Mr. Barnette

1 MR. BARNETTE: Yes, sir, Your Honor.

2 THE COURT: All right. Bring them in.

3 (The following takes place in the presence of the
4 jury.)

5 THE COURT: The jury is present. You may proceed.

6 MR. BARNETTE: Thank you, Your Honor. May it please
7 the Court.

8 I would like to call Sheree Brown to the stand,
9 please.

10 SHEREE BROWN, having been
11 first duly sworn, testified as follows:

12 THE WITNESS: Sheree Brown.

13 DIRECT EXAMINATION BY MR. BARNETTE

14 Q Where do you work at, ma'am?

15 A South Carolina Law Enforcement Division.

16 Q And what's your position there, ma'am?

17 A I'm the technician, forensic technician, assigned to
18 the D.N.A. department.

19 Q And how long have you worked there, ma'am?

20 A Almost 18 years next month.

21 Q And is part of your duties taking blood samples and
22 preparing for D.N.A., ma'am?

23 A Yes.

24 Q Let me show you -- this has already been entered into
25 evidence, State's Exhibit 1. Was there a blood sample that

Sheree Brown
Direct examination by Mr. Barnette

1 was in the rape kit from the victim in this case?

2 A Yes.

3 Q And did you take that? I think it's 1.1, is that
4 correct?

5 A Correct.

6 Q And did you make a -- or explain what 1.1.1 is in this
7 case, ma'am.

8 A One point -- the kit comes in and as one, and the
9 liquid blood standard is 1.1.

10 I create 1.1.1 as a blood, dried blood, standards from
11 the 1.1.

12 Q So you took the victim's blood and put it on like a
13 piece of paper, is that correct?

14 A Correct.

15 Q And you dried it for D.N.A.

16 A Yes.

17 Q And is that -- they use to help to do analysis for the
18 D.N.A. testing?

19 A Yes. It preserves longer if you put it on some -- a
20 filter paper or piece of cloth.

21 Q And once you dried that blood did you seal both of
22 those items back up, ma'am?

23 A Yes, I did.

24 Q And did you seal them back up in the heat-sealed bag?

25 A Yes.

Sherree Brown
Direct examination by Mr. Barnette

1 Q And when you received it it was -- was it sealed when
2 you received it?

3 A Yes, it was.

4 Q It showed no evidence of tampering or anything.

5 A Correct.

6 Q And you resealed it once you did the dried-blood
7 sample.

8 A Yes, per our protocol.

9 Q Yes, ma'am.

10 A And my initials and the date that I sealed it are on
11 here today.

12 Q And was it later -- the analysis later done by Katie
13 Urka -- later?

14 A Yes.

15 Q Okay.

16 MR. BARNETTE: Your Honor, I'd like to enter State's
17 1.1.1 into evidence at this time.

18 MR. HALL: No objection.

19 THE COURT: It's admitted.

20 (Dried blood sample from victim marked State's Exhibit
21 No. 1.1.1.)

22 MR. BARNETTE: May I publish it to the jury real
23 quick, Your Honor?

24 THE COURT: You may.

25 BY MR. BARNETTE

Janice Bryson
Direct examination by Mr. Barnette

1 Q Just to show the jury what we're talking about here,
2 ma'am, y'all labeled the label that's been used before, but
3 you just add a .1 to it, is that correct?

4 A Our protocol says that the envelope has to have the
5 unique case number and the item number. And I just printed
6 off that. And then you write the name that's on the blood
7 tube.

8 Q Okay. And that was Kerstin Joslin-Venus, was the
9 victim, or the blood sample from.

10 A Yes.

11 Q Thank you, ma'am. Please answer any questions that
12 Mr. Hall may have for you.

13 MR. HALL: No questions, Your Honor.

14 THE COURT: You may step down.

15 MR. BARNETTE: Your Honor, I'd like to call Jan Bryson
16 to the stand.

17 JANICE BRYSON, having been
18 first duly sworn, testified as follows:

19 DIRECT EXAMINATION BY MR. BARNETTE

20 Q Ms. Bryson, if you would, give your full name for the
21 record, please.

22 A My name is Janice Bryson.

23 Q And where do you work at, ma'am?

24 A I'm employed by the South Carolina Law Enforcement
25 Division.

Janice Bryson
Direct examination by Mr. Barnette

1 Q And what is your position there, ma'am?

2 A I'm a forensic technician in the evidence processing
3 department.

4 Q And how many years have you been there, ma'am?

5 A I've been at SLED for 23 years.

6 Q And part of your duties is to look at evidence and
7 process it, ma'am?

8 A That's correct.

9 Q In this case let me show you what's been marked as
10 State Exhibit 6 and State's Exhibit 6.1. Did you look at a
11 pair of underwear that came from the rape kit of Kerstin
12 Joslin-Venus, ma'am?

13 A Yes, sir, I did.

14 Q And did you do an analysis on that underwear, ma'am?

15 A I do a presumptive testing for semen.

16 Q And is State's Exhibit 6 the underwear that you
17 examined, ma'am?

18 A Yes, sir.

19 Q And are your initials on the outside of that?

20 A Yes, sir, my initials, the SLED lab number, the item
21 number and the date that I processed the panties.

22 Q And this item was sealed when it was given to you or
23 when got it, is that correct?

24 A That's correct.

25 Q And from there did you create a cutting from the

Janice Bryson
Direct examination by Mr. Barnette

1 underwear?

2 A Yes, sir.

3 Q And is that 6.1 the cutting that you created?

4 A That's correct.

5 Q And that was later sealed and sent to Katie Urka for
6 testing for D.N.A.

7 A That's correct.

8 MR. BARNETTE: Your Honor, I'd like to enter State's
9 Exhibits 6 and 6.1 into evidence at this time.

10 MR. HALL: No objection, Your Honor.

11 THE COURT: It's admitted.

12 (Victim's underwear previously marked State's Exhibit
13 No. 6; cutting from victim's underwear marked State's
14 Exhibit No. 6.1)

15 MR. BARNETTE: May I publish this to the jury very
16 quickly, Your Honor?

17 THE COURT: You may.

18 BY MR. BARNETTE

19 Q Just publishing State's Exhibit 6, ma'am, here, the
20 underwear was collected by Rachael McDowell, the same
21 nurse, is that correct, ma'am?

22 A That's correct.

23 Q And then this is where you did -- is this your
24 initials and your writing, ma'am?

25 A Yes, sir.

Janice Bryson
Direct examination by Mr. Barnette

- 1 Q And that's where you did the examination of the
2 underwear?
- 3 A That's correct.
- 4 Q And from there you created a cutting.
- 5 A That's right.
- 6 Q And also State's Exhibit 6.1. And this cutting --
7 you're the one that actually sealed it in this bag once you
8 cut it from the underwear.
- 9 A That's correct.
- 10 Q And that cutting you put in -- I call it -- like a
11 coin bag, is that correct?
- 12 A When I make the cutting from the panties I place the
13 cutting in a coin envelope, and then I place the coin
14 envelope in a heat-sealed bag, seal it, initial and date
15 it.
- 16 Q And on this you were looking for -- you found semen on
17 the underwear is that -- or a presumptive test for it?
- 18 A The cutting was positive for the presumptive test of
19 semen.
- 20 Q Okay. And that was forwarded to Katie Urka for D.N.A.
21 testing.
- 22 A That's correct.
- 23 Q Let me show you what's been marked as State's Exhibit
24 No. 20. Was this the report and your worksheet that was
25 generated concerning the examination of this underwear?

Janice Bryson
Direct examination by Mr. Barnette

1 A Yes, sir.

2 MR. BARNETTE: Your Honor, I'd like to enter this into
3 evidence at this time as State's Exhibit 20.

4 MR. HALL: No objection.

5 THE COURT: It's admitted.

6 (Evidence processing report marked State's Exhibit No.
7 20.)

8 MR. BARNETTE: May I publish it to the jury, Your
9 Honor?

10 THE COURT: You may.

11 Q Okay. In your testing, ma'am, if you would explain
12 your report here, what kind of testing you do. And how is
13 it done, ma'am?

14 A When we receive an item into SLED and the request is
15 made to look for possible semen I use an alternate light
16 source that will fluoresce body fluids.

17 I circle the areas fluoresce, and then I go back and
18 test the area that I circled using a presumptive test for
19 semen. It's A.P. acid phosphate spot test. And if that
20 test is positive I know to cut that area out and send it to
21 D.N.A. for further examination.

22 Q Okay. And you're the one that conducted the test, is
23 that right?

24 A That's correct. We have a D.N.A. analyst that reviews
25 our work.

Janice Bryson
Direct examination by Mr. Barnette

1 Q And Stephanie Stanley reviewed your casework, is that
2 right?

3 A That's correct.

4 Q Going to page two, she actually signed the form, is
5 that correct?

6 A That's correct.

7 Q But you actually did the processing.

8 A That's correct.

9 Q Showing your worksheet here, if you would, just tell
10 us what the worksheet shows, ma'am.

11 A Whenever I process an item I use a diagram to document
12 where I take my cutting.

13 The panties were item six, so my cutting was 6.1. And
14 that's where I document where I took the cutting from the
15 panties.

16 Q And these are the panties that you found inside out,
17 is that right?

18 A That's correct.

19 Q And it was found on the side of the panties?

20 A That's correct.

21 Q And could that be from transfer off skin getting in
22 the panties once somebody put those panties back on?

23 A That's possible.

24 Q Okay. And that was a presumptive test for semen.

25 A I'm sorry?

Katie Urka
Direct examination by Mr. Barnette

1 Q Had a presumptive test for semen. That's the one you
2 took the cuttings from?

3 A That's correct.

4 Q And that was forwarded to Katie Urka for testing.

5 A Yes, sir.

6 Q Please answer any questions Mr. Hall has for you,
7 ma'am.

8 MR. HALL: No questions, Your Honor.

9 THE COURT: You may step down.

10 MR. BARNETTE: We ask the witness be excused, Your
11 Honor.

12 THE COURT: She may be.

13 MR. BARNETTE: Your Honor, I'd like to call Katie Urka
14 to the stand.

15 KATIE URKA, having been first
16 duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. BARNETTE

18 Q If you would, ma'am, please give us your full name,
19 please.

20 A Katie Urka.

21 Q And where do you work at, ma'am?

22 A I work in the D.N.A. department at the South Carolina
23 Law Enforcement Division.

24 Q And what is your position there, ma'am?

25 A I am a forensic D.N.A. analyst.

Katie Urka
Direct examination by Mr. Barnette

1 Q And how long have you been with SLED, ma'am?

2 A Over six years.

3 Q And if you would, tell the jury a little bit about
4 your education.

5 A I have a bachelor of science degree in forensic
6 biology from Virginia Commonwealth University. I also have
7 a master of science in forensic biology from the same
8 university.

9 Q And have you received training and education from SLED
10 also?

11 A Yes. I completed a year-long analyst training program
12 there.

13 Q And did you also work with SLED on D.N.A. testing
14 during that year period, ma'am?

15 For example, how many -- did you work on several
16 samples with SLED folks to learn the testing procedures?

17 A During training you're responsible for completing
18 testing on training samples. And then you proceed to
19 casework under another analyst. So you do their cases and
20 perform the analysis.

21 Q How many D.N.A. analyses have you done, ma'am?

22 A Several thousand.

23 Q Okay. And how many times have you been qualified in
24 state court to testify as a D.N.A. analyst or forensic
25 person?

Katie Urka
Direct examination by Mr. Barnette

1 A About 29.

2 MR. BARNETTE: Your Honor, I would move her as
3 qualified in D.N.A. testing.

4 MR. HALL: No objection.

5 THE COURT: She is so qualified.

6 BY MR. BARNETTE

7 Q Ma'am, did you receive evidence in this case involving
8 a Walter Lance and Kerstin Joslin-Venus in this case,
9 ma'am?

10 A Yes.

11 Q And let me show you a couple of items that's already
12 been entered into evidence.

13 Did you receive State's Exhibit 3, which is a buccal
14 swab from Mr. Walter Lance, the defendant in this case?

15 A Yes.

16 Q And was it sealed when you received that, ma'am?

17 A As far as I can recall.

18 Q And then State's Exhibit 6.1, was this a cutting that
19 was received from Jan Bryson?

20 A Yes.

21 Q And was that sealed when you received it, ma'am?

22 A Yes.

23 Q And then State's Exhibit 1.1.1, which is the blood
24 sample from the victim in this case, Kerstin Joslin-Venus,
25 did you receive that also?

Katie Urka
Direct examination by Mr. Barnette

1 A Yes.

2 Q And was that also sealed, ma'am?

3 A Yes.

4 Q And through your analysis did you generate a report,
5 ma'am?

6 A Correct.

7 Q Let me show you State's Exhibit No. 21. Is that your
8 report, ma'am? Give you a chance to look through it.

9 A Yes. This appears to be a copy of my report.

10 Q And also in the rape kit itself did you receive 1.7,
11 which was from a lick mark around the breast area where a
12 swab was taken?

13 A Yes.

14 Q And did you also use that in your analysis, ma'am?

15 A Yes.

16 MR. BARNETTE: Your Honor, I'd like to enter State's
17 Exhibit No. 21 at this time.

18 MR. HALL: No objection, Your Honor.

19 THE COURT: It's admitted.

20 (SLED DNA forensic report marked State's Exhibit No.
21 21.)

22 MR. BARNETTE: Your Honor, permission to publish the
23 report, Your Honor.

24 THE COURT: You may.

25 BY MR. BARNETTE

Katie Urka
Direct examination by Mr. Barnette

1 Q In doing this report, ma'am, you list the items that
2 were submitted, is that right?

3 A Yes.

4 Q And in the items is there D.N.A. as well as semen
5 analysis, different types of analysis done?

6 A The serology section of my report will list what
7 analysis I performed, whether I performed body fluid
8 testing or D.N.A. testing.

9 Q And in this testing one point is one point --
10 actually, the dried blood standard is from the victim, is
11 that right?

12 A Yes.

13 Q And from the rape kit there was different items like
14 vaginal swabs, oral swabs that was done to the mouth and so
15 forth of the victim, is that right?

16 A Yeah.

17 Q And there was no semen identified in those items.

18 A Correct.

19 Q And the -- and the bite-mark swab, which is actually
20 where the nurse -- where they -- where he, the defendant,
21 licked, you did do a sample on the swab, is that right?

22 A Right.

23 Q Page two. You also had a buccal swab from the
24 defendant in this case, Walter Lance --

25 A Right.

Katie Urka
Direct examination by Mr. Barnette

1 Q -- which is item No. 3. And did you also do the
2 cuttings from the panties? Did you identify semen in that
3 case, ma'am?

4 A Yes. There was semen on the cutting from panties.

5 Q And did you do a D.N.A. analysis on that, ma'am?

6 A Yes.

7 Q Okay. Can you tell us what the results of your
8 analysis was, ma'am?

9 A The D.N.A. profile developed from item 1.7, the bite
10 mark swabs, is a mixture of at least two individuals.
11 Kerstin Joslin-Venus and Walter Lance cannot be excluded as
12 contributors. The probability of randomly selecting an
13 unrelated individual who could have contributed to this
14 mixture is approximately one in 11.

15 Q Okay. By being licked and the way it was done like
16 that, is that the reason for the low amount, could just be
17 the lack of D.N.A. sample there?

18 A This particular profile was kind of a low-level
19 sample. And when we're doing statistics each location of
20 the D.N.A. that we're looking at, they have to meet certain
21 requirements to be used statistically. In this case there
22 weren't very many locations that met the criteria, so
23 that's why this statistic is so low.

24 Q But obviously it came possibly from both of these
25 individuals, the victim and the defendant in the case.

Katie Urka
Cross-examination by Mr. Hall

1 A Right. Neither could be excluded from the mixture.

2 Q Okay. Going to 6.1, which is the cuttings from the
3 panties, could you tell us about that, ma'am?

4 A The D.N.A. profile developed from the semen on item
5 6.1 matches the D.N.A. profile of Walter Lance. The
6 probability of randomly selecting an unrelated individual
7 having a D.N.A. profile matching the semen on these -- on
8 this item is approximately one in 270 trillion.

9 Q So when you're talking 270 trillion, how many people
10 are in the world today?

11 A About 7 billion.

12 Q Okay. How many times greater is that than the number
13 of people in the world today?

14 A It's over a thousand times larger.

15 Q So is this a match to the defendant, Walter Lance?

16 A Yes.

17 Q The semen came from him.

18 A Yes.

19 MR. BARNETTE: One moment, Your Honor, please.

20 (Pause.)

21 Q If you would, please answer any questions Mr. Hall may
22 have for you.

23 CROSS-EXAMINATION

24 BY MR. HALL

25 Q All right. You've got a copy of your report?

Katie Urka
Cross-examination by Mr. Hall

1 A Yes.

2 Q Okay. There were several things you did no analysis
3 on -- the 1.1 blood standard, is that correct?

4 A Well, the item 1.1.1 is a dried blood standard which
5 came from item 1.1.

6 Q So you didn't do a -- you didn't do anything on that
7 because you did it from dried blood.

8 A Correct.

9 Q Okay. The 1.2, the smears, vaginal, oral, you didn't
10 do anything? I'm just trying to get why you didn't do some
11 analysis.

12 A Whenever we get a sexual assault kit we first
13 inventory it. And if we get items that are positive for
14 semen or we get probative results, I am not required to
15 perform analysis on every item submitted.

16 Q So the answer is because I don't have to?

17 A Right. Once we have a probative result, we do not
18 have to continue testing.

19 Q All right. Explain to me what you mean by probative
20 result. On that item or on something else?

21 A Anything within the kit.

22 Q Okay. So for the fingernail scrapings, the tissue,
23 the buccal or buccal swab from Ms. Joslin-Venus, the swabs
24 from the steering wheel, swabs from the ignition key
25 because you had positives somewhere else, you didn't do

Katie Urka
Cross-examination by Mr. Hall

1 anything?

2 A The tissue was tested and no semen was identified.

3 Q Okay.

4 A The buccal swab from the victim, I already had a blood
5 standard. There's no reason to run two standards from the
6 same person. And the swabs from the steering wheel and
7 ignition key, I did not run those because I already
8 identified semen.

9 Q Do you realize that -- do you know anything about the
10 background of the case when you do this?

11 A I can read the incident report. I don't recall what
12 information was contained in there.

13 Q But you had items four and five which apparently come
14 from a vehicle.

15 A Right.

16 Q And no analysis was done to see if there was D.N.A.

17 A Right.

18 Q How much of an incident report did you have -- pages
19 or just a summary or what?

20 A Generally we get a summary from the investigating
21 officer, and then we get the same nurse protocol.

22 Q Now, had -- let's see. Had Tracy Moss or Investigator
23 Bohon or anybody asked you to do an analysis on those
24 things, would you have done them anyway?

25 A Yes. If we receive a specific request to continue

Katie Urka
Redirect examination by Mr. Barnette
Recross-examination by Mr. Hall

1 testing we will do additional items if necessary.

2 MR. HALL: No further questions.

3 MR. BARNETTE: Just one, Your Honor.

4 REDIRECT EXAMINATION

5 BY MR. BARNETTE

6 Q One out of 270 trillion, that's pretty definite --

7 that's pretty definite evidence from that standpoint.

8 There's no question this was Walter Lance.

9 A Right.

10 Q Thank you, ma'am.

11 RECROSS-EXAMINATION

12 BY MR. HALL

13 Q But that's not from the vehicle, is it? That's from
14 the scene.

15 A The semen was from the panties.

16 Q Pardon me?

17 A The semen was from the panties.

18 Q Yes. So that analysis is not from the car. It's from
19 something else, right?

20 A Right.

21 Q Thank you.

22 MR. BARNETTE: Ask for the witness to be excused, Your
23 Honor.

24 THE COURT: You may step down. You may also be
25 excused.

1 (Whereupon, the witness was excused.)

2 MR. BARNETTE: May I have one second, Your Honor?

3 THE COURT: Yes, sir.

4 (Pause.)

5 MR. BARNETTE: Your Honor, the state rests.

6 THE COURT: All right. Ladies and gentlemen, that's
7 all of the evidence that the state is going to present in
8 the trial of the case.

9 Before we go any further I've got a couple of matters
10 I'll need to address with the lawyers. So I'll ask you to
11 please go to your jury room. Do not yet discuss the case.
12 I'll bring you back in just a few minutes.

13 (The following takes place outside the presence of the
14 jury.)

15 THE COURT: All right. Any motions or other matters
16 to address?

17 MR. HALL: Your Honor, I need to make a motion for a
18 directed verdict. Based on the evidence that's been
19 presented, there's not sufficient evidence from which a
20 jury could find my client guilty of the offenses.

21 THE COURT: All right. That motion is denied.
22 Any others?

23 MR. HALL: No other motions, Your Honor.

24 Your Honor, I will need time. I need to talk to my
25 client in light of several of the witnesses the state has

1 not called. I need to talk with my client about what
2 witnesses he wants us to call or not call based on their
3 witness list we had.

4 THE COURT: How much time do you need to talk to him
5 about it?

6 MR. HALL: I need probably ten or 15 minutes, Your
7 Honor, at least.

8 THE COURT: All right. We'll take 15 minutes.

9 (Whereupon, a recess was taken.)

10 THE COURT: All right. Mr. Hall, you've talked with
11 Mr. Lance about his right to testify and not testify or
12 call witnesses or not call witnesses?

13 MR. HALL: Yes, sir, I have.

14 THE COURT: And what does he indicate to you that his
15 wish is?

16 MR. HALL: Your Honor, we are -- as far as other
17 witnesses, I believe we're going to call Investigator Bohon
18 who was on the state's witness list.

19 I have my investigator -- I believe he's been in touch
20 with and served the subpoena on Stephanie Martin who is one
21 of the state's witnesses. I am not sure if he's going to
22 be able to get her or not. But he's talked to her on the
23 phone and is trying to hook up with her.

24 I discussed with him the possibility of him
25 testifying. And I do need to fill him in on what we have

1 had a discussion about in chambers. But I think he may be
2 testifying too, Your Honor.

3 THE COURT: All right. You need to take a minute to
4 provide him that information?

5 MR. HALL: Yes, sir.

6 (Pause.)

7 MR. HALL: All right. I have discussed with him what
8 it looks like would be coming in from his history were he
9 to testify, and he indicates that he is probably going to
10 testify.

11 THE COURT: All right. Mr. Lance, you've heard your
12 lawyer tell me that you and he have discussed your right to
13 testify, as well as not testify, to call other witnesses or
14 not call other witnesses.

15 Do you understand those are choices that only you can
16 make?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And it is your decision.

19 THE DEFENDANT: Yes, sir.

20 THE COURT: He says that y'all have discussed those
21 rights and you understand it and that you are likely going
22 to take the witness stand and testify.

23 THE DEFENDANT: Yes, sir.

24 THE COURT: Do you understand that if you take the
25 witness stand and testify you're going to have to answer

1 not only those questions asked of you by your lawyer but
2 you'll also have to answer any questions by the prosecutor
3 to the extent that they are relevant even if the responses
4 to those questions might tend to prove you guilty of some
5 crime the state claims you committed?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Do you understand that if you elect not to
8 testify that I will instruct the jury they can't hold that
9 against you, they can't consider it in any way, they can't
10 allow it to influence their deliberations or their decision
11 as to whether or not the evidence in this case establishes
12 your guilt?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Have you and Mr. Hall had plenty of time
15 and opportunity to discuss the advantages and the
16 disadvantages of testifying, as well as not testifying?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: And do you appreciate what those
19 advantages and disadvantages are?

20 THE DEFENDANT: Yes, sir.

21 THE COURT: And have you reached a decision about
22 whether or not you will testify?

23 THE DEFENDANT: Yes, sir.

24 THE COURT: And what is your decision?

25 THE DEFENDANT: I will testify.

1 THE COURT: And is that a decision that you reached of
2 your own free will and accord?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Has anybody forced you into it?

5 THE DEFENDANT: No, sir.

6 THE COURT: Pressured you into it?

7 THE DEFENDANT: No, sir.

8 THE COURT: Has anyone even suggested that that's the
9 decision you ought to make?

10 THE DEFENDANT: No, sir.

11 THE COURT: Do you understand that is solely your
12 choice and solely your decision?

13 THE DEFENDANT: Yes, sir.

14 THE COURT: Because you're the one that has to, you
15 know, suffer any consequence that you make, whether it be
16 to testify or not to testify.

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Do you have any questions you need to ask
19 me about your decision?

20 THE DEFENDANT: No, sir.

21 THE COURT: Do you need to discuss it any further with
22 your lawyer?

23 THE DEFENDANT: No, sir.

24 THE COURT: I understand that -- you don't have to
25 make a final decision. I have to have this discussion with

1 you so that I'll be certain that you understand your right
2 to testify or not. But even as you begin to present
3 testimony or other evidence if you change your mind and you
4 don't want to testify, you can't be required to. Do you
5 understand that?

6 THE DEFENDANT: Yes, sir.

7 THE COURT: Now, Mr. Hall says that he's also going to
8 call some other witness or witnesses. Do you have other
9 witnesses that you want him to call to the witness stand?

10 THE DEFENDANT: Just the ones.

11 THE COURT: Well, he indicated Mr. Bohon. Is that the
12 only one?

13 MR. HALL: Your Honor, there's Stephanie Martin, I
14 think it is, that's on the state's witness list. We might
15 get her. I'm not sure if we'll be able to find her again.

16 THE COURT: All right. Well, in any event, you
17 told -- you told Mr. Hall who you want to call?

18 THE DEFENDANT: Yes, sir.

19 THE COURT: And those witnesses are here and
20 available?

21 THE DEFENDANT: Yes, sir.

22 THE COURT: And you've indicated you're likely going
23 to testify to it.

24 THE DEFENDANT: Yes, sir.

25 THE COURT: Okay. Any other matters we need to

1 address?

2 MR. BARNETTE: None from the state.

3 Since he's going to testify, Your Honor, Rule 609 --
4 and I'd like to enter his prior record as Court's Exhibit
5 No. 3 at this point, Your Honor.

6 THE COURT: Okay.

7 MR. BARNETTE: And I shared that with Mr. Hall. He
8 has a copy of it.

9 (Rap sheet of the defendant marked Court's Exhibit No.
10 3.)

11 THE COURT: All right. Anything further?

12 MR. BARNETTE: Your Honor, I think we discussed prior,
13 during break. We had made a Rule 609 motion about using
14 his record beyond ten years.

15 And based off his prior conduct I think it's been a
16 continuous kind of conduct. I think we've agreed that
17 there's four grand larcenies on his record that can come
18 in, two petty larcenies. And there's also a felony from
19 his federal charge that he was serving time for right
20 before this event occurred.

21 THE COURT: All right. Well, I'll make the
22 determination as to whether or not those should be admitted
23 in the event the defendant testifies and in the event there
24 is some objection to it.

25 MR. BARNETTE: Yes, sir.

Joseph Bohon
Direct examination by Mr. Hall

1 THE COURT: Okay.

2 MR. HALL: Thank you, Your Honor.

3 THE COURT: All right. Bring the jury in, please.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: All right. Ladies and gentlemen, as you
7 know, the state has rested in their presentation of
8 evidence. So we're now going to proceed with any to be
9 offered by the defense.

10 Mr. Hall.

11 MR. HALL: Your Honor, the defense calls Investigator
12 Bohon.

13 JOSEPH BOHON, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MR. HALL

16 Q All right. Investigator, let's get your name straight
17 for the record.

18 A Joseph Bohon.

19 Q Thank you. Introduced earlier as Jason, but it's
20 Joseph Bohon.

21 All right. Now, you tell the jury where you're
22 employed.

23 A The Spartanburg County Sheriff's Office.

24 Q And how long have you been with them?

25 A A little over 11 years.

Joseph Bohon
Direct examination by Mr. Hall

- 1 Q And I believe you would be termed the lead
2 investigator on this case.
- 3 A Yes, sir. I was the second-shift investigator working
4 that night, afternoon.
- 5 Q All right. And tell me when you first became involved
6 in this.
- 7 A I responded to the hospital roughly around 4:00 p.m.
- 8 Q All right. I'm assuming --
- 9 A Between 4:00 and 4:30.
- 10 Q -- the 30th of October.
- 11 A Yes, sir.
- 12 Q All right. Do you recall what day of the week that
13 was?
- 14 A A Sunday.
- 15 Q And at that point were you in charge of the
16 investigation?
- 17 A Yes, sir. I was the lead investigator in this case.
- 18 Q And part of that -- any reports and anything come back
19 to you? Anybody working on this, that they found the car
20 or they found the suspect, any of that comes back to you?
- 21 A Yes, sir.
- 22 Q And did you interview witnesses?
- 23 A Yes, sir.
- 24 Q And interview the victim in this case?
- 25 A Yes, I did.

Joseph Bohon
Direct examination by Mr. Hall

1 Q All right. Now, do you know when you first came in
2 contact with Mr. Lance?

3 A The first time I came in contact with Mr. Lance would
4 actually have been on the 31st, which was early in the
5 morning of the next day, at 1:25 a.m. That was the first
6 documented time. This is when I read him his rights. So I
7 would have met him maybe two minutes earlier than that. So
8 I would say at 1:23 a.m. in the morning is the first time I
9 ever saw him.

10 Q Okay. And I'll just go ahead. He was wearing the
11 black clothes that he had -- he put on and the other
12 officer brought him down in.

13 A Yes, sir, yes, sir.

14 Q Did you know or remember if he had any injuries to his
15 hands or anything?

16 A He did have a mark on one of his hands.

17 Q Pardon me?

18 A He did have a small cut on one of his hands.

19 Q Be correct to say it was the ring finger or one of the
20 hands? Do you recall?

21 A I do not remember which hand it was. I was thinking
22 it was right through here. It was a small cut. And the
23 reason we got into even a discussion on that, he briefly
24 mentioned it, because I'd asked him had he drank any
25 alcohol.

Joseph Bohon
Direct examination by Mr. Hall

1 MR. BARNETTE: Your Honor, I'm going to object at this
2 point. This would be hearsay at this point, self-serving
3 hearsay.

4 THE COURT: Let me see y'all just a minute.

5 (Bench conference held off the record in the presence
6 of the jury but out of the hearing of the jury.)

7 THE COURT: All right. The objection is sustained.

8 BY MR. HALL

9 Q I didn't ask you what he said. But what I was asking
10 you, he had some injury to one of his hands you noted.

11 A Yes, sir. He had a small cut somewhere on one of his
12 hands. I remember that.

13 Q Okay. Do you -- other than he was wearing black, do
14 you remember anything about his appearance? Did he smell
15 bad; did he smell clean; did he just have no smell or
16 anything like that?

17 A I remember a faint smell of alcohol on him.

18 Q Okay. Now, I'm not asking you what he said.

19 A Uh-huh.

20 Q But did he give you a voluntary statement?

21 A Yes, sir, he did.

22 Q All right. Did he resist you in any way or be
23 evasive?

24 A None whatsoever.

25 Q Is it safe to say he was cooperative with you?

Joseph Bohon
Direct examination by Mr. Hall

1 A Yeah, he was cooperative with me. As far as evasive,
2 I really couldn't say knowing that because from initially
3 speaking with him to later on --

4 Q Now --

5 A -- he changed.

6 Q But he told you his -- and I'm not asking you to say
7 what he said -- but he told you his theory of what
8 happened. He told you what -- from based on him what
9 happened that day.

10 A Exactly. He told me his side of the story, yes, sir.

11 Q Okay. Now, do you know if -- you're aware the vehicle
12 was found --

13 A Yes, sir.

14 Q -- in Una.

15 A Yes, sir.

16 Q Do you know if any investigation was done to see if
17 there were any witnesses to that, where the car was found?

18 A Yes, yes. There was.

19 Q What was done?

20 A Actually deputies checked the area and talked to
21 residents nearby and several -- actually an investigator
22 was out and went to the Big Bear and asked them did they
23 see anybody driving that vehicle. And all the witnesses
24 they spoke with at a residence nearby and also at the
25 convenience store nearby, no one saw anything, because we

Joseph Bohon
Direct examination by Mr. Hall

1 were actually hoping from the store nearby we might be able
2 to obtain a video of someone driving or something like
3 that. But nobody -- no witnesses in the area actually seen
4 anybody driving the vehicle.

5 Q You're aware of where the car was found, aren't you?

6 A Yes, sir.

7 Q Did anybody talk to people from the church?

8 A There was nobody at the church. I realize it was
9 Sunday. I don't know what day they hold church there, but
10 there was absolutely nobody at that church. Nobody was in
11 front of the church; nobody was beside the church; nobody
12 was behind the church; nobody was inside the church
13 cleaning. It was totally vacant looking.

14 Q Okay. And when was the church vacant? What times was
15 the church vacant? I don't see any of that in my
16 discovery. That's why I'm asking.

17 A Just bear with me for a minute.

18 Q Take your time.

19 (Pause.)

20 A I arrived at the -- at the hospital at 4:25 p.m.
21 Shortly after being at the hospital I was notified by the
22 deputies they had located the vehicle. Okay. So that
23 would have been between 4:30 and 5:00 o'clock. So me and
24 Mr. Joslin actually drove to the scene where the vehicle
25 was recovered at. And so that's going to be around 5:00 or

Joseph Bohon
Direct examination by Mr. Hall

1 5:30. I brought him back to his house and dropped the
2 vehicle off. And at 7:45 is when I showed the victim the
3 lineup. So it had to be between 4:30 and 7:45. I was
4 notified shortly after 4:30. So around 5:00 or 5:30 I was
5 out there with the vehicle and it was recovered.

6 Q All right. If memory serves me correct, Sergeant
7 Piggins said it was 5:21 when you found the car.

8 A That's right.

9 Q Okay. Does that sound right?

10 A Between 5:00 and 5:30, yes, sir.

11 Q All right. Do you know when the car was released to
12 the owner -- when the car was released to the owner, what
13 time?

14 A It would have been around 5:30.

15 Q Okay. So go back to my original question. At what
16 time did somebody try to -- you or another investigator or
17 officer try to talk to anybody from the church to see if
18 anybody had seen anything?

19 A At around 5:30. When I -- this is a pretty serious
20 case. And when I got out there there must have been seven
21 or eight black-and-whites out there. There was a couple of
22 more investigators out there because they heard the call on
23 the radio. And they were all canvassing the area, so.

24 Q Okay. This is -- this community where the car was
25 found is technically Una, isn't it?

Joseph Bohon
Direct examination by Mr. Hall

1 A Yes, sir.

2 Q But you go a few blocks and you're in Saxon.

3 A Yes, sir.

4 Q Is it safe to say that's not an area -- those aren't
5 areas that you have a lot of cooperation from the citizens?

6 A That's a true statement.

7 Q Okay. And that's why you go out and ask questions, is
8 that correct? People aren't going to come to you. You
9 have to go to them.

10 A Oh, exactly, yes, sir.

11 Q All right. Now, you say the residents, some people,
12 went around to the residents -- some officers. You're
13 talking about the trailers around there?

14 A Yes, sir.

15 Q The trailer park?

16 A Yes, sir.

17 Q I think across the street and up the street there's
18 some homes. Is that what you are talking about?

19 A There's some what, now?

20 Q Homes. You know, houses where people live.

21 A Yeah. Behind the church is the post office. In front
22 there's a line of mobile homes. And past the mobile homes
23 is where you have the convenience store. I'm just saying
24 that I know that I was advised by deputies on the scene the
25 mobile homes were canvassed and the store behind the homes

Joseph Bohon
Direct examination by Mr. Hall

1 was canvassed. I'm not sure about the houses and homes
2 further down.

3 Q This is State's Exhibit 16. If you need to step
4 down -- I don't know if you can see it from there.

5 (Whereupon, the witness left the stand.)

6 Q I'm not sure how to focus that. It looks a little out
7 of focus. But where I'm pointing right here, that's where
8 the vehicle was found, right?

9 A Exactly.

10 Q And then you have trailers behind it. Looks like
11 trailers all around there.

12 A Yes, sir.

13 Q And then some other buildings across the street. I
14 believe some of those look like possibly residences, but
15 are you aware of what --

16 A To my knowledge just the ones immediately around the
17 vehicle where deputies actually went out there to canvass.
18 I'm not exactly sure they went across the street, but I
19 know the four mobile homes that you could stand there and
20 have a clear sight of the vehicle, I know that they were
21 checked, or at least that's what I was told.

22 Q Do you know who checked them?

23 A No, sir, I do not. I know Deputy Fraley got there.
24 Ming and Woody was out there. Like I said, this was a
25 pretty big incident, and there was a lot of deputies out

Joseph Bohon
Direct examination by Mr. Hall

1 there.

2 Q Okay. Thank you. You can have a seat.

3 (Whereupon, the witness returned to the stand.)

4 Q You mentioned Deputy Fraley. He's the K-9 officer
5 also?

6 A Yes, sir.

7 Q And is his dog a tracking dog?

8 A Yes, sir.

9 Q All right. Do you know if he tried to cast or
10 whatever you call it to see if they could find anything
11 around the car or where the person went?

12 A Honestly, I do not remember that.

13 Q You don't remember. All right. But if you have a
14 tracking dog there it wouldn't be unusual. I mean, the dog
15 could have been used. I'm assuming he had his dog with
16 him. If he had his dog with him --

17 A Yeah. I'm pretty sure he had his dog with him. I'm
18 not familiar with how tracking dogs work. I know that a
19 lot of times in an area with high foot traffic, which Una
20 is a high-foot-traffic area, lot of times they won't
21 attempt to do a track.

22 Q Okay. Now, you are aware that there was some swabs
23 taken from the ignition or ignition key and steering wheel.

24 A Yes, sir. I was aware of that.

25 Q And were you aware that no tests were done on those?

Joseph Bohon
Direct examination by Mr. Hall

1 A I became aware of it a few minutes ago when the lady
2 testified and said that there was no test done on it.

3 Q Now, had you been aware of that prior would you have
4 asked for an analysis?

5 A I thought that was the whole reason to send it down,
6 was for the analysis done. To my knowledge one was being
7 done.

8 Q Were there any -- do you know if any other evidence
9 was collected from the vehicle other than those swabs?

10 A There was no evidence collected from the vehicle. The
11 vehicle was photographed, it was dusted for prints, and it
12 was swabbed.

13 Q Prints reveal nothing?

14 A No prints.

15 Q No prints. All right. Let's go back to the time you
16 were with Mr. Lance at the sheriff's department. Do you
17 recall how long of a period of time that was?

18 A Are you talking about the time he walked into
19 investigations or the time it took --

20 Q 11:23 or whatever when you first saw him. How long
21 were you with him?

22 A How long was I with him? I was with him roughly from
23 1:25 a.m. in the morning until 3:00 a.m. in the morning, so
24 roughly an hour and a half, two hours.

25 Q So roughly 1:30 to 3:00 a.m. That'd be about an hour

Walter Monroe Lance
Direct examination by Mr. Hall

1 and a half. Did he answer any questions you asked him?

2 A Yes, he did.

3 Q Cooperative?

4 A Yeah.

5 MR. HALL: Beg the Court's indulgence.

6 (Pause.)

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

8 MR. BARNETTE: One second, Your Honor.

9 (Pause.)

10 MR. BARNETTE: I have no questions of this witness,
11 Your Honor.

12 THE COURT: All right. You may step down.

13 MR. HALL: Your Honor, the defense would call Walter
14 Lance.

15 WALTER MONROE LANCE, having
16 been first duly sworn, testified as follows:

17 DIRECT EXAMINATION BY MR. HALL

18 Q All right. Walter, if you would, give us your full
19 name.

20 A Walter Monroe Lance.

21 Q And prior to this you were residing on Front Street?

22 A Yes, sir.

23 Q Who were you living with?

24 A My -- my daughter and her friend and her aunt and
25 three little kids.

Walter Monroe Lance
Direct examination by Mr. Hall

1 Q Okay.

2 A And my grandson.

3 Q Now, back in October of last year were you employed?

4 A No, sir.

5 Q What did you do for a living?

6 A Well, I had just got out of prison, and I'd only been
7 out like 17 days, and I didn't have a good chance of
8 getting into nothing. Because my daughter, she was in the
9 process of having to move from her apartment into -- moving
10 in with her friend.

11 Q And that friend lived at Front Street,
12 Street, or thereabout?

13 A Yes, sir.

14 Q All right. What did you do to eat?

15 A Well, I mean, I went to the soup kitchen most of the
16 time.

17 Q Okay. If you would, tell the jury where the soup
18 kitchen was.

19 A It's uptown on -- I don't know the name of the street.

20 Q Is this the soup kitchen that's at Second Presbyterian
21 Church?

22 A Yes, sir.

23 MR. BARNETTE: Your Honor, I object to leading the
24 witness.

25 THE COURT: Okay. Don't lead him.

Walter Monroe Lance
Direct examination by Mr. Hall

1 MR. HALL: Yes, sir.

2 BY MR. HALL

3 Q All right. Is that soup kitchen far from this
4 courthouse?

5 A No, sir.

6 Q All right. And did you go there every day?

7 A Pretty much.

8 Q Tell the jury how that works, the soup kitchen.

9 A Okay. You go up about lunchtime, which is about
10 11:00 or 11:30. It depends on -- sometimes they have
11 different times of opening, just a random thing.

12 It's like Monday through Sunday. You go up and just
13 get in line and then you just go in and get something to
14 eat. And, you know, pretty much that's basically about it.

15 Q Okay.

16 A They give you like food or blankets or something
17 before you leave, or whatever.

18 Q And how did you get to the soup kitchen?

19 A I walked.

20 Q You walked.

21 A Yes, sir.

22 Q All right. From down here on Front Street?

23 A Yes, sir.

24 Q In Saxon?

25 A Yes, sir.

Walter Monroe Lance
Direct examination by Mr. Hall

1 Q All right. You said it was Monday through Sunday.

2 Isn't that all week every day?

3 A Yes, sir.

4 Q Okay. How long did it take you to go from Front
5 Street to the soup kitchen?

6 A About 40 or 45 minutes.

7 Q Tell the jury what path you would take to get there.

8 A I leave off Front Street. I go down. I go up by the
9 fairgrounds. I hit Howard Street. I go down Howard Street
10 to the -- to the red light, is where the funeral home is.

11 I take a left and go up to the red lights on whatever
12 the street is that runs down through there and walk down
13 straight to the kitchen.

14 Q So you're talking about the street in front of the
15 courthouse -- pointing?

16 A Yeah. When you go out across the railroad tracks,
17 take that left.

18 Q In the time that you were living on Front Street did
19 you go there every day or almost every day?

20 A Almost every day.

21 Q Okay. Now, you were arrested on this charge on the
22 31st of October, correct --

23 A Yes, sir.

24 Q -- of last year? Do you remember what happened on the
25 30th of October?

Walter Monroe Lance
Direct examination by Mr. Hall

1 A Yes, sir.

2 Q Tell the jury what happened that day.

3 A Yeah. I left. I left my -- my daughter's house about
4 10:00 o'clock that morning. I walked up to the soup
5 kitchen. I got there about 10:45, I guess. I stood around
6 and talked to some people here and there about 20 or 25
7 minutes, I guess.

8 They opened the door and everybody rushed in to get in
9 line. I was talking to a lady named Debra -- Debra
10 Johnson. I just talked briefly maybe five or six minutes
11 maybe, you know. And as we go throughout talking she
12 walked off.

13 And as I started to step off the little step, you
14 know, on the edge of the parking lot a silver SUV pulled in
15 and the lady said, "Excuse me. What is this place?" I
16 said, "It's the soup kitchen, a place where you get
17 something to eat."

18 And she said, "Well, you know." We just started
19 talking, you know, like she asked me. She said something
20 about what time do they open or something. I'm not really
21 exactly sure actually what that was.

22 But, anyway, we started talking. And she asked me
23 what I was doing later, and I said nothing. She said, "Do
24 you want to meet me over at Milliken to walk my dog?" And
25 I said sure. I said but I'm going to get something to eat

Walter Monroe Lance
Direct examination by Mr. Hall

- 1 first. She said all right. I ate.
2 Q Hold on. You're talking about she, the lady that
3 pulled up.
4 A Yes, sir.
5 Q Have you seen that lady during this trial?
6 A Yes, sir.
7 Q Who was it?
8 A It's that lady right there.
9 Q All right.
10 A Right there.
11 Q The lady that's accusing you in this.
12 A Yes.
13 Q All right. Kerstin Joslin-Venus.
14 All right. What happened after y'all talked?
15 A Let's see. I went in. I ate. I told her I was going
16 to go ahead and eat first.
17 Okay. I went in and I ate. I left and I came out. I
18 started walking. I walked over to Milliken. I arrived. I
19 don't know what time it was I arrived over there because I
20 don't have a watch.
21 Q All right. Tell me, tell the jury -- excuse me --
22 what -- how you got to Milliken.
23 A I walked.
24 Q I mean tell them the path, the pathway you went to get
25 there.

Walter Monroe Lance
Direct examination by Mr. Hall

1 A Okay. I went straight. Once I came out of the
2 food -- the kitchen, right, I took a right and walked
3 straight down to Asheville Highway, walked down Asheville
4 Highway to the ballpark across the street from Cleveland
5 park.

6 I took a right. I come up by the -- by the ballpark,
7 came straight up to California Avenue, walked down
8 California Avenue to -- straight to California Avenue.

9 I went down California Avenue. I crossed the 176
10 bridge, took a left on Milliken Road and walked straight
11 down Milliken Road.

12 Q So you didn't have a watch?

13 A No, sir.

14 Q All right. Do you have an estimate of what time you
15 left the soup kitchen?

16 A No, sir.

17 Q Did -- I assume you ate.

18 A Yes, sir.

19 Q You wanted to eat. Did you talk with some people
20 before you left, or did you just eat and leave or what?

21 A Just ate and left.

22 Q All right. Now, I think some of the witnesses
23 testified it was a beautiful day.

24 A Well, I mean, about 10:00 o'clock in the morning when
25 I first left the house it was cold, okay, or cool rather.

Walter Monroe Lance
Direct examination by Mr. Hall

1 It wasn't cold. It was kind of cool.

2 So I put my coat on. And later on about I guess
3 lunchtime it started warming up a little bit, but it was
4 still breezy, you know, kind of cool. Air was kinda
5 blowing. But it was a nice day.

6 Q Right.

7 A Because it had been raining like a couple of days
8 before that. It just kept raining every day.

9 Q Sun shining?

10 A Yeah.

11 Q All right. I know you didn't have a watch on. But
12 can you estimate how long it took you to walk to Milliken
13 from the soup kitchen?

14 A Forty-five minutes, maybe an hour, give or take.

15 Q All right. Now, what happened when you got to
16 Milliken?

17 A I walked to -- I walked up to the big pond where the
18 ducks is, where the water comes off the red little
19 waterfall. I walked up there.

20 I walked around, because I didn't see her car when
21 I -- when I first walked up, you know. I walked up to
22 the -- to the duck pond, walked around the pond a little
23 bit.

24 I turned around, and I said, "well, I guess she's not
25 going to show."

Walter Monroe Lance
Direct examination by Mr. Hall

1 So I turned around and started walking back down. As
2 I got back down towards the bottom of the end as you start
3 to get to the end of the parking places I stepped onto
4 the -- to the curb. And she pulled up. And she said beep.
5 So and then I recognized the car.

6 Okay. So I walked over to the car. I opened the door
7 for her to get out. She asked me would I get the dog out
8 of the car. She gave me the key for the -- for the hatch.
9 I opened the hatch. I got the dog out. I put a black
10 strap on the dog. We got the dog out and started walking.

11 Q Now, you saw that picture of Milliken we had --

12 A Yes, sir.

13 Q -- that's an aerial photograph.

14 A Yes, sir.

15 Q I think there's some testimony that up towards
16 California Avenue -- is that where you're saying you saw
17 her?

18 A Yes, sir.

19 Q All right. If I can, this is State's Exhibit No. 2.
20 Can you see that? You can step down here.

21 THE COURT: Please be careful of that microphone.

22 THE WITNESS: Yes, sir.

23 (Whereupon, the witness left the stand.)

24 Q Step right here where you can see.

25 Now, are you -- is this the area you were talking

Walter Monroe Lance
Direct examination by Mr. Hall

1 about?

2 A Yes, sir.

3 Q All right. Now, she testified she parked in this area
4 right here.

5 A Yes, sir.

6 Q Is that what you recall?

7 A Yes, sir.

8 Q All right. Have a seat.

9 (Whereupon, the witness returned to the stand.)

10 A Because I was walking down through here.

11 Q All right. Now, you have on glasses today. Were you
12 wearing glasses that day?

13 A No, sir.

14 Q Did you wear glasses then?

15 A I didn't have them on that day. I usually -- every
16 now and then I wear them, because if the sun is out I don't
17 wear them because they magnify like -- like if the sun hits
18 them, it blinds you, you know.

19 Q Do you have bad eyesight?

20 A Yes, sir.

21 Q How -- how were you able to walk around and go places
22 without your glasses on?

23 A If like at a distance like from here to that wall or
24 whatever, something big, it's no problem. Something small
25 like this or like this, it's -- basically it's invisible.

Walter Monroe Lance
Direct examination by Mr. Hall

1 I had -- I used to trim, top trees when I was younger,
2 and I had a pine tree snap back, and it busted open right
3 here, my eye right here, and done nerve damage to my eyes.

4 So when I -- when I don't have my glasses on
5 everything is just like a -- like a blur. But it's -- I
6 mean, I can see, but as far as making you out --

7 Q Would you recognize me without your glasses on at this
8 distance if I wasn't talking?

9 A No, sir.

10 Q Okay. Taking about three steps up. Would you
11 recognize me now?

12 A A little bit closer. Yes, sir.

13 Q Okay. Now, I've asked a few people that testified
14 about any injury to you. Did you have any injury to your
15 hands?

16 A Yes, sir.

17 Q Which hand?

18 A My right hand.

19 Q Hold your hand up and show. And what was that injury?

20 A It's -- they took 12 stitches, barbwire fence.

21 Q All right. How well does your hand work?

22 A Just that right there as far as I can open.

23 Q Can you close your hand?

24 A Right there.

25 Q The whole hand, not just that.

Walter Monroe Lance
Direct examination by Mr. Hall

1 A No. Just right there.

2 Q All right. Now, you said you walked back down here
3 and you said she pulled up, got out and you put the dog on
4 the leash. What happened then?

5 A Yeah. We started walking the dog. We crossed. We
6 got out and we started walking right up through here.

7 Q There?

8 A Yeah. We crossed the little -- right there by that
9 little pond, there's a little -- looks like a little --
10 maybe a little sandbar bridge or thing like a little dirt
11 bridge or something right there.

12 As we got to the -- around to the side of it right
13 there, because it's real shallow. It's probably maybe that
14 deep. It's almost dried up at the time. And there was a
15 little old duck playing in the pond. And we started
16 talking about the duck, because the dog was, you know,
17 playing like he wanted to play with the duck or something,
18 I guess. So we just started talking.

19 And she said, "I don't usually talk to strange people,
20 you know, strange men or -- or -- or mess with strange
21 men." I said, "Well," I said, "You know I don't." She
22 said -- well, then she said, you know, she don't, you know,
23 she don't even talk to strange men. She don't talk to
24 them.

25 Q If you will, speak up for the court reporter.

Walter Monroe Lance
Direct examination by Mr. Hall

1 A Okay. She said she don't usually talk to strange men
2 or mess with them. And I said well.

3 So we started talking about the duck and the dog
4 again. And let's see. She was like standing like right
5 here to my right, right, because I got the dog with my
6 left, the thing right here, you know.

7 And she's standing here talking to me, and she started
8 kissing me right on the back of the neck. So I turned
9 around and I said -- she said, "Do you want to do
10 something?" I said sure or yeah, something to that.

11 And then she said, "Well, we can't do nothing in
12 my" -- I said -- she said, "We can't do it in my -- in my
13 Jeep," or I think she said Jeep.

14 Anyway, I said, "Well, we can go in the woods." She
15 said all right. So we went in the woods. We had sex.
16 After she -- after we had sex --

17 Q Hold up. Where did that happen?

18 MR. BARNETTE: Your Honor, I'd ask him not to lead the
19 witness. Let him show on the map.

20 (Whereupon, the witness left the stand.)

21 A We walked over.

22 Q Step back this way and you can point.

23 A We walked. Once we left right here --

24 Q Put your -- make your hand the pointer like my finger
25 is.

Walter Monroe Lance
Direct examination by Mr. Hall

1 A Okay. We left right here and walked out, come up
2 through here. And it was somewhere's right in here.

3 Q Okay.

4 A Right in here.

5 Q All right. You can take your seat.

6 (Whereupon, the witness returned to the stand.)

7 Q All right. Did this happen back in the woods or on
8 the path, or where?

9 A This is in the woods.

10 Q All right. Were those -- is it dense, very -- a lot
11 of trees or, you know --

12 A Spaced out.

13 Q Okay.

14 A But we walked up in it a pretty good piece.

15 Q Where was the dog?

16 A With us.

17 Q Okay. All right. And what happened afterwards?

18 A She said -- after we had sex, it was like a minute or
19 so. She just looked at me. She said -- she said, "I feel
20 nasty." She said -- I said, "Well, I feel violated." She
21 said, "Get the F away from me." She said, "I'm calling the
22 cops."

23 So I just stood up and I just looked at her, you know.
24 I said all right, all right. So I just backed away, you
25 know.

Walter Monroe Lance
Direct examination by Mr. Hall

1 I turned around and I just walked off, you know. And
2 the little dog, he just -- he wanted to go with me, you
3 know. And she called the dog back. He went back. And
4 I -- I walked on back home. And so when I went home I -- I
5 told my daughter about what happened, you know.

6 Q How did you leave the park? What route did you take?

7 A I left, went straight back down to California Avenue,
8 walked back up to the red lights and back down by the ball
9 field, I mean, back down to -- what's the name of the
10 street? When you go up California Avenue and then you take
11 a left -- I don't know the name of the street, but it's the
12 same way I went when I walked over.

13 Q Same way you got there?

14 A Yeah.

15 Q All right. And did you go back to the soup kitchen,
16 home, or where?

17 A No. I walked straight back home.

18 Q Okay. Do you have any idea how long that took?

19 A About -- about maybe 45 minutes to an hour.

20 Q Okay. Let me ask you, Walter. Prior to going to the
21 soup kitchen had you had anything to drink alcoholic?

22 A No, sir.

23 Q No beer, wine or anything.

24 A No, sir.

25 Q After the soup kitchen did you have anything to drink?

Walter Monroe Lance
Direct examination by Mr. Hall

1 A No, sir.

2 Q Okay. I believe this was a Sunday, right?

3 A Yes, sir.

4 Q Now, after you left Milliken Park and went home did
5 you have anything to drink?

6 A About 7:00 o'clock.

7 Q And where were you when you got something to drink?

8 A At a friend's. Me -- when I went home my daughter --
9 it was me, my daughter, her friend Jessica, the --
10 Jessica's two little kids -- three little kids. She's got
11 two little girls and a little boy -- and my daughter's
12 little boy, my grandson, and Jessica's brother.

13 We walked down. We was going to the park right down
14 below their house to take the kids down there. And as we
15 went down to the road she saw a friend of hers standing
16 out. Maybe it was like four or five people standing out in
17 the yard.

18 So they started waving at her. So we started -- so we
19 walk up here to see her friends, right. So we walk up
20 there and says -- Aunt Brandy [sic], says -- we start
21 talking, you know, and she introduces us.

22 He said, "Do you want a beer? Sure." So we're
23 standing around and we're talking. And we drink like
24 three -- three beers. And this is 7:00, 7:30.

25 Q All right. Did you return back home or go anywhere?

Walter Monroe Lance
Direct examination by Mr. Hall

1 A Yes. Once we left there we went back home. We never
2 did go to the park, because we just stood there, and it got
3 dark. So we didn't go to the park.

4 Q All right. Did you have anything else to drink that
5 evening?

6 A No, sir.

7 Q Do you remember when you went to bed?

8 A About 10:00.

9 Q Now, you heard the deputy testify that he came to that
10 house and asked for you.

11 A Yes.

12 Q And do you recall that?

13 A Yes.

14 Q What he said pretty much what happened, you just went
15 to them?

16 A Yes, sir.

17 Q All right.

18 A He knocked on the door, and I said -- I said, "who is
19 that?" And excuse me.

20 Jessica's brother opened the door, and the officer
21 said, "I'm looking for -- I need to speak with Walter
22 Lance." And I said, "That's me." And he said, "Who are
23 you?" I said, "I'm Walter Lance." He said, "You got some
24 I.D.?" I said, "Yes, sir."

25 So I put my pants on and got my I.D. out. I handed it

Walter Monroe Lance
Direct examination by Mr. Hall

1 to him, and he looked at it. He said, "I have an officer
2 that wants to -- would like to talk to you about an
3 incident." I said sure.

4 He said, "It's raining outside." He said, "You might
5 want to put your jacket on." I said okay. I said, "Just
6 wait one second." So I put my jack -- I put my shirt on.
7 I put my jacket on. I put my shoes on. I put my glasses
8 on. We went out.

9 He had another -- officers out there. I got his -- he
10 said, "Just go with this gentleman here." I got in the car
11 with him. He put the cuffs in front of me. We went to
12 the -- to the sheriff's department, and I spoke with
13 Officer Bohon.

14 Q And did you tell, relate the same thing you've told
15 the jury here today?

16 A Yes, sir, yes, sir.

17 Q All right. Did you force her to do anything?

18 A No, sir.

19 Q Did you take her car?

20 A No, sir, I didn't take no car. I don't even drive.

21 Q Could you have seen to drive if you had taken the car?

22 A No, sir, no, sir. I ain't drove a vehicle since about
23 ninety -- '98, probably '98 -- '98, '97, somewhere along in
24 there.

25 Q Do you have any knowledge or any idea how her vehicle

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 got over in Una?

2 A No, sir. I also spoke -- she also -- I told her where
3 I lived -- I told her where I lived. When he was talking I
4 told her where I lived and who I was.

5 You know, she told me who -- she told me her name was
6 Donna. I don't remember what she said her last name, you
7 know -- what her last name was. But she told me her name
8 was Donna.

9 She said she worked at Milliken. Said she had some
10 kids. That's why I told her I lived with my daughter on
11 Front Street.

12 Q All right. Walter, please answer any questions the
13 state may have.

14 A Yes, sir.

15 THE COURT: Mr. Barnette.

16 MR. BARNETTE: Thank you, Your Honor.

17 CROSS-EXAMINATION

18 BY MR. BARNETTE

19 Q Mr. Lance, you've seen these pictures that we
20 presented to the jury, is that correct?

21 A Yes, sir.

22 Q So she did this to herself?

23 A I don't know how she did it.

24 Q You realize that's the imprint of her jacket on her
25 neck --

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 A Yes, sir.

2 Q -- where it was squeezed so hard. Next day. That's
3 State's Exhibit 10. State's Exhibit 14. That's the way
4 her neck looked the next day. She did that to herself?

5 A Well, sir, do you think I did it?

6 Q Yes, sir.

7 A Well, I didn't.

8 Q You keep talking about your glasses. You can't see
9 anything without them is what you say, is that right?

10 A Pretty much.

11 Q Well, how could you see where she was coming? How
12 could you see where she was from a distance if you can't
13 tell with Robert Hall standing right here in front of you
14 like this?

15 A Listen to me. Didn't I just tell you that when she
16 pulled up she said beep, she blowed the horn?

17 Q No. But you looked all the way up and down that road,
18 huh?

19 A I walked all the way to the pond and came back down.
20 I walked all the way up the side of the road, Mister.

21 Q And now you say it took you 45 minutes to an hour to
22 walk back to your house. But it took 45 minutes to an hour
23 to walk to the soup kitchen and 45 minutes to an hour to
24 walk to Milliken. How long did it take you to walk back to
25 Milliken where all of this occurred?

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 A How long did it take me to walk back from Milliken?

2 Q You told this jury that it took you 45 minutes to an
3 hour. But it had to take you longer than that, because
4 it's a longer distance coming back, isn't it?

5 A I'm just guessing it's 45 minutes to an hour. I
6 didn't have a watch.

7 Q Didn't have your glasses either, did you?

8 A No, sir.

9 Q Why didn't you wear your glasses that day? You said
10 the sun --

11 A Because I told you the sun's out. Why didn't you look
12 through them? You think I'm lying, you look through them.

13 Q Well, they look pretty thick to me.

14 A Thank you.

15 Q Well, why would you walk without wearing those unless
16 you thought you was going to get in a fight or attack
17 somebody?

18 A I just told you the sun was out.

19 Q Unless you knew you was going to attack somebody --

20 MR. HALL: Objection, Your Honor.

21 Q But you're testifying you're basically blind without
22 your glasses.

23 A Yes, sir.

24 Q So you just walked out there without glasses or
25 anything else. Unless you was going to get in a fight or

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 something or assault, you would be not wearing glasses,
2 wouldn't you?

3 MR. HALL: Objection, Your Honor.

4 THE COURT: Overruled.

5 BY MR. BARNETTE

6 Q So your reason is because the sun was out that day.

7 A Yes, sir.

8 Q So every day the sun is out you don't wear your
9 glasses?

10 A I don't wear them a lot of times.

11 Q You don't wear them a lot of times.

12 A Yeah.

13 Q Well, how do you see where to go and what to do?

14 A I know Spartanburg. I live in Spartanburg. I lived
15 here all of my life.

16 Q And your testimony is that you walked down -- when she
17 beeped the horn that you walked down and helped her with
18 the dog and she gave you the key and you lifted the
19 hatchback in her van, is that right?

20 A That's exactly right.

21 Q Well, Ms. Wofford saw what happened, didn't she? She
22 saw you sitting on the side of the thing watching people as
23 they came in.

24 A And I didn't sit in no grass.

25 Q Well, obviously you -- a lot of people saw you coming

Walter Monroe Lance
Cross-examination by Mr. Barnette

- 1 there, and she saw you there.
- 2 A Yeah. She saw me walking. She sure did.
- 3 Q So Ms. Wofford did see you there, didn't she?
- 4 A She saw me walking.
- 5 Q You saw her, didn't you?
- 6 A I walked right past her.
- 7 Q You walked past a lot of people that day, didn't you?
- 8 A Yes, I sure did, sir.
- 9 Q And you just stared at them, didn't you?
- 10 A Yes, sir, I did.
- 11 Q So you stared at them.
- 12 A Yes, I did, because I couldn't see who they was.
- 13 Q Just like you couldn't see who she was, could you?
- 14 A No, I couldn't.
- 15 Q And you said she drove up to you at the soup kitchen.
- 16 A Yes, sir.
- 17 Q And she talked to you at the soup kitchen?
- 18 A Yes, sir.
- 19 Q Well, where is these other witnesses at the soup
- 20 kitchen?
- 21 MR. HALL: Objection.
- 22 A The only one that was there that could -- that was
- 23 seen, she waited like three months -- excuse me. She
- 24 waited like three months, and then she said, "well, I don't
- 25 know. I'm not sure. I can't remember."

Walter Monroe Lance
Cross-examination by Mr. Barnette

- 1 Q who is this?
- 2 A That's Debra Johnson.
- 3 Q she's not here to testify, is she?
- 4 A I know. That's why she said. I mean, she says she
- 5 doesn't remember.
- 6 Q And you've been committed a felony, haven't you, sir?
- 7 A Yes, I have.
- 8 Q You've been convicted of four grand larcenies, haven't
- 9 you?
- 10 A Yes, sir.
- 11 Q And two petty larcenies on top of that, isn't that
- 12 right, sir?
- 13 A Yes. This was when I was young.
- 14 Q And you claim this incident occurred closer to
- 15 California Avenue.
- 16 A Up to the -- up in the woods.
- 17 Q Up in the woods.
- 18 A Yes, sir.
- 19 Q And have you had sex in those woods before, sir?
- 20 A No, sir.
- 21 Q So you just went up, and she came up to you. And you
- 22 said, "well, let's go out in the woods."
- 23 A Yeah.
- 24 Q Why didn't you go back to your place? Why didn't they
- 25 go -- why didn't you go somewhere else?

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 A Because -- because that's my daughter's house.

2 Q So your testimony is after this supposedly -- how long
3 did this take? How long did y'all have sex supposedly,
4 what you call sex?

5 A Twenty to 25 minutes.

6 Q Twenty to 25 minutes this happened.

7 A Yeah.

8 Q So y'all just had sex right out there in the woods.

9 A Yes.

10 Q How far was you away from the path?

11 A Probably from here to the glass doors out -- out
12 front.

13 Q The glass doors out front?

14 A Yeah. When you go out of the courtroom back out to
15 the left.

16 Q What was on the ground?

17 A Just leaves.

18 Q Wasn't there people that walked that trail the whole
19 time like Ms. Wofford, everybody else like that?

20 A There's trees that -- that shielded it from the --
21 from the path.

22 Q But you saw several -- I mean, obviously a lot of
23 folks out there that day.

24 A Yeah.

25 Q Why would somebody have sex out there in the middle?

Walter Monroe Lance
Cross-examination by Mr. Barnette

- 1 This is, what, 2:45 in the afternoon, 2:30?
2 A Somewhere along in there.
3 Q Middle of the afternoon, right?
4 A Yeah.
5 Q What was you really out there that day for?
6 A To meet her over there.
7 Q How many times have you went over to Milliken?
8 A That's the first time I've been there since I took my
9 kids over there since they was about that high.
10 Q How long ago was that, sir?
11 A Fifteen, 16 years ago.
12 Q Well, Bob Dunn saw you over there earlier that week,
13 didn't he, the Milliken officer?
14 A No, sir, sure ain't.
15 Q Well, why would you go over there and just walk around
16 and everything and just stare at people the whole time?
17 A Where are you getting this all of the time?
18 Q Well, you at least went there once. Mr. Dunn saw you
19 there.
20 A I've never -- I've never seen Mr. Dunn there. That's
21 the first time I've been there since I -- since my kids was
22 small.
23 Q Your testimony is that's the first time you'd been
24 there that week or that period of time.
25 A That's the first time I've been there, period, in 17

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 or 18 years.

2 Q You've only been in Spartanburg 17 days, right?

3 A Right. And about 14 of it it rained.

4 Q Fourteen of it it rained.

5 A Yeah. Pretty much.

6 Q So there was only three days of sunshine so you --

7 A Pretty much.

8 Q So you wore your glasses the other 14 days, but you
9 didn't wear it the three days because the sun was shining.

10 A No. I never -- I never wore, not when it was raining.

11 Q What's that? You don't wear your glasses when it
12 rains?

13 A No. Why would I?

14 Q When do you wear your glasses?

15 A When I'm trying to read something or like maybe I'm
16 going into a restaurant or something where I'm going to
17 have to see to read.

18 Q Well, let me ask you a question. Isn't it easier to
19 read things when you don't have your glasses on when you're
20 nearsighted?

21 A No, sir.

22 Q You're telling this jury --

23 A Anything small, I have to pull it up like this.

24 Q Well, isn't it easier when you have -- when you're
25 nearsighted it's easier to see it like this without your

Walter Monroe Lance
Cross-examination by Mr. Barnette.

1 glasses?

2 A Let me explain something to you.

3 Q I know. I wear glasses. I wear contacts, sir. I
4 know.

5 So you're saying it's easier to read close-stuff up
6 when your glasses are on with them off?

7 A Yes, sir, yes, sir.

8 Q So how many days do you wear your glasses then?

9 A Most of the time I don't even wear them when I'm in
10 the county jail. Like I say, if I go somewhere like that,
11 no.

12 Q Okay. And this -- her vehicle winds up within
13 walking -- well, walking distance of where you're staying
14 at.

15 A Exactly.

16 Q It's probably around less than a half a mile from your
17 location where you're staying at.

18 A I don't know.

19 Q And your testimony is you didn't take the vehicle.

20 A No, sir. I didn't take the vehicle.

21 Q Let me ask a question. Supposedly when she really got
22 mad at you and was going to call the cops -- wouldn't you
23 think you'd get away as fast as you can? You're not going
24 to stick around to talk to the police officer, are you?

25 A Well, I didn't know she was really going to call the

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 police.

2 Q Well, obviously, she did. You heard the 9-1-1 call,
3 didn't you?

4 A Yeah. I do.

5 Q When you had sex --

6 A Yes, sir.

7 Q -- did you go inside of her?

8 A Yes.

9 Q Did you do something inside of her?

10 A No, sir.

11 Q You did not?

12 A No, sir.

13 Q Why not?

14 A I didn't have a rubber on.

15 Q You said this took 20 to 25 minutes --

16 A Yes, sir.

17 Q -- with people walking right beside there.

18 A Nobody never walked by.

19 Q Nobody never walked. Well, how could you tell?

20 A Because if they'd come by we'd have heard them.

21 Q Did you see the marks on her neck? It's true that she
22 had marks on her neck, isn't it?

23 A That's what it looks like.

24 Q And it's true that you created those marks.

25 A No, sir, it's not. Sir, I never put my hands on that

Walter Monroe Lance
Cross-examination by Mr. Barnette

- 1 woman to harm that woman in no kind of way, none
2 whatsoever. I swear to God I never hurt that woman in no
3 kinda of way. I never harmed that woman.
- 4 Q You just spent a Sunday afternoon out there sitting on
5 the grass. Weren't you?
- 6 A I was never in the grass.
- 7 Q Well, you had to be in the grass at some point.
- 8 A I walked right down beside of the road.
- 9 Q Wasn't it true she was wearing this coat?
- 10 A Yes, sir.
- 11 Q Have you ever touched that fabric?
- 12 A No.
- 13 Q Pretty soft, isn't it?
- 14 A Yeah.
- 15 Q And obviously that's what left the marks on her neck.
16 I'll be glad to show you those pictures.
- 17 A I don't feel at all.
- 18 Q State's Exhibit No. 10.
- 19 A Okay.
- 20 Q Have you seen somebody strangled so hard that they
21 leave marks on a soft fabric like that?
- 22 (No response.)
- 23 MR. BARNETTE: One moment, Your Honor, please.
- 24 (Pause.)
- 25 Q So basically everybody that's testified -- Kerstin,

Walter Monroe Lance
Cross-examination by Mr. Barnette

1 Mr. Dunn, Ms. Wofford -- everything they've testified to is
2 wrong. Is that what you are saying?

3 A If they're saying I hurt that woman in any kind of
4 way, yes, sir.

5 Q No. I didn't ask you that. I asked you what they
6 testified to. You're saying everything they testified is
7 wrong according to you.

8 A Mr. Dunn, yeah.

9 Q Ms. Wofford?

10 A Yeah.

11 Q And Kerstin.

12 A Yes.

13 Q They're all wrong.

14 A Yes, sir.

15 Q And you're right.

16 A Yes, sir.

17 Q Even though this truck winds up right near where you
18 live at.

19 A I didn't put it there.

20 Q You didn't put it there.

21 A No, I didn't put it there.

22 Q Pretty coincidence it's right there.

23 A I didn't put it there. I swear I didn't put it there.

24 Q You're swearing to a lot of things.

25 A No, I ain't swearing to a lot of things. I'm swearing

Walter Monroe Lance
Cross-examination by Mr. Barnette.

1 to two things that I'm telling the truth on. I didn't take
2 that woman's vehicle and I didn't hurt that woman.

3 Q You just raped her, didn't you?

4 A No, I didn't.

5 MR. BARNETTE: Thank you, Your Honor.

6 MR. HALL: No redirect, Your Honor.

7 THE COURT: You may step down.

8 THE WITNESS: Thank you, sir.

9 THE COURT: All right. Ladies and gentlemen, we're
10 going to recess for lunch.

11 I'll remind you again of the instruction I've given
12 you previously. You're to have no discussions about the
13 case. You're to have no exposure to any type of media
14 coverage that might relate to the case. You're to do no
15 research or conduct any sort of investigation.

16 Do have a good lunch, and please report to your jury
17 room at 2:30, at 2:30 this afternoon. Have a good lunch.

18 If you will, take those pads back to the jury room,
19 and put them in an envelope. And you can just leave them
20 in the jury room, will be fine.

21 (The following takes place outside the presence of the
22 jury.)

23 THE COURT: Court is in recess until 2:30.

24 (Whereupon, a recess was taken.)

25 THE COURT: Mr. Hall, do you have any other witnesses

1 you're going to call?

2 MR. HALL: No, sir, Your Honor. The defense intends
3 to rest.

4 THE COURT: Is the state going to have any reply?

5 MR. BARNETTE: No, sir.

6 THE COURT: Do y'all want to renew your notions?

7 MR. HALL: Yes, sir. I'd renew my motion for a
8 directed verdict based on the evidence now, that's all
9 that's been presented -- the lead investigator and my
10 client -- for the lack of evidence which the jury can find,
11 reasonably find, my client guilty beyond a reasonable doubt
12 of any of these offenses.

13 THE COURT: All right. Is the state agreeing to
14 dismissal of count one, proceeding on counts two, three and
15 the kidnapping indictment?

16 MR. BARNETTE: Yes, sir. I think the assault with
17 intent to commit C.S.C. occurred, because our position is
18 the C.S.C. never was finished from that standpoint.

19 So I believe I can go forward on counts two, three and
20 four, which is also the kidnapping and the common-law
21 robbery, Your Honor.

22 THE COURT: Do either of you have any requests for
23 instructions?

24 MR. BARNETTE: None from the state, Your Honor. Your
25 general charges will be fine with us.

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1 MR. HALL: The same. The same here, Your Honor.

2 THE COURT: All right. Bring the jury in, please,
3 sir.

4 (The following takes place in the presence of the
5 jury.)

6 THE COURT: Good afternoon, ladies and gentlemen.

7 As you know, when we recessed the defense was in the
8 midst of their presentation.

9 Mr. Hall, does the defendant wish to call any
10 additional witnesses?

11 MR. HALL: No, sir, Your Honor. The defense rests.

12 THE COURT: Does the state have any reply evidence to
13 present?

14 MR. BARNETTE: No, sir.

15 THE COURT: All right. Ladies and gentlemen, that is
16 all of the testimony or evidence to be offered in the trial
17 of this case; and therefore what remains to be done are the
18 lawyers' final summations, after which I'll instruct you on
19 the law. Then you can begin with your deliberations.

20 So please give the lawyers your attention now as they
21 give you their final summations.

22 Mr. Hall.

23 MR. HALL: May it please the Court. Solicitor.

24 Mr. Foreman, members of the jury, I again want to
25 thank you on behalf of myself and my client and everyone in

closing arguments

1 spartanburg for your service here today, because we could
2 not conclude this case, we could not have tried this case
3 had you not been here.

4 As I told you in my opening comments yesterday, your
5 job is very important. You decide the case based on what
6 is presented during the trial.

7 I told you several times I believe that the burden of
8 proof through the evidence, through the testimony, that you
9 have is on the state to prove Mr. Lance guilty beyond a
10 reasonable doubt.

11 Now, some of you took notes. All of you paid
12 attention. You know what was presented here and what was
13 said. You know what the testimony is.

14 You notice we didn't contest, ask many questions even
15 of the people in the chain of custody, people who tested
16 things. We're not contesting that at all.

17 The issue here is a charge of assault with intent to
18 commit criminal sexual conduct, kidnapping, and strong arm
19 robbery -- taking someone with intent to commit a criminal
20 sexual conduct. You understand what that is. Confining
21 that person -- kidnapping that person. And by force or
22 threats of force, taking property of another, what he's
23 charged with. That's what charges he's facing.

24 There are some things in the cases that we can agree
25 on. Like I said, we didn't contest the chain of evidence,

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1 put the people in and go with it, because he was there.

2 Both of these parties were there, Milliken Park, on Sunday
3 afternoon, October 30th of 2011.

4 There was some contact between them. We don't contest
5 that. The D.N.A. they did shows that. Never contested
6 that. Before the D.N.A. was there, before it was tested,
7 Mr. Lance never contested that. He was there. There was
8 contact.

9 But we don't know exactly what happened, and that's
10 why we have a trial. That's what the state is supposed to
11 prove to you beyond a reasonable doubt, is what happened.
12 On one hand, I was attacked. The other hand is consensual.

13 Now, we have Milliken Park on a pleasant Sunday
14 afternoon. Not hot. Cool weather, nice weather. A lot of
15 people are there. I think the term was tons of people
16 there was used at one point. But a lot of people there.

17 Ms. Joslin-Venus was there to walk her dog. She says
18 she has a 85-pound dog, and she walks the dog. Mr. Lance
19 says he walked the dog with her.

20 She said she was attacked by Mr. Lance. He came out
21 of the bushes. We have the finger -- the choke. We have
22 the pictures where she said she was choked and forced into
23 the woods with an 85-pound dog.

24 I don't care how friendly it is, when its master is
25 attacked it does nothing. He doesn't bark, doesn't bite

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1 the attacker. The dog just sits there.

2 It's released on a leash, and the leash is let go, and
3 it just sits there, versus it was consensual and the dog
4 just sat there.

5 One thing that bothered me from the start in all of
6 the pictures and the testimony and the statement, he jumped
7 out of the bushes. He jumped out of the bushes somewhere
8 over here.

9 There are photographs of the trees, the woods, other
10 photographs. There's not one single photograph of the
11 bushes. He jumped out of the bushes, grabbed me, the dog
12 did nothing and he attacked me. Made sure the dog was
13 there after he jumped out of the bushes.

14 we have no idea where these bushes are. We don't have
15 a picture of these bushes. That's not presented to you.

16 we have the, I guess, a double-edge sword. If it was
17 consensual sex, there was people there. They would have
18 seen it. If it's not consensual and there weren't people
19 there that would have heard a scream and seen what was
20 going on.

21 He supposedly attacks her and forces himself, tries to
22 force himself, on her, takes her car. But he leaves her
23 cell phone. She immediately calls 9-1-1. That's their
24 story.

25 When she went to the security she was upset, and it's

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1 clear on the 9-1-1 tape she was upset. But why is she
2 upset?

3 We have the investigator. And this was a strange
4 case. The lead investigator was called by not the state
5 but by the defense.

6 Investigator Bohon. Nice guy. Known him for years.
7 They basically say we've got a guy who had contact with
8 this woman and her car is within 800 meters. I'm not a
9 good person with meters, but like a half mile or so, less
10 than a half mile or whatever it is. You've got the
11 photograph there showing distances, showing how far away
12 the two locations are. He could walk it. Car, plus
13 proximity to him and to the car.

14 We had testimony or a recording about the samples, the
15 swabs, they took from that car. I believe it's the
16 steering wheel and the ignition switch, the key. Nothing
17 was ever done to it.

18 Now, before any of the testing is done he's given a
19 statement that he testified to today. I didn't take the
20 car. I did have contact with her, but I didn't take the
21 car.

22 That analysis was never done. It was never done. The
23 person at SLED said they didn't ask me to do it. The
24 investigator said I assumed it was going to be done since I
25 sent it down. It was never done.

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1 They couldn't find anybody to talk to at the Baptist
2 church on Sunday evening. They were there until about
3 5:30, 5:20, 5:30, maybe a little longer. It wasn't clear.
4 But nobody at the Baptist church to talk to and say anybody
5 ever seen anything. It was just a canvass of the
6 neighborhood. Not sure who did it.

7 Deputies or deputy. We're not sure who they talked
8 to. Probably those trailers to see if anybody saw who got
9 out of that van. We had a couple of canine units there
10 with tracking dogs. They don't know what happened there.
11 They didn't do anything about that.

12 Walter Lance cooperated. He went with them. We're
13 going to have to handcuff you because other officers are
14 going to transport you because I'm a canine handler, I have
15 a tracking dog.

16 One of them was there that night and one of them was
17 there that afternoon. Handcuffed him. Handcuff him and
18 take him in. He cooperates. Do you want a D.N.A. sample?
19 Swab my cheeks. Cooperated fully. He just didn't admit to
20 committing any crime.

21 He gave them a statement. He gave them his personal
22 identifying, his D.N.A. so they could test it against
23 everything. He didn't have anything to worry about. He
24 cooperated.

25 He committed an assault, a kidnapping, stole the car,

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1 none of the factors -- runs it back. There's no way.
2 First it makes sense. But when you think about it does it
3 make sense that he takes something from a crime scene over
4 closer to where he is? No one sees him on the street. I
5 don't know. We didn't test those swabs. I didn't test
6 those swabs.

7 These type cases are never pleasant for anybody once
8 these charges are made. We have a person who is very upset
9 who made the allegation and very upset afterwards. She's
10 very upset about it. Is she upset that she was attacked or
11 is she upset about what she has done?

12 She's got her injuries. You have the picture -- I
13 forget the technical term -- petechia or something -- taken
14 the next day by her husband, not by the police but by her
15 husband.

16 I don't know how it goes from that to that. Looks
17 like in common, an assault, something, but we don't. But
18 we don't know how it got there. We don't know what
19 happened.

20 Ms. Wofford said she described somebody in this park
21 with tons of people there, a guy in black. Could not pick
22 him out of a lineup. But he looks different today. And
23 we've got pictures of him the way he looked that evening.
24 She couldn't pick him out of a lineup.

25 I don't have the lineup, but she could pick out the

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1 defendant sitting next to the lawyer at the defense table.
2 I don't know if that's who she saw there sitting on the
3 grass.

4 Mr. Foreman, members of the jury, when you go back to
5 deliberate and you look at these things, the people who are
6 everywhere that don't hear a scream or even a bark from the
7 dog -- the dog doesn't bark or attack.

8 The bushes were not photographed. The tests that were
9 not done. The things that were left out. Bushes aren't
10 photographed. Maybe the bushes aren't photographed? Maybe
11 the bushes aren't there. If the bushes aren't there, he
12 couldn't jump out of the bushes.

13 Nothing from him was found in that car. He supposedly
14 takes her stuff, asked her for money, give me a ride to
15 Boiling Springs, give me some money. Takes the car but
16 doesn't take anything out of it. And he goes back to the
17 neighborhood.

18 It doesn't make sense. It doesn't make sense. When
19 you go back there and determine what the facts are you
20 apply it to the law as the judge gives you.

21 If you hesitate to say guilty, if you have a reason to
22 hesitate, that's reasonable doubt. And when you look at
23 these things, ask these questions, talk about this. Why
24 weren't things done? Where are the bushes? Why does the
25 defense call the lead investigator? Where is the K-9 dog

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1 that was there that afternoon? If that causes you think
2 about it, then that's a not-guilty.

3 Now, I don't get to address you again. This is my
4 final time to speak to you. The solicitor's office is
5 going to get up and summarize and make comments on what I
6 said. But it doesn't change the facts. An 85-pound dog
7 does nothing during the attack. We don't have bushes. We
8 have people everywhere that would possibly see a consensual
9 act but they wouldn't hear or see an attack.

10 He cooperated. He gave D.N.A. There's just not
11 enough there. Sounds good to start with, but when you look
12 at it, he didn't take the car. Is that strong arm robbery?
13 They didn't test the things in the car.

14 If it was a consensual act, the dog didn't bark, the
15 dog didn't bite, there are no bushes. Then it's not an
16 assault with intent to commit and it's not a kidnapping.

17 Consider those things, reasonable doubt, and the
18 verdict is not guilty. Thank you.

19 THE COURT: Mr. Barnette.

20 MR. BARNETTE: May it please the Court, Your Honor.

21 Ladies and gentlemen, this comes down to credibility,
22 who do you believe. One thing I thought was very
23 interesting was they make this big deal about the truck,
24 about the van being taken over in the main parking lot,
25 well within walking distance, right there where the

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1 defendant was with the car keys in it, and the purse.

2 Think about it. This is a man that's had a felony
3 conviction. Obviously, he's done larcenies. What's a
4 better way to set somebody up than to put a car in a
5 neighborhood like that and leave the keys and the purse
6 hoping somebody else would pick it up from there?

7 It's kind of interesting. I asked him one question.
8 I asked him, I said did you finish. I didn't ask him that
9 question. I really didn't. There is a reason why I asked
10 that question. He said no, because I didn't have a condom.

11 He did leave something in there. And once he realized
12 it, he had to make up a story, and you heard the story.

13 He talked about not wearing his glasses. Well, if you
14 wear your glasses you keep them with you when you take them
15 off and you put them right back on when you need to. Where
16 did he have the glasses at? They were with him the whole
17 time.

18 But he decided he was going to do something that day.
19 He was looking for somebody at Milliken Park, and
20 unfortunately this lady is the person that went that day.

21 And she goes almost every day to walk her dog. No
22 question about it. You heard Robert Dunn talk about seeing
23 her out there. This is something she does faithfully. She
24 loves her dog. Her dog loves her.

25 He makes a big deal about the dog not barking. Not

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1 every dog does that. A lot of times they'll stay with
2 their person that's with them the whole time. Even when
3 people die they'll stay with them. And that's what Lucas
4 did. He did stayed with her the whole time.

5 That was his sense. He wasn't a mean dog. It wasn't
6 a type of dog to attack people but one that stayed put with
7 the person that they love.

8 They keep talking about some contact. This is more
9 than contact. Just imagine. And you'll have this jacket
10 with you. You'll get to feel that fiber. Squeezed her so
11 hard in that chokehold to leave those marks on her. And if
12 you notice, they're on both sides right here where the
13 surface would go and where the elbow's here. It would
14 press right there where the marks are.

15 You saw what happened the next day, and you've seen it
16 when you've had a bruise. Usually it's much worse a day or
17 two after the bruise comes out. And obviously it shows the
18 force from that trauma in that case.

19 But here is a lady that went out to enjoy her
20 afternoon like she's done numerous times. Goes to Milliken
21 Park like so many people do to enjoy herself, to take a
22 walk with someone she loves, her dog.

23 And here is a man that's just been back in Spartanburg
24 for 17 days. He tells you this cock-and-bull story about
25 the soup kitchen and everything else, that just go out in

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1 the woods and just do it.

2 I can't imagine him attacking somebody in the woods
3 here. I mean, that just shows you how crazy he is doing
4 this kind of attack. If you don't believe this attack
5 occurred listen to that 9-1-1 tape. I'm going to let you
6 listen to it one more time before I sit down. Listen at
7 the emotion in her voice, what she's went through.

8 And he took her keys. He drove away. He's going to
9 leave that van for somebody else to pick up. But here's
10 the problem. He left something in that semen that's called
11 D.N.A. showing that he was there. And you saw the number.
12 One out of 270 trillion. That's a match to him.

13 He's the one that did this, ladies and gentlemen,
14 putting this lady through what she went through and what
15 she's going through today.

16 Like Ms. Poulos told you in that opening, that was
17 definitely her darkest day. Her second darkest day is
18 having to sit and tell you what happened and sit and listen
19 to what that man says happened, living through what she had
20 to go through that day on October the 30th of 2011 in this
21 case.

22 He keeps telling you that he walks all of these
23 places. He couldn't even get the times right. I asked
24 him. I said you said you had all of these people, these
25 ladies, that's talking to these other people. Where are

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1 they? And I'm here.

2 And I asked him. I said Mr. Dunn, Ms. Wofford,
3 Kerstin, they're all wrong? Bob Dunn said he saw him out
4 there earlier that week. Ms. Wofford has got nothing to do
5 with this. She told you exactly what she saw when she went
6 and walked her dogs and she saw him sitting on the grass.

7 She comes back after walking her dogs 45 or 50
8 minutes. And she's a school teacher, somebody that's part
9 of the community too. And she comes back. And she noticed
10 him still there and staring at people, which she says he
11 did.

12 And she said I noticed he quit looking at me and was
13 looking across looking at Kerstin when she got out of her
14 van, taking Lucas out of the van, and started walking. And
15 she noticed him watching as she went over towards the -- I
16 call it like a bridge -- where the dirt was built up.

17 He said that he walked over when she beeped the horn,
18 walked over and helped her. She gets the keys out of the
19 pocket. She didn't see any of that. That's his story.

20 And that's all it is, ladies and gentlemen. It's his
21 story because he knows he's in trouble, because you can't
22 do this. You can't do this in broad daylight in
23 Spartanburg County, not at Milliken Park.

24 This is what we're asking you, ladies and gentlemen.
25 Yeah. They can say there's holes or problems here, but

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1 when it comes down to simple you use your common sense and
2 weigh the credibility of the witnesses in this case.

3 Judge Cole will be telling you about that. And
4 there's no question. You look at every piece of evidence
5 in this case. It points to one conclusion. That man there
6 attacked that lady that day.

7 So the question you have to ask yourself going through
8 here, who do you believe. Do you believe the witnesses you
9 heard -- Ms. Wofford, Kerstin, Ms. Dunn, all the evidence
10 that shows what happened?

11 And you'll have these pictures. You compare the marks
12 on her neck on both sides. She didn't injure herself. And
13 what the next day showed.

14 But people have a right to live their lives the way
15 they see fit, to enjoy life the way they see fit, not to be
16 put under threats, assaults that people like that man over
17 there does.

18 You heard his record. You can use that to weigh his
19 credibility too. He's back 17 days and did this.

20 Nobody deserved what happened to her that day. Can
21 you imagine the terror? You'd give up anything for the
22 person to leave you alone -- your keys, your car, anything.

23 What's even worse though, he tried to set someone else
24 up. He drove back because he knew the police were going to
25 be looking. So he drove over and left it in the parking

Jury charge.

1 lot and left keys in the car hoping somebody else would
2 pick it up. Thank goodness the police found it before
3 someone else did. Somebody may have stolen it, and then
4 got one problem -- potentially. The D.N.A., the evidence
5 and everything showed this man guilty of everything.

6 I'm going to sit down now. This is my last chance to
7 talk to you, but I plead to you the evidence shows what
8 happened to this lady is what she says happened, not what
9 he says happened. And all the evidence supports that.

10 I'm going to play the 9-1-1 tape now. Please listen
11 to it. You don't make stuff up like this. You don't make
12 up stuff. These pictures show what takes place. Thank
13 y'all, ladies and gentlemen. And I ask you for a guilty
14 verdict on all counts.

15 (Whereupon, the DVD was played for the jury.)

16 MR. BARNETTE: Thank you, Your Honor.

17 THE COURT: Let me ask you if you will to turn that
18 light off please.

19 Ladies and gentlemen, you have heard and seen all of
20 the evidence in the case. You've now heard the final
21 summations of the lawyers. And therefore it now becomes my
22 duty and obligation to instruct you on the law that's
23 applicable in the case. Then you'll be asked to go back
24 and begin with your deliberations. Through that process
25 you'll examine the evidence, decide the facts, apply the

Jury charge

1 law and arrive at a fair and just decision in the case,
2 whatever that decision may be.

3 It is your exclusive duty to determine what the facts
4 are. You do that through your own common sense examination
5 and evaluation of all of the testimony and other evidence
6 received during the trial of this case.

7 You 12 jurors alone will decide what weight, value and
8 effect to give to any particular testimony or other
9 evidence in the case.

10 Your sole objective is to simply reach the truth in
11 the matter. And by doing that you will have fulfilled your
12 obligations as jurors, and that is to simply give both the
13 state and the defendant a fair and impartial trial.

14 Now, in this case, as you know, the state through the
15 prosecutor has charged the defendant with four separate and
16 distinct offenses. You're going to be concerned with
17 three.

18 Count one of the indictment is being taken away.
19 You'll be -- count one of the first indictment or the --
20 well, count one of the indictment that has three counts to
21 it, count one you'll not be concerned about. You will be
22 concerned with counts two and three of those indictments.
23 Counts two and three are assault with intent to commit
24 criminal sexual conduct in the first degree and common-law
25 robbery.

Jury charge

1 Then you'll also be concerned with the indictment
2 charging kidnapping. So you'll have three separate and
3 distinct offenses that you are to determine verdicts as to.

4 You will be rendering three separate and distinct
5 verdicts. Your verdicts may be the same; they may be
6 different. That of course will depend upon your
7 determination of fact as it relates to that particular
8 allegation and then your application of the law as that
9 relates to that particular charge.

10 As to all of the allegations and as to each of the
11 charges contained in those indictments the defendant has
12 entered a plea of not guilty. And as I told you, those
13 indictments don't serve any purpose so far as you jurors
14 are concerned.

15 They're not evidence of anything. They're not proof
16 of anything. They don't establish anything. But any
17 person who is charged with a crime that has to come into
18 this court to stand trial comes here by way of that
19 document, the indictment.

20 The indictments, as I say, are not evidence, but they
21 will be in the jury room because they will serve as the
22 verdict forms.

23 Mr. Foreman, you're going to be indicating on the back
24 of each indictment as it relates to each of the separate
25 charges your unanimous decision. And you'll indicate it in

Jury charge

1 the appropriate space on the appropriate indictment.

2 But as to the allegations and as to each of those
3 indictments the defendant has entered a plea of not guilty.
4 As I told you, that plea of not guilty has therefore placed
5 upon the state the burden of proving the allegations that
6 they have set forth in each of those indictments, the
7 burden of proving each of the essential elements that make
8 up each of the crimes alleged against the defendant. And
9 therefore the burden is upon the state to establish his
10 guilt to the satisfaction of you 12 jurors beyond a
11 reasonable doubt before any verdict of guilty could be
12 returned as it relates to that particular charge.

13 It is a vital, important and cardinal rule of law that
14 every defendant in a criminal trial -- and it does not
15 matter how serious the offense might be for which that
16 person stands charged -- that person shall always be
17 presumed innocent of that charge.

18 The burden is never upon a defendant to prove that he
19 or she is not guilty or to prove that he or she is
20 innocent, because in some cases that might not be possible.
21 The burden is always upon the state because they've brought
22 the charge to establish the defendant's guilt beyond a
23 reasonable doubt.

24 The presumption of innocence remains with any
25 defendant, as it does with this defendant, from the time

Jury charge.

1 that he is placed under arrest and throughout the course of
2 the criminal process and even throughout the course of the
3 trial.

4 As I told you, that presumption of innocence will be
5 with Mr. Lance even as you go back to begin with your
6 deliberations in this case. That presumption of innocence
7 will be with him in that jury room, and it'll be with him
8 forever unless you 12 jurors determine that he's no longer
9 entitled to the presumption of innocence as it relates to a
10 particular charge.

11 In other words, after you've carefully considered all
12 the evidence and decided the facts and applied the law if
13 you have no reasonable doubt as to his guilt as it relates
14 to a particular charge, then you may find the defendant
15 guilty of that charge. But it's only if, unless and until
16 you are satisfied of his guilt beyond a reasonable doubt
17 that the presumption of innocence would no longer be
18 applicable.

19 Now, while the state does have the burden of proving
20 the defendant's guilt beyond a reasonable doubt, that
21 doesn't mean that the state has to prove his guilt beyond
22 all doubt or beyond any possible doubt. But it does
23 require the state to prove his guilt to your satisfaction
24 beyond a reasonable doubt.

25 The term reasonable doubt should be given its plain

Jury charge

1 and ordinary meaning. A reasonable doubt is the kind of
2 doubt that would cause a reasonable person to hesitate to
3 act upon the information provided.

4 A defendant is entitled to any reasonable doubt that
5 arises from the evidence or lack of evidence in a case.
6 And if upon any factual issue essential to a finding of a
7 verdict of guilty you have some reasonable doubt as to how
8 that issue should be resolved, it would be your duty to
9 resolve that reasonable doubt in favor of the defendant.

10 Therefore if upon your consideration of the whole case
11 you have a reasonable doubt as to his guilt as it relates
12 to a particular charge, you must resolve that reasonable
13 doubt in his favor and return a verdict of not guilty as it
14 relates to that charge.

15 And, on the other hand, after you've carefully
16 considered all the evidence in the case as it relates to a
17 particular charge, if you have no reasonable doubt as to
18 his guilt, then it would be your corresponding duty to find
19 him guilty of any crime that has been proven to your
20 satisfaction beyond a reasonable doubt.

21 Now, the same law that provides that you are the
22 judges of the facts also provides that I am the judge of
23 the law. And that simply means that nobody's going to tell
24 you how to arrive at your determination of fact in this
25 case.

Jury charge

1 You do that, as I've already stated, through the
2 exercise of good judgment and common sense conscientiously
3 applied to the testimony and evidence received during the
4 course of the trial.

5 You must however under your oath as a juror accept the
6 law as I provide it to you as being the law that you are to
7 apply in the case.

8 In other words, you're not to concern yourself with
9 what you thought the law was before you came to serve as a
10 juror this week or what you think the law ought to be.

11 You must under your oath as a juror accept the law as
12 I provide it to you as being the law that you are to apply
13 in the case. And then you simply take that law and you
14 apply it to the facts as you 12 jurors determine those
15 facts to be based upon your own common sense examination
16 and evaluation of the evidence received during the trial.

17 Now, because you are the sole judges of the facts you
18 are therefore necessarily the sole judges of the
19 credibility and the believability of each witness that has
20 testified during the course of the trial.

21 You 12 jurors alone will decide what weight, value and
22 effect to give to any particular witness' testimony, or
23 even portions of that testimony. And there are several
24 factors which you should take into account in arriving at
25 your assessment as to a witness' credibility, and I'm going

Jury charge

1 to list those factors for you.

2 You should consider the demeanor of the witness, that
3 is how the witness appeared to you as the witness testified
4 from the witness stand.

5 Was the witness straightforward in responding to
6 questions, or was the witness hesitant or evasive in
7 responding to questions that were asked of that witness?

8 Simply put, did the witness appear to you to be
9 telling the truth and to have knowledge of the facts to
10 which that witness has testified.

11 You should also consider whether or not the testimony
12 of a witness is consistent, or is it inconsistent with that
13 particular witness' testimony, as well as statements that
14 might have been made by that witness outside the court.

15 And you may consider whether or not the testimony of a
16 witness is consistent or inconsistent with other testimony
17 or other evidence received during the course of the trial.

18 You should also consider how the witness came to know
19 the facts to which a witness has testified. In other
20 words, what was that witness' opportunity and ability to
21 perceive the existence of those facts to which that witness
22 has testified by having previously used his or her senses.
23 And then what is that witness' ability to be able to come
24 into court and to accurately recollect to you as to what
25 they have previously perceived.

Jury charge

1 You should also consider any bias or prejudice or
2 interest that a witness might have with regard to a case.
3 In other words, do you find some reason that a particular
4 witness would come into court and would testify one way or
5 another to help or to hurt one side or the other.

6 You may consider any interest that a witness might
7 have in the outcome of the case if you determine that a
8 witness does have such an interest and you find that that
9 interest would bear upon that particular witness'
10 credibility.

11 Now, during the course of this trial you have heard
12 certain evidence relating to the defendant having a prior
13 conviction or convictions for certain criminal offenses.

14 Ordinarily evidence of prior criminal convictions of a
15 defendant is not admissible during the trial of a case
16 because it's not relevant to any issue that you have to
17 decide.

18 Where however the defendant does have a record of
19 convictions for certain types of criminal offenses and
20 where the defendant takes the witness stand and testifies
21 during the course of the trial, then the evidence of those
22 convictions may be introduced during his testimony for the
23 limited purpose of impeaching the credibility of the
24 witness or of the defendant, that is to attack his
25 credibility and his testimony.

Jury charge

1 Therefore you may consider such evidence as it may
2 relate to the issue of the credibility of the defendant's
3 testimony if you determine that such evidence is credible
4 and probative on that particular point. But you may not
5 consider it for any other purpose.

6 Such evidence is not being offered as evidence of the
7 defendant's guilt of the crimes for which he now stands
8 trial. And under your oath and duty as jurors you may not
9 consider such evidence as evidence of guilt. You may only
10 consider it on the issue of the defendant's credibility and
11 the believability of his testimony if at all.

12 Now, because you are the judges of the facts and
13 because you are the judges of the credibility of each
14 witness that has testified you are permitted to believe as
15 much or as little of what a witness has testified to as you
16 deem is appropriate.

17 Therefore you may believe everything that a witness
18 testified to. You may choose to believe none of it. You
19 may believe one portion of a witness' testimony and reject
20 some other portion of that same witness' testimony.

21 You may believe one witness as opposed to several, or
22 several as opposed to one. But whatever your good judgment
23 and common sense tells you is the most believable and
24 credible testimony is the testimony you should accept. And
25 you should reject any testimony that you find not to be

Jury charge

1 credible or believable.

2 Again, your sole objective is to simply reach the
3 truth in the matter, and by doing that you will have
4 fulfilled your obligations as jurors, and that is to give
5 both the state and the defendant a fair and impartial
6 trial.

7 Now, in this case, as you know, you're going to be
8 concerned with determining or making a decision with
9 respect to three separate charges. Those charges are
10 kidnapping, robbery and assault with intent to commit
11 criminal sexual conduct in the first degree.

12 I'm going to begin with the crime of kidnapping; I'll
13 follow that with the crime of robbery; and I'll follow that
14 with the crime of assault with intent to commit criminal
15 sexual conduct in the first degree.

16 The offense known as robbery is described in section
17 16-3-910 of the Code of Laws of South Carolina. Every year
18 the legislature meetings in session from January until
19 June. During the course of that session they pass a number
20 of laws and rules and regulations that govern our conduct
21 in a variety of ways.

22 Some of those statutes are criminal-penalty statutes.
23 And that just means that they prohibit us in engaging in
24 particular types of conduct. And where we are found to
25 have engaged in that conduct which is prohibited by the

Jury charge

1 statute it subjects us to some form of punishment or
2 penalty.

3 Please keep in mind however that you are never to be
4 concerned with any punishment or penalty. That's not
5 something that you determine. Your sole obligation and
6 duty is to determine whether or not the defendant's guilt
7 as to a particular crime has been proven beyond a
8 reasonable doubt. And you do that without consideration or
9 without any regard for any consequence of that decision.

10 But section 16-3-910 of the Code of Laws sets forth
11 the crime of kidnapping, and it provides that whoever shall
12 unlawfully seize, confine, inveigle, decoy, kidnap, abduct
13 or carry away any other person by any means whatsoever
14 without authority of law is guilty of the crime of
15 kidnapping.

16 In order for the defendant to be found guilty of a
17 violation of this particular section of law it would be
18 necessary that the state has proven to your satisfaction
19 beyond a reasonable doubt the essential elements of the
20 crime of kidnapping.

21 The essential elements of kidnapping as set forth in
22 the statute are; No. 1, that the defendant did seize or
23 confine or kidnap or abduct or carry away another person by
24 some means or method; and, secondly, that one or more of
25 the above was done without the authority of law.

Jury charge

1 The word seize means to take hold of suddenly and
2 forcibly. The word confine means to imprison or to
3 restrain or to restrict a person's freedom in some
4 significant way.

5 The word kidnap means to remove from one place to
6 another a person without legal authority against his or her
7 will and without the authority of law.

8 In order for the defendant to be found guilty of a
9 violation of this particular statute the state need not
10 prove each of the terms -- seize, confine, kidnap, abduct
11 or carry away. Proof of any one of those prohibited acts
12 is sufficient so long as it is done without authority of
13 law and without the consent of the person alleged to have
14 been kidnapped.

15 The second criminal offense which I will address is
16 that of the crime of robbery. And robbery is commonly
17 referred to and known as a larceny by force.

18 Robbery is defined in the law as the taking, the
19 stealing and the carrying away of the property of another
20 having any value whatsoever from the person or presence of
21 that person without consent and with the intent to steal
22 it, and which is accomplished by the use of force or
23 violence, or by the threat of the use of force or violence,
24 that is by way of intimidation.

25 The taking of property from another by force or

Jury charge

1 violence or forcing a person to surrender possession of
2 property by putting such person in fear by the threat of
3 the use of force or violence with the intent to steal the
4 property is a robbery under the law.

5 And the remaining indictment charges assault with
6 intent to commit criminal sexual conduct in the first
7 degree.

8 Section 16-3-656 of the Code of Laws provides that it
9 shall be unlawful for any person to commit the crime of
10 assault with the intent to commit criminal sexual conduct
11 in the first degree. That's also referred to as an attempt
12 to commit criminal sexual conduct in the first degree.

13 In order for the defendant to be found guilty of this
14 offense the state must prove beyond a reasonable doubt that
15 the defendant committed an assault on the victim with the
16 intent to commit first degree criminal sexual conduct.

17 An assault occurs when a person by the use of force or
18 violence attempts to cause some physical injury to the
19 person of another through the commission of a battery.

20 A battery is an unlawful application of physical force
21 upon the person of another.

22 The term intent refers to the state of a person's mind
23 which directs his actions towards a specific object or
24 goal. Within the context of this statute the term intent
25 refers to the intent to commit criminal sexual conduct in

Jury charge

1 the first degree.

2 Section 16-3-652 of the Code of Laws defines the crime
3 of criminal sexual conduct in the first degree. It
4 provides that a person is guilty of criminal sexual conduct
5 in the first degree if the actor engages in sexual battery
6 with the victim and if any one or more of the following
7 circumstances are proven beyond a reasonable doubt: One,
8 that the actor uses aggravated force to accomplish sexual
9 battery, or the victim submits to sexual battery by the
10 actor under circumstances where the victim is also the
11 victim of a forcible confinement, a kidnapping, a robbery
12 or any similar offense or act.

13 The term sexual battery includes sexual intercourse.
14 The term aggravate force means physical force or physical
15 violence of a high and aggravated nature to overcome the
16 victim or includes the threat or the use of a deadly
17 weapon.

18 In this case the defendant has raised what is known in
19 the law as the defense of consent to the charge of assault
20 with intent to commit first degree criminal sexual conduct.

21 The defendant asserts that the victim voluntarily
22 consented to sexual intercourse that the state asserts was
23 unlawful.

24 Consent is a complete defense to a charge of unlawful
25 sexual intercourse between consenting adults. Because the

Jury charge

1 state has the burden of proving that the defendant
2 committed the crime as is alleged, the defendant does not
3 have the burden of proving that the victim consented.

4 In order to establish that the defendant committed the
5 crime of assault with intent to commit criminal sexual
6 conduct in the first degree the state must prove beyond a
7 reasonable doubt that the victim did not consent to a
8 sexual battery.

9 If you determine that the victim consented to a sexual
10 intercourse you must find the defendant not guilty of
11 assault with intent to commit criminal sexual conduct in
12 the first degree.

13 In order for the defendant to be found guilty of the
14 crime of assault with intent to commit criminal sexual
15 conduct in the first degree it must be proven beyond a
16 reasonable doubt that the defendant, Walter Monroe Lance,
17 committed an assault against Kerstin Joslin-Venus, that at
18 the time the assault was committed it was accompanied by an
19 intent to commit a sexual battery without the consent of
20 the victim, further that aggravated force was used in the
21 commission of the assault, or the victim was also the
22 victim of a forcible confinement, a kidnapping, a robbery
23 or some similar offense or act.

24 Now, ladies and gentlemen, I am not in any way
25 concerned with what your decisions are, but as I've told

Jury charge

1 you previously, your decision has to be unanimous. All of
2 you must be in agreement before any verdict can be returned
3 as to any of the separate charges.

4 Now, Mr. Foreman, you're going to have, along with the
5 evidence that's been received -- you're going to have in
6 the jury room with you these two indictments.

7 The one indictment alleges three separate criminal
8 offenses. You will only be concerned with two. Do not be
9 concerned with count one of the indictment. You're only
10 concerned with counts two and three.

11 On the back of that indictment you'll see in the lower
12 left-hand corner the word verdict. Beneath that word I
13 have written count two, count three. Count two is assault
14 with intent to commit criminal sexual conduct in the first
15 degree. Count three is common-law robbery.

16 So with respect to each of those separate charges you
17 have two potential verdict forms. Those potential verdict
18 forms are guilty and not guilty.

19 So whatever that decision is, it must be unanimous.
20 And once you're arrived at it just please insert it in the
21 space provided beside count two and beside count three.

22 Then sign your name as the foreperson, place the
23 appropriate date on the verdict form. You are the only
24 juror, Mr. Foreman, that needs to sign the verdict form.

25 Then you also have the second indictment which is for

Jury charge

1 kidnapping. Again, you've got a place to insert a verdict.
2 Again, those two potential verdict forms are guilty and not
3 guilty. Whatever that decision is, it must be unanimous.
4 Indicate it in the space provided. Again, sign your name
5 as the foreperson and place the appropriate date on it.

6 Now, during the course of your deliberations there may
7 come a time where you have some question about the facts or
8 the testimony or the evidence in the case.

9 I am never permitted to respond to questions about the
10 evidence or the facts of the matter. And also no
11 additional evidence can be received now that you're going
12 back to begin with your deliberations.

13 So sometimes a jury might inquire as to whether they
14 can have something else or something else exists or could
15 they see something else.

16 Even if something else exists that might help you, you
17 can't have it because the evidence is closed now that
18 you're going back to begin deliberations. So don't inquire
19 about that. And, as I say, I'm not permitted to respond to
20 any questions that relate to the testimony or the evidence
21 in the case.

22 If you have a question about a witness' testimony and
23 that question can be answered by having that witness'
24 testimony replayed in whole or in part, we can bring you
25 back into the courtroom to have that testimony replayed for

Jury charge

1 your benefit. And you can hear it in its entirety or only
2 some portion of it if that's all you need. But I don't
3 have transcripts to send back. But we can bring you back
4 into the courtroom to have testimony replayed.

5 If you have a question about the law that is
6 applicable, I am permitted to answer those questions. So
7 if at any time you need a reinstruction or you need a
8 clarification or an additional explanation about the law
9 that you are to apply, I am permitted to answer those
10 questions. And I'll be happy to bring you back to provide
11 you with that additional clarification or instruction.

12 I don't know if we have smokers on the jury. If we
13 do, you can smoke during deliberations, but you cannot
14 smoke in the jury room. You have to go outside for that
15 purpose. So if anybody needs to smoke let the bailiff
16 know. He'll take those outside to accomplish that purpose.

17 But you are instructed that deliberations must stop.
18 And they may only resume when all 12 jurors are present so
19 that all may participate.

20 I will remind you the instruction about the notes.
21 Notes -- you have been permitted to take notes, but
22 understand that those notes are for the personal benefit of
23 the note-taker and not to be relied upon by other jurors as
24 to what the testimony was or what the evidence is.

25 I think that covers everything. But if it doesn't

Jury charge

1 I'll bring you back and give you further instruction.

2 with the exception of the two alternate jurors, I'll
3 ask the 12 primary jurors to please go to your jury room.
4 But do not begin deliberations until I send you word to do
5 so.

6 when the time does come for your deliberations the
7 bailiff will bring to the jury room all of the exhibits
8 which have been received during the trial.

9 And to you, Mr. Foreman, he'll also bring the
10 indictments which will serve as the verdict forms.

11 so please retire, but do not begin your deliberations
12 until I send you word to do so.

13 (Whereupon, the jury retired to deliberate at
14 3:37 p.m.)

15 (Whereupon, the alternate jurors were excused.)

16 THE COURT: Are there any exceptions taken to the
17 instruction or requests for additions to the instruction by
18 the state?

19 MR. BARNETTE: None from the state, Your Honor.

20 THE COURT: By the defendant?

21 MR. HALL: None from the defense, Your Honor.

22 THE COURT: Let me ask y'all to verify the exhibits,
23 please, before they go back.

24 (Pause.)

25 THE COURT: All of the exhibits are accounted for?

Verdict

1 MR. HALL: Yes, sir.

2 MR. BARNETTE: Yes, sir.

3 THE COURT: All right. We'll be at ease while the
4 jury is deliberating.

5 (Whereupon, a recess was taken.)

6 THE COURT: I understand the jury has reached a
7 decision. Are we ready to receive it?

8 MR. BARNETTE: The state is ready, Your Honor.

9 MR. HALL: The defense is ready, Your Honor.

10 THE COURT: All right. Bring them in, please.

11 (Whereupon, the jury returned to the courtroom at
12 7:15 p.m. to report its verdict.)

13 THE COURT: Mr. Foreman, have you and your fellow
14 jurors reached a unanimous decision as to each of the
15 charges?

16 THE FOREMAN: Yes, sir, we have.

17 THE COURT: Have you indicated those decisions on the
18 back of the indictments as requested?

19 THE FOREMAN: Yes, sir.

20 THE COURT: Did you sign your name as the foreperson?

21 THE FOREMAN: Yes, sir.

22 THE COURT: If you will, hand those verdict forms up
23 by way of the bailiff.

24 All right. You may publish the verdicts.

25 THE DEPUTY CLERK: In the State of South Carolina, in

Verdict

1 the County of Spartanburg, in the Court of General
2 Sessions, the State of South Carolina vs. Walter Monroe
3 Lance, as to Indictment No. 2012-GS-42-201, on count two
4 for criminal sexual conduct, we, the jury, unanimously find
5 the defendant guilty.

6 As to Indictment No. 2012-General Sessions-42-2001
7 [sic], count three for strong arm robbery, the jury
8 unanimously finds the defendant guilty.

9 As to Indictment No. 2012-General Sessions-GS-42-203
10 for kidnapping, the jury unanimously finds the defendant
11 guilty.

12 Ladies and gentlemen of the jury, is this your verdict
13 and still your verdict? If so, please raise your right
14 hand.

15 (Whereupon, all responded in the affirmative.)

16 THE DEPUTY CLERK: So say you all.

17 THE COURT: Does the defendant wish to have the jury
18 polled?

19 MR. HALL: Yes, sir, Your Honor.

20 THE COURT: All right. Poll the jury please, ma'am.

21 THE DEPUTY CLERK: Ladies and gentlemen of the jury, I
22 will pose a question to you, after which I will ask you to
23 individually -- and respond to my question.

24 Juror No. 127, is this your verdict and still your
25 verdict?

Verdict

1 THE JUROR: Yes.

2 THE DEPUTY CLERK: Juror No. 47, is this your verdict
3 and still your verdict?

4 THE JUROR: Yes.

5 THE DEPUTY CLERK: Juror No. 173, is this your verdict
6 and still your verdict?

7 THE JUROR: Yes.

8 THE DEPUTY CLERK: Juror No. 78, is this your verdict
9 and still your verdict?

10 THE JUROR: Yes.

11 THE DEPUTY CLERK: Juror No. 130, is this your verdict
12 and still your verdict?

13 THE JUROR: Yes.

14 THE DEPUTY CLERK: Juror No. 4, is this your verdict
15 and still your verdict?

16 THE JUROR: Yes.

17 THE DEPUTY CLERK: Juror No. 128, is this your verdict
18 and still your verdict?

19 THE JUROR: Yes.

20 THE DEPUTY CLERK: Juror No. 112, is this your verdict
21 and still your verdict?

22 THE JUROR: Yes.

23 THE DEPUTY CLERK: Juror No. 158, is this your verdict
24 and still your verdict?

25 THE JUROR: Yes.

Verdict

1 THE DEPUTY CLERK: Juror No. 67, is this your verdict
2 and still your verdict?

3 THE JUROR: Yes.

4 THE DEPUTY CLERK: Juror No. 149, is this your verdict
5 and still your verdict?

6 THE JUROR: Yes.

7 THE DEPUTY CLERK: Juror No. 126, is this your verdict
8 and still your verdict?

9 THE JUROR: Yes.

10 THE DEPUTY CLERK: Your Honor, the jury has been
11 polled.

12 THE COURT: All right. Thank you.

13 Any other matters we need to address with the jury
14 present?

15 MR. BARNETTE: None from the state, Your Honor.

16 MR. HALL: None from the defense, Your Honor.

17 (Whereupon, the trial jury was excused.)

18 THE COURT: Any matters to address prior to the
19 imposition of sentence?

20 MR. HALL: Your Honor, as she read out the verdict,
21 count two, criminal sexual conduct -- I thought that was a
22 count two.

23 THE COURT: Count two is assault with intent to commit
24 criminal sexual conduct in the first degree.

25 MR. HALL: Oh, okay. Your Honor, I will go ahead and

Sentence

1 make a motion for a new trial. The jury obviously was
2 wrestling with things. They were out for about three and a
3 half hours. And also my -- note my earlier motion before
4 we started to quash the jury panel because of the
5 kidnapping comment during jury qualification with Judge
6 Couch.

7 THE COURT: All right. Each of those motions are
8 denied.

9 MR. BARNETTE: May I approach for a second, Your
10 Honor?

11 (Bench conference held off the record.)

12 THE COURT: You may. All right. Anything further
13 from the state?

14 MR. BARNETTE: Your Honor, I talked the victim in this
15 case, Ms. Joslin-Venus. She just wanted me to pass along
16 that she knows she has the right to address the Court, but
17 she just wanted me to pass on to the Court that any
18 sentence you impose, please give a sentence that will make
19 this never happen to another person. Again, what's been
20 done to her by this individual.

21 And, Your Honor, we do have Court's Exhibit No. 3. I
22 know you're familiar with the record. We entered it in
23 earlier, and we would ask the Court to consider that also.

24 THE COURT: All right. Mr. Hall, I'll be glad to hear
25 from you and Mr. Lance.

Sentence

1 MR. HALL: Your Honor, Mr. Lance is 46 years old.

2 He has grown children. I think the Court has seen a
3 few of his children as witnesses in cases.

4 He was a mechanic by trade.

5 He had -- you've seen his record, Your Honor. He had
6 some assault, aggravated assaults, back a couple of decades
7 ago -- a couple of decades ago. And because of that when
8 he had a firearm he was sent to federal prison. He served
9 a sentence. And he just completed that sentence in --
10 before he got out.

11 When he was out of prison he tried to earn his living
12 as a mechanic. But for the past decade or so he has been
13 in federal prison.

14 You've seen his record other than the assaults. It's
15 pretty much larceny or disorderly conduct type charges.

16 Your Honor, we just ask you be as lenient and fair as
17 you can. He's looking at I believe 75 years. He is 46
18 years old.

19 THE COURT: All right. Mr. Lance, is there anything
20 you'd like to add to what your lawyer has told me?

21 THE DEFENDANT: No, sir.

22 THE COURT: All right. On Indictment 2012-201, count
23 two, assault with intent to commit criminal sexual conduct
24 in the first degree, wherein you have been found guilty by
25 the jury of that offense, the Sentence of the Court is you,

Sentence

1 Walter Monroe Lance, be confined to the South Carolina
2 Department of Corrections for a period of 30 years.

3 Count three of that indictment, common-law robbery,
4 wherein you have been found guilty by the jury, Sentence of
5 the Court is you be confined to the South Carolina
6 Department of Corrections for a period of 15 years. That
7 sentence is consecutive to that sentence imposed on count
8 two.

9 Indictment 2012-203, an indictment for kidnapping,
10 wherein you have been found guilty by the jury, the
11 Sentence of the Court is you, Walter Monroe Lance, be
12 confined to the South Carolina Department of Corrections
13 for a period of five years. That sentence is consecutive
14 to any other.

15 Now, Mr. Lance, you have a right to appeal the
16 decisions of the jury and the Sentence of the Court. You
17 must file any notice of your intent to appeal those
18 decisions within ten days of today's date.

19 END OF REQUESTED TRANSCRIPT OF RECORD
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Certificate

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CERTIFICATE

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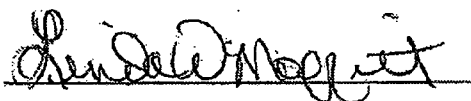
24

25

I, the undersigned Linda D. Moffitt, Official Court-Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Court of General Sessions for Spartanburg County, South Carolina, on the 7th and 8th days of May 2012.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

November 23, 2012



Linda D. Moffitt
Circuit Court Reporter

WITNESSES

Spartanburg County Sheriff's Office

Spartanburg County Sheriff's Office

ARREST WARRANT NUMBER

M756391

Direct Indictment (x2)

ACTION OF GRAND JURY

True Bill

1 3 2012

Foreperson of Grand Jury
Date:

VERDICT

Count II - GUILTY

Count III - GUILTY

Foreperson of Petit Jury
Date: May 8, 2012

DOCKET NO.

12-GS-42-020(A)(B)

The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JAN 9 2012

TERM

THE STATE

v.

COUNT ONE - CSC 1ST DEGREE - NP - duplicate charge to Count two (Assault with intent to commit CSC 1ST - the Defendant was found found guilty by a jury on 5/8/2012 of

WALTER MONROE LANCE
~~CRIMINAL SEXUAL CONDUCT~~ ASSAULT WITH INTENT TO COMMIT CSC
 and was sentenced to thirty (30) years in jail, guilty of

Indictment for

CRIMINAL SEXUAL CONDUCT, w/drawn
 FIRST DEGREE (Count I)

SC Code: 16-3-652 CDR Code: 160 FEL-A (V)

ASSAULT WITH INTENT TO COMMIT
 CRIMINAL SEXUAL CONDUCT FIRST
 DEGREE (Count II)

SC Code: 16-3-656; 16-3-652 CDR Code: 253 FEL-E

STRONG ARMED ROBBERY (Count III)

SC Code: 16-1-80 CDR Code: 137 FEL/UNG

FILED COURT
 CLERK OF COURT
 SPARTANBURG COUNTY
 2012 JUN 18 AM 10:48
 M. HOPE BLACKLEY

Common law robbery and sentenced
 fifteen (15) years consecutive
 guilty to Kidnapping on Ind No
 12-65-42-203 and sentence
 five (5) years consecutive for
 total of fifty (50) years by
 Durham Cole on 5/8/2012.

Barry Barnette - 5/9/2012

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 09 2012 the Grand
Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT, FIRST DEGREE (Count I)

That the Defendant, Walter Monroe Lance, did in Spartanburg County on or about October 30, 2011, engage in sexual battery with the victim, Kerstin Helga Joslin-Venus. Such sexual battery was accomplished under one or more of the following circumstances: (1) The Defendant used aggravated force to accomplish the sexual battery and/or (2) The victim, Kirsten Helga Joslin-Venus, submitted to the sexual battery under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act, in violation of §§16-3-652, 16-3-651, Code of Laws of South Carolina, (1976), as amended.

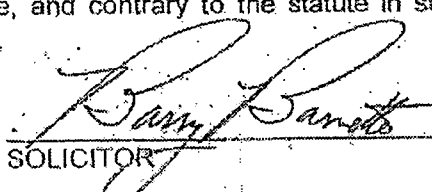
**ASSAULT WITH INTENT TO COMMIT CRIMINAL SEXUAL CONDUCT, FIRST DEGREE
(Count II)**

That the Defendant, Walter Monroe Lance, did in Spartanburg County on or about October 30, 2011, assault the victim, Kerstin Helga Joslin-Venus, in an attempt to commit a sexual battery upon her person, and he either used aggravated force, or/and she was also the victim of forcible confinement, kidnapping, robbery, trafficking in persons, burglary, housebreaking, extortion, or any other similar offense or act, in violation of §16-3-656; §16-3-652, §16-3-651 Code of Laws of South Carolina, (1976), as amended.

STRONG ARMED ROBBERY (Count III)

That Walter Monroe Lance did in Spartanburg County on or about October 30, 2011, feloniously take and carry away from the person or presence of Kerstin Helga Joslin-Venus by means of force, violence, or intimidation goods or monies of Kerstin Helga Joslin-Venus including but not limited to the goods and/or monies described as: her keys and 2004 silver Hyundai SUV, with the intent to deprive the owner permanently of such property, in violation of §16-11-325, *The Code of Laws of South Carolina*, (1976), as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

 Spartanburg County Sheriff's Office

ARREST WARRANT NUMBER

M-756390

ACTION OF GRAND JURY

True Bill

 Foreperson of Grand Jury
 Date: 1.5.12

VERDICT

GUILTY

 Foreperson of Petit Jury
 Date: May 8, 2012

DOCKET NO. -

12-GS-42-0203
 The State of South Carolina

County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

TERM

THE STATE
v.

WALTER MONROE LANCE

Indictment for
KIDNAPPINGSC Code: 16-03-910
CDR Code: 0095
-Class FEL-A

A CERTIFIED COPY

 CLERK OF COURT
 SPARTANBURG COUNTY
 BY D.
 DATED 5-10-12

 FILED COURT
 CLERK OF COUNTY
 SPARTANBURG
 2012 JAN 18 AM 10:48
 M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF SPARTANBURG)

JAN 09 2012

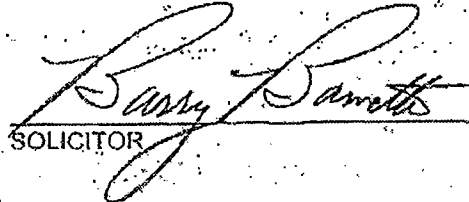
At a Court of General Sessions, convened on _____ the

Grand Jurors of Spartanburg County present upon their oath:

KIDNAPPING

The Defendant, Walter Monroe Lance, did in Spartanburg County, on or about October 30, 2011, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away the victim, Kerstin Helga Joslin-Venus, without authority of law, all in violation of Section 16-3-910, Code of Laws of South Carolina (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Walter Monroe Lance

AKA:

Race: WHITE Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Address: [REDACTED] Front St

City, State, Zip: Spartanburg, SC 29301

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: Sex / Assault with intent to commit criminal sexual conduct - First degree - COUNT TWO (2)

in violation of § 16-03-0656, of the S.C. Code of Laws, bearing CDR Code # 0253

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.BARNETTE, BARRY 10455
3039

SC Bar#

Defendant

Attorney for Defendant

SC Bar# 2596

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$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	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

Clerk of Court/ Deputy Clerk

A. Braden

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4200201A

A/W#: 2012GS4200201A

Date of Offense: 10/30/2011

S.C. Code § : 16-03-0656.

CDR Code #: 0253

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

- COUNT TWO (2)

in violation of § 16-03-0656, of the S.C. Code of Laws, bearing CDR Code # 0253

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC ☐ §17-25-45 w/minor 1st or Lewd Act)The charge is: ☒ As Indicted. ☐ Lesser Included Offense. ☐ Defendant Waives Presentment to Grand Jury. (defendant's initials)The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.BARNETTE, BARRY 10455
3039

SC Bar#

Defendant

Attorney for Defendant

SC Bar# 2596

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ 100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$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	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)	\$	\$ 3.90
TOTAL	\$	\$ 133.90

PTUP —— days/hours Public Service EmploymentObtain 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 \$ — beginning —\$ — paid to Public Defender FundOther: registration 23-3-430☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Presiding Judge
Judge Code: —

2052

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS.

Walter Monroe Lance

AKA:

Race: WHITE Sex: M Age: 46

DOB: [REDACTED] SS#: [REDACTED]

Front St

City, State, Zip: Spartanburg, SC 29301

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: Robbery / Common law robbery, strong arm robbery - **COUNT THREE(3)**

in violation of § 16-11-0325 of the S.C. Code of Laws, bearing CDR Code # 0137

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45The 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: *[Signature]* *[Signature]* *[Signature]* *[Signature]*
 BARNETTE, BARRY 70455 SC Bar# Defendant Attorney for Defendant SC Bar# 2596
 13139

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 15 days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —Payment Terms: —☐ Set by SCDPPPS —Recipient: —

*Fine: \$
 § 14-1-206 (Assessments 107.5%) \$
 § 14-1-211(A)(1) (Conv. Surcharge) \$100 \$100.00
 § 14-1-211(A)(2) (DUI Surcharge) \$100 \$
 § 56-5-2995 (DUI Assessment) \$12 \$
 § 56-1-286 (DUI Breath Test) \$25 \$
 Proviso 47.9 (Public Def/Prob) \$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 \$
 Proviso 90.5 (SCCJA Surcharge) \$5 \$5.00
 3% to County (if paid in installments) \$3.90
 TOTAL \$133.90

Clerk of Court/ Deputy Clerk

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2012GS4200201B

A/W#: 2012GS4200201B

Date of Offense: 10/30/2011

S.C. Code § 16-11-0325

CDR Code #: 0137

SENTENCE SHEET

☐ CONVICTED OF or ☐ PLEADSPresiding Judge
Judge Code:

COUNTY OF SPARTANBURG
STATE VS.

Walter Monroe Lance

AKA:

Race: WHITE Sex: M Age: 46DOB: [REDACTED] SS#: [REDACTED]Address: Front StCity, State, Zip: Spartanburg, SC 29301DL#: [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: Kidnapping / KidnappingINDICTMENT/CASE#: 2012GS4200203A/W#: M756390Date of Offense: 10/30/2011S.C. Code § : 16-03-0910CDR Code #: 0095

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin 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 w/minor 1st or Lewd Act) ☐ §17-25-45The 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.WITEST BARNETTE, BARRY 70455 SC Bar# 13039 Defendant [Signature] Attorney for Defendant [Signature] SC Bar# 2596WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed — yearsand/or to pay a fine of \$ —; provided that upon the service of — days/months/years and/or paymentof \$ —; plus costs and assessments as applicable*; the balance is suspended with probation for —

months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.☐ 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 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ OrderedTotal: \$ — plus 20% fee: \$ —

Payment Terms:

☐ Set by SCDPPPS —Recipient: —

*Fine:		\$
§ 14-1-206 (Assessments 107.5 %)		\$
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$100.00
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$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	\$
Proviso 90.5 (SCCJA Surcharge)	\$5	\$ 5.00
3% to County (if paid in installments)		\$ 3.90
TOTAL		\$ 133.40

PTUP

— days/hours Public Service EmploymentObtain 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 \$ — beginning —\$ — paid to Public Defender FundOther: sexual offense related.☐ Appointed PD or appointed other counsel, § 47.12 requires \$500 be paid to Clerk during probation.Clerk of Court/ Deputy Clerk [Signature]Court Reporter: [Signature]

SCCA/217 (03/2011)

Presiding Judge [Signature]Judge Code: 2093Sentence Date: May 8, 2012

FORM 5

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG SC.)WALTER MONROE LANCE 154185
(Full name and prison number (if any) of Applicant.))

v.)

State of South Carolina)

IN THE COURT OF COMMON PLEAS

2011 CP-42-4564

APPLICATION FOR

POST-CONVICTION RELIEF

INSTRUCTIONS - READ CAREFULLY

In order for this application to receive consideration by the Court, it shall be in writing (legibly handwritten or typewritten), signed by the applicant and verified (notarized), and it shall set forth concise form the answers to each applicable question. If necessary, applicant may furnish his answer to particular question on the reverse side of the page or on an additional page. Applicant shall make reference to which question any such continued answer refers.

Since every application must be sworn under oath, any false statement of a material fact therein may serve as the basis of prosecution and conviction for perjury. Applicants should, therefore, exercise care to assure that all answers are true and correct.

If the application is taken in forma pauperis, it shall include an affidavit (attached at the back of the form) setting forth information which establishes that applicant will be unable to pay fees and costs of the proceedings. When the application is completed, the original shall be mailed to the Clerk of Court for the County in which the applicant was convicted.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:50
M. HOPE

DEIZER & 28667

1. Place of detention DERRY C I 430 OAKLAWN RD
2. Name and location of Court which imposed sentence SPARTANBURG SC.
3. Name(s) of co-defendant(s) (if any) NONE
4. The indictment number or numbers (if known) upon which and the offenses for which sentence was imposed:
 - (a) 2012 G54200201B
 - (b) 2012 G54200201A
 - (c) 2012 G54200203
5. The date upon which sentence was imposed and the terms of the sentence:
 - (a) 5-8-2012 SENTENCED TO 15 YEARS
 - (b) SAME DATE - SENTENCED TO 30 YEARS

Revised 3/2003

- (c) SAME DATE - SENTENCED TO 5 YEARS
ALL SENTENCES CONSECUTIVE.
6. Check whether a finding of guilty was made:
- (a) after a plea of guilty _____
- (b) after a plea of not guilty ✓
- (c) after a plea of nolo contendere _____
7. Did you appeal from the judgment of conviction or the imposition of sentence?
YES
8. If you answered "yes" to (7), list:
- (a) the name of each Court to which you appealed:
- i. DIVISION OF APPELLATE COURT
- ii. _____
- iii. _____
- (b) the result in each such Court to which you appealed:
- i. DISMISSED
- ii. _____
- iii. _____
- (c) the date of each such result:
- i. 1-23-2014
- ii. _____
- iii. _____
- (d) if known, citations of any written opinion or orders entered pursuant to such results:
- i. UNKNOWN
- ii. _____
- iii. _____
9. If you answered "no" to (7), state your reasons for not so appealing:
- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
- (b) _____
- (c) _____
10. State concisely the grounds on which you base your allegation that you are being held in custody unlawfully:

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 SPARTANBURG COUNTY
 2014 NOV 10 PM 2:50
 M. HOPE BLANCHET

- (a) INEFFECTIVE ASSISTANCE OF TRIAL COUNSEL
 (b) SEE Attachment
 (c) SEE Attachment

11. State concisely and in the same order the facts which support each of the grounds set out in (10):

- (a) SEE AMENDMENTS THAT WILL BE
 (b) MAILING AT A LATER DATE.
 (c) _____

12. Prior to this application have you filed with respect to this conviction:

- (a) any petition in a State Court under South Carolina Law? NO
 (b) any petition in State or Federal Courts for habeas corpus or post-convictions relief? NO
 (c) any petition in the United States Supreme Court for certiorari other than petitions, if any, already specified in (8)? NO
 (d) any other petitions, motions or applications in this or any other Court? NO

13. If you answered "yes" to any part of (12), list with respect to each petition, motion or application:

(a) the specific nature thereof:

- i. _____
 ii. _____
 iii. _____
 iv. _____

(b) the name and location of the Court in which each was filed:

- i. _____
 ii. _____
 iii. _____
 iv. _____

(c) the disposition thereof:

- i. _____
 ii. _____
 iii. _____

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- iv. _____
- (d) the date of each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
- (e) if known, citations of any written opinions or orders entered pursuant to each such disposition:
- i. _____
- ii. _____
- iii. _____
- iv. _____
14. Has any ground set forth in (10) been previously presented to this or any other Court, State or Federal, in any petition, motion or application which you have filed?
- NO
15. If you answered "yes" to (14) identify:
- (a) which grounds have been presented:
- i. _____
- ii. _____
- iii. _____
- (b) the proceedings in which each ground was raised:
- i. _____
- ii. _____
- iii. _____
16. If any ground set forth in (10) has not previously been presented to any Court, State or Federal, set forth the ground and state concisely the reasons why such ground has not previously been presented:
- (a) SEE AMENDMENTS
- (b) SEE Attachment
- (c) SEE Attachment
17. Were you represented by an attorney at any time during the course of:

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M. HOPE BLACKLEY

- (a) your arraignment and plea? NO
- (b) your trial, if any? YES
- (c) your sentencing? YES
- (d) your appeal, if any, from the judgment of conviction or the imposition of sentence? YES
- (e) preparation, presentation or consideration of any petitions, motions or applications with respect to this conviction, which you filed? NO

18. If you answered "yes" to one or more parts of (17), list:

- (a) the name and address of each attorney who represented you:

- i. N/A
- ii. MR ROBERT HALL PUBLIC DEFENDER FOR
- iii. SPARTANBURG COUNTY

- (b) the proceedings at which each such attorney represented you:

- i. N/A
- ii. TRIAL
- iii. DIRECT APPEAL

19. State clearly the relief you seek in filing this application:

OVERTURN SENTENCE

20. Are you now under sentence from any other court that you have not challenged?

NO

CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:50
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

County of)

VERIFICATION)

I, _____, being duly sworn upon my oath, depose and say that I have subscribed to the foregoing application; that I know the contents thereof; that it includes every ground known to me for vacating, setting aside or correcting the conviction and sentence attacked in this application; and that the matters and allegations therein set forth are true.

Walter L. Lince

SWORN to and subscribed before me this 6th
 day of November, 2014.

Tamara Conwell (L.S.)
 Notary Public

My Commission Expires: ~~September 26, 2023~~
My Commission Expires

CLERK OF COURT
 SPARTANBURG COUNTY
 2014 NOV 10 PM 2:50
 M. HOPE BLACKLEY

**APPLICATION TO PROCEED WITHOUT PAYMENT
OF COSTS AND AFFIDAVIT
IN SUPPORT THEREOF**

I, , hereby apply for leave to proceed in this action without prepayment of fees or costs or security therefor. In support of my application I declare under penalty of perjury that the following facts are true:

- (1) I am the applicant in this action and I believe I am entitled to redress.
- (2) Because of my poverty I am unable to pay the costs of said proceeding or give security thereof.

Walter Lene
Applicant

SWORN or affirmed to and subscribed before me this

6th day of November, 2014.

Tamara Conwell
Notary Public

My Commission Expires: September 25, 2023

CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:50
M. HOPE BLACKLEY

State of South Carolina
County of Spartanburg

Walter Monroe Lance

Applicant

v.

State of South Carolina

Respondent

In The Court of Common

12a
2014-CP-42-4564

Case:

Motion to Amend P.C.R.

11. (A) In violation of U.S.C.A. Const Amends, 6 and 14
in accord with S.C. Const. Art. 18 6 and 14.

The Applicant reserves the rights available to him pursuant
to the P.C.R. Act, S.C. Code 17-27-10- rt. seg. and the South
Carolina rules of Civil Procedure to amend and supplement
the accompanying application as well to invoke discovery.

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SPARTANBURG COUNTY
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M. BOPE-BLACKLEY

Respectfully Submitted

Walter M. Lance
Walter M. Lance 154185

Perry C.I.

State OF South Carolina }
County OF SPARTANBURG }

Walter M. Lance

APPLICANT

-VS-

State OF South Carolina }
Respondent }

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SPARTANBURG COUNTY
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E. 1. Failure to Object to Evidence. My Public Defender Robert B. Hall. Failed to Object to the Pictures that the Solicitor Barry Barnette Presented to the jury, the Pictures were taken By the Alleged Victim's husband Not By the Police and Not By SPARTANBURG Regional Medical Hospital So My Public Defender Robert B. Hall. Never Objected to the Pictures Being shown to the jury. Now My Public Defender Robert B. Hall. Never told me Walter M. Lance, APPLICANT. about the Pictures He Never showed them to me Why? I AM sending two Pictures to show My Proof" the First Picture Was taken at SPARTANBURG Regional Medical Hospital the second Picture was taken By the Alleged Victims husband I don't know. Why My Public Defender Robert B. Hall. did Not Object to this Picture Being shown to the jury. this Picture helped to convict Me Walter M. Lance, APPLICANT. OF attempted Criminal Sexual conduct First degree, Kidnapping. and Strong arm robbery. My Public Defender Robert B. Hall Failed to Object to Evidence that should Not have

been allowed to have been shown to the jury because that Picture Was Not taken By LAW ENFORCEMENT or By SPARTANBURG Regional Medical HOSPital SO therefore that Picture should Not have been Shown to the jury. My Public Defender Robert B. Hall. Failed to Object to the Picture Being Used as Evidence against Me Walter M. Lance. APPLICANT.

I Walter M. Lance. APPLICANT. this Picture is What I Base My Complaint on.

this Evidence is also Found in My trial transcript.

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SPARTANBURG COUNTY
2014 NOV 10 PM 2:50
M. HOPE BLACKLEY



03/10/2015 Page 15

2014-CP-42-45601

State OF South Carolina }
 County OF SPartanburg }

Walter M. Lance,
 APPLiCant.

-VS-

State OF South Carolina }
 ResPondent }

FILED
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 SPARTANBURG COUNTY
 2014 NOV 10 PM 2:51
 M. HOPE BLACKLEY

C. L. Failure to PrePare For trial. My Public DeFender
 Robert B. Hall. Was Not PrePared For trial"

When the Alleged Victim Kerstin Helga Joslin-venus. took the
 stand My Public DeFender Robert B. Hall. ask her Was She Sure
 the Person She Alleges attacked her" his Client

Walter M. Lance. APPLiCant. She. stated yes that's the Man.
 NOW My Public DeFender Robert B. Hall. told her I
 Walter M. Lance. APPLiCant. Was Not the Person She Picked
 OUT OF A Photo Line-UP he told her he had A CoPY OF the
 Photo Line-UP to Show to the Jury that I

Walter M. Lance. APPLiCant. Was NOT the Person. She Picked
 OUT OF the Photo Line-UP But My Public DeFender
 Robert B. Hall. DiD Not have A CoPY OF the Photo Line-UP
 With him to Show the Jury to help Me

Walter M. Lance. APPLiCant. My Public DeFender Robert B. Hall.
 Was Not PrePared For trial. I am sending A CoPY
 OF the Photo Line-UP and A CoPY OF A Photo taken
 OF Me Walter M. Lance. APPLiCant. taken the Same Day
 By the SPartanburg County Sheriff's OFFice.

this Motion is Found in My trial transcript this
Evidence is What I Base My Complaint on.

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SPARTANBURG COUNTY
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M. HOPE BLACKLEY



1563491



1616034



1533018



1530457



1651431



1610598

ORIGINAL

Spartanburg County Sheriff's Office

Mugshot Profile

LANCE, WALTER MONROE

Booking #: 11-16023
Booking Date: 10-31-2011
S.O. ID #:
ORI #: SC0420000
Arresting Agency: SO
Date of Birth:
Height: 600
Weight: 180
Race: WHITE
Sex: MALE
Hair Color: BROWN
Hair Length: ABOVE EARS
Hair Style: STRAIGHT
Eye Color: BROWN
Eye Characteristics: NORMAL
Facial Hair: GOATEE _ MUSTACHE
Glasses: YES
Teeth: MISSING TEETH
Complexion: CLEAR
Skin Tone: WHITE_FAIR
Build: MEDIUM
Missing Limbs:
Disabilities:
Operator: BT
Comments:

Aliases

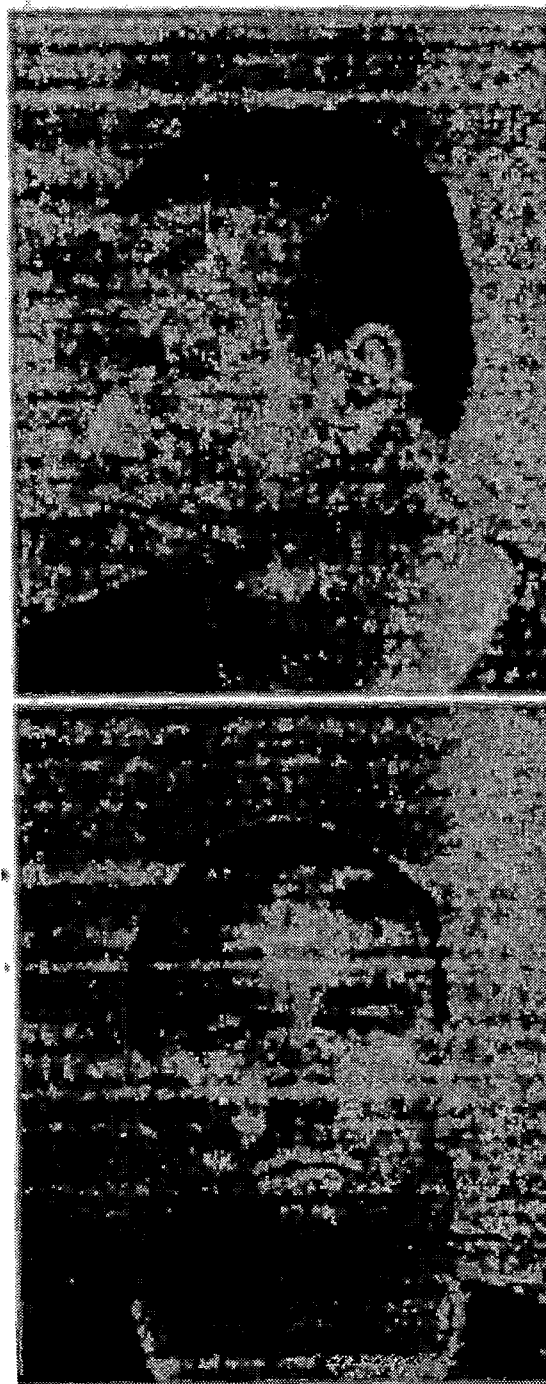
Last	First	Middle	Nickname

Charges

Category	Description
	KIDNAPPING/ CSC

Scars/Marks/Tattoos

Type	Location	Description



2014-CP-42-4564

State OF South Carolina
County OF SPartanburg

Walter M. Lance .
APPLICANT .

-VS-

State OF South Carolina
RESPONDENT .

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SPARTANBURG COUNTY
2014 NOV 10 PM 2:51
M. HOPE BLACKLEY

D.1, Failure to Investigate. My Public Defender Robert B. Hall. Failed to Investigate he DID NOT check the record to see when the 911 call was made to the Sheriff's Department on 10-30-2011. NOW three witnesses got on the stand and gave testimony OF the time they was called to the Crime Scene OF the Allege attack at Milliken Park. NOW the First Witness Was Captain Robert M. Dunn he gave testimony he arrived on the crime scene at 2:00 P.M. the witness Number two Was Mark A. Mangum Sergeant. he gave A testimony he arrived on the crime scene at 2:30 P.M. the Witness Number three Was A School teacher LISA Ann. WOFFord she gave A testimony AS she Was Leaving Milliken Park where the Allege crime took Place she saw the Allege victim Kerstin Helga Joslin-venus Walking her Dog At 2:50 P.M. NOW IF the 911 call Was Made At 3:04 P.M. How is Captain Robert M. Dunn At the Crime scene At 2:00 P.M.?

NOW Sergeant Mark A. Mangum gave testimony he arrived At the Crime Scene At 2:30. P.M. again another witness arrived Before the 911 Call Was Made or Before the Allege attack took Place. NOW My Public Defender Robert B. Hall. Sent Me Walter M. Lance. APPLICANT. the evidence" he Should have Showed this evidence to the Jury NOT to Me But he Failed to Do his Investigation. My Public Defender Robert B. Hall. Failed to Investigate My Motion OF Discovery For evidence Before My trial or he Would have showed this evidence to the Jury to help Me Walter M. Lance. APPLICANT.

I am Sending A Copy OF the evidence on the Back it Will Show that the Allege victim Kerstin Helga Joslin-venus Likes to add to her Story as you can See her Statements But My Public Defender Robert B. Hall Failed to Do his Job.

this evidence is basis For My Complaint.

EVERY one OF these complaints are in my trial transcript EVERY Complaint.

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2014 NOV 10 PM 2:51
CLERK OF COURT
SPARTANBURG COUNTY

SEVENTH JUDICIAL CIRCUIT PUBLIC DEFENDER

CLAY T. ALLEN
CIRCUIT PUBLIC DEFENDER

366 NORTH CHURCH STREET
SUITE 3000
SPARTANBURG, SC 29303



TELEPHONE (864) 596-2561
FAX (864) 596-2284
FAX (864) 582-4412

May 8, 2014

Walter Monroe Lance
Q-4-A-112
Perry Correctional Institution
430 Oaklawn Rd
Pelzer, South Carolina 29669

Re: State v. Walter Monroe Lance
Warrant/Ticket No(s): M756391; M756390; M756389

Dear Mr. Lance:

I brought your file out of storage to attempt to comply with your request for a copy of a statement from Mrs. Joslin-Venus saying "she left the house at 2:30 PM" and a copy of "the time the victim made the 911 call" from your file.

I reviewed the file and I see only written statement from her. I am enclosing a copy as well as the medical record reflecting she told the hospital she left home at 13:30 or 1:30 PM. There is no other statement from her. My trial notes indicate that, on my cross examination, she testified that she left her home between 2:15 and 2:30 PM and arrive at the park about fifteen minutes later. I assume that will be reflected in the transcript that was prepared for your Appeal.

As to any document giving the time of the 911 call, I do not have one in the file from communications. What I do have is incident reports that give different times for "when reported" in the heading. I am enclosing those.

I hope this answers your request.

Sincerely,

A handwritten signature in cursive script, appearing to read "R. Hall".

Robert B. Hall
Assistant Public Defender



12/07/2011 Page 1 of 5
Spartanburg Sheriff's Office

321

Incident / Offense Report

8045 HOWARD ST SPARTANBURG SC 29303 -- (864)503-4500

Law	Number	11101638	Nature	Robbery
	Address	920 MILLIKEN ROAD		
	City	SPARTANBURG	State	SC Zip 29302
	Contact	KERSTIN HELGA JOSLIN	Phone	
	When Reported	13:15:00 10/30/2011 (HHMMSSMMDDYYYY)	Misc. Info.	
	Occurred Start	14:30:00 10/30/2011 (HHMMSSMMDDYYYY)	Occurred End	15:00:00 10/30/2011 (HHMMSSMMDDYYYY)
	VN Issued	YES		
Responsible	Miller M	Agency	SHERIFF'S OFFICE	
Area	TRACK 23			
Offense(s)	Robbery, Firearm, Misc			
	Force Sex Assault, Att Rape			
Circumstance(s)	LOC-Field or Woods			
	No Bias			
	Vict was Otherwise Known: OK			
	W/Personal Weapons Used			
MO	Crime Types	Robbery-Armed		

October 30, 2011

Subject: Assault on the property

Time: Approximately 14:00 hours

Place: Wooded area adjacent to the upper dried pond near Route 9 entrance

On the above date and time this writer Captain Robert Dunn received a phone call from Officer Brown stating that a female patron to the site had reported that she had been assaulted in the woods near the pecan grove and that Sergeant Mangum was in route. This writer immediately responded to the site and upon arriving on the entry road near the pecan trees off Milliken Road, observed the Security Truck, two county police cars and an Emergency Medical Services vehicle parked in the pecan trees.

This writer approached and observed that the victim was a white female that was familiar to this writer, as she walks her dog on the property 4 or five times a week. This writer spoke with Sergeant Mangum who was standing nearby and he explained that after completing a Detex round he had observed cars parked on Milliken Road near the pecan trees and had driven up to instruct the individuals to park in the lot not on the grass. Upon his arrival the individuals were found to be Milliken employees who were picking up fallen pecans. While speaking with them the victim approached slowing and stated she had been assaulted by the pond and that the perpetrator had attempted to rape her. Sergeant Mangum immediately phoned into office Brown with instructions to call this writer and then notified the Sheriff's Office.

While in route to the site this writer phoned Sergeant Mangum and advised that I would notify our Milliken chain of command. After speaking with the county officers and the victim this writer phoned April Morris and Jeff Crenshaw from Engineering Services and was advised by Ms Morris that she would alert Paul Pruitt of the situation.

Once the county officer completed their preliminary investigation the victim was transported to Spartanburg Regional Medical Center for evaluation. Officer Marc Miller from the Sheriff's office provided the case number for the event (#11101638). After determining that the area was secure this writer again advised via phone Jeff Crenshaw and April Morris. End of Report.

Robert M. Dunn

CASE # 2011101638		VOLUNTARY STATEMENT		PAGE 1 of 1	
STATEMENT OF: [REDACTED]			AGE: 49	DATE: 10-30-11	
ADDRESS: Spartanburg, SC 29302					
PHONE		DOB:		SSN:	

I arrived this afternoon at Milliken Park around 2:00 PM to walk my dog; I parked on Milliken Road at the first free space coming from California Ave. When I arrived a couple with their dog was leaving, and I noticed a white male dressed in black sitting on the grass. I got out of my vehicle and started walking my dog, I noticed the guy turned and started watching me. I continued to walk, I walked past the second pond, and I then saw someone walking towards my direction. When I came to the end of the pond I didn't see anybody. Suddenly the guy I saw earlier jumped out of the bushes and he said, "Hey puppy" to my dog Lucas. He did this to see if my dog would bit him or not. Then he grabbed my hand and said come here, I said leave me alone. The guy grabbed me from behind and started choking me, and then he pulled me down to the ground. I screamed because it hurt, the guy said, "I will kill you if you don't stop screaming" and "I will shoot you in your head". The guy said lets go over in the woods, he started pushing and pulling me as we got deeper into the woods. The guy said he would not hurt me if I would stop screaming. The guy told me to take my pants off; I started doing this slowly hoping someone would come by. He said again take your pants off and your shoes off. I pleaded with the guy not to kill me. I took my pants and shoes off, then the guy tried to put his penis in my vagina as he kissed on me and my breast. The guy could not get an erection and he finally stopped. The guy then asked me for a ride to Boiling Springs, I said you can have my car keys, I will never tell anyone. The guy asked me did I have any money, I told him I never carry any money to the park. I asked the guy to please take my car and I will never tell anyone. The guy said give me the keys and if you call 911 I swear I will find you and kill you. The guy left with my car keys and that's the last I saw of him. I then immediately called 911 from my cell phone; I later discovered my 2004 silver in color Hyundai Sante Fe SUV was stolen. The guy who did this to me is a white male, in his forties, around 6 foot, 200 pounds, grey/brownish hair with an overnight shadow facial hair. He was wearing black in color pants and a black in color jacket. The guy had a strong odor of alcohol on him that I will never forget, the guy also had wild looking eyes I will always remember. This statement is typed by Detective Bohon as told by Kerstin H. Joslin' Venus on 10-30-11.

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth And nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at 8:50 PM on the 30th day of October 2011.

WITNESS: _____

SWORN to before me this

Day of October, 2011

Notary Public of South Carolina

My Commission expires: 3-15-12X [Signature]
Signature of person giving voluntary statement**ORIGINAL**

SPARTANBURG Regional

Adult/Adolescent Forensic Record

Unit Record:

000-802681

Assault History

Date of Assault: 10/30/2011

~Time of Assault: 13:30-14:00???

Location: Milliken park

History of assault per patient:

Pt presents to EC via EMS after sexual assault. Pt reports she left her home approx 13:30 to go to Milliken to walk her dog. States after she parked her vehicle she noted a man sitting near the parking lot sitting in the grass. Pt describes a white male with black hoodie/jacket & black pants, possibly black shoes. Victim states "He did have some facial hair but he did not have a beard the hair on his head was lighter brown, possibly thinning on the top of his head." Victim does not recall if he had facial piercings, earrings or tattoos. Victim states she walked past him & he began to watch her. She walked to a pond and was walking toward the middle of the 1st pond, turned to her left, he was walking parallel to the pond as her. States "I came to the end of the pond & he was gone. Then he came out of the bushes there & talked to my dog.....he said 'hey puppy' then he said 'hey you, you have to come here'..he grabbed my arm....he grabbed me from behind and grabbed my neck & started choking me. I started screaming & he said 'I will shoot you in your head if you don't stop screaming. I will kill you.' He grabbed me, there was no escape, he pulled me in the woods there and I had to lie down. He said 'take your pants off. Take your shoes off too.' " Pt reports she did take off both. Victim states he was "just looking" while she took off pants & shoes. Then states he took his pants down to his knees. Victim states "He kissed me on my mouth then I unleashed my dog, Lucas, then he said "If you scream here I will kill you. Trust me I will kill you." Then he tried to penetrate me several times but he could not because his penis was not erect. He did not have on a condom. Then he realized that it didn't work he said "You have to go to his home....I need a ride towards Boiling Springs." " Victim offered her car, assailant took her keys and drove away with her car. He said "If you call the police I will find you & I will kill you."

12/07/2011 Page 5 of 15

SPARTANBURG Regional

Adult/Adolescent Forensic Record

Unit Record:

000-802681

Assault History Continued:**Contacts Described By Patient: Assailant number 1****Penetration of vagina by:****Describe:**

	No	Yes	Attempted	Unsure
Penis	☐	☐	☒	☐
Finger	☒	☐	☐	☐
Object	☒	☐	☐	☐

Penetration of anus by:

	No	Yes	Attempted	Unsure
Penis	☒	☐	☐	☐
Finger	☒	☐	☐	☐
Object	☒	☐	☐	☐

Oral Copulation of genitals:

	No	Yes	Attempted	Unsure
Of patient	☐	☐	☒	☐
Of assailant	☒	☐	☐	☐

Victim states he moved his mouth toward her vagina but she kicked up her legs then he moved his mouth to her mouth & kissed her, states "He put his tongue in my mouth"

Non-genital acts:

	No	Yes	Attempted	Unsure
Licking	☐	☒	☐	☐
Kissing	☐	☒	☐	☐
Suction Injury	☒	☐	☐	☐
Biting	☒	☐	☐	☐
Fondle	☐	☒	☐	☐

licked R breast

breasts

Other acts:

	No	Yes	Attempted	Unsure
Other	☒	☐	☐	☐
Masturbation	☒	☐	☐	☐

Did ejaculation occur:

	No	Yes	Attempted	Unsure
Mouth	☒	☐	☐	☐
Vagina	☒	☐	☐	☐
Anus	☒	☐	☐	☐
Body	☒	☐	☐	☐
Clothing	☒	☐	☐	☐
Bedding	☒	☐	☐	☐
Other	☒	☐	☐	☐

Contraceptive or lubricant used:**Describe type/brand if known:**

	No	Yes	Attempted	Unsure
Foam used	☒	☐	☐	☐
Jelly used	☒	☐	☐	☐
Lubricant	☒	☐	☐	☐
Condom used	☒	☐	☐	☐

SUPPLEMENTAL REPORT:

ON 10-31-11, I RECEIVED SEVERAL CALLS FROM PEOPLE WHO, AFTER HEARING ABOUT THE SEXUAL ASSAULT AT MILLIKEN ON 10-30-11, REPORTED SEEING A WHITE MALE ACTING SUSPICIOUS. ANNIE CUNNINGHAM WROTE A STATEMENT THAT SHE SAW A WHITE MALE IN ALL BLACK CLOTHING WALKING AROUND MILLIKEN ON 10-30-11 AROUND 2:00. CHRIS MARTIN WROTE A STATEMENT THAT A LITTLE AFTER 3:00 ON 10-30-11, HE SAW A WHITE MALE IN A BLACK JACKET WALK PAST HIM THAT WAS ACTING SUSPICIOUS. LISA WOFFORD WROTE A STATEMENT THAT ON 10-30-11 AROUND 2:50, SHE SAW A WHITE MALE WEARING ALL BLACK WALKING AROUND MILLIKEN WATCHING PEOPLE, AND MADE HER FEEL UNEASY. SHE STATES THAT AS SHE WAS LEAVING SHE SAW HIM WATCHING A LADY WALKING HER LAB, WHICH SHE THINKS IS THE LADY THAT WAS ASSAULTED. HEIKE TONHAEUSER WROTE A STATEMENT THAT ABOUT TWO WEEKS AGO, AROUND 2:45 SHE SAW A WHITE MALE DRESSED IN ALL BLACK WITH A HODDIE ON, HIDE NEAR TWO ROCKS AT MILLIKEN. SHE STATES THAT HE KEPT WATCHING HER, BUT HER DOG REACTED TO HIM, AND EVERY TIME SHE TURNED AROUND, HE WOULD HIDE. NONE OF THE ABOVE WERE ABLE TO PICK MR. LANCE OUT OF A PHOTO LINEUP.

MR. AND MRS. JOSLIN-VENUS ALSO CAME TO THE SHERIFF'S OFFICE. A BUCCAL SWAB WAS TAKEN FROM MRS. JOSLIN-VENUS. I ASKED MRS. JOSLIN-VENUS IF SHE HAD EVER BEEN TO THE SOUP KITCHEN. SHE STATED THAT SHE HAD NEVER BEEN THERE, BUT THAT → HER NEIGHBOR WORKS THERE. WHEN SHE WAS ASKED IF THERE WAS ANYTHING ELSE SHE COULD REMEMBER ABOUT THE ATTACK, SHE STATED THAT THE MAN LOOKED AT SOMETHING IN HIS SOCK, AND KEPT SAYING THAT HE WAS GOING TO SHOOT HER IN THE HEAD.

POWERS SOLUTIONS, INC., SPARTANBURG, S.C. (864) 578-7665

CASE#	2011101638		VOLUNTARY STATEMENT		PAGE 1 of 1
STATEMENT OF:	Lisa Wofford		AGE:	45	DATE: 10/30/11
ADDRESS:	Rainbow Lake Rd, Inman, SC, 29349				
PHONE #			DOB:		

At Milliken Park yesterday 10/30/11, I saw a man walking around and watching people. He made me feel uneasy so I walked where other people were walking. He had on a black leather/vinyl jacket & black or dark shirt. I continued to walking dog until about 2:50 when I went back to my car & he was sitting on the bench. He was just looking around he got up & looked around as I got into my car. I saw a lady walking her dog it was a light colored lab looking dog. I saw her as I was leaving walking toward the outer loop of the area which is closer to the wooded area off of California ave. He was watching her as I left but he had watched ~~her~~ everyone so I really didn't think much about it at the time.

EOS

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth, and nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement.

This statement was completed at 16:50 P M. on the 31st day of Oct 20 11.

WITNESS:

L. Murray

Signature of person giving voluntary statement

SWORN to before me this

day of _____, 20__.

State OF South Carolina
County OF SPARTANBURG

Walter M. Lance.
APPLICANT.

VS.

State OF South Carolina
RESPONDENT.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:51
M. HOPE BLACKLEY

A.1. INEFFECTIVE ASSISTANCE OF trial Counsel.

My Public Defender Robert B. Hall. Failed to call two Alibi Witnesses on My Behalf.

A.1. the First Witness Was Mrs. Stefany Andrews Martin

She gave A statement to the SPARTANBURG County SHERIFF'S OFFICE that on 10-30-2011. Mrs. Martin and her husband Mr. Chris Martin Was at Milliken Park they got to Milliken Park around 2:15 P.M. NOW Both OF these Witnesses Saw Me Walter M. Lance, APPLICANT, Walking Down the Road as they Were getting into there car to leave NOW they Left an hour to an hour and a half after they arrived that Puts the time at 3:15 P.M. to 3:45 P.M.

A.2. the Next Witness Was Mr. Chris Martin the husband to the First Witness Mrs. Stefany Andrews Martin they Both gave the Same Statement.

A.3. NOW on 10-30-2011. Kerstin Helga Joslin-Venus stated to the Police that I Walter M. Lance, APPLICANT. Attempted criminal Sexual Conduct First degree and Kidnapping and Strong arm Robbery" She stated that I Walter M. Lance, APPLICANT, took her vehicle 2004 Hyundai SUV"

She stated that the assault and Kidnapping and Strong arm Robbery took Place From 2:30 P.M. to 3:00 P.M. She States She Called 911 at 3:04 P.M.

NOW Mr. and Mrs. Martin Both gave A Statement that I Walter M. Lance, APPLICANT. Was Walking Down the Road away From Milliken Park at 3:15 P.M. I Was Not in or around the stolen vehicle My Public Defender Robert B. Hall. Failed to call these Witnesses" Why would he not call these two Alibi Witnesses? to clear me Walter M. Lance, APPLICANT. of Strong arm Robbery? I Walter M. Lance, APPLICANT. did not take NO vehicle From this Alleged victim Kerstin Helga Joslin-Venus and I did not assault or Kidnap her.

I am also Sending A COPY OF the Statement the Alibi Witnesses gave to the SPARTANBURG County SHERIFF'S OFFICE Witness Mrs. Stefany Andrews, Martin.

this Evidence is What I base My Complaint on.

this Motion is Found in My trial transcript.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:51
M. HOPE BLACKLEY

CASE # 2011101638		VOLUNTARY STATEMENT		PAGE 1 of 1	
STATEMENT OF: Stefany Andrews Martin			AGE: 38	DATE: 10/30/2011	
[REDACTED] Merrivale Ln Spartanburg, SC 29301					
PHONE		DOB:		SSN:	

My family and I went to Milliken today around 2:15 PM. We parked our car at the main duck pond closest to the intersection of 585 and business 85. We took pictures of my daughter at the main duck pond, the next pond over with the red waterfall and then over the hill in the grass. Once we were back to our car and loading my daughter in her car seat, a man in a black jacket was walking up the frontage road from 85 towards the direction of California Avenue. He bypassed our car very closely and continued walking up the road. He was very out of place and my husband and I both felt anxious. He was on foot, and was walking up the road instead of in the grass. We left Milliken approximately an hour to an hour and a half after we arrived

Later this evening I was on my iPad and went to GoUpstate.com and saw there had been an attack on a woman during the same time we had been at Milliken. The article asked for people to contact a number if they had been at the location during the same timeframe. I called the number listed in the article to inform them we had been at Milliken during that time, had taken a lot of pictures and that we had seen a man who looked out of place when we were leaving the park. The number I called to report what we experienced today put us in contact with Detective Bohon. He asked if I could come to the Sheriff's office and bring the pictures I took today.

At the Sheriff's office, I gave Detective Bohon the SD card with our pictures from today. He asked if I could pick the person out we saw from a line-up. Detective Bohon showed me a line-up and stated the person may or may not be in the line-up. I indicated a person on the line-up sheet that I was 70% sure was the same person we saw walking up the frontage road with the black jacket. The man we saw was white, in his 40s, short brown hair, approximately 5'10" to 6' 0". My husband I both noticed him and remembered him because he seemed very suspicious.

This statement was typed by Stefany Martin.

I have read this statement consisting of 1 page(s), and I swear that the statement that I have just given is the truth, the whole truth And nothing but the truth, so help me God. I also swear this statement was given freely and voluntarily and I have received a copy of my statement. This statement was completed at 11:00 PM on the 30th day of October 2011.

WITNESS: _____

SWORN to before me this 30th

Day of October, 20 11

[Signature] (Seal)
Notary Public of South Carolina

[Signature]
Signature of person giving voluntary statement

ORIGINAL

My Commission Expires: 3-15-12

State OF South Carolina
County OF SPartanburg

Walter M. Lance
APPLICANT.

-VS-

State OF South Carolina
RESPONDENT.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:51
M. HOPE BLACKLEY

- B.1. INEFFECTIVE ASSISTANCE OF trial Counsel.
My Public Defender Robert B. Hall. Failed to Investigate the crime scene OF the stolen vehicle were it was recovered. He did not go to any OF the homes around the vehicle and talk to the residences to see if they saw any body in or around the stolen vehicle the day it was recovered" now from the picture OF the crime scene they are A lot of homes around the stolen vehicle now if My Public Defender Robert B. Hall. Would have done his Job and went to them homes he may have found some one who saw something But he Failed to Do his Job to the Best OF his ability. I am also sending A copy OF the crime scene as you can see in the picture the basis For My Complaint. Now if My Public Defender Robert B. Hall. Would have went to them homes and talked to the residences some one could have saw who got out OF the stolen vehicle and cleared Me Walter m. Lance. APPLICANT. OF Strong arm robbery.

this Evidence is What I base My complaint on
and this Motion is Found in My trial transcript.

FILED
CLERK OF COURT
SPARTANBURG COUNTY
2014 NOV 10 PM 2:51
M. HOPE BLACKLEY

Spartanburg County Crimescene

Case Id: 2011101638

Description: ASSSAULT

Call Id: 74895

Description: 920 MILLIKEN RD



Image Id: 3383736



Image Id: 3383739



Image Id: 3383742

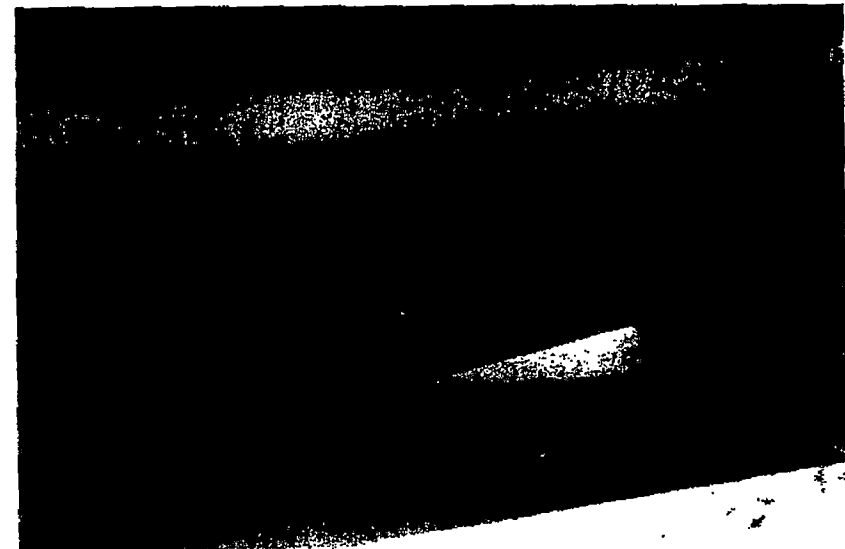


Image Id: 3383748

Spartanburg County Crimescene

Case Id: 2011101638

Description: ASSSAULT

Call Id: 74895

Description: 920 MILLIKEN RD

334



Image Id: 3383724

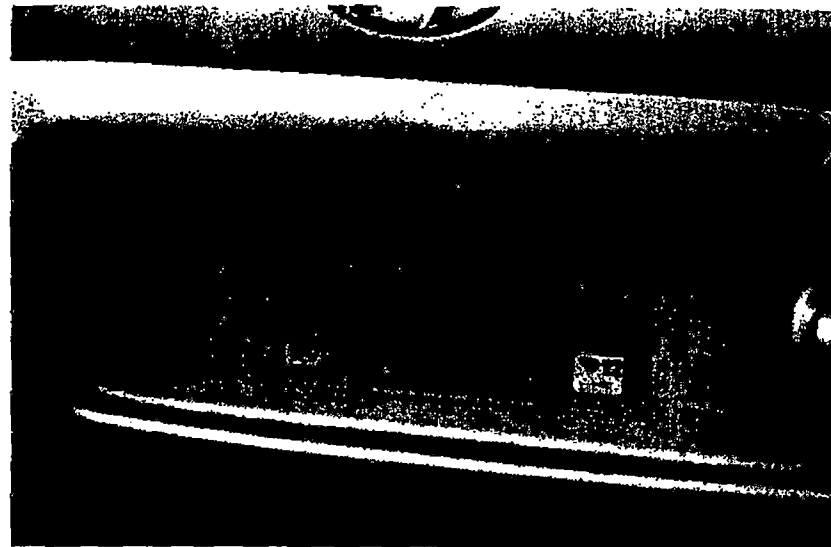


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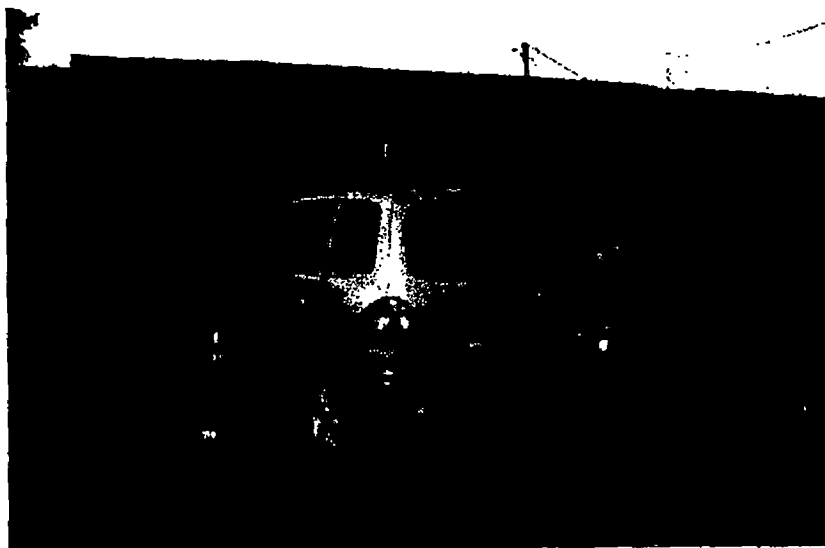


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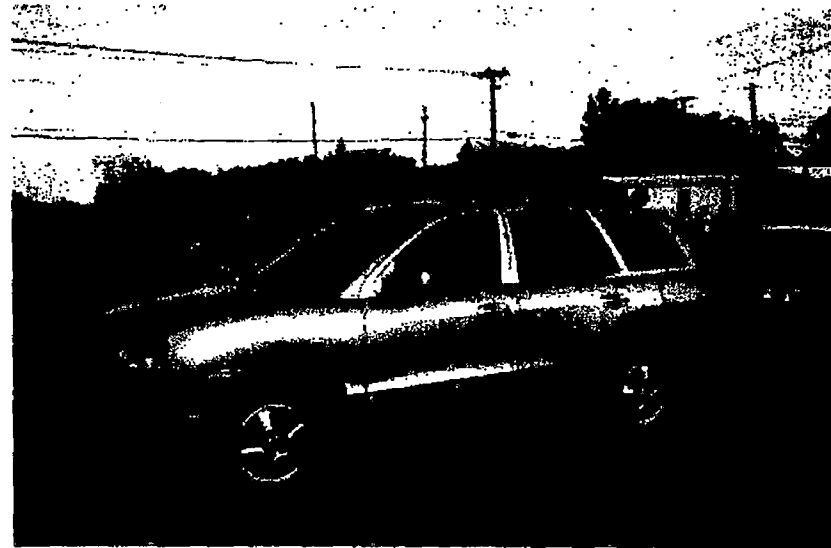


Image Id: 3383736

Spartanburg County Crimescene

Case Id: 2011101638

Description: ASSAULT

Call Id: 74895

Description: 920 MILLIKEN RD



Image Id: 3383772



Image Id: 3383775



Image Id: 3383778



Image Id: 3383784

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	SEVENTH JUDICIAL CIRCUIT
COUNTY OF SPARTANBURG	)	
	)	
Walter Monroe Lance, #154185,	)	2014-CP-42-4564
	)	
Applicant,	)	
	)	RETURN
v.	)	
	)	
State of South Carolina,	)	
	)	
Respondent.	)	

In response to the post-conviction relief application filed November 10, 2014, the Respondent would show this Court:

I.

The Applicant is incarcerated with the South Carolina Department of Corrections pursuant to the Spartanburg County Clerk of Court's orders of commitment. The Spartanburg County Grand Jury indicted the Applicant at the January 2012 term of General Sessions for Criminal Sexual Conduct – First Degree (2012-GS-42-0201, count one); Assault with Intent to Commit Criminal Sexual Conduct – First Degree (2012-GS-42-0201(A), count two), Strong Arm Robbery (2012-GS-42-0201(B), count three); and Kidnapping (2012-GS-42-0203). Robert Hall, Esquire represented the Applicant.

After the State called the case to trial, the Applicant was found guilty of Assault with Intent to Commit Criminal Sexual Conduct (2012-GS-42-0201(A)); Strong Arm Robbery (2012-GS-42-0201(B)); and Kidnapping (2012-GS-42-0203). The indictment for Criminal Sexual Conduct – First Degree was *nolle prossed* following Applicant's convictions on the remaining charges. On May 8, 2012, the Honorable J. Derham Cole sentenced the Applicant to thirty (30)

years imprisonment for the Assault with Intent to Commit Criminal Sexual Conduct – First Degree charge, fifteen (15) years imprisonment for the Robbery charge, and five (5) years for the Kidnapping charge; the sentences running consecutively and totaling fifty (50) years imprisonment.

A notice of appeal was filed at the South Carolina Court of Appeals. The Court of Appeals dismissed Applicant's appeal on January 22, 2014, pursuant to Anders¹. State v. Lance, Op. No. 2014-UP-021 (S.C. Ct. App. filed January 22, 2014). The Remittitur was sent on February 24, 2014.

Attached herewith and incorporated herein by reference are the records of the Spartanburg County Clerk of Court regarding the subject convictions, the Applicant's records from the South Carolina Department of Corrections, the trial transcript, and the appellate records.

II.

In his application for post-conviction relief, the Applicant alleges he is being held in custody unlawfully for the following reason:

1. Ineffective assistance of counsel, in that counsel;
 - a. Failed to object to impermissible photos entered into evidence,
 - b. Failed to prepare for trial by failing to obtain a copy of the photo line-up used to identify Applicant at trial,
 - c. Failed to investigate 911 records,
 - d. Failed to call two alibi witnesses,
 - e. Failed to investigate the crime scene where the stolen vehicle was recovered

III.

The Respondent asserts the Applicant's allegation that his attorney was ineffective is without merit. The Respondent asserts the Applicant's attorney rendered effective assistance

well within the standard of “reasonableness within professional norms” for a defense attorney.

Where ineffective assistance of counsel is alleged as a ground for relief, the Applicant must prove that “counsel’s conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied on as having produced a just result.” Strickland v. Washington, 466 U.S. 668, 686, 104 S. Ct. 2052, 2064 (1984); Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985).

The proper measure of performance is whether the attorney provided representation within the range of competence required in criminal cases. The courts presume counsel “rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment.” Strickland, 466 U.S. at 690, 104 S. Ct. at 2066. The Applicant must overcome this presumption in order to receive relief. See Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

A two-pronged test is used in evaluating allegations of ineffective assistance of counsel. First, the applicant must prove counsel’s performance was deficient. Under this prong, attorney performance is measured by its “reasonableness under prevailing professional norms.” Cherry v. State, 300 S.C. at 117, 386 S.E.2d at 625 (quoting Strickland, 466 U.S. at 688, 104 S. Ct. at 2065). Second, counsel’s deficient performance must have prejudiced the Applicant such that “there is a reasonable probability that, but for counsel’s unprofessional errors, the result of the proceeding would have been different.” Cherry, 300 S.C. at 117-18, 386 S.E.2d at 625. “A reasonable probability is a probability sufficient to undermine confidence in the outcome of trial.” Johnson v. State, 325 S.C. 182, 186, 480 S.E.2d 733, 735 (1997) (citing Strickland v.

¹ Anders v. California, 386 U.S. 738, 87 S. Ct. 1396, 18 L. Ed. 2d 493 (1967).

Washington, 466 U.S. 668, 104 S. Ct. 2052 (1984)).

The Respondent submits the Applicant cannot satisfy either requirement of the Strickland v. Washington test. However, the allegation of ineffective assistance of counsel probably raises questions of fact that cannot be conclusively refuted by the record. The Respondent requests an evidentiary hearing to fully resolve this issue. See Sharper v. State, 279 S.C. 264, 265, 305 S.E.2d 247, 248 (1983) (citing Norman v. State, 276 S.C. 278, 277 S.E.2d 707 (1981)).

IV.

The Respondent denies each allegation not expressly admitted, qualified or explained.

V.

WHEREFORE, having made its Return, the Respondent requests that a hearing be held.

Respectfully submitted,

ALAN WILSON
Attorney General

JOHN W. MCINTOSH
Deputy Attorney General

KAREN C. RATIGAN
Senior Assistant Deputy Attorney General

SUZANNE H. WHITE
Assistant Deputy Attorney General

By:



Attorneys for Respondent
P.O. Box 11549
Columbia, S.C. 29211

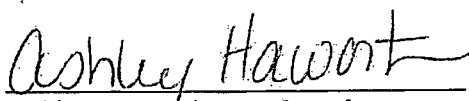
April 7, 2015

STATE OF SOUTH CAROLINA	)	
	)	IN THE COURT OF COMMON PLEAS
COUNTY OF SPARTANBURG	)	
	)	
	)	2014-CP-42-4564
WALTER MONROE LANCE, #154185	)	
	)	
Applicant,	)	
	)	
vs	)	AFFIDAVIT OF SERVICE BY MAIL
	)	
STATE OF SOUTH CAROLINA,	)	
	)	
Respondent.	)	
	)	

1. I am an employee of the Respondent in the above-captioned action.
2. Regular communication by mail exists throughout the State of South Carolina and that this is a proper circumstance of service by mail.
3. I have this day served a copy of the **Return** on the above-captioned matter on the following person by depositing same in the United States mail, postage prepaid:

Mr. John Brandt Rucker, Esquire
Brandt Rucker Attorney At Law
522 North Church Street
Greenville, SC 29601

DATED this 7TH day of April, 2015.


 Ashley Haworth, Legal Assistant
 For Respondent

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF SPARTANBURG) IN THE COMMON PLEAS COURT
3
4 Walter Monroe Lance,)
5 Applicant,) TRANSCRIPT OF RECORD
6 -vs-) 2014-CP-42-4564
7 The State.) June 13, 2016
8) Spartanburg, South Carolina
9
10

11 B E F O R E:

12 HONORABLE R. FERRELL COTHRAN, JR., JUDGE
13
14

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

16 J. BRANDT RUCKER, ESQUIRE
17 Attorney for the Applicant

18 ALICIA OLIVE, ESQUIRE
19 Attorney for the State
20
21

22 Linda D. Moffitt
23 Circuit Court Reporter
24
25

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1	<u>EXHIBITS</u>			
2	<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EV.</u>
3	A-1	Mugshot profile		55
4	A-2	Photo lineup		55
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1 MS. OLIVE: May it please the Court, Your Honor.

2 THE COURT: Yes, ma'am.

3 MS. OLIVE: This is Walter Monroe Lance,
4 2014-CP-42-4564.

5 He was indicted in January of 2012 for criminal sexual
6 conduct first degree, assault with intent to commit
7 criminal sexual conduct in the first degree, strong arm
8 robbery and kidnapping.

9 He proceeded to trial before Judge Cole. He was found
10 guilty of assault with intent to commit criminal sexual
11 conduct first, strong arm robbery and kidnapping.

12 The indictment for criminal sexual conduct first
13 degree was nolle prossed following -- this was prior to.
14 The case went back to the jury.

15 On May 8th of 2012 Judge Cole sentenced him to 30
16 years imprisonment for assault with intent to commit
17 criminal sexual conduct first degree, 15 years for robbery
18 and five years for kidnapping. The sentences were to run
19 consecutively totaling 50 years.

20 Your Honor, an appeal was filed on his behalf. The
21 Court of Appeals dismissed his appeal on January 22nd of
22 2014 pursuant to Anders. And their remittitur was returned
23 on February 24th of 2014.

24 He filed this application for post conviction relief
25 on November 10th of 2014 alleging several grounds of

Walter Monroe Lance
Direct examination by Mr. Rucker

1 ineffective assistance of counsel.

2 Mr. Lance is present today and he is represented by
3 Brandt Rucker, and I will turn it over to Mr. Rucker at
4 this time.

5 THE COURT: Okay.

6 MR. RUCKER: Your Honor, I call my client to the
7 stand.

8 THE COURT: All right.

9 WALTER MONROE LANCE, having
10 been first duly sworn, testified as follows:

11 DIRECT EXAMINATION BY MR. RUCKER

12 Q Mr. Lance, what is your current sentence?

13 A Fifty years.

14 Q Make sure you speak loudly.

15 A Fifty years.

16 Q Okay. And what were you convicted of?

17 A Criminal -- attempted criminal sexual conduct first
18 degree, kidnapping and strong arm robbery.

19 Q Did you appeal that sentence?

20 A Yes, sir.

21 Q What was the result of that appeal?

22 A They filed the Anders brief and nothing ever came of
23 it.

24 Q Okay. Specifically, you know, we're here for a
25 P.C.R., and you understand the judge can grant a new trial

Walter Monroe Lance
Direct examination by Mr. Rucker

1 but that's all he can do. Do you understand that?

2 A Yes, sir, yes, sir.

3 Q All right. What are you specifically asking the judge
4 to do for you today?

5 A Either vacate my sentence or either give me something
6 that I can do.

7 Q All right. We're going to work through your
8 allegations from your P.C.R. application. Who was your
9 attorney at trial?

10 A Robert Hall.

11 Q And what are you specifically saying he did
12 incorrectly in your case?

13 A Okay. First, I asked him for -- when he first came to
14 see me, right -- Chuck Wright gave an interview on
15 television that they had caught the person that assaulted
16 the lady. Right. And he called me an animal and said I
17 didn't belong walking in -- in society. And I asked him --

18 Q Did he say that?

19 A I asked him -- I asked him for a change of venue.

20 Q All right. Before we get to that, did he say that on
21 the news or was it just where --

22 A Yes, yeah. I have it right here.

23 Q Okay. And we just need to make it clear to the judge
24 because that might not be part of the record. You're
25 saying that the sheriff of Spartanburg County prejudiced

Walter Monroe Lance
Direct examination by Mr. Rucker

1 you by announcing to the public.

2 A Yes, sir.

3 Q Okay. Did you bring that up with Mr. Hall?

4 A Yes, sir.

5 Q And what did he tell you?

6 A He said that Chuck Wright and the solicitor's office
7 wanted my case tried in Spartanburg County.

8 Q Okay. And did you -- to your knowledge did he ever
9 file a motion for a change of venue?

10 A No, sir.

11 Q Did -- were you prepared to testify in case you needed
12 to to get the venue changed?

13 A Yes, sir.

14 Q Did y'all go over any potential testimony?

15 A Yeah. He -- he told me that he wasn't for sure that
16 he'd need me to testify, right. And then when it came --
17 came into the trial he needed Robert Bohon, the detective,
18 to testify. And he said that the only way he could get
19 Robert Hall, I mean, Robert Bohon to testify was if I
20 testified.

21 Q Now, was that part of your trial or was that part of
22 the venue motion, motion for change of venue?

23 A No. This is -- this was -- this was just when -- when
24 he first came to see me and he gave me the motion of
25 discovery and I showed it to him.

Walter Monroe Lance
Direct examination by Mr. Rucker

1 Q Okay. I'm -- I'm just asking you about the venue.

2 A Right.

3 Q You're accusing him of not filing a motion for change
4 of venue.

5 A Yes, sir.

6 Q And not following through. Did y'all communicate
7 clearly about that?

8 A Yes, sir.

9 Q And he -- why did he tell you that you couldn't do
10 that or he didn't want you to do that?

11 A He just said that he wasn't going to ask for a change
12 of venue because Chuck Wright and the solicitor's office
13 wanted it tried here in Spartanburg.

14 Q Did he get -- did he know about the television issue?

15 A Yeah. I showed him. It's right here in the motion of
16 discovery.

17 Q All right. So he had seen it, and he went over the
18 discovery with you. So he had seen that.

19 A Yes, sir.

20 Q So he made no effort to try to get the venue changed.

21 A No, sir.

22 Q All right. How do you think that affected the outcome
23 of your case?

24 A Well, I'm pretty sure all of the jury watch T.V. or
25 read the newspaper in Spartanburg County and they seen

Walter Monroe Lance
Direct examination by Mr. Rucker

1 this. And there's no way that people don't follow what the
2 sheriff says.

3 Q Do you recall the voir -- this is a legal term -- but
4 the voir dire process in this case?

5 A Sir?

6 Q Do you know what voir dire is?

7 A No.

8 Q Okay. Do you remember when the jurors were asked
9 questions about whether they could be impartial in this
10 case?

11 A Uh-huh.

12 Q Is that yes or no just for the court reporter?

13 A Yes, sir.

14 Q Do you recall if that question was asked about
15 pretrial publicity?

16 A No.

17 Q Is it your belief that Mr. Hall didn't even pursue
18 that portion with the potential jurors?

19 A No. He never did.

20 Q Do you have actual knowledge that any juror may have
21 known about the -- the television news story?

22 A I'm not sure.

23 Q But it was widely broadcast in this area?

24 A Yeah.

25 Q And it was never -- Mr. Hall never inquired upon them

Walter Monroe Lance
Direct examination by Mr. Rucker

1 to see if they had seen it?

2 A No.

3 Q All right. What is your next ground?

4 A Okay. Let's see. I have -- I asked him -- the
5 jury -- he had a -- the lady got up on the stand and
6 testified that I was the one that assaulted her.

7 Okay. Now, in a photo lineup she picked out someone
8 else, right.

9 Q How do you know she picked out someone else?

10 A Because I have the -- the photo lineup right here.

11 Q And did Mr. Hall know about the error in the photo
12 lineup?

13 A Yes, sir.

14 Q Did he agree with you that she had made a mistake?

15 A Yes, sir.

16 Q Did she -- did he cross-examine her on that mistake?

17 A Yes, sir.

18 Q All right. What do you think he did incorrectly
19 regarding the photo lineup?

20 A He didn't have the photo lineup to show the jury who
21 she picked out in the photo lineup.

22 Q So, specifically, regarding the photo lineup that's
23 his error.

24 A Yes, sir.

25 Q And you think that affected the jurors' decision.

Walter Monroe Lance
Direct examination by Mr. Rucker

1 A Yes, sir.

2 Q Why do you think it affected their decision?

3 A Because they don't know who the person was that she
4 picked out. They never got a chance to -- to look at
5 the -- the evidence.

6 Q All right. In addition to those two grounds, what's
7 your next ground?

8 A Okay. He -- when they -- when they found the vehicle
9 he never went out and asked anybody did they see who got
10 out of the vehicle. He never asked any questions.

11 He -- I know the man had the investigators because
12 they came and talked to me. So they never went to the
13 place where they found the vehicle and asked anybody who
14 they saw with that vehicle.

15 Q Let's get a little more specific. Where was the
16 vehicle allegedly found?

17 A In Una.

18 Q And what -- that's part -- the judge is from another
19 part of the state. That's part of Spartanburg County?

20 A Yes, sir.

21 Q All right. Do you know that area yourself?

22 A Yes, sir. I live over in that area.

23 Q Okay. Do you know people that live there that would
24 recognize a vehicle like that?

25 A Well, it's a church parking lot.

Walter Monroe Lance
Direct examination by Mr. Rucker

1 Q Okay. who do you think he should have talked to, is
2 what I'm getting at.

3 A The people at the church and the trailer park. It's
4 right there all way -- all over it. Just surrounding. I
5 have pictures of it.

6 Q If he -- is that what -- is that part of what you
7 attached to the application?

8 A Yes, sir.

9 Q And the judge is going to have access to all of the
10 discovery filed. Mr. Hall's obviously going to have to
11 share that with the Court as well.

12 A Okay.

13 Q What could he have found out if he asked questions of
14 witnesses up there?

15 A I don't know. I mean, they could have saw who got
16 outta that vehicle, who parked that vehicle there.

17 Q You don't know who that was.

18 A No, sir.

19 Q Okay. would those people be accessible though? I
20 mean, have you reached out to any of those witnesses
21 yourself?

22 A No, sir. I -- I never made bond. They didn't give me
23 a bond, so I couldn't get out.

24 Q Did you try to write them, or do you think Mr. Hall
25 did?

Walter Monroe Lance
Direct examination by Mr. Rucker

1 A I don't -- I don't know anybody in that, right in that
2 area.

3 Q Okay. But you believe his investigators could have
4 knocked on doors or at least went --

5 A Yes, sir. I mean, it's -- it's a brand new church
6 there. It's a -- a black church, and a lot of black people
7 live right there all around it, you know.

8 There's trailers all behind it. There's a trailer
9 beside it. It's on a Sunday. So, you know, someone,
10 somebody in the church could have seen the people that got
11 out of the vehicle.

12 Q Why was that vehicle important? I'm sure the judge
13 read the transcript. Just kind of give him an idea of what
14 happened there.

15 A Because I was charged with strong arm robbery for
16 taking this vehicle.

17 Q Okay. And so that was part of one of the crimes,
18 alleged crimes.

19 A Yes, sir.

20 Q Okay. In addition to these grounds that we've talked
21 about, now, what else did Mr. Hall do incorrectly for you?

22 A Okay. He also failed to call two witnesses,
23 Ms. Martin and her husband.

24 Q What are their names for --

25 A Chris Martin and Stephanie Martin.

Walter Monroe Lance
Direct examination by Mr. Rucker

1 Q And who are they?

2 A They were some people at the -- at the park the day
3 that the car was taken. Okay. The car was taken from
4 Milliken Park.

5 Q Okay.

6 A At the time that the car was supposed to have been
7 taken or it was reported taken I was walking away from the
8 area. And this is like 15 to 45 minutes later that these
9 people saw me walking, not driving this vehicle. And he
10 failed to call these two witnesses to the stand and let
11 them testify on my behalf.

12 Q Did you tell Mr. Hall about these potential witnesses?

13 A Yes, sir.

14 Q How did you know about the witnesses?

15 A They were also on -- they gave statements and they
16 also -- which I have it in my -- my motions right here.

17 Q That was in the discovery that you received, that
18 Mr. Hall received on your behalf?

19 A Yes, sir, yes, sir.

20 Q Did y'all talk about why? Did he tell you why he
21 wasn't going to call them?

22 A No.

23 Q Did he talk about strategy as far as him not believing
24 what they said or how it would affect the case before the
25 jury?

Walter Monroe Lance
Direct examination by Mr. Rucker

1 A No, sir.

2 Q All right. You just believe he failed to do it
3 through negligence?

4 A That's -- that's the only thing I could think of
5 because I don't -- I don't even understand why he wouldn't
6 call them because they could easily have testified and
7 cleared me of the strong arm robbery.

8 Q So do you believe they would have testified
9 consistently with the statements that are in discovery?

10 A Yes, sir.

11 Q And it's your belief that would have cleared you, at
12 least for part of it if not all of it?

13 A Yes, sir.

14 Q All right. Do you know these people personally?

15 A No, sir. I never seen them before.

16 Q All right. Any other -- do you have other grounds?
17 Let's make sure we cover everything before we go back into
18 detail.

19 A There was some -- the victim's husband took pictures
20 of her the next day or the day after or something. And
21 he's not in law enforcement and he's not in with the
22 Spartanburg Regional Medical Center. So my attorney
23 allowed him to, allowed the solicitor to, put these photos
24 into evidence against me.

25 Q Why did you believe that was improper?

Walter Monroe Lance
Direct examination by Mr. Rucker

1 A Because the pictures that was taken was not by law
2 enforcement or by Spartanburg Regional Medical Center.

3 Q Did --

4 A Therefore --

5 Q Go ahead.

6 A Therefore those pictures shouldn't have been granted
7 to the -- to the jury.

8 Q Did Mr. Hall tell you of any kind of legal basis for
9 that objection?

10 A No, sir.

11 Q Do you believe --

12 A I also -- I also have a picture during -- in the
13 motion hearing that there was nothing wrong with this lady,
14 period, on the day of the assault or the alleged assault
15 took place. There was no marks on her.

16 Now, the next day the -- the husband said he took
17 pictures of her with some marks on her.

18 Q Where did you get the first picture, the picture of
19 the --

20 A It was in my motion of discovery.

21 Q All right. You received that from the solicitor's
22 office.

23 A Yes, sir.

24 Q I'm just making it clear for the Court.

25 A Yes, sir.

Walter Monroe Lance
Direct examination by Mr. Rucker

1 Q And then others pictures were admitted that did not
2 come from the solicitor's office.

3 A No. They -- they were admitted on the day of the
4 trial.

5 Q Okay. Did -- was that in your discovery or did it
6 just show up the day of trial?

7 A No. The day of trial.

8 Q Do you believe you did not have sufficient time to
9 meet with your attorney based on that late-provided
10 evidence?

11 A Yeah, yes, sir.

12 Q All right. And he did not object to those pictures
13 coming in.

14 A No, sir. He did not object to them pictures.

15 Q Did she look worse off that next -- in those pictures
16 from the next day?

17 A Yes, sir.

18 Q Were those injuries consistent with what her
19 allegations were that she was showing in the pictures?

20 A No, no.

21 Q Okay. All right. Let's make sure we cover
22 everything. Do you have any other grounds for the judge to
23 consider?

24 A Okay. The -- okay. Now, the 9-1-1 calls, when I
25 was -- well, when -- when I was at Perry the -- the lady

Walter Monroe Lance
Direct examination by Mr. Rucker

1 had made a statement. well, she made two statements. One,
2 she said she arrived at 2:00 o'clock, and then another one
3 said she arrived at 2:30. So they went with the
4 2:30 statement, okay, so, which it was not in my motion of
5 discovery.

6 So I asked him. I wrote him and I asked him about the
7 2:30 statement, could he send me a copy of that. And he
8 said -- he wrote me back and told me that he didn't have a
9 copy of the statement but he had some written statements.

10 And then he turned around and -- and sent me some of
11 the hospital report that said that she arrived at 1:30 and
12 that the 9-1-1 call was made -- one was made at 1:30 and
13 then another one was made at 3:04. So he ain't even -- he
14 ain't even brought this up in -- in -- in the trial.

15 Q All right. To clarify it, do you believe that the
16 alleged victim gave inconsistent statements about the time
17 of the incident?

18 A Yes, sir.

19 Q Okay. And do you believe that the 9-1-1 tape -- who
20 do you think called in the 9-1-1 calls?

21 A It sounded like the lady, but I'm not sure.

22 Q Did she corroborate that at trial?

23 A Yes, sir.

24 Q Were the 9-1-1 calls admitted at your trial?

25 A Yes, sir.

Walter Monroe Lance
Cross-examination by Ms. Olive

1 Q Were they objected to by Mr. Hall at all?

2 A No, sir.

3 Q Okay. Do you have any other grounds you want to bring
4 up to the judge?

5 A No, sir. I think that's all.

6 Q All right.

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

8 CROSS-EXAMINATION

9 BY MS. OLIVE

10 Q Good afternoon, Mr. Lance.

11 A Good afternoon.

12 Q Do you recall Mr. Hall making objections at your
13 trial?

14 A He made one objection to, I think, something about
15 the -- the -- the -- a conflict between a strong arm
16 robbery and common-law robbery or something.

17 Q Your attorney cross-examined witnesses at trial, did
18 he not?

19 A Yes, ma'am.

20 Q Okay. And he -- the victim testified in this trial,
21 correct?

22 A Yes, ma'am.

23 Q Okay. So she was able to testify that you were the
24 person that assaulted her?

25 A Yeah. She said I was.

Walter Monroe Lance
Cross-examination by Ms. Olive

1 Q Okay. And she identified you?

2 A Yes.

3 Q Okay. And you said that that was her that made the
4 9-1-1 phone call?

5 A I'm not sure that it's not her. I'm not sure that it
6 was her. I said I assumed it was her.

7 Q Did she not testify at trial that she was the one that
8 made the 9-1-1 call?

9 A Yes.

10 Q Okay. Now, you said these photographs were taken of
11 her -- taken by her husband. But were photographs not --
12 were they not taken by the nurse at the hospital?

13 A No. They're not taken -- there was none from the
14 hospital, but there was some from -- taken from her husband
15 because I have them right here.

16 Q In all of these documents and these photographs that
17 you're referring to, do you have those with you today?

18 A Those documents, like, yes, ma'am, I do.

19 Q The one indicating that she didn't go to the
20 hospital -- that she was -- went to the hospital at
21 1:30 p.m. Do you have that with you?

22 A Yes, I do right here.

23 Q Your attorney did cross-examine her on her timetables,
24 did he not?

25 A No.

Walter Monroe Lance
Cross-examination by Ms. Olive

1 Q He didn't cross-examine her about what time she
2 alleged she went to the park?

3 A Oh, yeah, yeah, yeah. He -- she said in one -- one
4 statement. She said she -- she arrived at 2:00 o'clock,
5 and then she said she arrived at 2:30, and then she changed
6 it and said she was at 2:30, so.

7 Q Okay. But he cross-examined her about those
8 inconsistencies, right?

9 A Right.

10 Q Okay. And he did object to the admission of several
11 of the photographs of her injuries, did he not?

12 A No.

13 Q You don't recall him objecting to Exhibits 9 through
14 13 specifically?

15 A No. Also, I have it to where she --

16 MS. OLIVE: Beg the Court's indulgence for one minute.

17 (Pause.)

18 A So I have it to where she added to the -- to the
19 statement as well.

20 Q Mr. Lance, do you recall during the voir dire that
21 Mr. Rucker referred to earlier the judge did ask the jurors
22 whether they had seen the news, correct?

23 A Yeah, yes, ma'am.

24 Q Okay. And some of them indicated that they did.

25 A Yeah.

Walter Monroe Lance
Cross-examination by Ms. Olive

1 Q Okay. And he questioned them on their ability to be
2 impartial despite having viewed the news?

3 A I don't recall that.

4 Q Okay. Do you recall that some indicated that they
5 could not be impartial and he excused those jurors from
6 service?

7 A Yes. Some of them did, yes. Excuse me. Yes.

8 Q Okay. So the ones that indicated that they had seen
9 the news and they could not be impartial, he excused them
10 from service, correct?

11 A Yes. I think so.

12 Q Okay. And there were other individuals that were in
13 the park that day that testified that they saw you in the
14 park that day, is that correct?

15 A Yes.

16 Q And your attorney cross-examined those individuals as
17 well?

18 A Yes, he did, and they all gave inconsistent times.

19 Q Okay. But he cross-examined about that, right?

20 A Yes.

21 Q Okay. And these two witnesses that he did not call,
22 are they here today?

23 A No, ma'am.

24 Q Okay. So we really don't know what they would have
25 said?

Walter Monroe Lance
Cross-examination by Ms. Olive

1 A I mean, I'm sure they would have spoke what they wrote
2 in their statement.

3 Q Your attorney pointed out that there was no evidence
4 found in the vehicle, correct?

5 A That's right.

6 Q Okay. But the victim did testify that she gave you
7 your key -- gave you her keys and that you took off with
8 her car, right?

9 A She said she just gave me the keys. She said she
10 never saw me take the car.

11 Q Okay. But she gave you the keys.

12 A Right. That's what she said.

13 Q And that's after you had asked her to drive you
14 somewhere? That was her testimony?

15 A That's what she said, yes. Here's the -- here's
16 the --

17 Q Mr. Lance, are you showing me those documents?

18 A Yes, ma'am. Also, it's where she also added some more
19 to her story as well.

20 Q And-but there were some photographs that were taken at
21 the hospital, is that correct?

22 A Yes, ma'am.

23 Q Okay. And those were introduced and your -- but
24 your -- you recall your attorney objecting to those
25 photographs?

Walter Monroe Lance
Cross-examination by Ms. Olive

1 A No. Here is the -- the one that was taken at the
2 hospital is right here.

3 Q Those were introduced at trial, correct?

4 A One was, but the other one wasn't, I don't think.

5 Q Okay. But the one that wasn't, you don't have any
6 issue with that, right, because it wasn't introduced as
7 part of the trial?

8 A I'm saying I don't think it was. I don't know.

9 Q So are you here today asking for a new trial?

10 A Either a new trial or -- or a time-cut or something.

11 I -- see, I got 50 years for something I ain't done.

12 Q You want to go back to trial today?

13 A Yes, ma'am.

14 Q Do all of this over?

15 A Yes, ma'am. Please give me a chance to prove that I'm
16 not guilty.

17 Q Well, you did -- you testified at your trial, right?

18 A Yes, ma'am.

19 Q Okay. Is there anybody -- you had an opportunity to
20 give your side of the story and tell the jury that you
21 didn't do this, right?

22 A Yes, ma'am.

23 Q Okay. And that was the argument that your attorney
24 made in closing, correct?

25 A Yes, ma'am.

Robert B. Hall
Direct examination by Ms. Olive

1 Q Okay. And you pointed out where that was a lack of
2 evidence and where the stories were inconsistent.

3 A Yes, ma'am. And I've got it right here.

4 Q Thank you. That's all the questions I have,
5 Mr. Lance.

6 A Okay.

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

8 THE COURT: Okay. You can step down.

9 MR. RUCKER: That's our case on our side.

10 THE COURT: Okay.

11 MS. OLIVE: Your Honor, the state would call Robert
12 Hall.

13 ROBERT B. HALL, having been
14 first duly sworn, testified as follows:

15 DIRECT EXAMINATION BY MS. OLIVE

16 Q Good afternoon, Mr. Hall.

17 A Hey.

18 Q Mr. Hall, how long have you been practicing law?

19 A Just over 30 years.

20 Q And how much of that has been criminal law?

21 A I had a general practice for approximately a year and
22 a little over seven years as a prosecutor in this circuit.
23 Three and a half of that was, or at least three and a half
24 of that was, the -- basically, ran the Cherokee County
25 office.

Robert B. Hall
Direct examination by Ms. Olive

1 After that just under 14 years as a magistrate I did
2 criminal, civil, issued warrants. I did everything that
3 magistrates do. And then now for the past a little over
4 eight years have done nothing but criminal defense work for
5 the public defender's office.

6 Q Had you handled charges that Mr. Lance was facing
7 prior to representing him on these charges?

8 A I'm sorry?

9 Q Had you represented others on -- on these types of
10 charges before?

11 A Yes.

12 Q Were you -- were you appointed in this case?

13 A Yes, I was.

14 Q Do you recall at what point you -- you were appointed?

15 A It was shortly after he was arrested our office
16 interviewed him.

17 I think he's referring to the investigators that
18 talked to him. The first one would have been more of an
19 interviewer. They go in and get the basic information and
20 determine whether or not they qualify for our services. So
21 that's -- we picked him up shortly after he was arrested.

22 Q Do you recall how many times you met with Mr. Lance?

23 A Not a number. I know I met with him a great deal,
24 because I think the case was coming up one time. We were
25 getting ready, and I can't remember if it was a health

Robert B. Hall
Direct examination by Ms. Olive

1 issue with me or something that it may have been delayed.

2 And then it came up later.

3 But we met a great deal. We went over things. We
4 went over his -- what his testimony would be. We went over
5 a lot of things.

6 And he sent me out looking for people for witnesses.
7 He -- a Debra Earnhart Johnson, his daughter Jackie Lance,
8 one of her friends Jessica.

9 So there were times I would speak with him for a
10 while. I would go out and try to talk to, or talk to the
11 people, and come back that or the next day. So it was a
12 lot of back and forth, but spent a lot of time with him
13 getting ready.

14 And I believe I even went out to the Una because his
15 daughter that I talked to I tracked down at one point lived
16 at Saxon. That's, I think, more realistically -- the area
17 where the church is where the car was located is more
18 properly Saxon. I mean, only the deputies would understand
19 where the -- those lines are between Una, Saxon and
20 Arcadia. It's kind of blurred, but I think that was more
21 Saxon.

22 Q So you said you went out to the area where the car was
23 found?

24 A Yes. I did.

25 Q Were you able to locate any witnesses?

Robert B. Hall
Direct examination by Ms. Olive

1 A No. I didn't. I talked to -- asked around and
2 knocked on doors myself because, despite us having
3 investigators that do a lot, some of that work, at times
4 they're not available to -- to you. And we just have to go
5 out and walk the pavement yourself.

6 Now, after I would find a witness I would take an
7 investigator or send an investigator to take a statement or
8 try to take a statement or to serve a subpoena, those type
9 of things. But other than that I did a lot of the foot
10 work myself.

11 Q Were you able to find anyone that had seen him or seen
12 the vehicle or anyone leave the vehicle?

13 A I believe I left -- I can't remember if I talked to
14 somebody at the church or left a note at the church, but
15 never got any response of anybody that saw anything, which
16 I thought was odd. I think I brought it up in trial that
17 you have a church that historically will be there -- people
18 will be there all day. But nobody saw anything.

19 As far as his witness Debra Earnhart Johnson -- and
20 she was very proud of the fact that she'd married and had
21 another surname other than Earnhart -- so we had to call
22 her Johnson to even get her to talk to us.

23 He -- he said she would be a witness to events at the
24 soup kitchen the day of this assault, these allegations
25 came forward. And every time we talked to her she denied

Robert B. Hall
Direct examination by Ms. Olive

1 seeing anything or remembering anything.

2 I gave -- I showed her pictures of the vehicle. I
3 know we talked to her at least three times. I know one
4 time I sent investigators to find her. They found her at
5 the soup kitchen, which used to be just a block up from our
6 office, a very right area to look for people we look for at
7 times. And they had her, and I went up there and spoke to
8 her with them.

9 Every time we spoke to her -- the three times
10 specifically talking to her and asking about what Mr. Lance
11 was saying happened and that she saw it -- she denied
12 seeing anything. The closest we ever got was she said, "If
13 I saw it, I don't remember it. I wish I could help him,
14 but I can't. I didn't see anything."

15 Q Do you recall why he was needing a witness from the
16 soup kitchen?

17 A His story -- his story was -- he testified that she
18 came by the soup kitchen and told him to meet her at
19 Milliken Park.

20 Q And she being the victim?

21 A She being the victim, yes.

22 Q Did they know each other beforehand?

23 A Not to my knowledge, no.

24 Q I want to back up a little.

25 You stated that you met with Mr. Lance a number of

Robert B. Hall
Direct examination by Ms. Olive

1 times. What -- did you review the charges with him
2 including the elements of these offenses and what the state
3 would have to prove at trial?

4 A Yes, I did. I even remember the absurdity of them
5 charging him with strong arm robbery and grand larceny --
6 strong arm robbery of the vehicle and then charging him
7 with larceny of the vehicle and discussing how silly that
8 was in my mind. And I think, ultimately, they dismissed
9 that larceny charge before we went to trial after they
10 spent a good deal of time researching the value of the make
11 and model of the vehicle to try to make it grand larceny.

12 And I finally just said to them, what does it matter,
13 he's charged with strong arm robbery so the value doesn't
14 matter. And they, I think, at that point saw the error in
15 their ways and dismissed that charge.

16 Q Did you discuss with Mr. Lance the possible
17 punishments he was facing on these charges?

18 A Absolutely.

19 Q Did you discuss his constitutional rights with him?

20 A Yes, I did. He understood his rights. He understood
21 the -- he understands the process.

22 Q Did you also discuss the state's burden of proof in a
23 trial?

24 A Yes.

25 Q Did Mr. Lance cooperate with you through your

Robert B. Hall
Direct examination by Ms. Olive

1 representation?

2 A Yeah, by and large he did. He was not hard to deal
3 with.

4 He would -- unlike a lot of clients, he would listen
5 and then respond instead of just -- some clients want to
6 just argue with you, and no matter what's going on or what
7 you're doing for them, wants you to do something else.
8 And-but I think our preparation was fairly well organized
9 when we did things. When I had go out and try to find
10 something and come back, we'd do it. He was -- he was good
11 that way.

12 Q We've already touched on this a little, I believe, but
13 did he tell you his version of the facts?

14 A Yes. He was consistent throughout his version of what
15 happened.

16 Q Is that consistent with what he testified to at trial?

17 A Yes.

18 Q Did you discuss with him his right to testify at
19 trial?

20 A Yes, I did.

21 Q Did you file any discovery motions in this case?

22 A Yeah. We filed for discovery, our normal for Brady
23 and discovery. We operate under an order that is a little
24 different than most circuits, but yeah.

25 Q Do you recall what specific items were in the

Robert B. Hall
Direct examination by Ms. Olive

1 discovery materials?

2 A We had several incident reports, statements from
3 witnesses, potential witness, photographs. Later D.N.A.
4 results were coming back. Hospital records. A good deal
5 of information in this -- in this case.

6 Q Did you review all of that discovery with him?

7 A I can't sit here and tell you that we looked at every
8 page together, but he had discovery as I got it. We
9 discussed the important things, things that he thought were
10 important, things that I thought were important. But we
11 went over everything.

12 Q And do you have a recollection of this Stephanie
13 Martin and, I guess, her husband, Chris Martin?

14 A I think there was a couple who, as I recall from
15 reviewing some of this, that they got there at 2:15 or a
16 little after 2:00 and they thought it was about 3:00 or so
17 when they left, which I think would have in some ways, may
18 have been out of the timeline, but not terribly so.

19 But I can't remember right offhand if they were able
20 to pick the person out that they said was a -- looked out
21 of place, I think, was the language they used, which I
22 thought was odd because Milliken Park, there's all kinds of
23 people down there. And I don't know how anybody would look
24 out of place when just about everybody in the community
25 would go there from affluent people to people that have no

Robert B. Hall
Direct examination by Ms. Olive

1 place to live.

2 Q Did Mr. Lance tell you about those witnesses?

3 A We discussed those witnesses. I don't know if he
4 brought them up before I did, but we went over the
5 statements of all of the witnesses as I recall and which
6 ones would be useful and which ones wouldn't be useful.
7 But, by and large, the state was calling those witnesses,
8 most of the witnesses, on their own.

9 Q So those would have been witnesses that the state was
10 planning to call?

11 A Yes.

12 Q Would they -- do you think they would have been
13 helpful to Mr. Lance?

14 A I don't think so, no. I don't think the Martins would
15 have been terribly helpful at all, because in a lot of
16 trials even the warrants, the indictments, say on or about
17 and can be looked at kind of broad. And we try to argue as
18 much as we can to the jury and bring those things out, but
19 they're not -- they're not always fatal.

20 I've -- I've proved in a case that the state was a
21 full week out and our Court of Appeals said it's on or
22 about, that's close enough, that's not an element and
23 that's all right. But we were able to argue those things
24 to the jury.

25 Q I believe you testified that you reviewed all of the

Robert B. Hall
Direct examination by Ms. Olive

1 statements that were in the discovery.

2 A Yes. I did with him; I did before trial.

3 Q Did you attempt to locate the -- any witnesses that he
4 provided to you?

5 A Yes, I did. I already referred to his daughter and
6 Ms. Debra Earnhart Johnson. His daughter was at first not
7 cooperative, and then she wanted to help her father, and
8 then when it finally came down to trial time she basically
9 said that she could not testify unless she was drunk or
10 high. She went from saying she wanted to testify to try to
11 help him to that she was not going to testify.

12 And I addressed all of this with Mr. Lance, who I
13 won't use the words he used about his daughter, but in no
14 uncertain terms said that he -- because of people she
15 chooses to associate with and what she does with them, she
16 wasn't worth it anyway, she wouldn't be a good witness.

17 As far as Ms. Earnhart, as I said, she repeatedly told
18 us that she didn't see anything.

19 In fact, on March 12th of 2012 Mr. Stepp and I -- this
20 is one of the times we talked to her -- says, "I, Debra
21 Earnhart Johnson, know Walter Lance. I do not remember
22 seeing him talking to a woman in the parking lot of the
23 Spartanburg Soup Kitchen on October 30th of 2011."

24 That's something she repeated to us again. I went
25 with an investigator, Jones, Curtis Jones with our office,

Robert B. Hall
Direct examination by Ms. Olive

1 and went to Beaumont and tracked her down and -- on
2 Southern Street.

3 She actually came out to meet us as we drove up the
4 road, which I think she tends to do, look out for cars, and
5 with men in them comes out and greets them. She was kind
6 of surprised when she saw it was us.

7 We went to speak to her again, and we showed her the
8 pictures of the alleged victim in this case, the vehicle.
9 And she says it does not ring a bell. She doesn't remember
10 seeing it. She couldn't testify for us.

11 There was also a Jackie Osteen who was supposed to
12 corroborate Jackie Lance's story that I finally tracked
13 down in March of 2012 and kind of went over what I was
14 looking for. And she basically denied that she would be
15 able to tell us anything that would be helpful to us.

16 So we -- I tracked down just about everybody -- I
17 think everybody -- he suggested or that his daughter
18 suggested when she was helpful. Excuse me.

19 I got the note from March 3rd of 2012, and she said
20 that that's -- that's when she told me that what they had
21 told me about her being there when he came in and told the
22 story of what had happened.

23 She said she'd only seen Mr. Lance twice and was not
24 there when he got back, doesn't remember any injury to his
25 hand. That was -- he was -- had his hand cut. He said

Robert B. Hall
Direct examination by Ms. Olive

1 from climbing a barbed wire fence at the old Saxon mill and
2 that she really wasn't around him much.

3 So we -- between myself and my investigators, we
4 tracked down any potential witness we thought we might have
5 and, fortunately, one by one eliminated until we eliminated
6 his daughter at trial that just was -- was not going to be
7 a good witness. She was -- I think it was a fair appraisal
8 that she gave me that she couldn't testify unless she was
9 drunk or high, which I can't put a drunk or high person on
10 the stand. That just wouldn't be proper.

11 Q Mr. Hall, we've -- we've already discussed some of the
12 evidence in this case, but can you briefly describe the
13 state's evidence against Mr. Lance in this trial?

14 A We have the victim in the case who picked him out of a
15 lineup, had people -- in some of the statements they had
16 people who were there on a different day that tried to
17 describe a strange person at Milliken Park.

18 They recovered the vehicle fairly quickly. I think
19 there was a possibility of a car going down Pine Street
20 that the city went after. But they found the car over
21 between Una and Saxon at the church, which was just a very
22 short walking distance from where he was living with his
23 daughter or staying at times with his daughter, Jackie,
24 which is on the -- I guess from most people's perspective
25 on the back side of the old Saxon mill in that

Robert B. Hall
Direct examination by Ms. Olive

1 neighborhood.

2 I believe there was some -- there was D.N.A. taken, I
3 know, from the vehicle. They -- I believe it was
4 inconclusive. I think from the victim, their clothing, I
5 think there was some D.N.A. that came back to Mr. Lance.

6 But you had a very strong witness in the victim in
7 this case who was adamant that these events occurred and
8 that he was the person who did it. I did what I could to
9 bring out problems in her testimony and the police
10 investigation and I think did everything we could.

11 Q I am going to go back to -- you heard Mr. Lance
12 testify earlier regarding the statements that the sheriff
13 made on T.V. Were you aware of those statements?

14 A Yes, I was.

15 Q Okay. And you heard Mr. Lance allege that you -- that
16 you should have asked for a change of venue and that --
17 that you stated that you would not because the sheriff
18 wanted to try this case in Spartanburg. Do you agree with
19 that statement?

20 A No, I don't. I've known Chuck Wright for a long time.
21 But my job -- I don't care what Chuck Wright wants. I have
22 to care what's right for my client.

23 But, generally, you don't know if you need a change of
24 venue until you come up to trial time. We go -- Judge
25 Couch other than, I think, one mistake he made that I

Robert B. Hall
Direct examination by Ms. Olive

1 brought to his attention, does a good job of going over
2 that. And he gave everybody opportunity that had heard
3 about this, read about it, felt like they couldn't be fair
4 and impartial to be eliminated from the jury. And there
5 was no grounds for asking for a change of venue.

6 And also as -- I was of the opinion a lot of times
7 that when you get a change of venue the receiving county,
8 people look at it and say this must be a bad case because
9 they brought it over here from Spartanburg to wherever. So
10 it can actually be a very negative thing for the person
11 charged. But there was no need for it in this case.

12 Q Mr. Lance also testified regarding the photo lineup.
13 I think he testified that the victim did not initially
14 select him out a photo lineup. Did you cross her about her
15 identification of Mr. Lance?

16 A I don't specifically remember that because it's not
17 that unusual, but/and I've not -- it has been a while since
18 I've looked at this transcript. I think we've been -- this
19 has been up a few times. But if that were an issue I'm
20 sure I cross-examined her and brought that out and would
21 have gone into it in closing, which a lot of times is the
22 best place for us to bring things up because the more you
23 dwell on them in trial, the more the state is prepared in
24 their closing to talk about those things or examination of
25 the witnesses, cure them, but --

Robert B. Hall
Direct examination by Ms. Olive

1 Q Do you -- do you recall that being the case? Did --
2 did she?

3 A I don't recall that specifically being the case in
4 this -- this -- or being the situation in this trial.

5 Q Do you recall whether she did ultimately select him
6 from a photo lineup?

7 A Not right offhand. I know I've seen photo lineups
8 from the witnesses that were at Milliken Park trying to
9 pick him out, pick somebody out, they were referring to. I
10 think a couple of them did.

11 Q So was there more than -- were there other witnesses
12 besides the victim who viewed photo lineups in this case?

13 A I believe Ms. Martin that he referred to. I think she
14 had looked at a photo lineup and I believe picked him out,
15 but I'm not -- I'm not a hundred percent sure on that.

16 Q And he may have said lady and not victim before. I'm
17 not -- I'm not certain who exactly he was referring to.
18 But would that have been something that you would have
19 cross-examined the witness about?

20 A Absolutely. That's ripe territory and that's what I
21 would have -- brought that out. In these type cases it's
22 very rare that you want to beat up a victim, so to speak,
23 on cross-examination. But you do want to bring out the
24 inconsistencies that they may have.

25 I believe I see Kerstin Joslin-Venus, I believe,

Robert B. Hall
Direct examination by Ms. Olive

1 picked him out of the lineup. I'm not sure if he's saying
2 that she picked -- didn't pick him out at first. I just
3 don't recall that.

4 MS. OLIVE: Beg the Court's indulgence.

5 (Pause.)

6 Q Mr. Hall, if I showed you this place in the transcript
7 would that refresh your memory regarding the photo lineup?

8 A Yeah.

9 MS. OLIVE: May I approach the witness, Your Honor?

10 THE COURT: Yes.

11 Q I'm looking at page 120 of the transcript starting at
12 line 25.

13 A Okay. It's where I'm cross-examining Ms. Wofford. Do
14 you want me to read?

15 Q Do you -- does that refresh your recollection about
16 whether you cross-examined an individual about failing to
17 pick Mr. Lance out of a lineup?

18 A Do you want to give me a moment just to review this?

19 (Pause.)

20 A Yes. Speaking with Ms. Wofford and, I think, going
21 into -- there's a -- if I'm remembering correctly, that
22 there's a lot of people that are just -- they're kind of
23 out of place. They look a little different, hitting on
24 those things, because I asked, you know, about seeing a man
25 in -- in black watching people at Milliken Park, those type

Robert B. Hall
Direct examination by Ms. Olive

1 of things, yes, ma'am.

2 Q Did you ask her if she was shown a lineup?

3 A Let's see. Yeah. I asked about her not being able to
4 identify him before, yes, ma'am.

5 Q Okay. Thank you.

6 Mr. Lance also testified regarding the 9-1-1 phone call
7 that the victim made in this case. Did you have any grounds
8 to object to that 9-1-1 phone call?

9 A They had Mr. Thompson here who is -- at that time that
10 was his job, to keep the records, maintain the recordings
11 and come and verify them and testify at trial. And he was
12 here and did so.

13 Q Okay. But she testified that she made a 9-1-1 phone
14 call?

15 A Let's see. I'll have to --

16 Q When I say she, I'm referring to the victim.

17 A Okay. If you'll have a page for me because I'm not --

18 Q Let me see.

19 A On page 93 on direct she refers to -- she says, "Yes.
20 I called 9-1-1 right away."

21 Q Okay. So it's your understanding the victim -- did
22 the victim make the 9-1-1 call?

23 A Yeah.

24 Q Okay.

25 A And she made the call. She ran to the people at the

Robert B. Hall
Direct examination by Ms. Olive

1 pine trees.

2 Q Do you recall whether you objected to any photographs
3 that were --

4 A I objected to photographs they were trying to put in.
5 Mr. Barnette wanted just to put the photographs in, and I
6 think they -- once they laid the foundation for the
7 pictures, then I didn't have any other grounds for
8 objection.

9 Q So you had no reason to object to those photos.

10 A No.

11 Q Do you feel that you had enough time to meet with
12 Mr. Lance before trial?

13 A Yes, I do. It's hard thinking back but the -- the
14 case load I had then is probably a little bit less than I
15 have now. I thought it was kind of -- I had a lot of cases
16 back then, but I think it's actually a lot more now, but
17 we had --

18 Q Did you have an overall theory or strategy in this
19 case?

20 A Like a lot of our cases, we have to take with what our
21 client tells us happened.

22 What the state did, the state took a -- well, for lack
23 of a better word -- took a lot of shortcuts. They --
24 because they knew of Mr. Lance when the general description
25 fit him, then the vehicle was found where they believe he's

Robert B. Hall
Direct examination by Ms. Olive

1 living, they focused on him, you know, they -- those type
2 things.

3 It was just canvassing the neighborhood. Never talked
4 about anybody they talked to specifically.

5 There was no D.N.A. evidence, I believe, in the car
6 from Mr. Lance, even though there's no indication that he
7 had gloves on or anything like that.

8 Just all of the weaknesses we could find in the
9 state's case. And we had talked about -- I had talked
10 about that with Mr. Lance in a great deal of detail, I
11 think.

12 Q Did you -- did you cover those matters in your closing
13 statement?

14 A To my knowledge, yes, ma'am.

15 Q Did you cross-examine witnesses on those matters?

16 A Yes, ma'am.

17 Q Did you call any witnesses besides Mr. Lance to
18 testify?

19 A No. At the time of trial he was the only witness we
20 had.

21 His daughter was eliminated by her behavior and his
22 decision, yeah, we don't need to put him -- put her up.

23 Q Do you recall whether you called Joseph [sic] -- I'm
24 not sure how to pronounce his name -- but Bohon? I think
25 he was a -- he's an investigator.

Robert B. Hall
Direct examination by Ms. Olive

1 A He was the investigator. I think he testified. Let's
2 see. I'm sorry. Yeah. I did call Joseph Bohon -- I'm
3 sorry -- I think to point out some of the inadequacies in
4 the case the state had presented, yeah. I think he was a
5 little taken aback by that. He wasn't used to that.

6 Q But other than him did you know of any other witnesses
7 that you could have called?

8 A No. I had personally and sent out my investigators
9 and tracked down people and talked to people and done
10 everything I could.

11 And his -- when you have a witness that is related to
12 your client closely and you have a hard time getting their
13 cooperation and then they basically say I've got to be on
14 something or drunk before I could testify, not only I
15 shouldn't put somebody up on the stand who is under the
16 influence. That does not tell me that they're being very
17 truthful if they need to be under the influence to testify.

18 Ms. Johnson, Debra Earnhart Johnson, was not a witness
19 even though she said she wished she could help him. She
20 could not help him.

21 And then Jessica Osteen said what they've told you,
22 not true, I wasn't there, I can't corroborate that.

23 Q Thank you Mr. Hall. That's all the questions I have.
24 Please answer any Mr. Rucker may have.

25 MR. RUCKER: May it please the Court.

Robert B. Hall
Cross-examination by Mr. Rucker

1 THE COURT: Yes, sir.

2 CROSS-EXAMINATION

3 BY MR. RUCKER

4 Q Obviously, Mr. Lance testified in this case, right?

5 A Yes.

6 Q And did y'all go over his, what his testimony would be
7 before you went to trial?

8 A Yes.

9 Q And before we get too far into this, did he ever get a
10 plea offer in this case?

11 A I think the plea offer was to plea straight up.

12 Q And just whatever the mercy of the Court was?

13 A Yes.

14 Q Do you recall what Mr. Lance's prior record was before
15 this case?

16 A I've got his record in here. I don't recall it right
17 offhand.

18 Q Do you have a copy of the transcript with you?

19 A Yes, I do.

20 Q All right. Do you recall if it was read out into the
21 record at any point either by the judge during an in-limine
22 hearing or in front of the jury?

23 A I don't recall his record ever being read out in front
24 of the jury unless it was for things that were impeachable.

25 Q Okay.

Robert B. Hall
Cross-examination by Mr. Rucker

1 A But we would have discussed that. I would have gone
2 over that with him.

3 Any client that intends to testify, including
4 Mr. Lance, we go over the record, what I believe would be
5 admissible for purposes of impeachment. And then we settle
6 the record, his record, before he even makes a decision of
7 whether or not he's going to testify. That's with the
8 Court where the Court makes a finding these are admissible
9 for the purposes of impeachment and these others are not.

10 Q Do you recall the judge, Judge Couch, actually talking
11 on the record with Mr. Lance about his decision to testify
12 or not?

13 A I believe this was -- Judge Couch was the --

14 Q I'm sorry.

15 A Did the jury.

16 Q Yes.

17 A But Judge Cole did the trial.

18 Q Fair enough. Judge Cole.

19 A Yeah.

20 Q Do you recall Judge Cole going over his rights to
21 testify or not testify?

22 A Yeah. I don't specifically remember. I know that
23 Judge Cole does that. I remember he did it in this, but
24 the details, without looking at the transcript, no, I don't
25 know.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Q I just -- I can't find it in the transcript. I may be
2 going over it incorrectly, but I'm trying to find out if he
3 did, in fact, go over that with -- with Mr. Lance. It
4 would have been right before Mr. Lance testified, right,
5 generally?

6 A Or before Investigator Bohon. Yes. I think it was
7 before Investigator Bohon, about 204.

8 Q And what -- what -- what convictions did you agree
9 could be used against him to cross-examine him?

10 A I'd have to look -- I'd have to look at the
11 transcript. Let's see. I don't see if --

12 Q Just to make it a little easier, my record says page
13 208. But I think the original transcript is 199 where
14 Solicitor Barnette is listing off what they think is
15 allowable under Rule 609.

16 A Yeah. Okay. Let's see.

17 Q Starting at line 12.

18 A Okay. "Your Honor, discuss prior. During the break
19 we had -- four grand larcenies on his record that can come
20 in, and two petit larcenies. Also, a felony from his
21 federal charge that he was serving time for before this
22 occurred."

23 Q And Mr. Barnette also suggested to the judge there was
24 a pattern of conduct, right?

25 A Yeah. He -- they do that in about every case.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Q All right. Does pattern of conduct sound like
2 credibility, or is that prior-bad-act kind of evidence?

3 A That sounds like prior bad act, yeah.

4 Q I'm going to refer you to -- well, before we get
5 there, what was -- I don't think it's clear from the
6 record. What was the federal charge with the felony?

7 A I'd have to look at his rap sheet if I can find it in
8 here.

9 Q Could that have been a -- just some kind of firearm
10 charge?

11 A I -- I -- I don't recall. Like I said, unless I've
12 got his criminal history in here somewhere to be able to
13 tell that. But, unfortunately, Judge Cole likes to discuss
14 a lot of these things in chambers, and they don't always
15 get on the record probably as good as they should. But I
16 know I have his record in here.

17 Q I won't make you flip through the whole thing, but do
18 you dispute it could have been a federal gun charge?

19 A I can't dispute that because I just don't remember.

20 Q Okay. Now, I'm going to refer you to page 257, the
21 closing arguments.

22 Well, first of all, you didn't disagree that the petty
23 larceny and grand larceny and the federal charge could be
24 used against him for impeachment purposes based on
25 credibility, right?

Robert B. Hall
Cross-examination by Mr. Rucker

1 A I don't believe so, no.

2 Q And you did not agree that it could be used as
3 prior-bad-act evidence because that would be negligence on
4 your part. I don't mean negligence. I should say that
5 would be an error of law to allow prior-bad-act information
6 in for a jury to consider for guilt of Mr. Lance.

7 A I think -- but I think the judge charges about the bad
8 acts coming in for the purposes of credibility of the
9 witness. I think that's covered in the standard charge on
10 those.

11 Q I'm going to refer you to page 257 of the transcript.
12 It's my 266. I don't know how yours is numbered. That's
13 why I'm saying the two numbers.

14 A My 257 is closing arguments. Starts line one. "Clear
15 on the 9-1-1 tape that she was upset."

16 Q Yeah. I would -- yours must be 266 then.

17 A Okay. That starts, "When it comes down to simple use
18 of."

19 Q That's right. All right. Line 18. Mr. Barnette says
20 to the jury, "You heard his record. You can use that to
21 weigh his credibility too. He's back 17 days and did
22 this."

23 That last sentence, why didn't you object to that?

24 A Give me just a moment to look at everything going to
25 it.

Robert B. Hall
Cross-examination by Mr. Rucker

1 (Pause.)

2 A Most probably because I think objecting to it, whether
3 the judge admonishes or not, just calls more attention to
4 that fact if a curative instruction -- again, calls more
5 attention to that fact.

6 And, quite frankly, a lot of times with closing
7 arguments, you know, sometimes juries quit listening. I'm
8 not sure how long he'd been talking at that point. But
9 that's just one of those judgments you make sitting there,
10 do I want to call more attention to this or not. And I
11 chose not to call more attention to it.

12 Q Do you agree with me though that that suggests he's
13 the kind of guy that does this kind of stuff and that's
14 what the evidence is showing through what Mr. or Solicitor
15 Barnette said?

16 A Again, I -- could I have objected? Maybe. But the --
17 I think the objection and the remedy would just point to it
18 more.

19 I've dealt with juries a lot in a different way, and
20 those curative type instructions usually in my opinion do
21 more harm than good because it just brings more focus in on
22 the thing. And no matter how many times a judge charges
23 the jury can take the -- to pay no attention to what
24 they're saying and say this is important and take it -- and
25 I felt, apparently felt, it was better not to raise that

Robert B. Hall
Cross-examination by Mr. Rucker

1 issue.

2 Q Well, the problem is though it's not reserved for
3 appeal at that point if you don't object to it.

4 A Yes, sir.

5 Q Previously object to it.

6 A Yes, sir.

7 Q And you agree that that is undoubtedly prior bad act
8 or character evidence, not credibility evidence.

9 A I can see your argument. I don't know if I did at
10 that time or not.

11 Q Okay. Following line, line 20, "Nobody deserved what
12 happened to her that day. Can you imagine the terror?" Do
13 you see the problem with that?

14 A It's trying to put the jury into the position of the
15 victim.

16 Q Did you object to that --

17 A No, I did not.

18 Q -- statement? Do you think because of that it was not
19 preserved for appeal?

20 A If I don't object, it's not preserved, yes, sir.

21 Q We go back to the photo lineup. Do you recall seeing
22 a photo lineup where the victim allegedly identified
23 Mr. Lance, your former client, my client?

24 A I believe so, yes.

25 Q Do you have that in your file where you can reach it

Robert B. Hall
Cross-examination by Mr. Rucker

1 now?

2 A I saw it a little while ago. Let me see.

3 (Pause.)

4 A I had everything in the trial notebook, and we have to
5 take it out because we have to reuse our notebooks.

6 Q Sure. And while you're looking for that, we're also
7 going to have the mugshot, so if you locate that too.

8 A Okay. I have -- mine's -- I think it's the victim's
9 identification dated -- my discovery 12/7/11, page two of
10 three, and three of three.

11 Q Okay.

12 MR. RUCKER: May I approach the witness, Your Honor?

13 THE COURT: Yes, sir.

14 Q Do you also have a copy of the -- sorry to talk to you
15 as I walk away -- a copy of the mugshot from this incident?

16 A If you'll tell me what you're referring to, they have
17 a lot of pictures. They took some pictures of him in, I
18 think, the clothes he was picked up on and --

19 Q I'm asking you if you've seen this.

20 A That's a jail mugshot.

21 Q Yeah. Have you seen the jail mugshot before?

22 A Yes.

23 Q Okay. And you have a copy of that as well?

24 A I'm not sure where it is in here, but I think I have a
25 copy of it, yes.

Robert B. Hall
Cross-examination by Mr. Rucker

1 MR. RUCKER: Your Honor, we have copies of this. One
2 of the copies has actually been written on by my client.
3 I'm intending to have these admitted into evidence as part
4 of this. I know that's Mr. Hall's file. I don't know if
5 he has extra copies. So I can certainly redact any
6 writings if that's necessary.

7 MS. OLIVE: Your Honor, I would object to the
8 admission into evidence until someone can lay some
9 foundation for what these images are. Just of themselves,
10 I -- I can't even decipher what they're --

11 MR. RUCKER: I can -- I can fix that.

12 THE COURT: Okay.

13 Q Did you receive these pictures in discovery and use
14 them to advise your client whether -- how to handle this
15 case?

16 A The photo lineup, yes. The mugshot, I'm not sure
17 because a lot of those -- sometimes we take those things
18 off the sheriff's department's website and print them. If
19 I can look at what you're referring to as a mugshot --

20 Q Sure.

21 A -- because there was -- yeah. I believe that's his
22 booking picture. I do have. I know I have his booking
23 picture. And this does have a -- two dates, 10/31/2011 and
24 12/7/11. Yeah. That -- that appears to be the same
25 pictures we have from the website as his booking picture.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Q Okay. And you recall getting that from the
2 solicitor's office?

3 A I can't deny I did. I don't see it in here but
4 that -- this is a Barry Barnette case, and probably did.
5 He tends to do those things.

6 MR. RUCKER: Your Honor, I need a little instruction
7 on this.

8 Would you like me to have it admitted now or just as a
9 group with the groups of exhibits we have?

10 THE COURT: What's -- have you still got an objection?

11 MS. OLIVE: Well, I mean, I'd generally object on
12 relevance grounds, and also we didn't go into any booking
13 photos on direct. But other than that, I mean, I have no
14 objection.

15 THE COURT: Okay. Well, I mean, I -- I assume the
16 relevance is that he didn't -- at least didn't point out
17 that that photograph she picked out in the lineup was not
18 your client. Is that where all of this is going?

19 MR. RUCKER: Yes, sir, it is.

20 THE COURT: Okay. And that's one of his allegations.
21 So I at least think it's relevant. And it appears since
22 you don't object to the authenticity of it, I assume that
23 it's, you know, their photograph. So I'll allow them in.

24 MR. RUCKER: Would you like me to have them marked and
25 moved in now, or do you want to do it at the end?

Robert B. Hall
Cross-examination by Mr. Rucker

1 THE COURT: How many have you got?

2 MR. RUCKER: Probably not too many more. I was just
3 going to have him start referring to some of them.

4 THE COURT: Well, if you're going to mark them in
5 eventually -- well, if you're going to refer to them as a
6 group.

7 MR. RUCKER: I'll go ahead and have them marked just
8 to make it easier.

9 THE COURT: Okay. That way the record won't be
10 straight as to which ones y'all are talking about.

11 MR. RUCKER: Yes, sir.

12 (Mugshot profile marked Applicant's Exhibit No. 1;
13 photo lineup marked Applicant's Exhibit No. 2.)

14 Q I'm going to show you what's been marked and I believe
15 admitted into evidence as Applicant's Exhibits No. 1 and
16 No. 2. Do you agree that the mugshot was taken around the
17 time he was arrested?

18 A Exhibit No. 1 is the mugshot of when he was arrested.

19 Q Okay.

20 A Exhibit 2 is a photo lineup including him that has
21 some age on it, because he'd spent some time in prison.
22 They pull it off a system called Spillman that has a
23 program that pulls photographs.

24 Once you -- say, I want a photograph of Brandt Rucker
25 from his latest arrest. The computer will generate people

Robert B. Hall
Cross-examination by Mr. Rucker

1 who are similar, and that's what we have here. I -- I see
2 his notation on there, but I -- I don't agree with what
3 he's written. I think that is him. It's just an old
4 picture.

5 Q Do you agree -- do you agree my client says that's not
6 him though?

7 A I agree he says that's not him. No.

8 Q Did you -- this was an alleged stranger crime, meaning
9 the two parties didn't know each other beforehand according
10 to the prosecution, is that right?

11 A That's right.

12 Q And normally you have to do some kind of lineup in
13 order to get the identification, is that right?

14 A That's Generally the way it's done, yeah.

15 Q Okay. Did you object to her in-court identification
16 of my client?

17 A I don't recall, but it's in the transcript. I don't
18 recall objecting to it but...

19 Q Did you have a Neil vs. Biggers hearing in this case?

20 A I don't believe so.

21 Q What -- did you -- did you move for a Neil vs. Biggers
22 hearing before the trial began?

23 A I do not believe so, no.

24 Q At any time did you move for a Neil vs. Biggers
25 hearing?

Robert B. Hall
Cross-examination by Mr. Rucker

1 A Not that I recall, no.

2 Q Is it -- your theory of the case or your defense or
3 your strategy, I should say, was that my client had
4 consensual sex with the alleged victim.

5 A That's the strategy he gave me, absolutely.

6 Q It would probably be error then to get into that, the
7 strength of the identification or not before the jury,
8 right? I mean --

9 MS. OLIVE: Your Honor, I object to the form of that
10 question.

11 THE COURT: Wait a minute. Say that.

12 Q If you -- if your strategy of the case was that this
13 was consensual, why would you get into the in-court
14 identification?

15 THE COURT: And you're objecting to that?

16 MS. OLIVE: Your Honor, he asked him if it would be
17 error. He can't make that determination.

18 THE COURT: In his judgment it would have been error
19 because he can't get it both ways.

20 I mean, if he's going to take the position that at the
21 trial it was consensual sex, they knew each other. If it's
22 not consensual sex, then the identification becomes huge.

23 So his trial strategy was it was because -- I assume
24 because of the D.N.A. in it. What other strategy could he
25 have? But I'll allow him to answer that question.

Robert B. Hall
Cross-examination by Mr. Rucker

1 A Well, I believe he gave a statement and had always
2 told us she came and picked me up and we went down there.
3 You know, we met down there and we had sex.

4 THE COURT: Right. Okay.

5 Q Well, I'm simply asking why would you get into the
6 in-court identification then if it was not a non-issue.

7 A You pick at any flaw, anything you can, any weakness,
8 you know, Investigator Bohon on making grands -- oh, we
9 canvassed the neighborhood. But he had no idea what that
10 even meant. How many people they talked to, how many doors
11 they knocked on, everything we can.

12 Q You agree on -- my client testified about Stephanie
13 Martin's potential testimony. Do you agree those
14 statements -- her statement was in discovery about the
15 seeing him?

16 A Yes.

17 Q Right?

18 A Yes.

19 Q Did she, in fact, testify in this case?

20 A I don't believe she was a witness in the case.

21 Q All right. Did you attempt to contact her and
22 determine if she had any valuable information for you?

23 A I believe I did. Give me a moment to look through my
24 notes. I believe she picked him out, 70 percent sure of
25 the person she saw at the park about November 30th.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Let's see. Like I said, sometimes I actually do have
2 an investigator to talk with the people, and other times I
3 have to do it. I just have to...

4 (Pause.)

5 A I do see in the note that right before or in
6 preparation and talking with him for trial -- if I can go
7 back to any offer -- they did -- Barry said I'm looking for
8 30 years or so, and to him that's or-better. Mr. Lance --
9 he said he would plead to ten years or go to trial. Let's
10 see. Go back to Ms. Barton. I have some notes.

11 THE WITNESS: I apologize to the Court, Your Honor,
12 but once we take these out of the notebooks they tend to
13 get shuffled around.

14 (Pause.)

15 A I was looking to see. I don't see any specific notes
16 on the Martins, but their testimony at best would have had
17 him maybe there a little bit later. I think they said
18 around 3:00. They got there at 2:15 or so if I'm
19 remembering correctly.

20 But I did -- I know I discussed with him whether or
21 not they would be a good witness or not and apparently made
22 the decision not to call them as witnesses.

23 Q You can't recall if you talked to her or not?

24 A I do not recall talking to her. I was trying to look
25 to see if I made any notes on the typed-out statement they

Robert B. Hall
Cross-examination by Mr. Rucker

1 had. I don't see any, but I know I had the contact
2 information. Excuse me. I whited out the contact
3 information on them. But I believe either I or my
4 investigator, Mr. Jones or Mr. Stepp, had spoken with them.
5 I just don't have any -- I don't see any notes handy on
6 that.

7 Q You're not saying that you couldn't get in touch with
8 her though. I mean, the victim -- should say the voluntary
9 statement actually has her address written on it.

10 A Yeah.

11 Q Okay. But you can't recall if you actually talked to
12 her.

13 A No. I cannot.

14 Q You can't recall if you talked to Chris Martin either?

15 A No, I cannot. I -- I was thinking I had talked to
16 them and they were kind of broad on the timeframe. I don't
17 know if that's because that was the truth or because they
18 talked to the police -- and no offense to law enforcement
19 officers -- but sometimes they try to imply people into the
20 timeframes that are a little more favorable for their
21 theories of the case. But, for whatever reason, we decided
22 that they would not be good witnesses for us.

23 Q All right. In her statement she says her and her
24 family got there around 2:15, right?

25 A That's correct.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Q All right. And they said they left an hour -- and
2 they were there for an hour to an hour and a half, is that
3 right?

4 A Yeah.

5 Q But the alleged victim in this case said she made her
6 first 9-1-1 call at nine -- I mean, at 1:30, right?

7 A I don't recall the time, the 9-1-1 call. I know I
8 remember reading -- I'm trying to get back to the
9 statements of the Martins -- but I remember getting there
10 at 2:15 and something about 3:00 and I think maybe
11 remembering from both of their statements.

12 Q Additionally, their statement or her statement was
13 that he was not running, he was just walking up the road,
14 right?

15 A I can't count. I'm trying to find the statement but
16 I --

17 Q I can show you a copy.

18 A Okay.

19 Q Does that refresh your memory?

20 A "Around 2:15 today he was on foot walking up the road
21 instead of the grass. We left Milliken approximately an
22 hour to an hour and a half after we arrived."

23 Q She also says that our -- Mr. Lance looked suspicious.
24 But she doesn't give any reason why he looked suspicious,
25 does she?

Robert B. Hall
Cross-examination by Mr. Rucker

1 A No.

2 Q Now, most importantly, in there she says she saw a
3 news story on television about this, right?

4 A Let's see. "Later that evening I was on my iPad and
5 went to goupstate.com and saw there had been an attack of a
6 woman sometime when we'd been at Milliken." And that asked
7 for people to contact Detective Bohon.

8 Q Okay. Let me retrieve that from you.

9 How many total people were accused in this case or were
10 allowed out of jury duty because they had seen this on
11 television?

12 A I can't recall the number.

13 Q There was numerous though. Wasn't just one or two
14 people? It was --

15 A Yeah. I believe there were several.

16 Q And that appears in the record.

17 A Uh-huh.

18 Q Your strategy of not moving it out to another county,
19 first of all, you wouldn't know which county it was going
20 to, would you, if it was -- if venue was changed?

21 A Now, you can generally narrow it down by the
22 population size and those type things, but, no, you don't
23 know.

24 Q You knew that at least part of the jury pool here had
25 been poisoned by the news story, is that right, or at least

Robert B. Hall
Cross-examination by Mr. Rucker

1 Sheriff Wright's statements in that news story?

2 A I don't know if they had been poisoned, but some of
3 them -- maybe some of them had saw the opportunity to get
4 out of jury duty.

5 Q Well, fair enough.

6 A I can't be fair. I'm gone.

7 Q But you don't assume they were lying. You assume they
8 were telling the truth in court, right?

9 A That's what we do, yes.

10 Q And so you're guessing that another county would just
11 assume something was wrong. But you knew there was
12 something wrong already in this county, that numerous
13 people, including one of the witnesses, had seen something
14 about this on television and that it would affect their
15 ability to be fair.

16 A Goupstate.com is the newspaper.

17 Q Okay.

18 A It's not -- it's not television. But I think that
19 it's got probably some statewide coverage. The -- the
20 markets that are the -- more the size of Spartanburg are
21 going to have stations coming, this type of thing.

22 But there were certainly enough jurors who said they
23 could be fair and impartial that either didn't know
24 anything about it or had heard something. But that didn't
25 cover them at all.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Q You're thinking that some of the jurors may have lied
2 to get off jury duty. Could some of the jurors have lied
3 to stay on the jury?

4 A Yeah. I mean, there's -- we don't hook them to a
5 machine to see if jurors are telling the truth and --

6 Q But you're guessing that an out-of-county -- I mean,
7 it could be -- it probably wouldn't be any county in South
8 Carolina. But another county would have this much interest
9 in this case at Milliken Park. And with -- with some
10 loyalty to Sheriff Wright.

11 A Well, my experience is people hear these things right
12 away. And a lot of times they go out. It doesn't affect
13 their lives. But people whose lives they touch, it's very
14 important. It's -- it's part of them for the rest of their
15 lives.

16 But most citizens, we sit, we read it, we go on and
17 it's -- it's no big deal. I mean, they may even say,
18 "Gosh. That's horrible." But it doesn't impact their
19 lives or change their lives or necessarily effect them on
20 how they look at that case or other criminal cases. But I
21 know that in my opinion -- and sometimes moving cases out
22 of the county -- that just puts a bigger spotlight than
23 would have been on the case in Spartanburg.

24 Q But that's just a guess. And it's fair to say the
25 people of Spartanburg County would care more about it than

Robert B. Hall
Cross-examination by Mr. Rucker

1 somebody in like Lee County. Is that fair? Because they
2 would know the people involved.

3 A I don't know -- I don't know.

4 Q Did you look into that? Did you do any research on
5 that?

6 A No, I did not.

7 Q I want to go back to Wofford, one of the witnesses.
8 You cross-examined her and pointed out that she could not
9 identify Mr. Lance in previous lineups, is that right?

10 A If you'll tell me what page so I can --

11 Q I'm sorry.

12 A Because I think my index and then my numbering are off
13 because --

14 Q Okay. And I wasn't provided an index. So I can find
15 this faster for you. I apologize.

16 MS. OLIVE: There is an index on page --

17 A Eleven.

18 MS. OLIVE: There's two transcripts.

19 MR. RUCKER: I got you.

20 Q I just don't see on my copy where she's listed in the
21 index.

22 A She's the -- on page 15 -- page 11, line 15, Lisa Ann
23 Wofford. It says 116, but I think it's one ---

24 THE COURT: You're looking for Lisa Ann Wofford?

25 MR. RUCKER: Yes, sir. I think --

Robert B. Hall
Cross-examination by Mr. Rucker

1 THE COURT: She's on 126 on mine.

2 THE WITNESS: Yeah, one twenty -- on mine it's --

3 THE COURT: 125 and 126.

4 THE WITNESS: 125.

5 Q Okay. Just to make sure we're all on the same page,
6 125 at the top right-hand corner.

7 A Yes.

8 Q Not the 116 at the bottom, is the record.

9 A Right.

10 Q All right. Did you object to her testimony in total
11 because she couldn't make the proper identification
12 previously?

13 A I don't believe so. Let's see. It doesn't appear I
14 did, no.

15 Q To your knowledge the first time she actually
16 identified in any record you can find Mr. Lance as being
17 involved in this was at trial, is that right?

18 A I believe so. I'm trying to look through this.

19 (Pause.)

20 A No. I did not object.

21 Q All right. They were strangers, right?

22 A Right.

23 Q She identified in court Mr. Lance and said he -- she
24 saw both of them in the park, the alleged victim and
25 Mr. Lance, right?

Robert B. Hall
Cross-examination by Mr. Rucker

1 A I believe so. She says she saw the victim walk by,
2 saw the other person that she couldn't identify from the
3 lineup.

4 Q Mr. Lance obviously -- I mean, I'm not being
5 sarcastic. Mr. Lance is the criminal defendant in this
6 case, easily identifiable as the criminal defendant in the
7 trial, right?

8 A Right but --

9 Q So the first time she identifies him and says it's him
10 is in the unduly suggestive situation of being the
11 defendant in the case.

12 A But also our defense is I was there, it was
13 consensual, so.

14 Q But that defense came up after the case -- after the
15 state rested, right, when you put up your case?

16 A That was going to be his defense all along. That's
17 what he intended to testify to.

18 Q But if he didn't -- if this corroborating witness
19 wasn't allowed to testify, then it's simply the victim's
20 word of what happened, is that right?

21 A If I'm remembering correctly, she's the one that
22 identified him, yes.

23 Q There's D.N.A. evidence from her, none -- no evidence
24 in the car.

25 A Uh-huh.

Robert B. Hall
Cross-examination by Mr. Rucker

1 Q But just from her. And then if this corroborating
2 witness is disallowed, it would be down to just her. Would
3 that have improved your chances on a directed-verdict
4 motion?

5 A We have the victim in the case saying that's the guy,
6 I picked him out of a lineup, that's the guy, that's the
7 D.N.A., yeah, no. I don't think it would.

8 Q But --

9 A It'd give me more to argue maybe but that's not -- it
10 wouldn't have been a directed verdict, no.

11 Q You saw the transcript, right? Ms. Wofford also
12 testifies that she saw this on the news as well, right?

13 A Sorry. I closed it. I'll have to look. Oh, yeah.
14 She says she felt bad, she read about it, heard about it,
15 yeah.

16 Q And just to be specific, page 129, line ten, line 11,
17 "And, obviously, I felt horrible the next morning when I
18 saw the news."

19 A Yeah.

20 Q Was my client identified in the news at that point?

21 A I don't -- I don't recall. I don't know.

22 Q Did Sheriff Wright identify my client at some point in
23 the news?

24 A I'm not sure when he did his press conference, but I
25 believe he did identify eventually at one. I'm not sure if

Robert B. Hall
Cross-examination by Mr. Rucker

1 he did that pre-arrest, you know, this is what we're doing.
2 I just don't recall. It's been a few years and I've seen
3 Chuck Wright say a lot of things in the past several years.

4 Q All right. So you have one crucial witness,
5 obviously, the alleged victim. But you also have a
6 corroborating witness who saw this on the news. You have a
7 separate witness that Mr. Lance wanted to have room to
8 bring to make sure to -- to help his defense. But she also
9 saw this on the news. So she was -- there was a problem
10 with her, right?

11 A If he had -- and I -- and he wanted her and we agreed
12 to call her as a witness, we would have called the Chris,
13 and both the Martins as witnesses. But I know we discussed
14 it. Like I said, I just couldn't find notes.

15 But we determined that she wasn't going to be a good
16 witness. We had gone through, like I said, Jessica,
17 Jackie, Debra and his witnesses to call. And I think right
18 up until the trial we thought Jackie was.

19 I had gone out on South Avenue and found the house
20 that she had. I think this was the second or third house
21 she had been living in since I had started with the case.
22 It was -- she had been evicted, but her younger sister I
23 was able to talk to about getting her and got back in touch
24 with her. And that's when she was kind of flipped and
25 couldn't -- wasn't going -- wasn't going to be a witness.

Robert B. Hall
Cross-examination by Mr. Rucker

1 And, as I said, Mr. Lance agreed that she would not be a
2 good witness for -- because of her condition and some other
3 things, life choices she made.

4 Q Which -- which witness do you believe was influenced
5 by the goupstate.com written article?

6 A That's Ms. Wofford, I think, is the one that said
7 goupstate.

8 Q Did that -- did that article include a picture of my
9 client in inmate garb and shackled?

10 A I -- I don't know which -- if you'll show me what
11 you're looking at.

12 (Whereupon, the article was presented to the witness.)

13 A Let's see. Yeah. This is the morning, October 31st.
14 She saw it, I believe, the -- an article that apparently
15 ran before this on the 30th, I believe she said.

16 Q Did you receive -- did you retrieve that actual
17 article and give that to my client, a copy of it?

18 A I think that's actually got that one from the state.
19 I think I had that independently also.

20 Q Well, you say from the state newspaper or from the
21 State of South Carolina? I'm sorry.

22 A No. I said --

23 Q You got it from the solicitor's office?

24 A No. I got -- we get -- in a case like this a lot of
25 times before we get the file they will print out the

Robert B. Hall
Cross-examination by Mr. Rucker

1 Upstate, the Herald-Journal's stories on it. That has the
2 date stamp that the solicitor -- which means they
3 absolutely do it. I mean, they've a guy that sometimes, I
4 think, writes articles for the newspaper.

5 Q You agree that my client is shackled and in --

6 A That looks like a bond-hearing picture, yeah.

7 Q Okay. So it is theoretical that the first time -- and
8 you didn't cross-examine on this -- but the first time
9 Ms. Wofford saw him as being a suspect he was in shackles
10 and in prison garbs in that on-line article.

11 A No, because, let's see if I can. I'm trying to get
12 the exact arrest date. I had the -- our booking
13 information which will have the date and time of arrest.
14 And the bond hearing would have been after that. But he
15 was booked in the jail at 4:00 o'clock in the morning on
16 the 31st, which meant 4:16, which meant he probably got
17 there no earlier than, what, 3:30? That's our picture from
18 the paper the next morning.

19 He would have been probably in front of Judge Ashmore
20 for arraignment, and I'm not sure what time that says it
21 was updated. But the articles she would have seen on the
22 30th would not have had the bond picture.

23 Q Well, my point is though there was an article in the
24 public domain that had pictures of him in shackles, in
25 prison garb or inmate garb, is that right?

Robert B. Hall
Redirect examination by Ms. Olive

- 1 A Yeah, after the arraignment.
- 2 Q Did you ever ask in voir dire of the jury if they had
- 3 seen that specific picture?
- 4 A No, I did not ask that specific picture.
- 5 Q I should say did you ask the judge.
- 6 A No. I did not.
- 7 Q Could this have tainted at least one of the
- 8 identifications in the case?
- 9 A What ident -- because the person that said she saw the
- 10 groupstate saw it that evening before that picture could
- 11 have been there.
- 12 Q Do you have any reason to believe based on her
- 13 statement of how horrible this was that she didn't keep up
- 14 with the story?
- 15 A I don't know.
- 16 MR. RUCKER: No further questions.
- 17 MS. OLIVE: Your Honor, brief redirect.
- 18 REDIRECT EXAMINATION
- 19 BY MS. OLIVE
- 20 Q Mr. Hall, there's been all of this discussion about
- 21 photographs and lineups, but do you recall how the
- 22 defendant -- excuse me -- how Mr. Lance was connected with
- 23 this, specifically with the assault to commit criminal
- 24 sexual conduct that occurred in the park?
- 25 A They knew Mr. Lance. The city and county both, I

Robert B. Hall
Redirect examination by Ms. Olive

1 think, knew him. And from the description if I remembering
2 correctly -- I've not gone through this part of it. But
3 they developed him as a suspect based on that.

4 Then when they found the vehicle in the neighborhood
5 that they understood he lived in at the time, that's when
6 they got the photo lineup.

7 And like a lot of lineups, I think -- I know when this
8 occurred they didn't have the resources that I think they
9 have now to go to driver's licenses and things like that to
10 try to get a more current picture. They had to use
11 whatever they had.

12 It's not as bad as when I was a prosecutor when the
13 pictures could be, you know, 15 years old. But, you know,
14 they -- they developed him as a suspect and used that --
15 put him in a lineup, and that's how he was identified.

16 Q Okay. But she doesn't -- does she mention the lineup
17 at all at trial -- the victim?

18 A I don't recall. I would have to go through her
19 testimony, but I don't remember.

20 Q And did you object to her in-court identification of
21 Mr. Lance?

22 A I don't recall objecting to it. As I said, all along
23 our defense was going to be it was consensual.

24 Q Right. And if that was your defense would you have a
25 reason to object to her in-court identification?

Robert B. Hall
Redirect examination by Ms. Olive

1 A Not in my opinion.

2 Q Okay. And I believe you testified earlier that there
3 was D.N.A. evidence in this case. Was there not?

4 A That's what I recall, yes, ma'am.

5 Q Okay. Do you recall whether there was D.N.A. evidence
6 connecting Mr. Lance to the assault with intent to commit
7 criminal sexual conduct?

8 A I believe there was D.N.A. evidence recovered from
9 either the victim or her clothing, but I don't believe
10 there was anything found at the vehicle, any D.N.A. that
11 they could do anything from.

12 Q But did she -- she testified. Did she testify about
13 the events that occurred that day?

14 A Yes, she did.

15 Q Okay. Did she mention what happened to her keys? Did
16 she --

17 A She -- I'm not sure of the words, but she either said
18 that he took the keys or she gave him the keys. I think
19 he -- it was he asked for them and she gave them to him, I
20 believe.

21 Q And that was to the vehicle that was later found.

22 A In Saxon, yeah, Una-Saxon.

23 Q Okay. And, now, regarding -- leaving aside the
24 vehicle, as far as evidence that connected Mr. Lance to the
25 assault with intent to commit criminal sexual conduct, was

Robert B. Hall
Redirect examination by Ms. Olive

1 there semen D.N.A. evidence?

2 A I'll get to that.

3 Q I can point you to the point in the transcript.

4 A Okay.

5 Q This would be at Katie Urka's testimony. And I
6 apologize. My notes on the page numbers are --

7 A The bottom -- her testimony starts at 183.

8 Q Do you recall whether there was a standard taken from
9 Mr. Lance -- a buccal swab?

10 A Yeah. I believe he consented to a buccal swab.

11 Q Okay. And that was used for the D.N.A. analysis?

12 A Yes. That's what I recall.

13 Q Okay. And then that was compared to -- was that
14 compared to the semen that was taken from the victim's
15 underwear?

16 A Yeah. There was -- let me see.

17 Q And I'll direct you. I'm looking at page 197. That's
18 197 in the record, because that's the right-hand number up
19 at the top.

20 A Okay. And there they talk about the bite swab marks
21 is a mixture of one in eleven probability there. Let me
22 see. The -- no profile of the semen -- let me see. I'm
23 sorry.

24 THE COURT: Her underwear, 270 trillion.

25 Q And that would be page 198.

Robert B. Hall
Redirect examination by Ms. Olive

1 A Yeah, 198, yeah, which is one of those numbers more
2 people I think than have been in the world.

3 Q So was there any question? And strike that. You
4 testified that your theory was that this was consensual, is
5 that right?

6 A That's based on what my client said from the beginning
7 up until the time of the trial and through the trial.

8 Q So would the photo lineup or in-court identification
9 have had any impact on your defense?

10 A I don't see how it would. We don't deny we were
11 there.

12 Q And regarding the judge's instructions about
13 Mr. Lance's criminal history, do you recall whether he gave
14 a curative charge -- or excuse me -- whether he gave a
15 charge regarding the extent to which that record could be
16 considered by the jury? And I'm looking specifically at
17 pages 275 and 276 of the record beginning --

18 A Yeah. He, I believe, gave --

19 Q Beginning at line 14.

20 A Judge Cole gave the standard, you know. You use that
21 for no other purpose than credibility of the witness and
22 credibility -- standard charges, yes.

23 Q And you also stated earlier on cross-examination that
24 you'd have to assume that jurors are telling the truth in
25 voir dire, is that right?

Robert B. Hall
Redirect examination by Ms. Olive

1 A Yeah.

2 Q Okay. And I believe you've testified already that
3 there was -- that the judge inquired about their knowledge
4 as to the presence of this case in the media.

5 A I'm sorry?

6 Q In qualification or in voir dire did the judge ask the
7 jurors if they had had exposure through news of this case,
8 that they were aware?

9 A Yes. I think he -- he asked the question from
10 newspaper, television, radio or even today with the
11 internet, those type, you know, that any knowledge of the
12 case.

13 Q Okay. And did some of the jurors come forward and say
14 that they did, that they -- that they had been exposed?

15 A Yes.

16 Q Okay. And to your knowledge were those jurors that
17 stated they would have been impartial struck or excluded?
18 Excuse me. Excused from the jury pool.

19 A They were excused from the trial of that case, yes,
20 this case, yes, ma'am.

21 Q Based on your review of Ms. Martin's statement did you
22 believe that she would have been someone helpful to call
23 for the defense?

24 A Well, looking at the transcript because of where
25 you -- we were just in the transcript -- refresh my

Robert B. Hall
Redirect examination by Ms. Olive

1 memory -- that the state, I think, had her as a potential
2 witness but they didn't call her.

3 We tried to get in touch with her and about -- if we
4 could get in touch with her -- and it's in the
5 transcript -- that one of our investigators was trying to
6 get in touch with her and see if we could get her back if
7 we wanted her.

8 Q And that would be on page 203 of the transcript?

9 A Yeah, 203 at the top, 194 at the bottom, starting at
10 line 19 and just --

11 Q So you --

12 A Look at that part of my notes.

13 Q So you -- did you try to get her to the courthouse?

14 A I have in my notes that Curtis Jones was trying to get
15 her. But apparently my notes then go to discussing his
16 past record and whether or not he was going to testify.
17 And then we went on the record about that. And then in a
18 few minutes -- and I don't have another note about
19 Ms. Martin, but I think that may have helped, if anything,
20 with -- helped with the time.

21 In other words, he could not have stolen the car
22 because he may have still been there when the car was gone.
23 But if we decided to go forward we'd call Bohon. And then
24 Mr. Lance was questioned and then decided to testify.

25 Q That's all the questions I have. Thank you.

1 MR. RUCKER: Nothing further.

2 THE COURT: You may step down. Thank you, sir.

3 THE WITNESS: Thank you.

4 THE COURT: Anything further from the state?

5 MS. OLIVE: Nothing further from the state, Your
6 Honor.

7 MR. RUCKER: Nothing further from us.

8 THE COURT: okay. I will let y'all know today or
9 tomorrow or sometime this week.

10 MS. OLIVE: Thank you, Your Honor.

11 THE APPLICANT: Thank you, Your Honor.

12 THE COURT: Yes, sir.

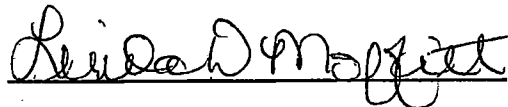
13 END OF REQUESTED TRANSCRIPT OF RECORD
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CERTIFICATE

I, the undersigned Linda D. Moffitt, Official Court Reporter for the Seventh Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of all the proceedings had and evidence introduced in the trial of the captioned cause, relative to appeal, in the Common Pleas Court for Spartanburg County, South Carolina, on the 13th day of June 2016.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

October 31, 2017

A handwritten signature in cursive script, reading "Linda D. Moffitt", written over a horizontal line.

Linda D. Moffitt
Circuit Court Reporter

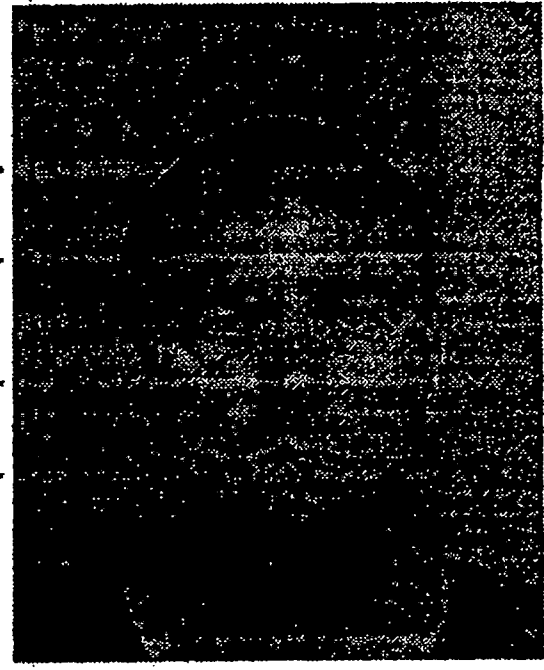
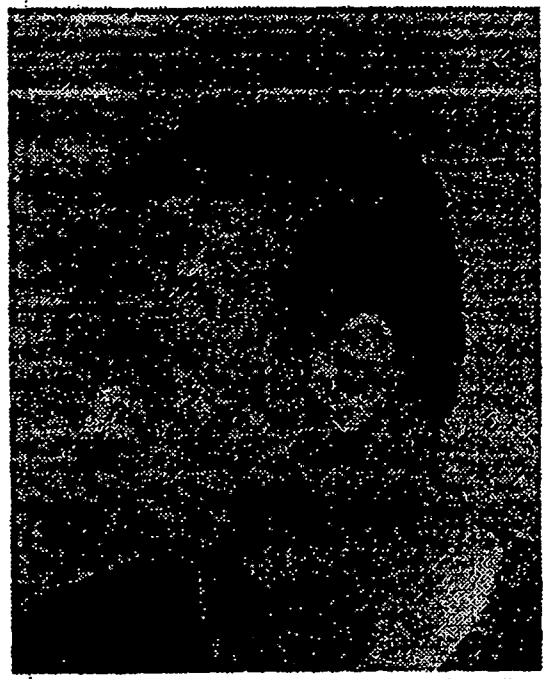
**Applicant's
Exhibit
1**

10/31/2011
12/07/2011 Page 1 of 1

Spartanburg County Sheriff's Office Mugshot Profile

LANCE, WALTER MONROE

Booking #: 11-16023
Booking Date: 10-31-2011
S.O. ID #:
ORI #: SC0420000
Arresting Agency: SO
Date of Birth:
Height: 600
Weight: 180
Race: WHITE
Sex: MALE
Hair Color: BROWN
Hair Length: ABOVE EARS
Hair Style: STRAIGHT
Eye Color: BROWN
Eye Characteristics: NORMAL
Facial Hair: GOATEE _ MUSTACHE
Glasses: YES
Teeth: MISSING TEETH
Complexion: CLEAR
Skin Tone: WHITE _ FAIR
Build: MEDIUM
Missing Limbs:
Disabilities:
Operator: BT
Comments:

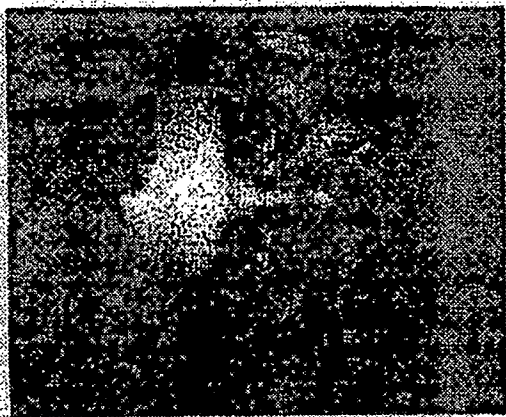


Aliases			
Last	First	Middle	Nickname

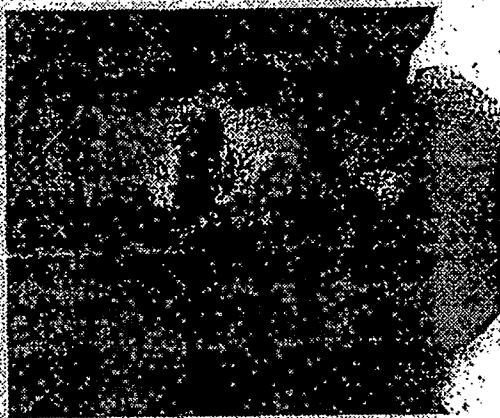
Charges	
Category	Description
	KIDNAPPING/ CSC

Scars/Marks/Tattoos		
Type	Location	Description

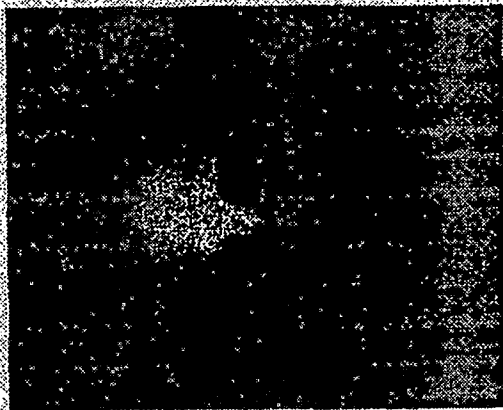
Gup Lineup



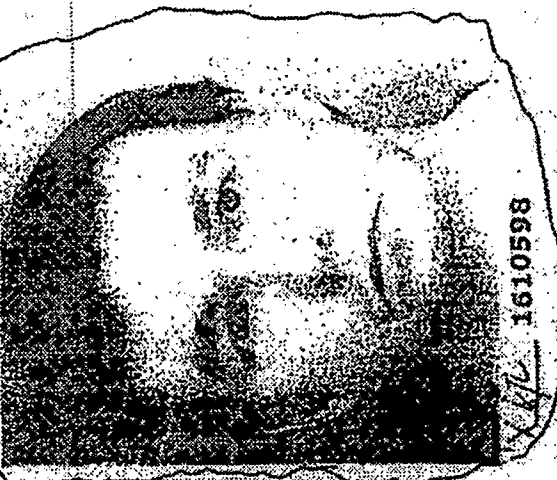
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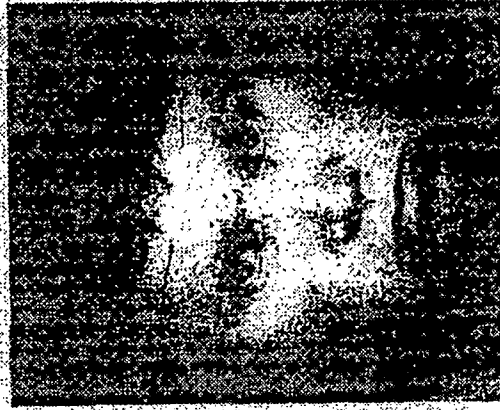
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Applicant's
Exhibit
2

ORIGINAL

<http://dwpspa2k10222/WebUniversalPlus/UniversalReport.aspx>

10/30/2011

THAT'S NOT ME

LOOKS LIKE A KID

28

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH JUDICIAL CIRCUIT

Walter Monroe Lance, #154185,)

Case No.: 2014-CP-42-4564

Applicant,)

ORDER OF DISMISSAL

v.)

State of South Carolina,)

Respondent.)

CLERK OF COURT
SPARTANBURG COUNTY
2017 AUG 28 AM 10:15
M. HOPE BLACKLEY

This matter comes before the Court by way of an Application for Post-Conviction Relief filed November 10, 2014. Respondent made a Return on April 7, 2015. The Court convened an evidentiary hearing into the matter on June 13, 2016, at the Spartanburg County Courthouse. Applicant was present at the hearing and represented by J. Brandt Rucker, Esquire. Alicia A. Olive, Esquire, of the South Carolina Attorney General's Office, represented Respondent.

Applicant testified on his own behalf at the evidentiary hearing. Applicant's trial counsel, Robert Hall, Esquire, also testified. The Court had before it a copy of the trial transcript, the records of the Spartanburg County Clerk of Court regarding the subject convictions, Applicant's records from the South Carolina Department of Corrections, the pleadings, the return, and the exhibits introduced at the hearing. The Court finds as follows:

I. PROCEDURAL HISTORY

Applicant is presently confined in the South Carolina Department of Corrections pursuant to orders of commitment of the Spartanburg County Clerk of Court. In January 2012, the Spartanburg County Grand Jury indicted Applicant for criminal sexual conduct, first degree (2012-GS-42-0201, Count I); assault with intent to commit criminal sexual conduct, first degree

(2012-GS-42-0201(A), Count II), strong arm robbery (2012-GS-42-0201(B), Count III); and kidnapping (2012-GS-42-0203). Robert Hall, Esquire, ("Counsel") represented Applicant.

On May 7-8, 2012, Applicant proceeded to trial before the Honorable J. Derham Cole and a jury. The jury found Applicant guilty of assault with intent to commit criminal sexual conduct, first degree, strong arm robbery, and kidnapping, as indicted. The indictment for criminal sexual conduct, first degree was *nolle prossed*. Judge Cole sentenced Applicant to imprisonment for consecutive terms for a total of fifty years as follows: thirty years for assault with intent to commit criminal sexual conduct, first degree, fifteen years for strong arm robbery, and five years for kidnapping.

Applicant filed a timely notice of appeal. The South Carolina Court of Appeals dismissed Applicant's appeal on January 22, 2014, pursuant to Anders v. California.¹ State v. Lance, Op. No. 2014-UP-021 (S.C. Ct. App. filed January 22, 2014). The Remittitur was returned to the circuit court on February 24, 2014.

II. ALLEGATIONS

In his application, Applicant alleged he is being held in custody unlawfully for the following reasons:

1. Ineffective assistance of counsel, in that counsel;
 - a. Failed to object to impermissible photos entered into evidence,
 - b. Failed to prepare for trial by failing to obtain a copy of the photo line-up used to identify Applicant at trial,
 - c. Failed to investigate 911 records,
 - d. Failed to call two alibi witnesses,
 - e. Failed to investigate the crime scene where the stolen vehicle was recovered

¹ 386 U.S. 738 (1967).

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SPARTANBURG COUNTY
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III. FINDINGS OF FACT AND CONCLUSIONS OF LAW

The Court has reviewed the record in its entirety and has heard the testimony and arguments presented at the evidentiary hearing. The Court has further had the opportunity to observe each witness who testified at the hearing, and to closely pass upon their credibility. The Court has weighed the testimony accordingly. Set forth below are the relevant findings of fact and conclusions of law as required by S.C. Code Ann. § 17-27-80.

A. Ineffective Assistance of Trial Counsel

In this post-conviction relief action, Applicant bears the burden of proving the allegations in his application. Butler v. State, 286 S.C. 441, 442, 334 S.E.2d 813, 814 (1985) (citing Griffin v. Martin, 278 S.C. 620, 300 S.E.2d 482 (1983)). Where the application alleges ineffective assistance of counsel as a ground for relief, the applicant must prove counsel's "conduct so undermined the proper functioning of the adversarial process that the trial cannot be relied upon as having produced a just result." Id. at 442, 334 S.E.2d at 814 (citing Strickland v. Washington, 466 U.S. 668 (1984)).

The proper measure of performance is whether counsel provided representation within the range of competence required in criminal cases. Id. (citing Strickland, 466 U.S. at 687; Turner v. Bass, 753 F.2d 342 (4th Cir. 1985); Marzullo v. Maryland, 561 F.2d 540 (4th Cir. 1977)). The Court presumes counsel rendered adequate assistance and made all significant decisions in the exercise of reasonable professional judgment. Id. (citing Strickland, 466 U.S. at 690). Applicant must overcome this presumption in order to receive relief. Cherry v. State, 300 S.C. 115, 118, 386 S.E.2d 624, 625 (1989).

The Court uses a two-pronged test in evaluating allegations of ineffective assistance of counsel. Id. at 117, 386 S.E.2d at 625. First, Applicant must prove counsel's performance was

deficient. *Id.* Under this prong, the Court measures counsel's performance by its "reasonableness under prevailing professional norms." *Id.* (citing *Strickland*, 466 U.S. at 688). Second, any deficient performance must have prejudiced Applicant such that "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different." *Id.* at 117-18, 386 S.E.2d at 625.

Failure to Object

Applicant alleged Counsel failed to object to impermissible photos entered into evidence. He argued Counsel allowed the solicitor to introduce photographs of the victim's injuries and that these should not have been admitted because they were taken by her husband rather than law enforcement. He also testified the photos did not show any marks on her. Counsel testified, and the trial transcript reflects, that he objected to the admission of the photographs based on lack of foundation. However, the Court overruled his objection. Applicant failed to identify any other grounds on which Counsel could have objected to the photographs. Applicant also alleged that Counsel should have prevented the 911 phone call from being played. However, Counsel testified he had no grounds to object. Therefore, this Court finds Applicant has failed to demonstrate any deficiency in Counsel's performance with regard to his allegation that Counsel failed to object to the admission of the photographs or the 911 call. See *Palacios v. State*, 943 S.C. 506, 514, 511 S.E.2d 62, 67 (1999) (no deficiency where "it would have been futile for Attorney to have made such arguments"). Applicant has likewise failed to satisfy his burden of showing that but for the alleged deficiency, the outcome of the proceeding would have been different. See *State v. Dickerson*, 395 S.C. 101, 116, 716 S.E.2d 895, 903 (2011) (noting admission of evidence is within discretion of the trial judge and is reviewed under an abuse of discretion standard on appeal. (citing *State v. Gaster*, 349 S.C. 545, 557, 564 S.E.2d 87, 93

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Walter Lance v. State, C/A No. 2014-CP-42-4564

(2002))). Therefore, Applicant has failed to prove he received ineffective assistance of counsel and this allegation is denied and dismissed.

Failure to Investigate

Applicant alleged that Counsel failed to adequately investigate or prepare for trial. Specifically, Applicant alleged Counsel failed to prepare for trial by failing to obtain a copy of the photo line-up used to identify Applicant at trial, and that Counsel failed to investigate 911 records, failed to investigate the crime scene where the stolen vehicle was recovered, and failed to call two alibi witnesses. This Court finds Applicant has failed to satisfy his burden of proving ineffective assistance of counsel with respect to this allegation.

"[C]riminal defense attorneys have a duty to undertake a reasonable investigation[.]" Edwards v. State, 392 S.C. 449, 456, 710 S.E.2d 60, 64 (2011). To prevail on this claim, Applicant must also present evidence to show what counsel could have discovered had he been more fully prepared for the trial. Jackson v. State, 329 S.C. 345, 354, 495 S.E.2d 768, 772 (1998). ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have requested counsel pursue had counsel more fully prepared for the trial."). Failure to conduct an independent investigation does not constitute ineffective assistance of counsel when the allegation is supported only by mere speculation as to result. Porter v. State, 368 S.C. 378, 385-86, 629 S.E.2d 353, 357 (2006) (citing Moorehead v. State, 329 S.C. 329, 334, 496 S.E.2d 415, 417 (1998)). Reviewing courts "must indulge a strong presumption that counsel's conduct falls within the wide range of reasonable professional assistance[.]" Strickland, 466 U.S. at 689. Furthermore, "[A]pplicant's mere speculation" as to what an additional investigation would have shown "cannot by itself, satisfy the applicant's burden of showing prejudice." Glover v. State, 318 S.C. 496, 499, 458 S.E.2d 538, 540 (1995).

Applicant alleges Counsel was ineffective for not challenging a witness's identification of Applicant through the use of a photographic line-up. Applicant testified Lisa Wofford testified at trial that Applicant was the person who assaulted the victim. Wofford testified at trial that she went to Milliken Park that day and saw a man dressed in all black. She stated that she watched Applicant watching the victim at the park and it made her feel uneasy. She testified he was lying on the grass and looked "out of it," which struck her as odd. She said he was watching everyone at the park and she made a point to walk her dogs at an angle away from him. Applicant testified that Counsel did not obtain a copy of a photo line-up, or show the photo line-up to the jury. However, Wofford gave an in-court identification of Applicant at the trial, but had not actually identified him in the line-up that police had shown her. Counsel cross-examined Wofford about the identification and her failure to identify him in the photo line-up. Further, the victim testified prior to Wofford and identified Applicant as her assailant. In addition, a cutting from the victim's underwear was taken and tested. The cutting was positive for the presumptive test for semen. The DNA profile developed from the semen on the cutting from the victim's underwear matched the DNA profile of Applicant. Tr. p. 189, lines 4-8.

Applicant alleged Counsel failed to call two witnesses—Stephanie Martin and her husband—to testify. He argued that if Counsel had called them to testify, they would have "cleared" him. However, Applicant failed to produce these individuals as witnesses. In addition, Counsel testified he had reviewed their statements, which were part of discovery, and did not think they would have been helpful to the defense.

Applicant also stated Counsel never went to the area where the victim's car was found to try to find any witnesses. When asked what these witnesses could have said, Applicant said he did not know, but they could have seen who got out of the vehicle. Counsel testified he

investigated the scene where the victim's vehicle was recovered. Counsel also testified that he and the investigator tracked down every potential witness. Counsel stated his theory was to point out the weaknesses in the State's case by showing, for example, that the State took shortcuts and focused on Applicant, and that there was no evidence in the vehicle. The victim testified at trial that after the man assaulted her in the park, he told her he wanted her to drive him to Boiling Springs, but then demanded that she give him the keys to her vehicle instead and threatened to kill her if she called 911. The victim identified Applicant in court as her attacker. Officer Dan Piggins testified he recovered the victim's vehicle in front of a church in the Una-Saxon-Fairforest area of Spartanburg County. Officer Justin Horton testified that he located Applicant in the Una area about 800 meters or less than half a mile from the location where the car was found. Applicant was dressed in a black shirt, black jacket, and dark colored pants when he came outside to speak with Officer Horton. Counsel cross-examined the officers to highlight the lack of forensic evidence from the vehicle. Counsel also argued in closing that there was no forensic evidence obtained from the vehicle to connect it to Applicant. Trial Trans. pp. 244-52.

Applicant has failed to show deficiency with respect to his allegations that Counsel failed to investigate. This Court finds that Counsel demonstrated the normal degree of skill, knowledge, professional judgment, and representation that is expected of an attorney who practices criminal law in South Carolina. State v. Pendergrass, 270 S.C. 1, 239 S.E.2d 750 (1977). See also Strickland, 466 U.S. at 688 ("The proper measure of attorney performance remains simply reasonableness under prevailing professional norms."). Counsel testified he filed discovery motions, reviewed all discovery, and went over everything with Applicant and discussed the important issues of the case with Applicant. Counsel testified that included in the discovery were incident reports, photographs, statements, DNA results, and the Victim's hospital records. In

addition, Counsel also went to the site where the vehicle was found and to Milliken Park and gathered what information he could from those locations. This Court finds Counsel conducted an investigation that was reasonable under the circumstances. Edwards v. State, 392 S.C. 449, 457, 710 S.E.2d 60, 65 (2011) (citing Daniels v. State, 676 S.E.2d 13 (Ga. 2009)).

Further, Applicant failed to produce any witnesses that he alleged Counsel failed to call, and Counsel testified he did not call Martin or her husband because, as evidenced by their statements, their testimony would not have been helpful. Therefore, Applicant has failed to show any deficiency or prejudice regarding his allegation that Counsel failed to call certain witnesses to testify. See Dempsey v. State, 363 S.C. 365, 369, 610 S.E.2d 812, 814 (2005) ("A PCR applicant cannot show that he was prejudiced by counsel's failure to call a favorable witness to testify at trial if that witness does not later testify at the PCR hearing or otherwise offer testimony within the rules of evidence." (citing Glover v. State, 318 S.C. 496, 498, 458 S.E.2d 538, 540 (1995))). See also Stokes v. State, 308 S.C. 546, 548, 419 S.E.2d 778, 779 (1992) ("[Where] counsel articulates a valid reason for employing certain strategy, such conduct will not be deemed ineffective assistance of counsel." (citing Whitehead v. State, 308 S.C. 119, 419 S.E.2d 529 (1992))). Accordingly, this Court finds Applicant failed to show any deficiency with regard to his allegation that Counsel failed to investigate.

Further, Applicant has failed to produce any evidence to show what additional investigation Counsel could have done or what facts such investigation would have revealed. Moreover, Applicant's DNA was found on the victim's underwear. Therefore, this Court finds Applicant has also failed to show any prejudice with respect to this allegation. See Jackson v. State, 329 S.C. 345, 353-54, 495 S.E.2d 768, 772 (1998) ("Respondent failed to present any evidence of what counsel could have discovered or what other defenses respondent would have

requested counsel pursue had counsel more fully prepared for the trial."); see also Cherry 300 S.C. at 117-18, 386 S.E.2d at 625 (holding applicant must show "there is a reasonable probability that, but for counsel's unprofessional errors, the result of the proceeding would have been different."). Accordingly, Applicant has failed to satisfy his burden of proving ineffective assistance of counsel, and this allegation is denied and dismissed.

C. All Other Allegations

As to any and all allegations that were raised in the application or at the hearing in this matter and not specifically addressed in this order, the Court finds Applicant failed to present any evidence regarding such allegations. Accordingly, the Court finds Applicant has abandoned any such allegations.

IV. CONCLUSION

Based on the foregoing, the Court finds and concludes Applicant has not established any constitutional violations or deprivations that would require this Court to grant his application. Therefore, this application for post-conviction relief must be denied and dismissed with prejudice.

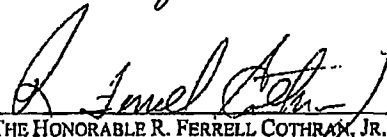
The Court notes Applicant must file and serve a notice of appeal within thirty (30) days from PCR counsel's receipt of written notice of entry of judgment to secure the appropriate appellate review. See Rule 203, SCACR. Pursuant to Austin v. State, 305 S.C. 453, 409 S.E.2d 395 (1991), Applicant has a right to appellate counsel's assistance in seeking review of the denial of post-conviction relief. Rule 71.1(g), SCRCP, provides that if Applicant wishes to seek appellate review, PCR counsel must serve and file a notice of appeal on Applicant's behalf. Applicant is directed to South Carolina Appellate Court Rule 243 for appropriate procedures for appeal.

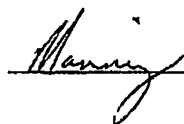
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SPARTANBURG COUNTY
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IT IS THEREFORE ORDERED THAT:

1. The Application for Post-Conviction Relief is **denied and dismissed with prejudice**; and
2. Applicant must be remanded to the custody of the Department of Corrections to complete service of his sentence.

AND IT IS SO ORDERED this 23 day of Aug, 2016.


THE HONORABLE R. FERRELL COTHMAN, JR.
Presiding Judge

, South Carolina

CLERK OF COURT
SPARTANBURG COUNTY
2017 AUG 28 AM 10:16
M. HOPE BLACKLEY

STATE OF SOUTH CAROLINA)

COUNTY OF SPARTANBURG)

Walter Monroe Lance, #154185,)

Applicant,)

v.)

State of South Carolina,)

Respondent.)

IN THE COURT OF COMMON PLEAS
IN THE SEVENTH JUDICIAL CIRCUIT

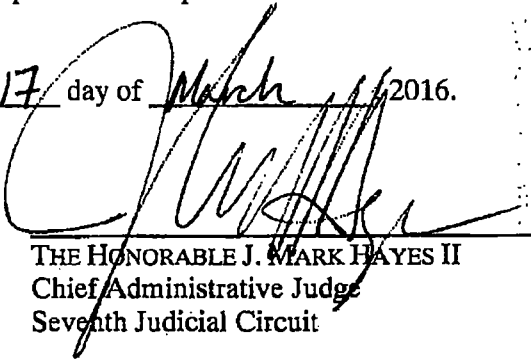
Case No.: 2014-CP-42-4564

ORDER OF CONTINUANCE

This matter comes before the Court by way of an application for post-conviction relief. An evidentiary hearing into the matter was scheduled for March 21, 2016, at the Spartanburg County Courthouse. Respondent has requested that the matter be continued and has shown good cause for its request. This is the first time that the matter has appeared on the hearings roster. Accordingly, this Court grants Respondent's request and orders that this matter shall be continued until the next appropriate term of court for post-conviction relief matters in the Seventh Judicial Circuit.

IT IS THEREFORE ORDERED:

1. That this post-conviction relief matter shall be continued and re-scheduled for the next appropriate term of post-conviction relief hearings.

AND IT IS SO ORDERED this 17 day of March 2016.

 THE HONORABLE J. MARK HAYES II
 Chief Administrative Judge
 Seventh Judicial Circuit

Spartanburg, South Carolina.

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Spartanburg County

Spartanburg County Court House
180 Magnolia Street
P. O. Box 3483
Spartanburg, SC 29304-3483



Phone (864) 596-2591
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M. Hope Blackley
Clerk of Court

March 18, 2014

STATE OF SOUTH CAROLINA

IN THE COURT OF COMMON PLEAS

COUNTY OF SPARTANBURG

Walter Moore Lance

Applicant

#154185

7TH JUDICIAL CIRCUIT

CASE #

2014CP42-4564

S. Neo
VS

Respondent

CERTIFICATE OF SERVICE

I certify that, on this date, I served a copy of the
In this action dated

Order of Contempt
Mar. 17, 2014 on *Mar. 18, 2014*

By mailing to him/her, at his/her last known address, by depositing it in the U.S. Mail, in an envelope with sufficient postage affixed, addressed as follows:

John Key Harts
John Reicher

March 18, 2014
(Date)

Corrie See
(Signature)

RECEIPT FOR EXHIBITS

Case # 14GS/CP/DR-42-4564Judge CathrenState/
Plaintiff Walter VanceP's atty OliveDefendant StateD's atty Reck

Received from Linda D. Moffitt, Circuit Court Reporter, the following exhibits:

A1 mugshot profileA2 Photo lineupCP Box 18Received by Linda Moffitt, Clerk of CourtJune 13, 2016