Vol. IV of IV

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Richland County

Honorable R. Knox McMahon, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

NATHAN DANIEL MARTINEZ

APPELLANT

APPELLATE CASE NO 2016-002494

RECORD ON APPEAL

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Q Yeah, see there's 15, 16, 17, 18.
A I apologize. I looked at the date in the top corner.
Q All right. Well --
MR. MARTINEZ: Can you show her that?
(The document was taken back to the witness.)
THE WITNESS: Thank you.
BY MR. MARTINEZ:
Q On the 17th, do you feel safe here?
A On March 17th?
Q Yes, ma'am.
A Correct.
Q And what is the answer?
A Yes.
Q It says yes?
A On the 17th, it does, the answer is yes.
Q Can I see that, please?
(The document was returned to the defendant.)
(The document was returned to the witness.)
THE WITNESS: Thank you.
BY MR. MARTINEZ:
Q You see that underlined area?
A Yes, it's very faint.
Q What is the -- okay. The one below that is even more faint?

A Okay. On the left side of this paper, there are two suicide risk assessments, the very top portion is dated 3/17/14.

Q Yes.

A It's very faint, but now that you've underlined it, it, it says, Do you feel safe on the unit and there's in quotation marks the answer no. Underneath that is very clear, is dated 3/38/13.

Q And at the bottom it says I'm just waiting for my ride to leave; is that correct?

A Under the question, how do you feel about applying for discharge.

Q Yes.

A Is ready to go, just waiting, trying to find a ride.

Q Yes. Okay. And what -- in your experience, what is the -- what are the effects of meth?

A Well, the effects of meth would -- depends on the user himself, how long they've been taking meth, in what quantity, their previous history with drugs, tolerance levels can go up and down in an individual; so therefore, they might need more meth to experience the same effects of somebody perhaps using it for the first time.

But oftentimes, people using methamphetamine will display psychotic behavioral, disorganized thinking, or

paranoid delusions that would look like psychosis and, in fact, are not.

Q Can a person get like heart racing, eyes dilated, sweating, let's see, what else -- are those of my -- symptoms that a person would have?

A It is possible, yes, other than methamphetamine is a stimulant.

Q So what you're -- so if someone swallowed a baggy full of methamphetamine, well not full of it, but with methamphetamines in it what would be -- would a person be able to just sit there oriented for a couple of hours with no signs of eyes dilated, no -- no accelerated heart rate, no symptoms of anything?

A It's possible. A bag would suggest that the methamphetamine was enclosed, perhaps even sealed. So it's possible that that wouldn't have been ingested into the body, so the physical effects and/or psychological observed behavior may be different for someone who swallowed a sealed bag of something versus somebody ingesting it straight into their bloodstream.

Q Okay. What if the baggy was open and the person swallowed most of it?

A It's possible that they would demonstrate physiological and psychological effects as previously described.

Q And if they didn't, they was rushed to the hospital under the -- as an overdose, and yet they didn't suffer from any symptom. They was monitored for two hours and there was no eyes, oriented, no dilation, no acute distress, skin -- skin color was normal --

THE COURT: What's your question, Mr. Martinez?

BY MR. MARTINEZ:

Q Is it -- is that likely?

A You're referencing a hospitalization to Logan Regional on June of 2008?

Q Yes, ma'am.

A Their notes say that you were brought in by police officers after swallowing a bag of some type of crystal type material in an effort to avoid having it taken by police as they were trying to arrest him. And it then says that Mr. Martinez declined to tell hospital staff what was in the bag and after a few hours, he was discharged and encouraged to followup with a primary care physician. No other information was provided?

Q No other information was provided?

A About that admission, correct.

Q So to assume and state that it was drugs would be an inaccurate statement; is that correct?

A Not necessarily.

Q So you could assume or tell me what it was?

A It's a crystal type material in the bag.
Q So that automatically means that it's methamphetamine?
A No, it means it's a crystal type material in the bag.
Q But it can't be clarified as to exactly what it was; is that correct?
A They've written that it's a crystal type material. It sounds like they described what they were looking at, what they were dealing with.
Q Okay. And they also state that -- that -- well, they -- you don't have that. But the police report, they didn't know what it was -- they tested -- well, that's irrelevant there.
MS. CAMPBELL: Objection, Your Honor. That's something -- she doesn't have that.
THE COURT: Dr. Tross is an expert witness. She's been qualified in the field of forensic psychology. She has no personal knowledge of the events that occurred in Utah or any personal knowledge beyond descriptions in the record of a crystal like substance in a bag that may or may not be the basis of her opinion, but she's an expert witness. She doesn't have personal knowledge of the events that may or may not have occurred in Utah.
MR. MARTINEZ: Ms. Tross has testified for the

State that -- that it was drugs and that --

THE COURT: No, sir, she has testified only to the description as given in those records, that were part of the records that she we viewed. She has not testified that it was any particular type of drug no more than she just restated the language that was in the record.

MR. MARTINEZ: She didn't state what it was, but she --

THE COURT: No, sir, she never did. That's my point.

MR. MARTINEZ: But I --

THE COURT: She wouldn't even know what drug it was. All she knows is what was in the report that was forwarded to her. She doesn't even know if it was drugs. None whatsoever.

MR. MARTINEZ: That's my point.

THE COURT: No, that has -- step out, please, ladies and gentlemen. Do not discuss the case during this recess.

(The jury left the courtroom at 11:26 a.m.)

THE COURT: What is your point, Mr. Martinez.

MR. MARTINEZ: Ms. Campbell, she was saying that all my problems are drug related because I was drug induced and she tried to insinuate that it was drugs that I was -- that I had incidents with these drugs and there's no way to

tell what -- she can't testify as to what was in that baggy.

THE COURT: Exactly. And the doctor said that exactly. Nobody ever mentioned -- I don't remember, my court reporter will correct me -- well, she keeps me tracking, but I never heard the word methamphetamine or whatever that was until today in the courtroom. Never heard that word. Dr. Tross is not a forensic toxicologist, she's not a forensic chemist, she's a forensic psychologist. To my knowledge, she is not also an expert in the analysis of the testing of what may have been swallowed by an individual eight years ago in Utah in a bag with a crystal like substance. She doesn't know these questions -- she doesn't know the answers.

She's given her opinions. You can cross-examine her on her opinions and the basis of her opinions.

Okay.

MR. MARTINEZ: All right.

THE COURT: Anything else you'd like the say?

MR. MARTINEZ: No, sir.

THE COURT: We'll take a 15 minute recess.

Doctor, you may step down and refresh yourself during this recess. Thank you, thank you very much.

(A brief recess was observed.)

THE COURT: Anything before we bring in our jury,

Mr. Martinez?

MR. MARTINEZ: No, sir.

THE COURT: Solicitor?

MS. WALKER: No, sir.

(The jury entered the courtroom at 11:42 a.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you, Mr. Bailiff.

All right. Our jury is back. Mr. Martinez.

BY MR. MARTINEZ:

Q Ms. Tross, was there additional information gathered by a Ms. Carol David?

A In preparation for any evaluation, there's a social worker assigned to the case. In this case that was Ms. David. She completed a social history and requested records from entire mental health treatments, hospitalizations, it's -- that we knew of and then after the evaluation, it's my understanding she requested records from Logan Vocational Rehabilitation Center.

Q And did she gather information from any other sources?

A I don't know.

Q She didn't call and talk to my mother?

A She performed a social history wherein -- correct. She did talk to your mother.

Q And what did my mother state that -- do you

remember what you told me that my mother told you, or told the caseworker?

A Ms. David asked her quite a series of questions, so I'm not sure which information you're referring to in particular.

Q You told me that it was a concern of yours.

A I'm sorry, I'm not --

THE COURT: Could you ask her the specific question, Mr. Martinez.

BY MR. MARTINEZ:

Q Do you have Ms. Carol's report?

A I do.

Q In that report does it state that my mom told her that all my problems began when I had my jaw broken in 2012, not when I was 12 years old?

A That all your problems?

Q Yeah, my mental health issues.

A There's a notation that at the age of 12, you hit your head, that you had broken your jaw and that you went to the hospital in Utah and had the jaw wired together.

Q At 12?

A Correct. That's what's written.

Q And I told you that was in 2012; is that correct? December 2012?

A Correct. That's what you reported.

Q And did Ms. David state that my mom told her that I used to sit at home and try to cut my ear off?

A It doesn't appear so from her notes.

Q You never asked me about that?

A You volunteered that information.

Q And is there evidence in the record that you received to support that?

A No.

Q Did you receive the police reports?

A We received police reports, yes.

Q Did you receive Mr. Colin D Bailey's report from the City of Columbia?

A Do you have a date?

Q His report is not dated.

A I have multiple affidavits from Forest Acres. Multiple from City of Columbia.

Q Okay.

A Yes.

Q Okay. And an incident report from Forest Acres?

THE COURT: Forest Acres and City of Columbia, you're asking about Detective Colin Bailey --

MR. MARTINEZ: Colin D. Bailey.

THE COURT: -- and the City of Columbia, the City of Columbia report, Doctor.

You have a copy of it, Mr. Martinez?

MR. MARTINEZ: Yes, Your Honor.

THE COURT: Would you get it quickly and hand it up to the doctor so that she has a copy?

Hand that to Dr. Tross, please.

THE WITNESS: Thank you.

I was not previously given this report.

BY MR. MARTINEZ:

Q You were not given that report?

A Correct.

Q Was you given a copy of the statements that I wrote?

A To who?

Q To the City of Columbia as well as to the Forest Acres Police Department?

A No.

Q So --

MR. MARTINEZ: Your Honor, can I have her review those so she can see what I'm talking about. They're in evidence.

THE COURT: Yes, sir, you can have her review them. They're in evidence. I think it's State's 92 and 106.

THE COURT REPORTER: 92 and --

THE COURT: What.

MS. CAMPBELL: Your Honor, I've handed her the first one.

THE COURT: You handed up 92.

MS. CAMPBELL: I handed up 10 -- what's the number on that sticker?

THE WITNESS: 107.

MS. CAMPBELL: 107.

THE COURT: 107.

MS. CAMPBELL: And then here's 92.

THE COURT: All right. What is your question, Mr. Martinez?

MS. CAMPBELL: Your Honor, could she have a minute to just review those?

THE COURT: Sure. Of course, you may review them all you'd like, doctor.

(There was a pause in the proceedings.)

THE WITNESS: I've read over the statements.

BY MR. MARTINEZ:

Q Ma'am?

A I've read over the statements, just so you know.

Q Does it state in those statements that I suffer from a delusion?

A No. In the statements you tell police that you hear voices and that you believe the Utah police are harassing you electronically. But there's not a conclusion or an opinion as to your mental state or diagnosis.

Q But -- okay. I understand they're not doctors, but

as far as my -- my -- my -- where my statement's at, what am I speaking of?

A You were telling police that you have a chip, and that you're being electronically harassed by the Utah police, and that you hear voices.

Q And then I tell them that I'm trying to cut devices out of my head; is that correct?

A There is a statement made in this Forest Acres police report where you said that you had been trying to cut a device outside -- on the back of your ear.

MR. MARTINEZ: Can we show -- can we show her the pictures, please?

THE COURT: Yes, sir. Of course.

You're referring to the photographs taken at the Forest Acres Police Department?

MR. MARTINEZ: Yes, sir.

THE COURT: Mr. Kata, can you --

MR. KATA: Yes, sir, Your Honor. May I approach the witness?

THE COURT: Yes, sir.

THE COURT REPORTER: Your Honor, they're I'd only.

THE COURT: Say again?

MS. CAMPBELL: They are ID only.

(Getting the pictures together to show to the witness.)

THE COURT: What numbers are those, Mr. Kata?

MR. KATA: They're defendant's ID 4 and 5 for ID.

BY MR. MARTINEZ:

Q Is that consistent with what I'm saying?

A I don't know.

Q And you never -- did you receive any e-mails that were sent from officers to Forest Acres police?

A No.

Q You was never -- you was never given e-mails that were sent from me to news media stations, different like organizations that deal with microchips and stuff like that from Mr. Bell?

A No, sir.

Q Now that you've read those police reports, would that have changed your findings?

A No.

Q Those wouldn't play a factor into anything?

A It would not change my findings because the totality of the information that I was given, along with your self-report of what occurred on the days prior to and on the days of the accused incidents is not consistent with a mental illness or delusional component wherein you did not appreciate the difference between right and wrong and were not able to conform your behavior to the law. The totality of the information would suggest that when you

report to the hospital, your psychotic symptoms abated as soon as you were sober.

Additionally, there was evidence of possible malingering in multiple different records and your presentation seemed best characterized by an antisocial personality disorder, which is quite able to tell the difference between right and wrong, they just don't care.

Q Okay. And so you're saying that a person who is paranoid of the authorities because they believe that they planted a microchip in their head and they don't feel safe on the unit and they don't want to feel like they're locked up, do you believe that they would tell the authorities they were okay just so they could get out of there?

A I'm not sure I understand your question.

Q Okay. If someone comes and involuntarily takes you to a place where they're drugging and you giving you medications that you don't know what you're taking, but they're making you take it through injections and you're already going through some psychotic disorders where you're paranoid and the doctor's even said you're paranoid and you're on drugs and you don't know what's going on, so therefore, would a person not be afraid for their safety or -- and then want to tell them whatever they wanted to hear just so they would let that person go?

A Well, it sounds like you're asking me a couple of

different things here. It's not uncommon for people being brought into a hospital on emergency papers who are exhibiting traits of paranoia and/or psychosis, especially when substance induced to be paranoid of their surroundings or suspicious of treatment available to them.

Q And so that goes to say that with my specific delusion of not wanting to be locked up, not wanting to -- living in fear for my life from the police, from the authorities, I stated in my records that all this happened at a hospital, that I was -- I don't know if you have the records, but if you would have -- I told you -- I told you that I went to the hospital and woke up hearing voices and being shocked and being electrocuted and going crazy to where I had to having to return back to the hospital; is that correct?

A Correct. But you're self-report is not supported by the documentation available from the mental health facilities, mental health hospitals.

Q Okay. And you don't have the records from Ogden regional hospital, do you?

A No.

Q Do you have the records from McKay Hospital?

A No.

Q Do you have -- you don't even have all the records that the State has, that the State has and at the time the

public defenders had; is that correct?

MS. CAMPBELL: Objection, Your Honor, I don't know how she would know what we have or don't have or the public defender's office.

THE COURT: You may answer the question, Doctor.

THE WITNESS: I wouldn't know.

BY MR. MARTINEZ:

Q So if you don't have all the records, you can't give an accurate account; is that correct?

A No, that's not true. Again my court order is very specific to whether or not at the time of the alleged incidents you were in your right mind as to be able to not only appreciate the difference between right an wrong, but then being able to conform your behavior. So a review of the record to be able to answer that question is what is sufficient in my professional opinion, so based on the records available to me at the time of your interview, the conclusion therein is that you were in your right mind based on not only the record, but you're self-report that you recall being at the places accused.

You recalled engaging in certain types of multiple behaviors. You denied the presence of a delusional component compelling you to make these daily minute by minute decisions. So all of that in totality is how I was able to make a conclusion that at the time of the alleged

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offenses he was in his right mind and was able to appreciate not only right from wrong, legal right from wrong and moral right from wrong, but he was able to conform his behavior should he have chosen to do so.

Q And in your -- okay. In the complaint that I wrote, you state that I told you that I did this stuff?

A Correct. In your interview with me, I have your statements and those are what I quoted in the report.

Q Is that recorded?

A No.

Q So that was your statement, correct?

A They were written statements of what you verbally discussed during our interview.

Q And when you asked me about the Hurshman -- this trial that I'm on trial for, did I not tell you that I don't know nothing about this and the only they think I do know is what I've read from the reports?

A No.

Q So why would I write a complaint and say that?

A I don't know.

Q So why would I go tell you that that's what I did and then after I get your report, I write a complaint to your forensic evaluation services an tell them that's not what I said?

A It's not uncommon for a defendant to get a report

that doesn't coincide with what they would desire the findings to be to complain about it.

Q So you're saying that because you're finding or the findings don't -- okay. Your findings as I stated in my complaint, I stated that they don't -- they're not consistent with the reports; is that correct?

A That's your assertion, but that's incorrect because my findings are a summary of the reports available to me and are based on the totality of the information, the sole histories provided to us as well as your own statements. And in no time do any of those records suggest that your multiple behaviors on the day or days in question was as a result of delusional compelling you to act.

Q Okay. And I told you that I denied hearing voices during -- before or during this stay at her apartment or at this place; is that correct?

THE COURT: Let me see what you're referring to, please, Mr. Martinez.

MR. MARTINEZ: It's --

THE COURT: Let me see what you're referring to, please.

(The Court is looking over the document.)

THE COURT: Mr. Kata?

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

MR. KATA: Your Honor, we have a matter of law.

THE COURT: All right. Thank you.

Step out, please, ladies and gentlemen. Do not discuss the case while you're out during this recess.

(The jury left the courtroom at 12:14 p.m.)

THE COURT: All right. Yes, sir.

MR. MARTINEZ: Your Honor, Ms. Tross's findings as to my appreciation of knowing what I was doing is based on -- she claims that I was avoiding my mother's house because I was afraid of being arrested, that I was running from the police, that I was running -- she was implying -- well, she said that I was running from the police and I wasn't home, I was staying at my brother's house, which was incorrect because I have evidence from statements from the police that I wasn't on the lease to be at my mother's house and I wasn't at my mother's house because I didn't want my mom to get convicted. If I wasn't on the lease and they came by and they seen that I was there, they were going to evict my mother.

It's not because -- the first incident that she's referring to, there was no arrest. You went to the police. I went -- I made my -- I called them. They came to my mother's house looking for me. I reached out to call them. I went to them, took a polygraph test, I went to them and gave a statement. I cooperated with them. I had no reason

to run and hide from them for that allegation. She misquotes -- and I can show she states that I knew what I was doing by running and hiding from the police, which is false. It's misrepresentation of the facts, the police reports and I can show that her findings are inaccurate based off of the reports.

THE COURT: And in part of that you're going to question her about the February 2014 incident.

MR. MARTINEZ: No, sir, I'm not going to question her about that. I just want --

THE COURT: That sentence you read, that paragraph is the paragraph, is a paragraph about the Vasser incident.

MR. MARTINEZ: Yeah, there's two -- there's two things on there: Mr. Martinez denied hearing voices before or during the incident at the apartment. And there's also: He denies hearing voices before or during the incident at the victim's home or while in the car with her. So...

THE COURT: The first one refers to the Vasser.

MR. MARTINEZ: Yes, sir.

THE COURT: That's the point I'm trying to make. The Vasser is not being tried, nor is it offered into evidence as far as Lyle testimony.

MR. MARTINEZ: Yes, sir.

THE COURT: So you want to bring that one up?

MR. MARTINEZ: No, sir.

THE COURT: So you're going to ask Dr. Tross anything about the first incident? That's my only point, Mr. Martinez.

MR. MARTINEZ: No, sir, I just wanted to state that I'm going to have to -- I'm not going to get into it, but I just want it stated that I wasn't running from the police. I had no reason to run from the police, the police weren't arresting me. They told me that there was no evidence and they wasn't going to arrest me. So for her to state that I knew what I was doing by running and hiding from the police at my brother's house is false.

THE COURT: Solicitor?

MS. CAMPBELL: Your Honor, he's talking about what he told her in this statement and the chain of events it said that, I didn't have a place to live anymore, I couldn't stay with my mom anymore, those are quotes from him according to her. Then she asked him why he felt this way and he stated because of the other incident referring to the charges that occurred on February 4th. So I don't know what he's trying to elicit here is what he told her? Because that's what he told her that the reason he was staying at his brother's.

MR. MARTINEZ: Your Honor, I didn't tell her none of that. And the records -- I clearly told her I wasn't being arrested for that. I had no reason to hide from

them, that I'd been cooperative so there was no reason for me to hide. What she states in her report, I did not state and I stated that in my complaint. They're based off of inconsistencies. They're based off -- I didn't say this to her. I didn't state the stuff that she said in here.

I repeatedly told every lawyer that I had that I wanted to dispute her finding because they're inaccurate, they don't go with the reports. She didn't even have all the reports to make a correct finding. And I wasn't even aware that Mr. Bell -- Mr. Bell told me that he gave her everything that we had and obviously, he didn't. From -- her testimony is that she wasn't provided with all of the police reports. She wasn't provided with all my medical history. And this is medical history that I've been trying to get since Taylor Bell.

THE COURT: All right. I'll rule when it comes up. You can ask your next question.

Bring us our jury.

Doctor, the questions asked about the first incident, or you think it's being asked about the first incident, how about get my attention and I'll send the jury back out.

THE WITNESS: Yes, sir.

THE COURT: The February incident.

THE WITNESS: If I can answer that without

referring to that incident?

THE COURT: I'm sorry?

THE WITNESS: What if I can answer that question without referring to that incident?

THE COURT: If you can answer the question, you can answer the question, but I -- if you feel like you have to refer to that incident, please do not do so in front of the jury until I rule on it.

THE WITNESS: Yes, sir.

THE COURT: Thank you, Doctor.

MR. MARTINEZ: Can I ask a question?

(The jury entered the courtroom at 12:21 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: All right. Mr. Martinez?

BY MR. MARTINEZ:

Q Okay. Ms. Tross, so you're stating that even with the additional information that you read today, it didn't appear that I was suffering from any type of mental health issue before, during, or after this alleged incident, prior to this alleged incident or after this alleged incident?

A Based on the information you provided during the interview with me, as well as the review of all the records prior that had been provided to me, it appeared that on the days in question, you were in your right mind as to be able to not only decide what you wanted to do, but then to

control your behavior and that you're behavior was not as a result of hearing voices or feeling that the Utah police were after you.

So even if those facts you truly believe, and even if that's a basis for a delusional belief system, that's not a prevailing issue at the time of the alleged offenses and it's not consistent with prior records that would suggest. If you have those delusions, they seem to be mild and do not impair your ability to function and when they are causing impairment, they seem to be substance induced or exacerbated by the use of substances, which would then cause impairment which requires you to go to the hospital.

So again, it's not ruling out that you don't have a delusional belief, what it is saying is that at the time of the alleged offenses, based on prior offenses and your own self-report, you went, broke into the home, you went there to steal something to sell and you made a conscious decision to tie people up, to sexually assault that was independent of a voice telling you to do so.

Additionally, you made choices after the fact that would suggest you had a conscious awareness that you had something that you wanted to sell and you went to a pawnshop to sell it. And then you went home, or in this case to your brother's residence; all of which would suggest that you were in your right mind. You were not in

a state where you didn't understand the difference between right and wrong and you were able to choose your multiple behaviors.

Q And I told you -- you're saying that I told you all that?

A Correct.

Q And who was present when I told you that?

A Yourself, myself, and the social worker who was also in the room.

Q Ms. David?

A Correct.

Q She was present the whole time?

A That's correct.

Q And you're saying that all of this information that you wrote is -- okay. You're saying that all of my previous mental health issues are due to drug induced?

A No, that is not what I'm saying.

Q Well, you said that my -- that I get -- that there's -- okay. What exactly did you say again to the drug related? That all of this is drug related?

A That when you appear psychotic, when you seem to have more pronounced delusions, they seem to have been substance induced. It was evidenced by the record and the diagnosis provided by the different hospitals you attended.

Q So you're saying that THC makes someone delusional?

A It can make somebody paranoid. It can also be a pre curser for psychotic behavior in individuals who are not otherwise predisposed for psychotic behavior.
Q Okay.
A And again, it depends on the individual, how much is taken, and in connection with what other things they may or may not be taking.
Q Okay. What if they're just taking THC -- they're smoking marijuana?
A Again, it depends on the individual and their own disposition.
Q What if they're going and their urine is clean?
A What's your question?
Q What -- okay. You stated that -- okay, you quoted Mr. Jackson; is that correct? Larry Jackson from the Department of Mental Health?
A In what regard?
Q That he said I was malingering?
A Which report are you referring to?
Q 7/5/2013.
A What hospital or record are you referring to?
Q Department of Mental Health --
THE COURT: Is that the Columbia Area?
BY MR. MARTINEZ:
Q Columbia Area Mental Health.

A Okay. Columbia Area Mental Health.

Q And that's where you state that he states that I was malingering?

A Correct, he suspects malingering.

Q And then what about when I reappeared on 9/27, what is -- does he still state that I'm malingering?

A The notes on that day say that you tested positive for THC and that you were subsequently involuntarily committed to a hospital whereupon they concluded that there was substance-induced psychosis.

Q And he states that I'm very delusional. Does it -- in his report, does it state that -- does it state that I'm malingering again?

A Which report are you referring to?

Q 9/27.

A That would be right. Your initial diagnosis was psychotic disorder not otherwise specified, a drug screen of the same date indicated that you were positive for marijuana, THC and then the note subsequently requested your involuntary commitment to the hospital. That day you were transferred to Richland Springs Hospital.

Q Okay. And then what about his reports from 10/11/13?

A Said that you were very delusional; thinks the Utah police were tracking him; report that you were at Baptist

Emergency Room two days ago. He wrote your initial diagnosis was psychotic disorder not otherwise specified, there's a notation of using methamphetamine and marijuana were indicated. But you were, again, transferred to a hospital.

Q But there was no methamphetamine in my drug system, correct?

A A note was indicated that you were using methamphetamine and marijuana. It didn't have a test. To my knowledge.

Q And it doesn't say anything about malingering there, does it?

A On that date it does not.

Q And you wasn't provided with information about my disability benefits, was you?

A You're referring to the Logan location.

Q No. It's a minor disability in Lehi, Utah?

A No, it's not.

Q And in my -- did you read my complaint?

A Yes.

Q And I stated that I want to -- are you aware that I stated that I want to dispute your findings?

A Yes.

Q And have you been able to do that in court?

A I imagine that's up to the Court to decide.

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Q But we haven't been able to do that; is that correct?

MS. CAMPBELL: Objection, Your Honor.

THE COURT: You said that would be up to the Court to decide and I don't think she's been in court throughout the trial.

MR. MARTINEZ: No further questions, Your Honor.

THE COURT: Solicitor, redirect?

MS. CAMPBELL: No, sir.

THE COURT: Thank you, thank you very much, Doctor. Thank you for being back with us today.

THE WITNESS: Of course.

THE COURT: You may step down.

Any objections to the doctor being excused, Mr. Martinez.

MR. MARTINEZ: No, sir, none.

THE COURT: Solicitor?

MS. CAMPBELL: No, sir.

THE COURT: Again, thank you, thank you very much, Doctor.

Any additional witnesses, evidence, testimony in reply?

MS. WALKER: No, sir. None.

THE COURT: Were there certain records that were to be marked today?

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MS. WALKER: Your Honor, I think Mr. Martinez has some records.

THE COURT: All right. Do you have some records you wanted marked, Mr. Martinez?

MR. MARTINEZ: Yes, Your Honor, I need them copied.

THE COURT: All right. Would you show them to the solicitor, please.

MS. WALKER: Your Honor, we'll provide a clean copy to Mr. Martinez and we'll do that.

THE COURT: All right.

Mr. Martinez, as we discussed during the break -- during the break in open court outside of the presence of the jury, in South Carolina, there is surreply. Do you intend to present any evidence or testimony in surreply?

MR. MARTINEZ: Yes, sir, I do.

THE COURT: How many witnesses do you have?

MR. MARTINEZ: Your Honor --

THE COURT: Step up for me, Mr. Kata, Solicitor.

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: All right. Ladies and gentlemen, it appears -- and I learned that hard lesson many, many years ago when I was trying cases, when I sat out there as they do, that there is such a thing as surreply, that the State can call witnesses in reply and the defense can present

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witnesses in surreply that goes to the scope of what the reply testimony was. With that being said, there may be three, there may be four witnesses. Those -- it's hard to predict the time that those witnesses may take. However, given the nature of the witnesses, I think two of which may be doctors, that -- pretty good bet that they may not be brief.

So with that being said, rather than start now, our clerk has graciously provided y'all's lunch again today. I'm not sure it's here yet, but we'll take -- we'll take until 2 o'clock, give you about an hour and 15 minutes.

I have to hear some matters now outside of your presence. You can certainly take a walk about. Do not discuss the case. Do not watch, listen to any news accounts of the case and do not do any independent research or any research on the internet.

Thank you, thank you very much, hope y'all have a pleasant lunch.

(The jury left the courtroom at 12:40 p.m.)

THE COURT: All right. As I understand it, we have Dr. Carroll, correct? Present, available, subpoenaed.

MR. KATA: No, Dr. Carroll is unavailable.

THE COURT: We have Dr. Sutton.

MR. KATA: Dr. Sutton is here and stands ready.

THE COURT: We have Mr. Jackson?

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MR. KATA: No, Mr. Jackson is not going to be available.

I notified Mr. Derieg of his intent to be called as a witness this morning. He called me since we've been in testimony. I need the call him back.

THE COURT: Is he available?

MR. KATA: I'm pretty sure he's available.

THE COURT: All right.

MR. KATA: He's in communication with me.

THE COURT: All right. So we would have Dr. Sutton, potentially Mr. Derieg, and potentially Mr. Martinez.

MR. MARTINEZ: Yes, sir.

THE COURT: Correct?

MR. MARTINEZ: Yes, sir.

THE COURT: All right. Thank you.

Anything, Solicitor?

MS. CAMPBELL: No, sir. Nothing, Your Honor.

THE COURT: All right. Thank you, thank you very much. Court will be in recess -- was there one other thing y'all wanted to take up before I took a break? No?

MR. KATA: Not at this time, Your Honor.

THE COURT: All right. Thank you. Court will be in recess until two o'clock, 1400 hours.

(A lunch recess was observed.)

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THE COURT: All right. What has been marked now, Madam Court Reporter?

MS. CAMPBELL: Your Honor, we had talked about putting in some records since he couldn't get the witnesses here. We've pulled one sheet from McDow. You wanted that marked in, right?

MR. MARTINEZ: Yeah.

MS. CAMPBELL: Do you want that as State's Exhibit 31?

MR. MARTINEZ: It's defense.

MS. CAMPBELL: Defense, I'm sorry. And then defense exhibits, I've marked everything from Dr. Scott which are three different admission dates and the records with those. One from 11/27 of '13. One of 9/1 of '13 and one from 7/3/13. And then finally, you pulled every record with Doctor -- Nurse Jackson's name on it including the intake form that was filled out presumably by her and made that State's Exhibit -- Defense Exhibit 34.

THE COURT: All right. Show those to Mr. Martinez.

MS. CAMPBELL: Yes.

THE COURT: Please.

MS. CAMPBELL: Can I just explain something to him, Your Honor?

THE COURT: Sure.

(The documents are shown to the defendant.)

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MS. CAMPBELL: Your Honor, while he's looking for that, can I bring up something? Mr. Derieg is here at the defense's request and I think he wanted to just address the Court.

THE WITNESS: Yes, Your Honor.

THE COURT: Yes, sir, Mr. Derieg.

THE WITNESS: I just wanted to, for Mr. Martinez's benefit, I just wanted to have some clarification for him that by calling me to the stand that he's waiving his attorney/client privilege from the short period of time that I did represent him.

THE COURT: All right. Mr. Kata, have you explained that to Mr. Martinez?

MR. KATA: I talked to him about it.

THE COURT: All right.

MS. CAMPBELL: And, Your Honor, in determining whether or not this is actually surrebuttal, is there any way we can maybe make a proffer of his testimony. I just don't know what the issue would be so would it be appropriate for surreply or surrebuttal, I'm not sure.

THE COURT: Surreply, I think. It's one of those old Patterson cases. It's the first time I ever ran across it.

Let me get his records straight and then I'll address him.

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MS. CAMPBELL: All right.

(There was a pause in the proceedings.)

THE COURT: All right. Have you reviewed those records, Mr. Martinez?

MR. MARTINEZ: Yes, sir. I seen Mr. Jackson on three separate occasions and there's only two occasions in here.

MS. CAMPBELL: We may have missed a date. What was the other day that you saw him, I'll find it.

MR. MARTINEZ: Let's see, I got the 9/27, 7/5, and it's going to be 10 -- 10/11.

MS. CAMPBELL: 10/11 we're looking for it.

MS. GODWIN: 10/11, of 13?

MR. MARTINEZ: Yes, ma'am.

(There was a pause in the proceedings.)

(The attorneys were trying to make sure Mr. Martinez had all the records he had requested.)

THE COURT: What's the issue. I thought this was resolved. What's the issue, Solicitor?

MR. MARTINEZ: Your Honor, he says there's another document that he wants to put in. I asked him to give me the document, we'll be happy to attach it to his exhibit and now, I guess he's looking for it.

THE COURT: All right.

(Defense Exhibit Number 31, Number 32, Number 33,

Number 34, and Number 35 was marked for identification.)

MS. WALKER: We have 31 through 35, Your Honor. We don't have any objections to these.

THE COURT: All right. 31, 32, 33, 34, 35, have you reviewed these documents, Mr. Martinez?

MR. MARTINEZ: Yes, sir, I have.

THE COURT: And do you want these documents in evidence?

MR. MARTINEZ: Yes, sir.

(Defense Exhibit Number 31, Number 32, Number 33, Number 34, and Number 35 was entered into evidence.)

THE COURT: Are there any additional documents as far as your medical or mental health history that you want in evidence?

MR. MARTINEZ: Yes, sir.

THE COURT: And what are they, please?

MR. MARTINEZ: My -- e-mails --

THE COURT: Do y'all have e-mails?

(No verbal response.)

THE COURT: They do not have e-mails.

MR. MARTINEZ: From the gmail?

THE COURT: From where? I can't hear you when you're talking to them.

MR. MARTINEZ: From the gmail.

THE COURT: Do y'all have gmails of his e-mails

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from his gmail?

MS. GODWIN: Your Honor, I believe we have one from his gmail that he sent to the press.

THE COURT: All right. You should have copies of your own there Martinez.

MR. MARTINEZ: I don't -- that I sent to the press? I never --

THE COURT: I have copies of e-mails that I send until I delete them.

MR. MARTINEZ: Yes, I have copies of them, but they was also provided to the State as well.

THE COURT: I'm not tracking you. What are you asking me to have the solicitor look at that you want in evidence?

MR. MARTINEZ: I would like to put in my e-mails to the disability company that I sent --

MS. CAMPBELL: We don't have those.

THE COURT: Do you have a copy of it that I can look at?

MR. MARTINEZ: Yes, sir.

THE COURT: And the State can look at it? Is it one e-mail?

MR. MARTINEZ: It's two.

THE COURT: All right. Well, hand them to the officer so I can look at them.

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Let the State look at them first, they may not have any objections, I don't know.

(The solicitor was looking at the documents.)

THE COURT: You have objections?

MS. WALKER: Yes, Your Honor, I don't see how these would be -- I don't -- they don't seem to be in conjunction with these medical reports here. So I don't understand what theory -- I don't think they're admissible.

THE COURT: Say again?

MS. WALKER: I don't think they're admissible, Your Honor.

(The Court is looking at the documents.)

THE COURT: And what's the basis of your objection, Solicitor?

MS. WALKER: They would be, I guess, inadmissible hearsay.

THE COURT: Well, all of this theoretically just goes to mental state. I'll mark them for identification purposes. Do you intend to testify to them, Mr. Martinez?

MR. MARTINEZ: Yes, sir.

THE COURT: All right. Mark them for identification purposes only right now. 36 and 37.

MS. CAMPBELL: I don't believe we have those. Could we get a copy of them?

THE COURT: Sure.

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MR. MARTINEZ: Can I get another copy too, please.

THE COURT: You know, I'm not really feeling all this administrative stuff right now when I tell the jury to come pack at 2 o'clock and give y'all over an hour and a half to be ready.

All right. Mr. Martinez, you've heard Mr. Derieg, who is a previous attorney of yours concerning the attorney/client relationship. If you look at the South Carolina Rules of Professional Conduct, Rule 407 and then specifically 1.6, A lawyer shall not reveal information regarding -- relating to the representation of a client unless the client gives informed consent. If you allow -- an attorney has to keep information that was provided to him by his client under the conditions of strict confidentiality. Confidentiality contributes to the trust that is the hallmark of the client/lawyer relationship. A fundamental principle in the client/lawyer relationship is that in the absence of the client's informed consent, the lawyer must not reveal information related to the representation.

If you call an attorney as a witness, then that information will be revealed to third parties and would no longer be subject to the attorney/client confidentiality relationship. Do you understand that?

MR. MARTINEZ: Yes, sir.

THE COURT: Do you have any questions you would like to ask me about that?

MR. MARTINEZ: No, sir.

THE COURT: Have you discussed that with Mr. Kata, your standby counsel.

MR. MARTINEZ: Yes, sir.

THE COURT: Knowing that, information that may have been provided to you -- provided by you to Mr. Derieg would waive the attorney/client relationship, do you knowingly, voluntarily, and freely waive that relationship?

MR. MARTINEZ: Yes, sir.

THE COURT: And you understand on surreply that the scope of the testimony is limited to the reply testimony. You can't go into new matter, it's totally focused on the reply testimony of Dr. Tross and Dr. Amick.

MR. MARTINEZ: I can't go into my medical condition?

THE COURT: That's primarily what Dr. Tross testified to.

MR. MARTINEZ: Okay.

THE COURT: But it is limited solely to that. You understand?

MR. MARTINEZ: Yes, sir.

THE COURT: Of course, if somehow the door the opened, otherwise, Mr. Derieg, as I say, your

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attorney/client privilege has been waived.

MR. MARTINEZ: Yes, sir.

All right. Anything further before we bring in our jury?

MS. WALKER: No, sir.

THE COURT: Is 36 and 37, defense marked for identification.

THE COURT REPORTER: They haven't. They have not given them up yet.

(Defense Exhibit Number 36 and Number 37 was marked for identification.)

THE COURT: Bring us our jury, please.

Thank you for being with us, Mr. Derieg.

THE WITNESS: You're welcome, Your Honor.

(The jury entered the courtroom at 2:25 p.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Thank you, thank you very much, Mr. Bailiff.

I hope y'all had a pleasant lunch. We are continuing the trial of the case by the presentation of evidence and testimony offered by the defense in surreply. In your absence, Defense Exhibits 31, 32, 33, 34, 35 are in evidence without objection that pertain to prior medical records.

All right. Mr. Martinez, you may call your first

witness.

MR. MARTINEZ: Yes, I'd like to call Lir Derieg.

THE COURT: All right. And I always mispronounce your name, sir. I apologize, but please come around and join us and be sworn.

LIR PATRICK DERIEG,

having been duly sworn, testified as follows:

THE CLERK: Please have a seat. State your full name for the record.

THE WITNESS: Lir Patrick Derieg.

THE COURT: All right. Mr. Martinez.

DIRECT EXAMINATION

BY MR. MARTINEZ:

Q Mr. Derieg, you was my attorney last year at March time; is that correct?

A Yes, I believe it was around March, yes, sir.

Q And at that time were you -- were you assisting me to get to have a competency -- a criminal responsibility evaluation done?

A That's correct.

Q And also, I was asking for medical treatment to determine what was behind my ears?

A Yes.

Q And what was -- what was the method that you was using to try to obtain that? To get those necessary -- to

gather that information?

A Well, in regards to the competency evaluation and the criminal responsibility determination, I made a motion before the then Chief Administrative Judge of Richland County, Judge Hood and requested that you be mentally evaluated by South Carolina Department of Mental Health; and in regards to the issues that you told me about with your ears. First I spoke with people there at Alvin S. Glenn Detention Center and then came back and spoke with Judge Hood.

Q And what -- what did they say about that?

A Which --

Q About both them issues.

A The criminal responsibility and the competency?

Q Yes, sir.

A If I remember correctly, your evaluation came back that you were competent to stand trial. And in regards to your criminal responsibility that there were no issues with you determining right from wrong at the time of you offense and as such, you were eligible to be held criminally responsible for the offenses for which you were charged.

Q And did you give me that information?

A I shared those findings with you.

Q You shared the -- did in order to obtain -- okay. It took a lengthy time for them to establish -- to set that

appointment for me to go; is that correct?
A Yes.
Q And is it true that you went to Ms. -- I had another solicitor on my case at the time, Mr. Foster Matthews; is that correct?
A I think so.
Q And then he left and then Ms. Campbell became the solicitor?
A Yeah, that's right.
Q And you said you was going to go to Ms. Campbell to see if she would assist -- see if she can help me get medical attention for -- for my ears and also to get the competency evaluation done; is that correct?
A I don't recall that.
Q You don't recall her saying that she was going the get this stuff done?
A That may have happened, but I -- it was a long time ago. I don't remember whether or not I ended up asking Ms. Campbell for help in speeding up that process or not.
Q Did the Department of Mental Health request additional information from you?
A They requested certain pieces of your discovery, yes, sir.
Q And when we talked about it, I told you that I asked them to obtain additional information from -- the

same information that I asked you to get like from hospitals and stuff like that?

A Not that I recall.

Q When -- so when they sent you a report, you never gave me that report, correct?

THE COURT: He's already testified he shared that with you Mr. Martinez.

MR. MARTINEZ: No, but they issued him a report and --

BY MR. MARTINEZ:

Q Okay. How did you share that information with me?

A I believe I brought a copy of that report to the jail and we sat down and looked at it.

Q You didn't send word with another client of yours to tell me that there was nothing useful in it?

A No.

Q And you're stating that we went over the information? Me and you?

A Yes.

Q Okay. So what month was that? Or what month in 2015 was that?

A It was around March.

Q It was around March?

A It was sometime in 2015. I don't recall exactly what month you and I went over that.

Q The test was done, I believe in August. I believe it was done in August.
A Well, if the test was done in August, we would have reviewed that either in August or September.
Q Is it true that you wasn't allowed back in the section? You wasn't allowed to come back in the section that I lived in?
A For a period of time, yes.
Q And it was at that time --
(The Court had a bench conference with one of the officers in the courtroom.)
THE COURT: Excuse me for interrupting you Mr. Martinez. You may ask your question.
BY MR. MARTINEZ:
Q You was not allowed back in the section at around that time?
A That's correct.
Q And so how would you have went in the section and discussed this issue with me?
A They would have brought you up to the booths that they have off of the booking area for Alvin S. Glenn Detention Center.
Q And would you have to like sign something for that, like a release or something like that?
A No.

Q Would you have to sign when you entered and when you came to see me?

A Generally, yes.

Q Did I express to you my concern for medical treatment?

A Yes.

Q And what was the medical treatment for?

A You told me that you believed that the Utah State Police had implanted mind control devices behind each of your ears and that you wanted to have those devices surgically removed. And that they were communicating to you through those devices and could even send electric pulses to your brain to shock you through those devices that were in your ears.

Q All right. Thank you.

MR. MARTINEZ: No further questions, Your Honor.

MS. CAMPBELL: No questions.

THE COURT: Thank you, thank you very much, for being with us this afternoon, Mr. Derieg. You may step down.

Any objection to Mr. Derieg being excused Mr. Martinez?

MR. MARTINEZ: No, sir.

THE COURT: Or Solicitor?

MS. CAMPBELL: No, sir.

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THE COURT: Again, thank you for being with us, you're excused.

Mr. Martinez, you may call your next witness.

MR. MARTINEZ: Your Honor, as I stated, I would like to testify.

THE COURT: All right. If you'd come around -- well, wait just a moment, please.

Step out, please, ladies and gentlemen, momentarily, do not discuss the case during this brief recess.

(The jury left the courtroom at 2:36 p.m.)

THE COURT: All right come around to the witness stand now, please, Mr. Martinez.

Madam Clerk, after the jury returns, would you place him under oath while he is seated there?

THE CLERK: Yes, sir, Your Honor.

THE COURT: Anything before we bring in the jury, Mr. Martinez?

MR. MARTINEZ: No, sir.

THE COURT: Solicitor?

MS. WALKER: No, Your Honor.

(The jury entered the courtroom at 2:39 p.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Thank you.

Madam Clerk, would you place Mr. Martinez under

oath for us, please.

THE CLERK: Yes, Your Honor.

NATHAN DANIEL MARTINEZ,

having been duly sworn, testified as follows:

MR. MARTINEZ: So help me God.

DIRECT EXAMINATION

MR. MARTINEZ: My issues started in December, December 9th, 2012. I had an altercation. I had to go to the hospital and I was subdued and I woke up to a psychiatric doctor telling me that he wanted to admit me because I was suicidal and I was a paranoid schizophrenic. And he called my mom -- my mother, he called my grandparents, and he called my mother, he called my grandparents and he called my family and asked them -- asked them what their feeling was and they was -- they didn't understand what he was telling them, but they was like -- they didn't understand because he was telling them that I was suicidal --

MS. WALKER: Your Honor, I would object to all of the hearsay. He's not testifying as an expert.

MR. MARTINEZ: In the --

THE COURT: It has to be limited to testimony in the record, evidence in the record, which includes the medical record that's been introduced.

MR. MARTINEZ: The --

THE COURT: But if it's not included that would be hearsay.

MR. MARTINEZ: The medical records are from McKay-Dee that --

THE COURT: All right. That should be State's -- from Logan Regional.

Hand him 31 through 35.

THE OFFICER: 31 through 35, sir?

THE COURT: Defense.

(Handing the records to the defendant.)

THE COURT: If that part that you're testifying to, Mr. Martinez is in those records, you can testify to it. If not, it would be hearsay.

MR. MARTINEZ: It's -- it was in Ms. Tross's testimony of Logan Regional. She testified to what they stated from their reports and their reports came from the doctor that sent me to Logan Regional. His name is Dr. -- Dr. -- I beg the Court's indulgence.

THE COURT: Yes, sir.

(The defendant is looking through the exhibits.)

THE COURT: Do you have State's 98, Mr. Martinez?

MR. MARTINEZ: State's 98? No, sir.

(The defendant was given State's Exhibit Number 98.)

MR. MARTINEZ: It's Dr. Smith.

THE COURT: All right. If it's in evidence, you can certainly refer to it, Mr. Martinez.

MR. MARTINEZ: I was sent to Logan Regional from McKay-Dee hospital by a Dr. Smith with -- his diagnosis was depressive disorder not otherwise specified. Schizophrenia versus drug-induced psychotic disorder. I was taken to Logan Regional. I was showing the staff there marks on my body, marks on my clothing, showing them that I was being tortured and they -- they just subdued me.

They drugged me where I was drugged and I slept for two days. And when I awoke, I was -- I didn't want to be there, so they told me that they was going just let me go anywhere. They just pretty much let me go.

But then I went -- I ended up going right back to the hospital. But to come -- to go forward, I left Utah because of the issues that I was having with the police and being tortured and being tracked and constantly having to go to the hospital, constantly having these issues. So my family got tired of it so they ended up sending me out here to South Carolina.

And my records will reflect that I came out here and was going to the hospitals seeking medical attention for my issues that -- there is evidence that there is something inside of my head that's not supposed to be there and I didn't have the insurance or the money to get the

testing that I needed done. And with me telling the -- the medicals what it was, they told me that I needed psychological help so they kept sending me to the psychiatric wards. And I would explain to them that I didn't need psychiatric help, I needed medical attention.

And do go back, as far as them trying to say I was faking these symptoms for disability, I believe we've entered the e-mails to disability.

Did we copy those e-mails to disability?

MS. WALKER: I have a copy of them.

THE COURT: Are they marked?

THE COURT REPORTER: For identification.

THE COURT: 36 and 37?

THE COURT REPORTER: Yes, sir.

THE COURT: All right. As to 36, Solicitor? Any objection?

MS. WALKER: No, sir.

THE COURT: 36 is -- Defense 36 is in evidence.

MR. MARTINEZ: And 37?

THE COURT: Is that your e-mail?

37, Solicitor?

MS. WALKER: No objection, Your Honor.

THE COURT: 37, Defense 37 is in evidence.

(Defense Exhibit Number 36 and Number 37 was entered into evidence.)

MR. MARTINEZ: In 2012, I applied for disability benefits for antisocial disorder. I went and had psychological testing done and it was proven that I did have antisocial disorder. The thing was is when I moved out here to South Carolina, it -- it was kind of difficult to have social security claimed in Utah and live out in South Carolina. So I had -- and plus it takes time. It's something -- I got denied and then I have to keep reapplying.

But the thing is, is that as I stated to my lawyer that was handling my case, I was going through a lot of psychological torture that was interfering with my -- my family's lives were being threatened. My life was being threatened. And as I state in my letter, my e-mails that it wasn't really even about -- it's not even about the benefits. It was mostly if something happened to me, like if I got killed that I wanted them to do an autopsy and find out -- and find that there is a microchip placed inside my head and behind my ears. And that's what I was asking them to do.

So they, in turn, was tell me that they were pretty much telling me that I needed psychiatric help and it wasn't -- I already had psychiatric evaluations so they know that I suffer from other disorders, but I wasn't seeking benefits for paranoid schizophrenia or nothing like

that. I was seeking benefits for antisocial disorder.

And also with my other e-mails which were to police, as you heard Heidi Jackson, she testified which she falsely gave perjured testimony on the stand and stated that I said that if I was crazy that I wouldn't have to do no time, which is incorrect and false. What I stated is, I told her that the police were looking for me for some property damage that my -- at my grandma's house and I asked her if she would do a warrant check to see if the police -- what it was about and I told her that I cannot go back. I told her I will fight extradition because of what they have done to me. And they will make -- they will take -- they will make the hospital do tests on me to find out for sure if I can be charged or if I'm crazy or just telling the truth.

It doesn't say nothing about me wanting to play crazy or act crazy to get out of charges. Ms. Jackson was helping me -- there was no charges, there was no allegations, there was nothing that I was running from, there was nothing that I was hiding from that I needed to play crazy for. I was -- I didn't get disability benefits. I was dropped just because I failed to go get a primary care provider. So that wasn't really even an issue for me even though -- and my mom, how that came into issue for Ms. Jackson is because my mom went complaining to

Ms. Jackson and she told her that I'm just sitting around at the house doing nothing and I needed to either get a job or I needed to get my disability benefits because I'm just sitting around just doing nothing.

And Ms. Jackson came and picked me up and took me to mental health on an involuntary commitment because of what my mother told her and Ms. Jackson told me that she was going to help me get my disability benefits so I'm not just sitting around. And that's when that was mentioned and that was mentioned, maybe two or three months after I have already spoken with Ms. Jackson and Ms. Jackson received numerous e-mails from me where I was complaining of my issues and seeking medical attention.

She is the one who wrote to mental health and got me committed involuntarily. I never sought medical -- I mean mental health and when I did go, they followed what Logan Regional said -- what Logan Regional Hospital said and just said that I was -- due to my drug use that I was delusional due to drug use. Which when I went to mental health out here, there was times that I went and I was clean. My urine was -- didn't test positive. There was times that I did go and I was positive for THC and there was no -- there was no meth use. I wasn't positive for methamphetamines. I wasn't positive for nothing -- nothing like that.

I was continually asking Ms. Scott -- at the time it was Ms. Scott, now it's Heidi Jackson, Officer Heidi Jackson, to assist me to obtain medical attention. All I asked for was medical attention. I explained to her -- I ask -- I explained to her what was happening to me. And my mother explained to her what was happening do me and that I was delusional, that I was sitting around at the house trying to cut my own ear off to go to -- to get to the microchip.

I was sending e-mails out to news stations, numerous news stations in Utah as well as like -- as well as like CNN, as well as organizations that deal with mind control and illegal microchipping that is a reality. It really -- it's -- it does happen. Electronical harassment does happen and it happened by the police.

And it was CNN had a really big special on it of how it happens. And I was seeking medical attention for it. I told them that I -- Ms. Scott was telling me -- Ms. Jackson, like I said it was Scott at the time. She was telling me before I go, because I didn't want to go, she would tell me that she was going to talk to them and she was going to see if they'll run medical tests on me. So when I go I would be asking for medical attention. I told them that I suffer from chronic headaches. I have -- I'm constantly being shocked. I'm constantly being talked to.

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I have -- constantly hear voices in my head and she told them -- she told me that she was going to talk to them.

But when I go, it's like -- they wouldn't do no tests on me, they wouldn't -- they wouldn't do nothing because they would simply go with what was already previously stated about me that I have -- that I was suffering from drug use, I was suffering from a drug-induced psychosis which does not -- in order for them to say that, it would be like them saying I suffer from the fixed insanity because in order for them to say that, I'd have to be dirty for -- I'd have to have a dirty urinalysis for methamphetamines; unless they can claim that I was delusional off of marijuana. Or I was -- I wasn't -- the first time that I went and -- let's see 7/5 -- no, I went -- yeah, 7/5, and I told them I needed -- I needed to be admitted. I needed help.

I said the hospitals won't help me. And I needed help because the disability told me that I needed to seek psychiatric help. And he told me that they don't do that type of testing -- that they don't do that type of testing there, to go to the hospital. So I went to -- I walked to the hospital on the same day --

That's in evidence too, isn't it? On 7 -- where is it.

On 7/3, after I left mental health, I went to the

hospital, Providence Hospital and I told them that I hear voices in my head and they tell me to kill myself and they tell me to kill other people and they want me to hurt other people and they want me to hurt myself. And I seen a Dr. Vernon Scott Carol and he came in and took all my clothes from me and they put me in a plastic -- plastic outfit for about maybe like three hours. They took everything out of the room and then they came back in about three hours later and they had my clothes and they stated that my mom was on her way to get me.

And I told them that I needed to -- I needed to be committed. I needed medical attention and the doctor who -- he's known me before. He's actually kicked me out of the hospital before because he didn't want to treat me; told me that I didn't need medical attention that I needed psychiatric help. He told me that my mom was on her way to get me and that I was okay to leave and just to followup with mental health. That's when I called lieutenant Heidi Jackson and told her that and she went and got an involuntary court order for me to be evaluated.

And I went, but -- oh, and this is when they change the story from malingering because now I was escorted by a police officer. They changed it to that I was very delusional and had a clear -- I mean poor insight and poor judgment and that I needed to be -- I needed to be

involuntary committed. And again, when I was involuntary committed, there was no testing done, they only went with what was stated before.

And I was released. And again, I went to the hospital seeking medical attention. As my -- I continuously went to different hospitals asking for medical attention and showing them CAT scans that I've had of my head and where there's evidence that there are two objects, two, in medical terms, masses, inside of my head. They're the same size and the same shape and they are not supposed to be there. And the doctors, like all doctors, they all have their own -- each opinion.

Actually when I had these CAT scans done, the doctors told -- the radiology report said there's nothing wrong, there's nothing in there. So I went and got my CAT scan from the hospital. I took it home, put it on my laptop and I found these two masses inside of my head. I also found a bullet, a BB from a 12 gauge that was inside of my head they had to have removed. At first they didn't know what it was and I didn't know what it was. I believe that it -- I believe that it could have -- I knew it was unknown, but I told the doctor, I said, I know that I've been illegally implanted with microchips. I believe that it is a microchip and he said -- and he removed it and it turned out that it was, it was a 12 gauge BB from a 12

gauge gun.

And that's how I met Ms. Jackson because of that report. And that's when she started referring me to mental health. But I also found the other masses inside my head that are exactly the same size and exactly the same shape that I have that stick out of the roof of my mouth that are noted to be there, that are known that they're there. However, the jail, or no -- I don't have insurance, I don't have nowhere that will -- I don't have the funding to have them removed, so therefore, I haven't been able to have them removed.

Though doctors and medical testing has verified that there they are there, and that has been my whole -- that's what I've been seeking since 2012, medical attention to get these removed. And I have plenty of doctor, medical records that will verify that. I have police that can verify that. There's psychiatric reports. They can say that I'm malingering, faking, feigning. They can say whatever they want, but that still doesn't negate the fact that a doctor whose -- claims that somebody else state that had I was faking or malingering can still prescribe me five different anti -- you know what I'm saying, anti -- different antidepressants and psychotropic medications for disorders that he diagnosed me with unless he's just giving me medication just for whatever.

But the thing is though with that doctor is every time I see him, I complain about the same issues and I tell him the medication's not helping and he always wants to give me more medication. And that's the whole thing. All these doctors, they want to give me medication and they all want to over medicate me. They don't want me the be able to function. They try to over-medicate me so I can just -- they want me pretty much just sleeping and laying around all day so I'm not able to function.

And I don't want that. I don't want to be able to not function. I don't want to be able to not know what I'm thinking because I'm too medicated. I've got five or six medications that I'm taking that I really -- as I've told them, I really don't need because I don't -- as I've stated all along, I don't have a mental health condition. I have a medical condition. These doctors have told me that I had a med -- that I had a mental health condition. They told me that I needed mental health. I told them all along that I need medical help. I need medical attention.

And that's what I've sought. I've always asked for medical attention. As far as Ms. Tross's testimony, as I stated, when I received her, her, her report, I didn't receive it from -- I had to receive it from another lawyer because I didn't receive it when it was first -- when she first -- when she did it, she didn't forward it to me, she

forwarded it to a lawyer and for -- then for some unknown reason that lawyer was taken off my case and I was assigned another lawyer.

And then I -- when I got this other lawyer, he gave me a copy of it and I was able to -- I was able to read it and go through it and it didn't -- it didn't match up with what I said, it didn't match up with what my mom told her, it didn't match up with the police reports. And I never told her -- I never told her that I did any of that. I never stated to her that I did that. I stated to her that I don't know about any of this. I told her that only thing I know is what I read from the reports.

And I continually told her that. I told her I don't know nothing about these alleged crimes. The only thing I know is that -- what I read from the reports. And I stated that in my -- in my complaint to the forensic evaluation services that she's employed by and I stated that I wanted to dispute their findings. Because everything that she stated is inaccurate and doesn't go with the reports and it doesn't go with what my mom says. It doesn't go with what the -- obviously she didn't even have all the police reports or the reports to make her judgment -- make her finding -- to support her findings.

And that's it.

THE COURT: Thank you. Mr. Martinez.

Solicitor?

CROSS-EXAMINATION

BY MS WALKER:

Q So the voices -- on March 27th, 2014, what did the voices tell you to do?

A 27th?

Q The day we're all here for? The voices, what did they tell you to do that day?

A I wasn't there.

Q Right, but what were the voices -- wherever you were, what were the voices telling you to do?

A The voices tell me constantly to kill myself or to kill other people or to harm myself. They want me dead, that I deserve to die, that I'm --

Q Okay. Tell me about your first suicide attempt.

A Which time?

Q The first.

A My first suicide attempt was in Weaver County Jail.

Q Okay. And how many suicide attempts have you had?

A Depending on what you mean like overdose --

Q No, I mean -- when you accidentally got high. Like when you intentionally killed yourself -- tried to kill yourself.

A It depends on what you mean. There's time -- as I said there's times I tried to OD myself. There's time that

I tried to kill myself in the County jail.

Q OD yourself, like swallowing a bag of crystal meth?

A OD'ing myself like shooting up too much heroin.

Q Okay. And where in the medical records is that?

A I've requested them from previous lawyers. I've -- we've filed subpoenas for McKay-Dee, Ms. Zmroczek, and I've asked -- requested them from Mr. Taylor Bell.

Q My question is, where are they.

A They won't be provided for me, but we have subpoenaed them.

Q So you don't have any medical records about your suicide attempts?

A I have requested them.

Q And how long have you been microchipped by the Ogden Police?

A Since December 9th, 2012.

Q And why do they hate you so much?

A I have -- let's say I've -- I have a history with them that --

Q You compromised a female guard out there and you think they're upset about that?

A No.

Q And how did you compromise the female guard?

A I didn't compromise a female guard.

Q That's just another allegation people are making

up?

A No, that's a false allegation. The allegation should have been female brought drugs into me in a visit.

Q Into a visit where?

A Into the jail, the prison.

Q This is a different -- this is somewhere out in Utah?

A Yes, ma'am.

Q Okay. And because she brought the drugs to you, they decided to put microchips in your head and control you for the rest of your life?

A No. They want me to kill myself.

Q Right. But they use the microchips to tell you to do that, right?

A Yes.

Q Okay. The microchips, you said there are two masses in your head, right?

A Yes.

Q And you're the only person who's been able to identify these masses?

A No.

Q Well, I know you said the doctor's looked at the CAT scan and said that there was nothing there. But you, I guess in your medical opinion took it home and were able to identify the masses?

A Yes.
Q Okay. You talked a lot about Dr. Smith. That's the -- which institute is that? Which hospital?
A He works for McKay-Dee Hospital.
Q And that's when you thought that people were trying to kill you with the -- poisonous needles? Or darts, I'm sorry. Poisonous darts?
A Yes, ma'am.
Q But you acknowledged that you got too high with your uncle on meth and that was just something that you were confused about, right?
A No. That's what they wrote.
Q Okay. So these people make up stuff that you don't say too?
A They -- as I testified to, that same hospital is the same hospital I woke up going crazy at.
Q Got it. My question is this: These people, in addition to the doctor that testified today, they all make up stuff and put it in their reports that you don't actually say?
A Pretty much.
Q So they are against you?
A The hospital?
Q Right.
A Yes.

Q So right now we have the hospital in Utah, the hospitals in Columbia, South Carolina, and the Ogden Police Department are all in this conspiracy against you, right?
A I never said the hospitals out here, but the hospital where I'm from, yes.
Q The hospital out -- where you're from and the police are conspiring against you?
A Yes.
Q Okay. And those e-mails that you sent, regarding your disability, right?
A Yes.
Q You initially were declined for disability benefits, right?
A Yes.
Q And then the voices got worse, I guess, and you were able to reapply for disability?
A I was -- I had to reapply already -- see I was already out here.
Q Right.
A I had to reapply out here. So I was already denied when I was out here, so my -- everything that was going on with me was already happening.
Q I'm saying it got worse, the voices?
A It got worse in December of 2012, yes.
Q Okay. And you talk a lot about what your medical

records from March of 2013 say, but you didn't mention that the discharge diagnosis was self-induced psychotic disorder?

A With paranoid schizophrenia versus --

Q No. This says self-induced psychotic disorder.

A Where is that at?

Q Page 1.

A Of Logan?

MS. WALKER: Your Honor, do you mind if I get closer?

THE COURT: Yes, ma'am.

BY MS. WALKER:

Q Right here.

A It's the one below that.

Q A history of antisocial personality disorder.

A Yes.

Q Right?

A Yeah.

Q So it is self-induced psychotic disorder? Or is this doctor against you too?

A I met with that doctor one time. All the information that he gathered, as he states was from McKay-Dee Hospital.

Q Don't, don't misstate what the doctor states. You told him that you got too high with your uncle and

hallucinated?

A I didn't tell him that.

Q So he made that part up?

A I believe another doctor told him that.

Q Did the other doctor make that part up?

A As I stated, I never said that.

Q Oh.

A As I stated to the police when -- and to the hospital, that I was being poisoned and I was being injected with air, I never said that I was getting high. I said that I was being shot into my body with air as well as being poisoned with poisonous darts.

Q And then you said that Dr. Tross, was it? Her report, you didn't get that, right?

A I didn't.

Q And then you said your lawyer got fired for some unknown reason, but that's not true, is it? You know why you fired your lawyer.

A Mr. Derieg, I do not.

Q No, Mr. Lupton?

A Oh, I know that. But I'm talking about Mr. Derieg was my doctor at the time, as he testified. And I never got that report from him. I know why I fired Mr. Lupton, yes.

Q Why was that?

A Because of his inappropriate comment towards me.
Q He tried to sexually assault you?
A Not sexually assault me, but he tried to threaten me.
Q Okay.
A He asked me how I would like it if he did that to me.
Q If you did what?
A If he --
Q If he did to you what you did to the victims?
A I didn't do nothing to them.
Q So they're against you too? They're all part of the conspiracy?
A I believe that the police are against me and they've made them believe that I did that, but I know -- I didn't do that. They know that too.
Q Where were you on March 27th, 2014?
A At that time?
Q Uh-huh.
A I was at the McDonalds over on Beltline.
Q You were at the McDonalds on Beltline?
A Yes.
Q So the people that just saw you in that area, they were mistaken?
A They didn't see me.

Q So your statements where you confess to the crime, tell me about those?

A Confessions?

Q Or is this just more of the police being against you?

A Yes.

Q Okay.

A The police even testified that they knew about my mental health issues and --

Q Well, now that's not what they testified to. Let's be honest. They testified that they knew what you were telling people. They didn't have -- they couldn't diagnose you. They just knew what you claimed.

A They didn't claim that I told them anything. They claimed what everybody else told them. And their BOLO reports specify not what I told them, but what other people told them. And they told me that I have schizophrenia and possibly other mental health disorders. And when I spoke to Mr. Shumard and Mr. Morrison, they told me that they know -- they knew and they know that I suffer from mental health issues. They're the ones that told me that they don't even know if they should be talking to me.

And I told them they don't want to talk to them. I didn't -- that's -- the voluntariness, they used their position and knowingly took advantage of me. I didn't want

to speak to them. I told them I didn't want to speak to them.

Q Did they forge your signature on the advice of rights?

A No, they did not.

Q So you did sign the advice of rights?

A A voluntariness according to law and according to, to anything --

Q Let's do this. Don't you educate me on the law. Why don't you just answer me if they forged your signature.

A No, they did not.

Q So you did sign that?

A Yes, sir -- yes, ma'am.

Q Okay.

A I signed that not knowing what I was signing and they never informed me of what I was signing before. They just told me that I had nothing to hide and that I didn't have nothing to worry about since I did nothing. I told them that I didn't do nothing and I don't --

Q You didn't understand -- you went to college, right? You have two years of college?

A Yes. I didn't know why I was at their, their little jail.

Q Well, let me ask you this, did they make you write this letter?

A Which letter?

Q How many letters -- confession letters have you written?

A That's not a confession. That's an apology. I know them people. I didn't apologize or admit to anything.

Q You said that's an apology.

A Yeah, an apology, but you can try to misconstrue however you like to, but there's no -- it doesn't admit or state that I did anything. It just says that I'm sorry for what happened.

Q I would like to apologize to you both. I can't express this enough to you. But at the end you will see and know the truth for what it is. I didn't want any of this to happen. And then you talk about the voices are part of the problem, right?

A Yeah. Does it say that I apologize for raping you? Does it say I apologize for breaking into your house? Does it say I apologize for --

THE COURT: Wait a minute. That's not responsive to any question you were asked. Don't ask the solicitor questions. Answer them.

Ask your next question, Solicitor.

MS. WALKER: Thank you. Thank you, Your Honor.

BY MS. WALKER:

Q You said that you wanted to do everything you could

to make it right between the two of you. I apologize and I'm sorry about all this. I know that you have negative feelings towards me because of all this, but please take the time to check into what I'm saying.

My question is, the police didn't make you write this letter, right?

A No, ma'am.

Q And is this your handwriting on these -- this all capital handwriting?

A Yes.

Q So this is your handwriting?

A Yes.

Q And that you said you were looking for a house to break into because the voices in your head said to. That's your handwriting, right?

A At the time that I was writing that, that was being -- I was being questioned by three officers and --

Q Slow down, just listen to my question. Is this your handwriting?

A Some of that, yes.

Q Because the voices in my head said to?

A Yes.

Q Okay. And that is in response to what did you do in Forest Acres?

A I was looking for a house to break into to find

something to sell because the voices in my head said to.

Q So on March 27th, the voices were talking to you that day?

A The voice is talking to me nonstop?

Q It's talking to you right now?

A Always.

Q What's it saying?

A What is it saying?

Q Uh-huh.

A I really don't want to get into it.

THE COURT: Say your answers where I can hear you.

THE WITNESS: It's --

BY MS. WALKER:

Q Is that private?

A Yes.

Q Okay. Is this, all of these initials, is that your handwriting too?

A Yes. As I was -- as I was being talked to by three officers, Mr. Shumard would slide it over to me and like, okay. Just initial here. Initial here.

Q And you initialed?

A Yes.

Q Okay. And then in all capital letters you wrote you didn't remember about the gun, but you definitely remember picking up the hammer while you were in the home,

right?
A Yeah, I don't remember any of that.
Q I mean, but we have agreed that when it comes to --
A Yeah, that's my writing --
Q That's your writing?
A -- that's what I'm saying. At that time -- at that time when that was happening, I was only -- my conversation was, I didn't know nothing about what they was talking about.
Q Let me ask you this: I don't remember a gun, but I do remember the hammer. Is that your handwriting?
A Yes.
Q Okay. And on this confession, all of the blue writing is your handwriting, right?
A Yes.
Q And this was another person's whose house the voices told you to go rob, right?
A Yes.
Q The blue handwriting.
A That's not a confession.
Q That she had to talk you out of robbing her dad and then she left the house with you. That's your handwriting, right?
A That's not a confession.
Q That you had a knife on you in your pocket, right?

A Yes.
Q And that when you run into her, you told her that you were there to rob her father?
A When I was let into the house.
Q She opened the door and said come on in to rob my father?
A No, I know them.
Q I understand what you're saying, but when she opened the door, she -- you said I'm here to rob your father and she let you in?
A It wasn't really to rob your father. Her dad owed me some money as I stated.
Q I told her I was there to rob her father. That's your handwriting?
A That was why she would be afraid of me. Why do you think that she would be in fear. And I said, oh yeah because, probably because I told her that I was there to rob her father.
Q But that's your handwriting. You told -- you wrote that you told her that?
A Yeah, but you would have to understand why I was there, to get money that was owed to me.
Q Okay. And then you remembered the part that you were going there to rob him, but the sex part that went -- that memory got fuzzy to you, right?

A That wasn't true.
Q But you said I just don't remember. I don't remember or know anything about that?
A They kept -- their questioning was, Do you remember this; Do you remember that.
Q Here's my question --
A And I told them I don't remember --
Q -- did you write I don't remember?
A -- and I don't know. And I also put I don't know.
Q Right. That's the whole thing. But this is your handwriting?
A Yes.
Q Okay.
A And it states that I did not do none of that.
Q And the statements that Dr. Tross attributed to you. You said that she made those up too, right?
A She misreported the facts as me stating that I told her that I did that.
Q Because she too, like the Ogden police, the hospitals in Utah, the police here, maybe the -- the solicitor's office maybe?
A She works for the State.
Q So she -- as a state employee, she too is against you?
A I believe it's you --

Q I can't hear you.
A I believe that you all are against me. And it's clearly evident.
Q And you talk about the number of times that you've tested clean once you reported to the hospital with your hallucinations, right?
A Yes.
Q But, in fact, you only tested clean twice; isn't that correct?
A Out of how many visits?
Q I mean, you tell me. It's yours.
A You're looking --
Q There are two times when you've tested clean, right?
A And how many visits are you speaking of?
THE COURT: Don't, don't -- Mr. Martinez, don't ask her questions. If there's two -- answer the questions.
MR. MARTINEZ: I can't say if it's only two times.
THE COURT: Ask your question, Solicitor.
MR. MARTINEZ: Which hospital?
BY MS. WALKER:
Q Do you remember testing clean on July 5th, 2013?
A That was with Mr. Larry Jackson?
Q Uh-huh.
A Yes.

Q And that is when you went to go get the medical treatment so you could get disability, right?

A No, I was not trying to get disability. I told him that disability referred me -- I've already had a mental health evaluation for that.

Q It says to be seen for an evaluation for disability benefits.

A No.

Q He may be fabricating this story in order to get disability benefits. He may be malingering for some reason.

A As I stated, I was sending e-mails and numerous calls to disability, stating my issues and asking them to have an autopsy done on my body, if I get killed. That's when they called me and told me that I needed to go have psychiatric help. You need to go to a hospital. You need to go check yourself in because you have some type of medical -- mental issues that you need to be evaluated for. I already have numerous evaluations.

Q Sir, I think we're far away from my question. You have Larry Jackson's report, right?

A Yes. I admitted it into evidence.

Q And he talks about malingering, correct?

A And -- at that time, yes.

Q So is he too against you?

A He changes his --
Q Is Larry Jackson against you?
A No.
Q So he wouldn't have any reason to make that up?
A He is entitled to his opinion that he changes.
Q And the voices are so bad when you went to go see Mr. Jackson or Nurse Jackson that you decided you had to leave and take your mom to work and that you would be back?
A That was the second time.
Q So yes or no?
A See the thing is, as I explained --
Q Sir, will you just please answer my question yes or no and then you can explain.
A Yes, the voices were that bad that I didn't want to be there, and so I left.
Q And it's the police and law enforcement that are driving factors behind these voices, right?
A Yes.
Q Well, it's the police that you went to for help to get the voices to stop?
A That's not correct.
Q You didn't go to Heidi Jackson to get the voices to stop?
A I went to Heidi Jackson -- I was referred to Heidi Jackson after I had a surgery on my head when they removed

a 12 gauge bullet as she stated, and --

Q And that's when you got shot in the face and broke your jaw?

A No, I got shot in my face by the police in Utah and I got in an altercation --

Q Go ahead, I'm sorry.

A -- and I got in an altercation and had my jaw broken.

Q So it wasn't a --

MS. WALKER: Your Honor, may Mr. Kata and I approach before I ask this next question?

THE COURT: Yes, ma'am.

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: Thank you, Solicitor. Thank you.

BY MS. WALKER:

Q You claim it was the police that shot you?

A Yes.

Q You're a CRIP, right?

A I was.

Q You dropped out?

A Yes.

Q Okay. So when you got shot in the face it wasn't a gang shootout?

A No.

Q Okay.

A You have evidence to support that?

THE COURT: Mr. Martinez, you chose to take the witness stand. Again, I don't care, nobody points one finger at me and look at me and change the rules of evidence. You don't ask questions.

MR. MARTINEZ: All right.

THE COURT: And you don't answer them, Solicitor.

MS. WALKER: Yes, sir.

THE COURT: Thank you. Ask your next question.

BY MS. WALKER:

Q Now, back to the October 11, 2013, visit to the hospital. You heard voices, right?

A Always.

Q But then they realized you were on methamphetamine and marijuana and once you were able to sober up, the voices stopped; is that correct?

A There was no methamphetamines in my drug test.

Q I'm just reading their report; methamphetamine and marijuana.

A There was marijuana, there was no methamphetamines. And there -- there is a drug test that was done on that date that will verify there was only marijuana.

Q And the voices are so bad that you've recently stopped taking any and all medication for them; is that

correct? The past two weeks?

A No, it was the past week. As I stated, the medications make me really drowsy and I really can't function, so I took them -- I haven't been taking them -- they give them to me in the morning time, so if I was taking them in the morning time, out here I would be really drowsy and down. I wouldn't be able to function or think.

Q So last week were you on the medicine?

A No.

Q So within the last two weeks, you stopped taking your medication?

A Week and a half since -- last Monday I stopped taking them.

Q On the date --

A Not all of them. I stopped taking the -- the one that makes me really tired.

Q On the day you stopped taking your medicine?

A Yes, ma'am.

Q And you've been able to function in this courtroom, right? You've asked questions; you've called witnesses.

A I've been able to -- not really -- I've been able to function, but like I said this medicine makes me really drowsy. It puts me to sleep. That's the best medication that they give -- there's no -- there's no -- as the doctor stated, there is no medication that can stop the voices.

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They just try to subdue them, try to make someone really tired to try to stop the person from being able to hear them and that's all they do. They don't -- they can't stop the voices, they just try to make me -- over -- try to over medicate me so I'm not able to be up and hear --

Q I think that's really a long yes. You stopped taking your medicine and you're able to function?

A Oh, I'm not able -- what do you mean function?

Q You can't ask questions, you understand what's going on in here. You're responding to me; you're responding to the judge.

A Yes.

Q And on March 27th, you were where?

A At that time?

Q Yeah.

A At the McDonalds on Beltline.

Q And what time did you get to McDonalds?

A About 7:30.

Q And what were you -- you were just there for breakfast?

A I was there waiting for somebody.

Q Who were you waiting for?

A A friend.

Q What's your friends name?

A Marc.

Q Marc who?
A It's -- Marc Powell.
Q Marc Powell?
A Yeah.
Q So you were with Marc Powell on March 27th, 2014?
A I was waiting --
Q He didn't show up did he?
A I was waiting for him.
Q Did he show up?
A Yes.
Q Where is Marc? Marc can clear this whole thing up. Where's Marc?
A Marc has a -- Marc has a criminal history.
Q I won't ask him about it. Where is he?
A We could -- I could try to call him.
Q I'll call him right now. What's his number?
A I don't have contact with him.
Q Where does Marc live?
A He's recently moved. I don't have contact with him, as I said.
Q What was the last number you had for him? I mean, I will literally walk out of here and go find Marc Powell. Is it M-A-R-K or M-A-R-C?
A M-A-R-C.
Q Powell? P-O-W-E-L-L?

A Yes.
Q What's Marc's race?
A He's black.
Q How old is Marc?
A 29.
Q Does Marc know that you're in trial for a charge that is -- he was with you when it happened?
A Yes, he does know.
Q And he -- how close were y'all?
A At the time?
Q Now? At the time?
A We're -- we're associates.
Q Okay. And I guess I -- what were y'all going to do that day?
A We was -- I just got done doing -- that night before I just got done doing some tattoos and --
Q But what were y'all going to do that day? Once he picked you up from McDonalds?
A Well, he didn't pick me up. We just met up. We just did -- talked about a couple of things and then --
Q At the McDonalds?
A Yes.
Q Okay. And you said he just recently moved?
A Yes.
Q Where?

A I'm not sure. Like I said, I don't have contact with him. I haven't had contact with him since that date.

Q Well, where was he living before?

A He was living over there in Forest Acres.

Q Where in Forest Acres? The more information you give me, the better I can find Marc so he can come in here and tell this jury that he was with you when the crime happened.

A He was living right there on Covenant Road.

Q Marc Powell, a black man, 29 years -- he was 19 then or is he 29 now?

A Might be 30 now.

Q Okay. He's 30 now. He lived on Covenant Road?

A Yes.

Q And he can testify that he was with you?

A He seen me about 7:30, between 7:30 and 8.

Q Because y'all sat down and had a conversation?

A Yes.

Q Okay. Did you tell the police, I was with Marc, he can clear this whole thing up. Just go talk to him.

A Yes, I did.

Q And they just refused to write it down?

A They wrote it down.

Q They did write it down?

A Yes.

Q Where did they write it down?

A I have it in Mr. Shumard's notes.

MS. WALKER: Beg the Court's indulgence, Your Honor?

THE COURT: Yes, ma'am.

(There was a pause in the proceedings.)

BY MS. WALKER:

Q You want me to bring something up to you?

A Um -- yeah, I don't know if --

MR. MARTINEZ: Mr. Kata, if you'll get Mr. -- it says Shumard. His file. It's in that box.

(Mr. Kata was looking for the file.)

BY MS. WALKER:

Q You just gave me Marc's information down here. We'll get in touch.

All right. I think you said that you've got chips in your head, that you saw the story on the news. The voices told you to hurt that family, and that you know a guy named Marc Powell who stays in the area. Apartment [redacted]?

A Yeah.

Q Okay. We will get him here.

A And also that's what Mr. Shumard wrote. I didn't state all that.

Q So the part about the voices telling you to hurt the family you didn't say, but the part about Marc you did

say?

A The news story, I never saw no news story and I've never -- the voices tell me to hurt -- the voices tell me to hurt everybody.

Q So part of what he says -- all of what he says is false except for Marc Powell?

A No. Chips in the head and Heidi Jackson knows and as I stated Marc Powell. I told him that, as I stated.

Q And he can -- you can still call him to the witness stand and he can verify all of this, right?

A He can verify that he was with me, that --

Q Perfect. That's all we need.

And this right here when you talk about the shootout when you got shot, that some people were chasing you in an older beat up white Monte Carlo? Right? That you go by the name Sniper? And that you were rolling with the 8 Ball CRIP's and that's what led to you being shot by the people in the Monte Carlo, right?

A No. That's false.

Q So this report's made up too?

A That's -- that's not any -- that was not my moniker and also, I was not -- I can prove that I was not an 8 Ball CRIP and I can also verify that I was not in a shootout with who ever that was. That was a --

Q This is made up?

A I could show you from the same report that you're referring to --

Q I'm just asking if this is made up? Yes or no.

A That's not accurate.

Q Okay. And you don't remember where Marc Powell moved to?

A As I stated I haven't been in contact with him since this incident.

Q So you don't know -- he may still be near Columbia?

A Yes, he is still here in Columbia.

Q He is?

A Yes.

Q Okay. Thank you sir, I have no other questions.

THE COURT: All right. Mr. Martinez, although you called yourself as a witness and you testified on direct, the solicitor cross-examined you. You have a right to redirect. So if there is anything else you would like to testify to within the South Carolina Rules of Evidence, you may certainly do so. You understand.

MR. MARTINEZ: Yes, sir.

THE COURT: All right.

REDIRECT EXAMINATION

MR. MARTINEZ: Yes, I would like to testify to the voluntariness of my statement and --

THE COURT: Yes, sir.

MR. MARTINEZ: -- I was taken to -- I was arrested and taken to Forest Acres Police Department, not knowing where I was going. I was never questioned that if I wanted to speak to the police, that if I wanted to give a statement; that if I knew anything about any incident; I was. I was arrested and just taken to Forest Acres Police Department.

When I arrived there. There was three officers there. I told them that I did not want to be there. That I did not want to speak to them, that I did not know why I was there and I didn't have nothing to tell them. They told me that if I didn't have nothing to tell them that I have nothing to worry about. I told them why am I here. They said, we just want to talk to you. We just have to ask you a couple of questions.

I told them, I don't want to be here. I don't want nothing to do with this. And they said just sit down and talk to us, just calm down. We know that you smoke cigarettes, want some cigarettes. I said, man, I don't want to be here. I don't want to be here at all. I don't -- I don't want to talk to you guys.

Mr. Shumard said, just go ahead and sit down, calm down, it's all right. It's all right, Mr. Martinez. We know that you have mental health issues. We know that -- I've talked to other agencies and they tell me that you

suffer from mental health issues. And we know that.

He stated, Well, we don't even know if we should be talking to you right now because of that. And Mr. Morrison sent one of -- another officer off to get some cigarettes and Mr. Colin D. Bailey was sitting on my left and they was -- they was surrounding me and they never introduced Mr. Bailey to me. I didn't know who he was. I just know that he was there.

And Mr. -- Mr. Shumard told me, he said, I've talked to another -- I've talked to other officers and they all told me that you suffer from mental health issues. And I told him, yes. I said, I said, I have a medical condition that causes me to have a mental health condition that I need medical attention for. And he's like, he's like, what do you mean. And I told him that I have illegally microchips implanted inside of my head by the Utah police. And I need medical attention to get them out.

And he told me, he's like, Well, we can help you. We can help you get those out. And I told him, well, that's what I need. And he said, well if you talk to us, we'll help you get the medical attention that you need. And I told him I didn't do anything. I did nothing wrong. And he said, Well, if you've done nothing wrong you don't have nothing to hide. You just talk to us.

And Mr. Morrison, as well as Mr. Shumard kept

telling me that they're going to help me get medical attention, that they were going to assist me by helping me get medical attention. And all I had to do was just answer some questions. So I told them all right. They also agreed to take pictures of behind my ears take pictures of me where I told him I had been cutting myself trying to remove the microchip because the voices in my head were driving me crazy and there are times that I can't take it so then I'd start cutting on myself to try to get it out. That I've had other people cut on it and I've been trying to get the medical attention for it and they just -- medical just keeps sending me to the -- to mental health. They won't -- in part of the evidence, one of the hospital visits was to say that there is something there, but they claim that it wasn't a cyst and they wouldn't cut it out. They said it's too -- it wasn't big enough for them to cut it out.

But Mr. Shumard and Mr. Morrison told me that they would help me get medical attention if I cooperated. They was going to take pictures of me to give to the solicitor's office to help me. And I signed the waiver still not knowing what I was signing the waiver for.

So as soon as I signed the waiver, all three officers began their questioning. Not really questioning, but they kept telling me -- they was telling me what I did,

what I didn't do. What I said I did. It was to the point that it was like, Do you remember a gun and I said, no, I don't remember a gun. They said do you remember having this, do you remember having a hammer. I said, no I don't remember a hammer.

They said you just had a hammer. I said I didn't say I had a hammer. And they said you just told us. And then one would be like, you just said that. And the other one would be like, yes, you did, you just told us that, you said that. And I was like, I didn't say that. They was like, yes, you did.

And then the other -- they just kept rotating it and telling me that I said things I didn't say and then they was like, well, you want us to help you get medical attention, right? You got to help us. We're going to help you, you got to help us. And they was like, do you want to write a statement? And I said, I don't want to write a statement. I didn't do any of this stuff.

And Mr. Shumard was like, well, I'll write it for you. You just got to -- you just initial -- all you got to do -- I was like, I don't want to write a statement and he was like, you want some medical attention or not? Do you want to get help? Do you want us to help you? Do you want to smoke the cigarettes?

And I was like, I really don't even want to be

here. I don't want nothing to do with this. And he was like, Well, we can do this -- we don't got nothing else to do. And I was -- I told him that I didn't have nothing to say. They was like -- they were trying to tell me I did things that I didn't do. I told them that I did not do that. They said, well you was over here. I said, no I wasn't. They said yes, you was, we know you was there. We got evidence. We know that you was there. We got people who seen you, that you was there. I said they didn't see me.

He said, yeah, they seen you. They picked you up out of a lineup. I said that I don't -- it wasn't me. They kept saying yes it was. I kept saying no I wasn't. And we went back and forth, back and forth. And it just kept -- the prolonged questioning was just back and forth, yes you did, you just said you did. I'm saying no I didn't. They're saying yes, you did.

And at the same time Mr. Shumard here while I'm arguing with them, he's like, here just initial here. Initial here. And then I'd like hold on, hold on, that's not how I said it. Let me see. That's not right and I would start writing like, no, I hear voices, I have illegally been -- illegally microchip implanted in my head. I don't know nothing about this. All I know is this. And I kept telling him, all I know is they have microchips in

my head. All I know is that I need medical attention.

They were like, Oh, yeah, yeah, we're going to get you help. But anyway, so this and this happened and this. And I'm like to. I need medical attention. Oh, yeah, you want medical attention owe.

THE COURT: Mr. Martinez, you've testified to that numerous times.

MR. MARTINEZ: Okay. Well, it was a prolonged nature for three hours to -- maybe even longer -- to where I had to deal with this and as I stated to Mr. Shumard and Mr. Morrison, that the -- the microchips and the police tracking me were my main issue that I was talking about and it's -- and at the time when I was thinking that they was going to help me, believing that they was going help me get medical attention because that's what they told me they was going to get me.

THE COURT: You've testified numerous times, Mr. Martinez.

MR. MARTINEZ: As Mr. Colin D. Bailey testify -- his report states that that's when they introduced him to me and he stated that I -- that I acknowledged certain -- that I acknowledged knowing about a girl in a car and I told him no I did not and that's when we went back and forth, yes, you did, you just said that and Mr. Morrison was like, yes, you just said that. And I was like, I did

not just say that. And we kept going back and forth and then when he told me who it was --

THE COURT: Mr. Martinez, let's stop right there. Perhaps now would be a good time to take a 15 minute recess. Do not discuss the case during the recess. You may remain until the jury is out.

MR. MARTINEZ: All right.

(The jury left the courtroom at 4:02 p.m.)

THE COURT: All right. Sheriff, Mr. Martinez can certainly step down. He's in your custody.

Let's take about a 15 minute recess. Thank you.

(A brief recess was observed.)

THE COURT: Anything before we bring in the jury, Mr. Martinez.

MR. MARTINEZ: No, sir.

THE COURT: Solicitor?

MS. WALKER: No, sir, Your Honor.

THE COURT: Thank you.

(The jury entered the courtroom at 4:11 p.m.)

THE BAILIFF: Jury is seated, Your Honor.

THE COURT: Thank you. Thank you, Mr. Bailiff.

THE BAILIFF: Yes, sir.

THE COURT: All right. Mr. Martinez, our jury is back. You may continue your redirect testimony.

MR. MARTINEZ: I was stating that I met Mr. -- I

was introduced to Mr. Colin D. Bailey of the Columbia Police Department. He tried to tell me that I knew something about an incident that I told him I did not know nothing about. And then he elaborated and told me who the people were. And I told him that I know them people. And he said that -- he said that they got some allegations towards me.

And I told him that that's -- that's inaccurate that I was let into the house, I know them people that there was a guy there that seen me that knows me -- well, he doesn't know me, but knew that I was there and that it wasn't -- there was no forced entry, there was no entry. I never told him that I entered a back -- an unknown back door. I never told them I had a knife out on anybody. I never -- I told him that -- he was like, did you have a knife. I said, I had a knife in my pocket. It was a pocket knife. It wasn't a steak knife as he claimed. I told him that's inaccurate. I didn't have no steak knife, I didn't have no knife, that I entered the house by an unlocked door.

I never stated that -- I told him that I did not -- I didn't want to talk to him. I told him that I didn't want to give a statement. He again stated that if I department cooperate that they wasn't going to assist me in getting medical attention.

I told him that I -- maintained my -- in my statement that I didn't force my way -- that I didn't unlawfully enter the dwelling. I went there, as I stated to collect money that was owed to me. And it wasn't being paid to me, so I said I was going to go there to gather items to sell to pay for what was owed to me and that the daughter talked me out of it and said that her dad -- her dad would pay and that she would give me a ride.

And I never stated in my -- I never stated to him that I pulled a knife on her, that I threatened her, that I forced her to do anything against her will. I never said that in my statement. I never said that to Mr. Colin D. Bailey. I never stated that at all.

I received word from my brother who stated that --

MS. WALKER: Objection, Your Honor, hearsay as to what his brother said.

MR. MARTINEZ: It's pertaining to the letter that was wrote, the reasoning why I wrote the letter.

THE COURT: You can explain the reason for writing the letter. You're talking about --

106?

THE COURT REPORTER: Yes, sir.

THE COURT: Thank you.

You can explain the reasons for writing the letter, your reasoning for writing State's 106.

1602

MR. MARTINEZ: I wrote the apology letter to the Tucker, not admitting or stating that I am sorry for raping anybody. I always stated I didn't rape anybody and I did not state that I'm sorry for breaking into your house. I never stated anything like that.

What I was sorry for was that they felt that they had to go to the police instead of paying me my money and fabricating a story that they told other people that they didn't want nothing to do with, that it was up to the State if the State wanted to press charges and they wasn't going to pursue charges. And at that time that I received that message, I wrote to them and explained to them that I was sorry for whatever happened and that it wasn't -- it didn't have to go to the extent that it did. And I told them that, as the letter states, clearly states, that I suffer from mental illnesses and that that affects my way of thinking and why I went to their house to collect the way that I did. It wasn't their -- I didn't go there to kidnap or assault nobody and the evidence and the reasoning why the -- we're not here on trial for that case is because there is no evidence to support those allegations aside from Ms. Tucker's perjured testimony.

MS. WALKER: Objection, Your Honor.

THE COURT: Mr. Martinez, that's not testimonial. You may, in your closing statement perhaps on your choice,

perhaps argue the facts and evidence as you see them to be, but that's not testimonial.

MR. MARTINEZ: Okay.

THE COURT: You understand?

MR. MARTINEZ: Yes, sir.

THE COURT: Thank you.

MR. MARTINEZ: And as to my history, my history is all gang related. It has nothing to do with sexual assaults, anything, no former allegations or nothing to do with that. They stated my history as far as my gang history and stuff like that which has no relevance to this case or any other cases that they -- it has nothing to do with anything.

As I stated, I'm not a gang member anymore. I haven't been a gang member for a long time. Any tattoos are over, over 20 years old. I don't have an affiliation with gangs out here and that is the whole reason for the police hating me from where I'm from because of my history from being a gang member. And that's the reason why they do not like me.

And as I stated, that is not -- what she was stating is opposite gang that I -- they did not shoot me, they did not shoot at me. That was -- that was an incident that there was nothing -- there was no shots fired in that incident. It had to do with me and that was actually just

a gang fight that they considered a riot and had nothing to do with -- with -- with me being shot in the face and my jaw being broken.

I have -- the police report from the Richland County Sheriff's Department, where it's -- it states that, that I recently moved here to South Carolina and that the Ogden police implanted a device into my head. There's no reports stating that I was shot by gangs. There's no reports stating that I was shot by -- I don't know what she was stating or them records, where them records come from, but there's no report stating that I was shot in the face by another gang.

That's it, Your Honor.

THE COURT: All right. Is there recross-examination, Solicitor?

MS. WALKER: Your Honor, I don't have anything to say.

THE COURT: Thank you, thank you very much.

Ladies and gentlemen, please step out momentarily. Do not discuss the case with each other.

(The jury left the courtroom at 4:30 p.m.)

THE COURT: All right. Mr. Martinez, you may step down.

Mr. Martinez, do you intend to present any other evidence or testimony in surreply.

1605

MR. MARTINEZ: No, sir.

THE COURT: So that concludes all of the evidence, is that correct, both on behalf of the State and the defense?

MS. WALKER: Yes, sir, Your Honor.

THE COURT: All right.

Anything before we bring our jury back in, Mr. Martinez?

MR. MARTINEZ: No, sir.

THE COURT: I apologize, my attention was diverted.

MR. MARTINEZ: No, sir.

THE COURT: Solicitor?

MS. WALKER: No, sir, Your Honor.

THE COURT: All right.

(The jury entered the courtroom at 4:31 p.m.)

THE BAILIFF: The jury is seated, Your Honor.

THE COURT: Thank you, Mr. Bailiff.

Mr. Martinez, again, is there any additional evidence, testimony of witnesses you wish to present in surreply?

MR. MARTINEZ: I admitted -- I think it was one page of a -- of Richland Springs --

THE COURT: The Richland Springs Medical Records?

MR. MARTINEZ: Yeah. Can I admit the whole -- the whole -- the whole doctor's --

1606

THE COURT: Show that to the solicitor, please.

MR. MARTINEZ: I beg the Court's indulgence.

(There was a pause in the proceedings.)

MS. WALKER: Your Honor, may I approach?

(There was a bench conference out of the hearing of the jury and the Court Reporter.)

THE COURT: Anything besides this that -- what I'm now looking at as the report from Richland Springs. Anything else, Mr. Martinez.

MR. MARTINEZ: I believe that the solicitor had a point on case that goes with that.

THE COURT: Well, it's interesting. This is Defendant's Exhibit 31. One page is in evidence. And it says 1 of 3. The same date, there's from -- it appears to be Richland Springs because it's got the same names who printed each of them and it's got 2 of 5. But my ruling is subject to it being redacted because of handwritten notes --

MR. MARTINEZ: Yeah.

THE COURT: -- that appears to be yours --

MR. MARTINEZ: Yes, sir.

THE COURT: -- the solicitor has no objection, subject to it being redacted. In other words, either a clean copy or somehow make a copy before you enter that. Okay?

1607

MR. MARTINEZ: Yes, sir.

THE COURT: And it only looks like page -- 2 of 5 is the only one that has the handwriting on it besides some underlining and the jury won't take into account what's not in or has not been underlined.

Is that correct, Solicitor? Does that satisfy your objection? You have no --

MS. WALKER: Right, yes, sir.

THE COURT: All right. And then you have no --

(Mr. Martinez stood.)

THE COURT: Yes, sir?

MR. MARTINEZ: Can I get a copy of that, Your Honor?

THE COURT: Yes, sir, I'm going give it back to you.

MR. MARTINEZ: Okay.

THE COURT: Anything else?

MR. MARTINEZ: No, sir.

THE COURT: You have rested -- you're resting -- you have no more evidence or testimony or witnesses you wish to present.

MR. MARTINEZ: No, sir.

THE COURT: Thank you, thank you very much.

All right. With that being said, ladies and gentlemen, momentarily we're going to take our evening

1608

recess. During this recess, of course, do not discuss this case with anyone: Fellow jurors, family, friends, anyone else. Do not read, watch, listen to any news accounts in the case should there be any.

Do not do any independent investigation or any investigation on any electronic devices or communication devices to research or disclose or obtain any information, which is prohibited. Information that is prohibited, includes information about a party, an attorney, a witness, or a court officer, news accounts of the case, past or present, should there have been any; information collected through juror research on any topic raised during the trial of this case or information collected for juror research on any topic the juror might think would be helpful in deciding the case.

You decide the case, as you all know, based on the evidence and testimony presented before you to the witnesses testifying under oath in the courtroom. Physical items of evidence, reasonable inferences you think may properly be drawn and the law as I tell you the law is.

In the morning -- we're now at the stage of the closing arguments by the parties. The procedure we follow in that --

Solicitor, does the State intend to open on the law? Or does the State intend to open?

1609

MS. WALKER: Yes, sir.

THE COURT: All right. The procedure we follow in a case such as this -- well the State has the burden of proving its case beyond a reasonable doubt. Solicitor can open, close, and argue; then, Mr. Martinez, if Mr. Martinez chooses to do so, may make a closing argument to you.

Closing arguments are different from opening statements. They are the facts, the law, emphasis. Mr. Martinez is not required to give a closing argument to you because, as you all know, a criminal defendant in South Carolina, regardless of the seriousness of whatever the offenses may be, all of it, he's presumed to be innocent and has no burden whatsoever of proving himself or herself innocent. The burden is on and always remains on the State of South Carolina to prove its case beyond a reasonable doubt.

If Mr. Martinez chooses to make a closing argument to you thereafter, the solicitor will make final closing argument to you. I will then instruct you on the law and the case will then be submitted to you for your deliberation and for your verdicts.

With that being said, ladies and gentlemen, if you would please be back promptly at 9:30 in the morning; 9:30 in the morning. I hope you all have a pleasant evening.

And Juror 204, I'll speak to you -- if you will

1610

remain, I will speak to you now. Thank you. Thank you very much. Hope y'all have a pleasant evening.

(The jury left the courtroom at 4:46 p.m.)

(The following bench conference was held on the record, out of the hearing of the courtroom with Juror Number 204.)

THE COURT: I know earlier about Monday and Tuesday, we've made it to Wednesday. Tell me your schedule.

THE JUROR: I've got a sub for tomorrow.

THE COURT: Okay. So you need to be -- you've got a sub for tomorrow?

THE JUROR: Yes.

THE COURT: So you can stay with us.

THE JUROR: Yes, sir.

THE COURT: Yay. All right. Well, thank you so much.

THE JUROR: Thank you.

THE COURT: I appreciate that, yes, ma'am. We'll see you at 9:30 in the morning.

(The juror left the courtroom.)

THE COURT: All right. Anything further from the State?

MS. CAMPBELL: Your Honor, the only thing I can think that you can take up tonight or tomorrow morning is

1611

the requests to charge. Or if you could just give me a list of what you're going to charge or however you want to do it.

JURY CHARGE CONFERENCE

THE COURT: All right. The first one I come to is voluntary intoxication is not an excuse for an offense or to a crime. Is that an issue? Voluntary intoxication?

MS. CAMPBELL: Your Honor, the only thing that would be in issue is the testimony he's been -- that he has -- hear's voices and his symptoms were exaggerated at the time when he is voluntarily ingesting substances. He, in his statement, he said that he was hearing voices at the time. That's in the statement and if the jury were to so believe it, they could further accept the fact that he had been ingesting substances that made him hear voices.

THE COURT: I don't --

Yes, sir, Mr. Martinez?

MR. MARTINEZ: That would be speculation as to -- if I was on drugs or alcohol at the time. They can't verify it. It doesn't say it in my statement or anywhere that I was on drugs or alcohol.

THE COURT: Yeah, there's really no testimony as to 27 March, 2014, so I would decline to charge that.

MS. CAMPBELL: Your Honor, we do agree it's a correct statement of the law?

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THE COURT: I don't disagree, South and Hatfield and such. You know, it's clear voluntary intoxication and ingesting drugs is not a defense to a crime. I'll leave it at that. And I agree with South that it's still good law.

MS. CAMPBELL: Okay.

THE COURT: I agree on Kanaris is still the law as far as kidnapping is a continuing offense.

MS. CAMPBELL: Okay.

THE COURT: I will charge that. I will certainly charge and cite Miranda versus Arizona, but I will charge all those constitutional rights.

MS. CAMPBELL: Yes, sir.

THE COURT: I will charge State versus Franklin, there was a voluntary waiver of Miranda which made that waiver continue until the end of the individual being questioned indicates he wants to revoke that waiver or circumstances indicate his will was overtaken.

I will not charge Sprawl or Springs. I think that's kind of on the facts. I think that can be in argument though.

And, of course, someone handed me up a two-page document --

MS. CAMPBELL: That was me.

THE COURT: About finding out the general track of my charge.

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MS. CAMPBELL: The general tracks? Okay.

THE COURT: And then as to -- did you have any objections, then, of those that I decided to charge, Mr. Martinez?

MR. MARTINEZ: Can I see them, Your Honor?

THE COURT: Do you not have a copy of them?

MS. CAMPBELL: I gave them to him.

THE COURT: Well, I'm going charge -- I'm going to charge statement of the defendant; kidnapping is a continuing offense; the Miranda Warnings, of course, as part of a statement that once a voluntary waiver of Miranda is made, the waiver continues until the individual being questioned indicates he wants to revoke that waiver or circumstances exist which indicate that his will had been vacated. All right.

MR. MARTINEZ: Yes, sir.

THE COURT: Now, as to yours, I charge reasonable doubt, both under Manning and Victor versus Nebraska.

MS. CAMPBELL: Victor versus Nebraska.

THE COURT: Say again.

MS. CAMPBELL: Victor --

THE COURT: Yeah, Victor versus Nebraska.

I also charge that they cannot use your, the exercising of your right not testify cannot be used against you, cannot even be discussed in the jury room as far as

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that. I charge that per witness. Tell me the charge on objections. What is the charge on objections y'all request?

(There was a pause in the proceedings.)

THE COURT: These are the requests from Judge Anderson's book?

MR. KATA: Yes, Your Honor.

THE COURT: I do charge evidence of over crimes and prior bad acts. I charge that. I charge the evidence of the prior bad acts. Identification. I charge that.

What about form of verdict?

MR. MARTINEZ: What's that Your Honor?

THE COURT: Form of the verdict. Y'all have any opinion about the form of the verdict?

(There was a pause in the proceedings.)

THE COURT: Well, to quote Alicia Keys, I won't try to have you read between the lines, I'll tell you straight up like it is. I have concerns that the testimony that came in on reply properly was based on cross-examination by Mr. Martinez of Lieutenant Shumard and Sergeant Bailey and others; and, of course, brought out also with Deputy Jackson, perhaps somewhat with Sergeant or Lieutenant Isenhoward, put his on statement at issue, solely, as I took it, as part of the totality of the circumstances as to the voluntariness of the statement.

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Then on reply -- on reply, the State offered testimony as to -- in reply to those witnesses that testified among other things to his mental state or his reporting of his mental state and his mental issues, not necessarily their observations.

So now before the jury, you have both -- in fact three issues, one, is not an issue for the jury to decide, that being competency to stand trial; two, criminal responsibility; and three, guilty but mentally ill. There is evidence in the medical records. I haven't reviewed all the medical records. There's testimony in the record a range schizophrenic, paranoid schizophrenic, bipolar, depressed, drug-related psychosis, antisocial personality disorder, malingering, feigning, making it up. So you've got the entire range of mental history. That initially goes to Mr. Martinez's mental state at the time the crime was committed. Because that -- I mean it's been put in evidence through Dr. Tross.

I guess here's what I'm saying. The form of verdict, if I charge guilty, guilty but mentally ill, not guilty or not guilty by reason of insanity. I realize that he didn't give notice in writing that is required by the rules. I read the rules, again.

Solicitor, y'all have a position on that.

MS. CAMPBELL: Your Honor, I think there's evidence

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that would possibly support a guilty but mentally ill. I've read the cases, the Hornsby, Wilson, all the cases. There is some evidence, I think that could possibly, Judge, be a GBMI finding. I don't know of any evidence in this record that goes to not guilty by reason of insanity.

THE COURT: Well, there's -- that comment on the weight of the value of the defendant's evidence, particularly, I think there's a case that if I charge one, I have to charge all four. In other words, my charge has the forms of verdict and I think It's R-I-M-E-R-T; it's very new.

MS. CAMPBELL: I'm sorry, what was that?

THE COURT: Rimert.

MS. CAMPBELL: R-I-M-E-R-T?

THE COURT: R-I-M-E-R-T, 315 SC 527. It may say it -- it may say that if you charge not guilty by reason of insanity, you have to also charge GBMI. I'm not sure.

MS. CAMPBELL: Because I thought in the other cases that I read, basically they just do GBMI.

THE COURT: And it may be the opposite. Let me see what I can find.

MS. CAMPBELL: And I did get a statement if you do the one, you have to do GBMI.

THE COURT: Let me look.

(There was a pause in the proceedings.)

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THE COURT: It's citing that -- I think Wilson. I think my time frame is right. I think Wilson is a school shooting up in Greenville. And I -- what it's saying is, We hold the section, they talk about Section 17-24-20. We hold this section requires submission of all four forms of verdict.

MS. CAMPBELL: In those cases, is it not where the defendant has given notice and alleged insanity?

THE COURT: And I don't -- I mean that point's well taken, Solicitor. It may be -- I know Wilson -- of course, I look at -- I looked at Rule 5.

MS. CAMPBELL: Yes, sir.

THE COURT: For some guidance in that regard. And the notice of insanity defense, was pleaded guilty was mentally ill and I'm sure y'all -- I assume y'all serve a reciprocal discovery motion on --

MS. CAMPBELL: We did, Your Honor. And that's the reason we did that at the beginning of the trial.

THE COURT: The defendant shall within 10 days notify the prosecution of his intention to rely upon the intent of the defense of insanity at the time of the crime or to enter a plea of guilty but mentally ill. Failure to comply, the Court may exclude the testimony of any expert witness offered by the defendant on the issue of his mental state.

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The Court may, for good cause shown, allow late filing of the notice or grant additional time in that regard. Quite frankly, that regard, I don't think Rule 5 trumps the right to that defense.

MS. CAMPBELL: Maybe I just missed -- in listening to Mr. Martinez, his defense is he wasn't there, he didn't do it. I've never heard him argue in front of the jury that he's not guilty by reason of insanity, nor -- I don't know what he wants.

THE COURT: I -- I have heard those arguments made that I didn't do it. If I did, I was drunk and if I wasn't drunk I was insane, so I have heard those -- I've heard inconsistent defenses.

MS. CAMPBELL: I understand that. That's been the defense in this case, but I don't know what Mr. Martinez wants. He has never requested it. He's never asked for it.

THE COURT: I understand that. Point taken.

Mr. Martinez?

MR. MARTINEZ: Your Honor, as I asked the Court for funding to investigate my -- a neurologist as to my mental health issues before and -- so I can explore that option to test my -- test my mental health issues if it's really microchips or if it's just my fixed belief or whatever.

THE COURT: You presented -- you testified before

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the jury that you had evidence reviewing medical records that is an exhibit.

MR. MARTINEZ: Yes, sir.

THE COURT: Throughout.

MR. MARTINEZ: Yes, sir.

THE COURT: I guess my point is -- my question is, do you want me to charge that form of the verdicts? Guilty, guilty but mentally ill, not guilty, not guilty by reason of insanity.

MR. MARTINEZ: Yes, sir.

THE COURT: All right. I will do so.

Anything further, Solicitor?

MS. CAMPBELL: No, sir, is that the extent of what you're going to charge?

THE COURT: Well, I'm certainly -- I'll certainly charge murder, kidnapping, armed robbery --

MS. CAMPBELL: And as far as -- you were saying you were going to charge the defendant's failure to testify? He did testify.

THE COURT: That's so true.

MR. MARTINEZ: I did that yesterday, Your Honor. You can take it out.

THE COURT: I would agree, Solicitor. I will not charge that.

Thank you, Solicitor. It was like two pages from

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-- from the defendant's case and then going into the reply testimony. You're absolutely correct. Thank you for pointing that out to me, Solicitor.

Anything further?

MS. CAMPBELL: No, sir.

THE COURT: Mr. Martinez?

MR. MARTINEZ: No, sir.

THE COURT: All right. Thank you, thank you very much. 9:30 in the morning.

(Court was in recess for the evening.)

THURSDAY, DECEMBER 8, 2016

THE COURT: All right. Solicitor, are we ready for our jury?

MS. CAMPBELL: Yes, sir. Just a few quick items. I did hand up the State versus Rogers case this week. I didn't know if you had a chance to look at that.

THE COURT: I did.

MS. CAMPBELL: And I would also hand up to the Court Douglas versus State and State versus Shackleford.

(The Court was looking at the cases handed up.)

MS. CAMPBELL: Nothing else from the State, Your Honor.

(There was a pause in the proceedings.)

THE COURT: As far as Douglas versus State, what are you asking me to do?

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MS. CAMPBELL: Nothing, Your Honor, just in case anything comes up, we are not trying to have any anticipatory rulings, but we just hand that case up. We're not asking anything be done.

THE COURT: I think my comments in this regard shifts the burden. I think it shifts the burden and is an improper argument as to a witness.

All right. Ready for the jury, Mr. Martinez?

MR. MARTINEZ: Yes, sir.

(The jury entered the courtroom at 9:46 a.m.)

THE BAILIFF: Your Honor, the jury is present.

THE COURT: Thank you, thank you very much, Mr. Bailiff.

Good morning.

THE JURORS: Good morning.

THE COURT: Welcome back, ladies and gentlemen. As you recall from yesterday, you heard all the evidence and all the testimony you're going to hear in the trial of this case from the parties. We're now at the point of the closing arguments by the attorneys and Mr. Martinez. Again, ladies and gentlemen, the order we follow in a case such as this, the State opens. After the State's opening argument, Mr. Martinez can present his closing argument to you if he chooses to do so.

Again, a criminal defendant in South Carolina is

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never required to prove himself or herself innocent. A criminal defendant is always presumed to be innocent. The State has the burden of proving its case beyond a reasonable doubt.

If Mr. Martinez chooses to present closing argument, he may do so. After that, the State would present its final closing argument to you so you could have three arguments, the State, Mr. Martinez, if he chooses, then the State.

After the closing arguments, I will then instruct or charge you on the law that you are to apply to the facts of the case as you, the jury, find the facts to be and reach that true and just verdict.

Again, if during the argument or between the arguments anyone needs a break, please raise your hand. Y'all will take y'all's break, we will take our break. If you feel like your thoughts are starting to wander, you've been sitting out here too long, I don't -- the attorneys and Mr. Martinez is limited to a reasonable amount of time. This is an important case. It's an important case to Mr. Martinez, an important case to the State of South Carolina. So I don't limit their time, but even if during the closing arguments you need a break, please just let me know and we'll take a break.

That also applies to my instructions to you, quite

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frankly. If you need a break during my instructions -- if you just need a break from me. You just raise your hand. Y'all will take y'all's break, we'll take ours.

All right. With that being said, Solicitor, you may address the jury.

CLOSING ARGUMENTS

MS. CAMPBELL: May it please the Court?

THE COURT: Yes, ma'am.

MS. CAMPBELL: Good morning.

THE JUROR: Good morning.

THE COURT: The first thing I want to do on behalf of the State of South Carolina, the citizens of Richland County is thank you for your service in this case. When you came in this courtroom, it's been almost two weeks. You were probably wondering if you were going to sit on a case involving a contract dispute, maybe somebody's arguing about a car wreck. But as you listened to the allegations, indictments, which are a charging papers in this case, it became obvious this was a very serious case.

As the judge just told you, it is a very important case to Mr. Martinez and to the victims who had to get up there and talk to you about the intruder who came into their home, tied them up, raped their mother. It doesn't get much more important than that.

Now, I'm going to have an opportunity to talk to

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you a little bit about the law and some of the facts as they relate to that and then you will hear from Mr. Martinez, who is representing himself; and then finally you will hear again from us. As I'm up here talking about the law and/or the facts, if I misquote or misrepresent anything, it's not intentional. You listen to this, once you hear from all of us, you're going to hear from the judge because he's going to tell you what the law is that you must apply in this case and listen to him carefully. If I say anything, maybe the wording is a little different, it's not intentional. You take it as the judge gives it to you. And in that same manner, if anyone gets up here and misstates the facts, you remember, because ladies and gentlemen, the roles in this courtroom are defined and there's a reason for that.

The role of the prosecution is to bring forth all the admissible, relevant evidence that you can consider or allowed to consider in making this decision. You must base it on the testimony, the evidence that is before you.

The role of the defendant is to defend himself to the best of his ability. He has the right to do that on his own. He has a right to an attorney, but he has chosen to represent himself.

The judge's role is to determine what is admissible, when it may become admissible, if you were

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allowed to hear that testimony. But ladies and gentlemen the most important role in this courtroom is yours. Hands down. Each of you individually and then once you get back into that jury room, you must determine what happened back on March 27th of 2014. And we're so far away from what the facts are that we talked about last week that it's kind of like you have to remember what the case is really about.

And very simply, ladies and gentlemen, you will have multiple indictments because this is not unusual when a person chooses to prey on other people, to commit multiple offenses. It is not unusual that his initial intention was just to rob and once he found out there were no men in that house, he went ahead and took advantage, because he could, to commit other offenses.

The judge has told you and you have now heard all of the evidence you can consider and you must base your verdict on the evidence. What is the evidence? As he told you, it's not the questions by the State or the defendant. It's the testimony, the answers, the actual physical evidence that will go back and be with you that you can consider. It's not conjecture, speculation, or just plain wishful thinking.

Now, I want to take this opportunity and apologize if over the last several days, if we have done anything to offend you. You have been sent back to that jury room so

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many times. We apologize. It was not intentional on our part that you have spent hours back there while we have had other matters.

If at any time sometimes questionings can be clumsy or in artful, please don't hold that against the Hurshmans. At times evidence has not been admissible and then later on it comes in. An example of that, Elexia Tucker, the judge will instruct you that you are limited and the only reason that testimony is allowed before you is because you can consider that for certain reasons, such as identity, such as motive, intent, things of that nature. Listen to the judge. Her testimony alone would be admissible for that. But as you noted initially we weren't allowed to get into the statement he gave. It only became admissible later for reasons you don't need to worry about. But that's the reason that that is kind of jumbled up. Later on the letter became admissible, but only after other testimony.

Another example, Dr. Tross. As you listened to this defendant in his opening statement, he talked about the police. He talked about how he wasn't identified. He talked about how it wasn't him. He didn't do this. But as things progressed and once he put up his case, which he is not bound to do, the burden is on the State of South Carolina to prove this defendant's guilt. But once he chooses to put up a defense, you consider it and its

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credibility in the same way you do any other witness.

Once he chose to put up Heidi Jackson, once he put out there his next defense of insanity or guilty but mentally ill, then we have the right to bring forth Dr. Tross at that point. So if it's been confusing, please don't hold that against Ms. Hurshman, against L.H. , or little D.H. . That's just an explanation.

Now, in criminal cases, the Courts recognize that you, the jury have to judge credibility. And in criminal cases, that requires live testimony. You've heard from a number of experts in this case who admittedly have had reports, such as DNA; Dr. Tross; you heard from police officers who wrote reports that have been referred to. Those are not necessarily admissible, unless at times the defense wants them.

The exception to that is that the defendant's statement can be admissible if the judge deems it so, his written statement. But you haven't seen any depositions, heard any audio recordings and the reason for that, ladies and gentlemen, is because you have to judge credibility. And in criminal cases the law recognizes that the best way for you to do that is for you to hear it from the actual witnesses, not just see their statements.

Briona Hurshman had to get up here and testify about it. Her statement only became admissible when he

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chose to put it in. L.H. had to testify. The experts must testify and that's the reason for that and that's the reason that you have the live testimony versus the reports.

Now, the burden of proof, as it should be, is on the State of South Carolina to prove this defendant guilty beyond a reasonable doubt. That is the highest level of proof required by any court in South Carolina, as it should be. His rights should be protected. And I submit, ladies and gentlemen, in this case, more than any other, his rights have been protected. The burden is on us to prove him guilty beyond a reasonable doubt. And I submit in this case, in this courtroom, with this evidence, that is a burden the State welcomes.

The evidence in this case is overwhelming. No matter how much anyone's trying to muddy the water, divert your attention from the facts, the evidence in this case is overwhelming. The burden is on us, as it should be to prove him guilty beyond a reasonable doubt.

Now, the judge is going to instruct you, what is guilty beyond a reasonable doubt? What is that standard that you must find? And perhaps the easiest way the think about it is proof beyond a reasonable doubt. Reasonable doubt, would you hesitate, a reasonable man hesitate to act? But the Courts have gone a little bit further in defining it. What is proof beyond a reasonable doubt?

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Our courts have defined reasonable doubt in the following way. We'll talk about how proof may be at different levels in different courtrooms. But in criminal cases, we must prove it beyond a reasonable doubt. Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. There are very few things in this world that we know with absolute certainty and in criminal cases, the law does not require proof that overcomes every possible doubt.

If based on your consideration of the evidence you are firmly convinced that the defendant is guilty of the crime charged, you must find him guilty. If, on the other hand you think that there is a real possibility that he is not guilty. You must give him the benefit and find him not guilty.

The law recognizes proof beyond a reasonable doubt is not proof that overcomes every possible doubt. The law recognizes there are very few things in the world that we know with absolute certainty. All we must prove, although, I submit we've gone beyond any doubt in this case, is proof beyond a reasonable doubt. Proof that leaves you firmly convinced of the defendant's guilt.

Listen carefully when the judge instructs you on that because that is the law.

Now, there are a number of indictments in this case

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and the judge may instruct you on the law and it's to be applied -- he may not take these in the same order I do. I don't know. It's not that one is more important than another, it's just this is the manner I take them in some order.

The first charge I want to talk about is criminal sexual conduct in the first degree. Very simply, ladies and gentlemen, to find the defendant guilty of criminal sexual conduct in the first degree, we must prove that the actor or the defendant in this case engages in sexual battery. Okay. And I'll get back to that definition in a minute.

What is a sexual battery -- with the victim and if any one of the following circumstances are proven, so we don't have to prove all of these circumstances, but any one will do to make it criminal sexual conduct in the first degree. But he either uses aggravated force to accomplish sexual battery, or the victim submits to sexual battery by the actor or defendant in circumstances where the victim is also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, house breaking or any other similar offense.

Ladies and gentlemen, it's unusual, but in this case all those apply to him. He engaged in sexual battery with the victim using aggravated force and she's also the

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victim of a kidnapping at the very least, of a robbery, of a burglary. So unusual as it maybe in this case because of his actions and his choices, she meets every aggravating circumstance. This case does, unfortunately for her.

Sexual battery and the aggravated circumstances. And in listening to the judge, he will define for you what is aggravated force, which is the first aggravated circumstance that is talked about and the law defines it as this: Aggravated force means the actor, the defendant, uses physical force or physical violence of a high and aggravated nature to overcome the victim or the threat of the use of a deadly weapon.

By his own admission, what he would remember, he had a hammer. And I submit, ladies and gentlemen and I beg you, you judge Briona Hurshman's credibility. You judge L.H. and her credibility. He had a gun and a hammer. Once he made sure there were no men in the house, he did what he wanted. So the threat of the use of a deadly weapon, even by his own minimizing, minimal admission, he meets that one.

But we don't even have to prove that because there's no doubt that they're also the victim of a kidnapping or a burglary or a robbery as well.

What is sexual battery? The defendant may get up here and argue, this isn't really rape. That's the common

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word, criminal sexual conduct because there's no sexual battery. The very definition is either sexual intercourse, cunnilingus, fellatio, annual intercourse; and finally, ladies and gentlemen, the law recognizes that any intrusion -- I don't have to prove all these, just one, it's up to you to judge -- however slight of any part of a person's body or of an object into the genital or anal openings of another person's body except when accomplished for medically recognized treatment.

When he shoved his fingers in her, in an attempt before he tried to penetrate her -- any intrusion, however slight, even with his penis is enough. But me didn't just do it once, he did it twice. For anyone to get up here and argue that this isn't rape or criminal sexual conduct, it's offensive.

The next charge I want to talk about, and again, I'm not taking them in any specific order -- is burglary in the first degree. And very simply, ladies and gentlemen, a person is guilty of burglary in the first degree if a person enters a dwelling without consent and with the intent to commit a crime.

And let me talk about that for a moment because as you listen to the judge talk to you, burglary doesn't mean that he had to break out a window or kick in a door. Walking into a stranger's home while they're getting ready

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with their children to go to work and to school, however it's accomplished, that makes it burglary, if you have an intent to commit a crime. And there's no doubt that he had the intent to commit a crime because that's why you bring the gun; and that's why you pick up the hammer.

Any entry. The judge is not going to say any breaking, he's going to say any entry without consent and with intent to commit a crime. And we don't even have to prove what crime, although in this case, we did. But we don't have to. But in this case, by his own statement, he's in there for the purpose of committing a robbery. Now, is that convenient hindsight, he didn't want to admit he's in there preying on women, which is what he did.

It doesn't matter which crime he intended and the way we know he intended to commit a crime is because once he's in there he commits multiple crimes. He likes to tie up people, control them, intimidate them, rape them. He likes to lock up little children while he assaults their mother.

It becomes burglary in the first degree if we prove he entered the swelling without consent, and there's no dispute in this case that there's no consent -- with the intent to commit a crime. Crimes are robbery, rape, kidnapping, any one of those prove it. And that while in the dwelling either in effecting entry while in the

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dwelling or immediate flight, that means it can happen while he's there, when he's in there or when he's leaving. Although in this case it's all of those again too.

He entered during or stayed in during the hours of nighttime, darkness or -- and we don't, again, have to prove all these aggravating circumstances. Any one of these, although again because of his actions. He meets this in so many different ways -- enters in darkness or is armed with a deadly weapon or explosive or causes physical injury to a person who's not a participant -- she has abrasions on her face, abrasions to her genital area, bruising on her wrists -- uses or threatens the use of a dangerous instrument, gun versus hammer. He had both. Or displays what appears to be -- it doesn't have to be a knife or a pistol. He meets all of those, although all we have to prove is one. Listen to the judge.

The next one I want to do, you'll have three indictments for kidnapping because in this case he took control of three different people, two of them in elementary school, but they still count. The judge will charge you on the charges of kidnapping that whoever shall unlawfully either seize -- and again this is an either or, we don't have to prove all of them; you know I keep saying that -- confine, inveigle, decoy, kidnap, abduct or carry away -- there's an or in their, not an and -- any other

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person by any means whatsoever without authority of law shall be guilty of kidnapping.

Listen to the judge because traditionally though when I think of kidnapping, I think if somebody gets taken and put into a trunk of a car and driven across state lines. That's not it. That's not what kidnapping is in this state because the law recognizes that whenever anybody takes control of another person and it's not authorized by law, then it's kidnapping. Listen carefully to the judge, it doesn't have to last for ten seconds, it doesn't have to last for ten hours, or ten weeks or any certain amount of time because once that person's freedom is restricted in any way as I submit in this case, ladies and gentlemen, again, tying up people is pretty classic kidnapping. Tying up people, putting them in bathrooms is pretty classic kidnapping. Tying up people and raping them is kidnapping. I don't -- I submit, I do not think anyone will argue it's not.

What do these terms mean, to seize, to confine, to kidnap, to kidnap, abduct, any of these? And some of the definitions, and I don't know if the judge will define all of these or some of these. But some of the definitions in our law, what does it mean to seize a person? The law recognizes it. It means to take hold of suddenly or forcibly. Confine means to limit, restrict, or enclose

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within bounds, imprison, or shut or keep in. These are all different ways, any of these. To seize means to take hold of suddenly or forcibly. Confine means to limit, restrict.

Further definitions to kidnap means to remove a person against his or her will by unlawful force or by fraud. When he moved L.H. from one floor to another. She didn't want to go. To carry off secretly. To carry away is to remove, put in another room. Any one of these. The judge will also charge you that kidnapping is what's called a continuing offense, an event. Listen carefully. It doesn't have to last any specific amount of time, although in this case, ladies and gentlemen, it lasted a while. It lasted long enough for him to rape somebody and to rob them.

It's a continuing offense. The offense commences when one is wrongfully and unlawfully deprived of his freedom or her freedom. And continues until freedom is restored.

Kidnapping. Three different indictments.

What is armed robbery? A person committed robbery -- what is robbery -- and what is robbery. It's simple when you think of it because a lesser included of robbery is larceny, which is steal. What promotes it to robbery is when you steal from the presence or person -- in this case from her presence because she's in the room when he's

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robbing her of her rings -- it becomes armed robbery when the force or violence is used to accomplish that offense. It's used with a deadly weapon. This is a deadly weapon. And the law even recognizes it. Or while alleging either by action or by words he was armed while using a representation of a deadly weapon. This doesn't even have to be a working pistol. Of course, a hammer is a hammer. Or any object, which a person is the victim of the robbery reasonably believes to be a deadly weapon is guilty.

So very simply, ladies and gentlemen, what we must prove is that he stole from her presence and that would be from the jewelry box; and that he was armed with either a representation of a deadly weapon and the judge may go further and define for you what can be a deadly weapon. I submit either a gun or a hammer would be defined as a deadly weapon.

And the final indictment that was before you is if a person is in possession of a firearm or visibly displays what appears to be a firearm or visibly displays a knife during the commission of a violent crime or is convicted of committing or attempting to commit a violent crime, is guilty for the additional principal crime. And the judge will define for you violent crime.

These are violent crimes.

Now, in every case, the State must prove that the

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defendant had criminal intent and the easiest way to do that is to look at his actions, his actions once he's inside, his actions once he leaves, his attempts to get away, to change his appearance, to be at his brother's house, all that.

Criminal intent is a state of mind which operates jointly with the act or omission in the commission of a crime. It's a mental state of conscious wrongdoing. It includes those consequences which represent which act is done, regardless of one's desires. Intent may be shown by the acts and conduct of the defendant and other circumstances which you may naturally and reasonably infer intent.

In other words, look at the circumstances surrounding that. The judge may charge you that we can't take a person and dissect their brain to determine exactly what was in his mind to determine the offenses, that we can't calculate to a mathematical certainty what he was thinking. And that's why the law recognizes that you look at any acts of the defendant and other circumstances in determining criminal intent. And ladies and gentlemen, this case reeks of criminal intent. His actions, it doesn't get more criminal than this.

Now, in this case there have been a lot of questions about identification, if anyone knew. And I

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submit, ladies and gentlemen, if you think Briona Hurshman would get up here and testify that it was Mr. Martinez and it wasn't, then let him go. If you think she has no conscience and would do that, let him go.

But in this case, it's not just Briona Hurshman. It's every witness that saw him that day. You heard from Ms. Culpepper. You heard from the young lady that was there with her kids at the bus stop waiting for the school bus that morning. You've got multiple identifications. All we need is one. And more than that, you've got his own statement where he identifies himself. But the judge is going to charge you on identification and he may charge with something along -- it's an expression of belief or impression by a witness.

You must determine the accuracy of the identification of the defendant. You must consider the believability of each identification witness the same way as any other witness. You may consider whether a witness had an adequate opportunity to observe the defendant at the time of the offense, like how long or short was available, how far or close was it. How the lighting conditions were. If you heard us asking some questions like that, that's the reason for that. Whether the person has seen the person in the past. The burden of proof is on the State. This specifically includes the burden of proving beyond a

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reasonable doubt the identity of the defendant.

If after examining the testimony you have a reasonable doubt as to the accuracy of the identification, you must find him not guilty. Every witness ID'd him. He ID'd himself. He may not want that anymore, but when confronted, because when he gave his statement, he just wanted the minimize what happened. You know, the art of confessing error. Confesses a lesser, Oh, I was there robbing, it was just a burglary, a robbery. Not that sexual assault. Identification, I submit, ladies and gentlemen, it's been proven way beyond a reasonable doubt.

Now, you'll also -- the judge will instruct you that he has allowed in a statement of the defendant; in this case actually, two statements. We'll get back to the Elexia one in a minute. And even though he's determined it's admissible, you then also must make an independent finding it was admissible before you can consider it. So the statement, the judge may instruct you something along these lines: The statement alleged has been admitted into evidence in this case. While the Court has determined that the statement is admissible, he will instruct you to make the ultimate decision of whether or not the defendant made the statement. If the defendant did make the statement, you must determine whether it was made of the defendant voluntarily and of his own free will. This means the

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statement was not caused by pressure, force, fear, threat, coercion, or intimidation, by hope or promise of leniency, or reward.

In determining whether the statement is voluntary, you just consider the characteristics of the defendant and the details of the questioning. Some of the facts you can consider are the age of the defendant. Let's say it's a young man, 15, 16 years old, that could play into it. He's 30 something.

The defendant's mental ability and capacity. You heard from his own testimony, he's got an associates degree. The defendant's IQ or intelligence. I wish I had his grasp of the constitution. The defendant's background and environment. That speaks for itself. The place and length of detention. Did it happen over 12 or 14 hours. If he was shut into a small room. And most -- the nature of the questioning -- most importantly, ladies and gentlemen, the law recognizes the advice or lack thereof to the defendant of his or her constitutional rights, including but not limited to: The right to remain silent, that any statement could be used against him in a court of law; the right to have a lawyer present and if he didn't -- if he couldn't afford a lawyer, a lawyer would be appointed.

You have the advice of rights, his own handwriting.

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He wanted to get his version out there. Make sure it disputed anybody else. And he's talked about well, they didn't tell me before the advice of rights what they were talking about. He was under arrest and the first question they ask him is do you know what this is about and he's like, yeah, that thing that was on the TV. Is he bragging about being on TV? He acknowledges he knew what it was about. For him to get up here and argue they didn't tell me so it's not voluntary and then he's going to get up here and argue, Well, I didn't volunteer to go. No one, I submit, that gets arrested for a crime and has been advised of his rights and chooses to give a statement -- no one voluntarily, I submit, gets arrested. That's not the standard.

For him to get up here and argue that he didn't volunteer to go to Forest Acres Police Department, of course, he didn't volunteer to go. That's not what the law says. Because the law recognizes versus -- these are what's called Miranda Rights. You may have seen them on TV at some point. The law recognizes, you don't even get your Miranda Rights, but you must be given your Miranda Rights once you are taken into custody, prior to any questioning. You must be warned.

Somehow they get criticized for doing it right? Because before they asked him one single question about

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what happened, they advised him of his rights. The right to remain silent; that it may be used against him in evidence; and he has a right to the presence of an attorney; and if he can't afford one, one would be gotten for him. They did their job.

And it's not voluntary? I submit, ladies and gentlemen, he just doesn't want you to look at what his defense was, he didn't do all that. I mean I had broken in. I mean I might have robbed. He says, but I didn't do that sexual assault now. The art of confessing error. Confess to the lesser. To avoid the greater charge.

The law also provides, the judge will charge you, that once the voluntary waiver of Miranda Rights, and at that point he argues, okay, then they questioned me about two different issues. It doesn't matter as long as he's been advised of his rights. The waiver continued until the individual being questioned indicates he wants to revoke that waiver. Nothing in this case, not even from his own testimony. Or circumstances exist which indicate his will was impaired. I submit, ladies and gentlemen, the statements were admissible.

Credibility of witnesses. And ladies and gentlemen, that's what this case, as most cases, boils down to. Because either he did it or as he's alleged, the DNA didn't show anything, can't prove it. You're talking about

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another lie. They're all wrong. It's a grand conspiracy all the way from Ogden, Utah to here to frame him. And do you really think that Briona Hurshman, L.H. and D.H. are here to blame this poor innocent man, then let him go.

Credibility, simply means believability. It becomes your duty as jurors to analyze and evaluate the evidence and determine which evidence convinces you of its truth. And remember, ladies and gentlemen all we're asking and all we've ever asked in this courtroom is for a verdict that speaks the truth.

In determining the believability of the witnesses who have testified, you may believe one witness over several witnesses or several witnesses over one witness. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety. You may consider whether the witness has exhibited to you any interest, bias, prejudice or other motive in this case. You may also consider the appearance and manner of the witness while on the witness stand.

I beg you to judge Briona Hurshman's credibility; L.H. 's credibility; Ashley Culpepper, Charlisa came before you and testified after they saw the sketch

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because they recognized that person. Those were citizens that actually came forward and did the right thing. As much as he didn't want. Who has a bias, a prejudice? Who has anything to gain or to lose?

Now, as I listened to the defendant in his opening, he talked about how you couldn't believe any evidence. How he didn't do it, how the DNA was flawed, all those. And then as the case progressed, maybe that defense didn't work so well. Just accusing the police of a conspiracy, I guess Ms. Hurshman was in on it? Elexia, all these people. I mean that doesn't work. That's put in place right when they were questioning him. That was crazy. I'm not responsible for my actions. I hear voices. They tell me to hurt myself and hurt others. You know what's interesting about that? There's absolutely nothing where the voices said break into people's houses. Rob them while you're in their house; rape them while you're there and can do it.

Some people truly suffer from mental illness. They see delusions, excuse me hallucinations, have delusions. And some people try to create mental illness whether they need it to get disability because as their own mother said, you need to get a job or get your disability. And then when his antisocial personality disorder, which is not a mental illness, didn't get him that disability, you got to

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wrap it up.

And then why not use that to just have a license to commit crimes. No jury is going to find me responsible. If I just say I got a microchip in my head. I fall back if I need it. In this case, the defense has asserted, as is his right, and his rights have been protected in this case; but you will be instructed that you can consider four forms of verdict on each one of these indictments: Guilty, guilty but mentally ill, not guilty by reason of insanity, and not guilty.

So what do these terms mean? And what must we prove. And that's the reason that once he asserted and brought in Heidi Jackson to talk about how she'd taken him to the hospital, even though he was always released and found to be malingering, which as he pointed out didn't suit him. But once that's in the record, he has a right to assert this defense. It must be shown that at the time of the crime -- and that's key, ladies and gentlemen, because it's all about what he was experiencing at the time that he was in there. And remember carefully at no time did Briona Hurshman or L.H. say, he said the voices are telling me to do this because think about it, if people are truly mentally ill, they want to share what the voices say with everyone. They make that very clear. They don't just bring it up in hindsight or they don't keep it private. If

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the voices are talking to him, making him do stuff? The defendant had a mental disease or defect.

The only testimony before you is that he has antisocial personality disorder. Dr. Chavez treats him for what he reports his symptoms to be. But, you know, amazingly, the most telling thing is he didn't even need the medicine. You had the opportunity to observe him over two weeks. He quit taking the medicine before this even started. And amazingly the voices were telling him.

But even -- you could even assume he has a mental illness, but you still have to say that the mental illness or disease made him unable to distinguish moral or legal right from wrong or to recognize the crime as morally or legally wrong. Do you remember when Dr. Tross was up here testifying? You heard her say those terms over and over about criminal responsibility and capacity to conform? That's what this is talking about. And I'll get back to that.

The defendant may be unable to distinguish moral or legal right from wrong and that he couldn't conform his actions. To be found not guilty by reason of insanity, legal cause of mental illness. And Dr. Tross even gave him that benefit. Even if we ignore the fact that testing shows over and over that he's faking the symptoms; even if you assume that he has this fixed delusion, at no point,

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even in his own testimony, did the microchip tell him to break in someone's house, rob them, rape them, and tie up small children.

That wasn't very well thought out. If the voices are telling him to harm himself, that didn't happen. If the voices are telling him to harm other people, to shoot them, he thinks the voices give him rise to do whatever he wants because he's counting on the fact that you won't hold him responsible when he just tries to cut his ear occasionally and talk about a microchip in his head. Heidi Jackson believed him. She took him to mental health over and over. It was only when the experts talked to him that just simply wasn't true. Even if you assume everything, it still didn't control anything he did that day. He is still held responsible under our laws, in this nation, in this courtroom. Even if you assume that he has a mental illness, it didn't control his actions that day.

By raising the defense of insanity, he does not necessarily say that the crime was committed, we still must prove beyond a reasonable doubt -- and I submit, ladies and gentlemen, all this about his mental state, don't let it divert from the facts, the truth of what happened. The defendant must prove insanity by a preponderance of the evidence. It's on him.

A preponderance of the evidence simply means the

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greater weight of the evidence more likely than not. And I submit, ladies and gentlemen, based on this record that it's clearly not more likely than not that he has this mental illness. But you don't even have to go there because even assuming he has mental illness, you then must look at whether or not it made him unable to distinguish moral or legal right from wrong. Remember his actions. He's running down the road, he's going through the bushes trying to evade things. He's taking his clothing off. We know that. He changed his appearance so he can get away. That's somebody that knows that what they just did was wrong. His own actions. He doesn't go home. He goes to stay over at his brothers.

If you find there evidence in the record that the time the crime was alledgedly committed it's more likely than not because of a mental disease the defendant did not know the alleged crime was morally or legally wrong, the State must prove beyond a reasonable doubt the defendant was sane. You heard Dr. Tross's opinion and that's the only opinion before you. She evaluated it for him, at his request. And her findings -- and she even got additional information afterwards that corroborated what she said; that additional testing where they test to see if he's faking the symptoms. Feigning is a word they used.

The first doctor, Dr. Higgins at Alvin S. Glenn,

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Dr. Chavez says I tried to give him what he wants, but he doesn't want to take it. Think about what he's asking when he gets in there. His first questions to L.H. aren't, The voices said for me to tie you up. His first question, who else is here? Are there any men in the house? Or is your father in the house? I can't remember it you remember it. Those are questions that are important. The first thing he says to Briona Hurshman when he's escorting her child into the room where she is, Shut the fuck up.

Those are the words of the criminal who still knows what he's doing. It is for you to decide what the state or condition of the defendant's mind was at the time of the alleged statements.

The judge will tell you there are four possible verdicts you may return. If you have reasonable doubt of the defendant's guilt after considering all the evidence, you must find the defendant not guilty. And I submit, ladies and gentlemen, there's no reasonable doubt. There's no doubt moving on.

If you have no reasonable doubt he committed the crime but you find it's more likely than not because of a mental disease the defendant could not distinguish moral or legal right from wrong or recognize the crime -- because there are two prongs and I'll get back to those. Because it's not just that -- he had to be able to tell right from

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wrong, moral or legal. And the act to conform his actions to be able to do those two things. And I submit, ladies and gentlemen, his words alone knew he knew right from wrong. Are there any men here? Are there any males in the house. Shut up. Get down on the floor.

Another possible verdict is guilty but mentally ill. If you have no reasonable doubt the defendant committed the crime had the mental capacity to distinguish moral or legal right from wrong, but you find that it is more likely than not because of a mental disease or defect the defendant could not follow the law, in other words conform his actions, you must find the defendant guilty but mentally ill. And I submit, ladies and gentlemen, that's what he's hoping for.

As with insanity, the defendant has the burden of proving guilty but mentally ill by a preponderance of the evidence and then you can find him guilty.

What is guilty, but mentally ill? And again, when you listened to Dr. Tross, you heard her talk about those two things capacity to conform and criminal responsibility. A defendant is guilty but mentally ill if at the time of the commission of the act constituting the offense he had the capacity to distinguish right from wrong or recognize his act as being right from wrong, look at his actions, but because of mental disease or defect, he lacked sufficient

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capacity the conform his conduct to the requirements of the law.

So he literally couldn't control himself. Listen carefully to what they said he was able to control. He wasn't only able to control himself, he was able to control a mother, her two children. He was able to control his escape. He was able to get what he needed. He was able to control it when he went to the pawnshop and very rationally and sanely didn't say anything crazy. Pawned what he stole. His actions weren't insane. They were skilled. They were criminal.

I tried to sum it up the best I could. To find him guilty by reason of insanity, it must be because of mental disease or defect. He does not know right from wrong morally or legally and there's an and here, he doesn't have the capacity to conform. So he had to be out of his mind and couldn't conform. Couldn't control himself to be found not guilty by reason of insanity. And I submit, ladies and gentlemen, the evidence failed.

The verdict of guilty but mentally ill, if you find that he did these but because of mental disease he knows right from wrong, but he does not have the capacity to conform. I beg you -- you've observed him. Think about his actions that day. This isn't a case where mental illness is the defense. There are cases when that is and

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should be appropriate. And this is kind of a slap in the face to those.

Dr. Tross told you he has antisocial personality disorder. It is not a mental illness or disease. Basically you know, you used to say people just had bad personalities. You know, just kind of had bad traits. You know people who are always the victim but has never done wrong. Now label it. We call them personality disorders. That means he has a bad -- she said criminality personality. He doesn't get disability for that and he doesn't get off. Not in this state, in this world, ladies and gentlemen.

All we ask is justice. He thought he could get away with it. Hold him responsible for his choices. A verdict that speaks the truth. This is his day in court, two weeks in court. Justice for the victims is all we ask. Thank you.

THE COURT: Thank you. Thank you, Solicitor. Mr. Foreman, ladies and gentlemen, we're going to take about a 15 minute recess. Do not discuss the case while you're back there.

(The jury left the courtroom at 10:52 a.m.)

(A brief recess was observed.)

THE COURT: All right. Mr. Martinez did you intend to present a closing argument?

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MR. MARTINEZ: Yes, sir, I do.

THE COURT: All right. Anything before we bring in the jury.

MR. MARTINEZ: No, sir.

THE COURT: Solicitor? Anything before we bring in the jury?

MS. WALKER: No, sir.

(The jury entered the courtroom at 11:06 a.m.)

THE BAILIFF: Your Honor, the jury is present.

THE COURT: Ladies and gentlemen, if you would continue to give the parties your complete and undivided attention, Mr. Martinez is going to present his closing arguments to you at this time.

Mr. Martinez.

MR. MARTINEZ: Yes, ladies and gentlemen of the jury, I appreciate you guys patience with the State and myself this past week and a half. The State stated that they want a verdict that speaks the truth. And I wish that they would speak the truth. I wish that their credibility that they claim that their witnesses have would speak the truth.

If their witnesses and the police officers would speak the truth, I wouldn't -- I wouldn't be in this situation. They're stating that it's just some conspiracy, yet out of their own testimony, they stated that I was a

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suspect with no evidence aside from a police officer calling another police officer and telling them that I know who your suspect is and from that point on, I was a suspect. Even after they put me in a photo lineup and showed it to the victims and the victims could not pick me out of that photo lineup. And it was a highly suggestive photo lineup.

And the credibility of the victims is -- the whole reason that their identification, Miss Hurshman's identification was allowed in was because she supposedly told her husband, which you didn't see the husband testify, and you don't see the husband in the courtroom to verify that testimony.

They've had opportunities 5 days later, they went to a bond hearing with the police at the police station with these investigators. They did not say that's him, that's the guy. They went to other meetings with other police officers, with other trauma people. They went to other people that they -- they had the opportunity, they had a chance to state that's the guy. I know that's the person that did that. That's the person that broke into my house. That's the person that attacked me. They did not do that. They didn't say that. They didn't come forward.

And the police didn't help. The husband never went to the police, told them that. They came two and a half

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years later and stated that two days later they did a Facebook or a Google search after the police gave them a name. They did a Google search went on Facebook, did a search, seen some clearer pictures and came to a conclusion, that's the guy, that's him. I know that's him. Yet they never stated that to nobody.

She went to sexual trauma. She was around some people, victim's advocates, she was around police, never said nothing. She sees this guy's eyes. She smelled this guy. She knew -- she gave a failed description to Ms. Goff that you guys heard her testimony. She told his size, she told everything. And the reason why I entered her statement and I wish I could enter all of her statements from all of the records to show that Ms. Hurshman, her credibility, she doesn't understand the difference between a penis and a finger. She doesn't understand the difference between a right and a left hand. She doesn't understand the difference between tall and medium build.

Her story has gradually came to what she's testified to this past week. It's -- as I've stated, it's perjured testimony. Her credibility is -- a person can't give a statement to the police and then change that statement on the stand because then it becomes perjured. You either told a lie to the police or you told a lie on the stand. That's what makes your credibility

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untrustworthy and unreliable.

And the whole -- the State wants, as I stated, they want to confuse you. They want to use these inflammatory words to cause prejudice, cause hatred, cause contempt. They want to use guns. I don't see any gun. There's no possession of a gun. The police never caught me with a gun. They're going to use tied up children and words of rape, control, yet they're going to say the credibility of these witnesses, the witness -- one of the witnesses saw me, I think it's half a mile away, or claims she saw me half a mile away. It's way before Ms. Hurshman even called the police, the 9-1-1 call. The victim or the, Ms. Culpepper states she saw me between 7 and 7:35 -- 7:30 and 7:35. The 9-1-1 call was made at 7:37. So that means -- if that's possible, then I made it a half a mile within 5, 10 minutes. Jump in the bushes and change clothes and dust down and wipe my sweat which is pretty good, especially if I'm running on the main road as the police state, with people walking by; dogs and children and people going to school and only these two people claim to have saw a person with a big red jacket and a big red hat when there's a bunch of people waiting for the school bus.

And the police even testified that nobody saw him, nobody else saw this person with a red jacket that says South Carolina across it and a red hat and a big neck

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tattoo, waiting for the school bus with their kids.

So they're saying that beyond a reasonable doubt they can't even place me inside the house. Even if they could place me around the area, they still couldn't place me inside the house. And the victims couldn't do that. And they did not do that. The evidence did not do that. And this is where they're trying to confuse you and this is where they're trying to say -- they're trying to say I'm making excuses for my actions. I'm not making no excuses for my actions. My mental health comes into the part as into the voluntariness of the statement. That was my argument. I've always maintained that I never did these crimes. I didn't make an excuse that I can do whatever I want because I'm illegally microchipped. My records will all reflect that I went to the hospitals seeking help. I went to mental health seeking help. I even got to the police and sought help. I sought help for this. I didn't go out and commit crimes just because I had an excuse. I wept looking for help. I went to -- I can't even tell you how many times I went to the hospital asking for medical help. That was my whole intent and that was my whole point of calling these officers up there the testify that my whole intent was to get medical attention.

Them same officers told their officers that, yeah, he has mental health issues, that's seeking help, that he

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tries to cut himself to try to get the microchips out; that he went to -- that he went to the mental health, he went to hospitals trying to get help.

Therefore, they knew that. They placed it in their reports. They told me that I had delusions and they took advantage of that. They took advantage of me knowing that I suffer from these illnesses and even if they're, let's just say they're not illnesses or whatever, but they know that I live in fear of my life to police because I don't trust the police. I don't trust the police at all because of my experiences with the police. So, therefore. I'm not just going to want to volunteer my history. I don't talk to police because I know the police. They lie and they make stories up and they fabricate stories just to make a person seem guilty, doesn't matter what you do, what you say. They're going to misconstrue your words to make it seem like you did say something and you did do this, when you really didn't.

Just because, as they stated in Miranda, Miranda states that in custody interrogation is psychological. That's what they do. They use their authority. They put you in cuffs and they take advantage of it. They don't give you no water, they don't let you call home. They don't even tell you why you're there. They just, well, don't worry. Why am I here? Yeah, I'm arrested, but

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you're supposed to take me to jail. I'm supposed to volunteer to be able to talk to the police. I'm supposed to voluntarily want to talk to you. That's my right. If I want to talk to you, I need to waive that right.

If you want the talk to me, you've got to make plans two days beforehand before I'm even arrested to want to come get me, to want to come and take me to your police station without even my concept, not even notifying me as to where I'm going? I'm supposed to be, as the warrants will state, I'm supposed to be arrested and taken to jail, taken into custody and taken to jail.

I have the right to remain silent. I have those rights as they stated. And -- well, even if I do as to my -- as to the voluntariness of my statement is that once a person's -- they've stated in their little boards, once circumstances arise to where a person's will is overborne or where a person's self-determination is -- they're not able to make their own choices because they have three police officers talking to him at the same time and the only thing I want to talk about is microchips being inside my head and I needed medical attention. That is evidence and proof that my will was overborne. I didn't want to talk about my -- the only thing I wanted to talk about was my issues and my problems and that's from their own statements.

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The officers got on there and didn't want to say that, they wanted to say, you know, contradict another, one person just to -- it was just a couple of times he mentioned it. It was like, Oh, I don't remember that you even said that. I don't remember that. You might have. You might have done this. That was the general -- the general, everybody getting up there and didn't remember, or everybody didn't recall or they just said no, but yet when the State was questioning them, they remembered everything.

And they even, as you have noticed, most of the police officers have to take their notes up their and they had to do that because they didn't remember. They didn't recall during questioning, during examination, during cross-examination, they were just up there, huh-huh, I don't remember. I don't recall. You don't recall, it's like the State just said, it's an important case for the State of South Carolina. That is their job. It is their job for the victims to the State to me, to do their job adequately.

They haven't done that. This whole investigation, they received other tips from other -- there's possibly other people that could have done this. Did they investigate those? They said no. They didn't have to. They had a suspect at 6 o'clock that night, from another officer who told them that it was me. I even -- I didn't

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even match the description. I don't match the height, I don't match the weight. But the tattoo on my neck, that's the suspect. That's him even with the victim saying it wasn't.

You heard from -- as I stated, you heard from people, victims -- I mean you've heard from victims, you've heard from witnesses and their story has changed, their story has -- all their stories have changed. It doesn't match with what they stated. It doesn't match up with what the police stated. It doesn't match up with what they wrote in their statements.

Ms. Culpepper's, she described a person whose -- I think her description was a medium, 175 to 190 pounds. She stated that I looked skinnier than that now.

When I went to Mr. Decker's pawnshop with my own ID and pawned two rings that were mine, he state's I'm 230 pounds, 6'2". He said that I was driving, not walking, with a different outfit.

And another thing too is where my mental health comes into. It had nothing to do, as I stated, to me making excuses for this. I'm not trying to make excuses for this because I've always maintained I'm not trying to make any excuses for this because I'd always stated I didn't do this. I never made an excuse that a person, or that I could do whatever I wanted to do because I have

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microchips.

As the State tried to falsely state with Ms. Jackson; it's false. An the e-mails don't reflect that. My e-mails reflect that I was seeking help or seeking medical attention or seeking tests to get done, these tests to prove that I have a microchip inside my head and it wasn't for me to try to get disability benefits. As I stated my disability benefits was discontinued simply because I couldn't get -- because I did not get a primary care physician.

That was an issue that my mom went to her because as Ms. Jackson testified, it was an issue because I wanted to go back. I wanted to get a gun and go back to where I'm from and deal with the police as my mom said; because these chips I have inside of my head. So if that's an excuse to commit a crime, someone is that serious about their issues, then I don't understand that because someone who's having issues with his life being threatened, his family's life been threatened and constantly being harassed to the extent where he can't be around people or he's isolates himself to where he can't hold a job because of these issues and he want to -- and I wanted to go and deal with it in that -- in that way. And that's why I was taken into custody involuntarily.

They said that I was malingering. They said that I

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was under a drug-induced psychosis, yet I wasn't -- my urinalysis wasn't dirty for any drugs except for one time it was dirty for THC. So I wasn't dirty for methamphetamines. I wasn't on drugs so how can -- a drug-induced psychosis when I'm not even on drugs. And also, they got their psychosis and there diagnosis as I stated and I asked the doctor, simply because of a previous involuntary commitment where they stated that I was on drugs. So therefore, I have psychosis of drug-induced simply because I told them that I was being drugged and I was being tracked and traced and harassed and tortured.

So they just -- they didn't make their own tests. They didn't -- their notes and everything can reflect they didn't run no tests on me. They sat there and talked to me for 15 minutes once a day and asked me how I was doing. They never came by and took tests on me. They never did all these tests on me to try the see what was going on. They already had a conclusion because they just went and got my history and found out, Oh, well he has drug-induced psychosis just because he cleared up over here, it's going the clear up quick now because as soon as he comes off these drugs -- but as I explained to the nurse, Well, I'm not even on drugs. She's like well it's possible that you have to plead to insanity, which means that your prior drug use of methamphetamines caused a fixed insanity. I was

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like, fixed insanity? She's like, Yeah, it's like a prior mental status, commented about prior meth use. And so, therefore, I didn't even have a chance to stay, to get any help. They didn't help me.

So as soon as I got released, I went right back to the hospital. I needed medical tests. They wouldn't run medical tests on me. They said we didn't do that for you. So I went back to the same -- to Heidi Jackson and asked her again. I have an appointment, I have those appointments with a neurologist that can run these tests. I need your help. She's like, I can't help you. There's nothing I can do. I said, well mental health doesn't want to help me, these people don't want to help me, I need help. She's like there's nothing she could do, so wasn't getting my medical attention. And I didn't go out and start committing crimes just because I had an excuse. I didn't go out and start tying people up. I didn't go out and just start doing just because I have microchips I could go out -- no.

I went -- I kept going to the hospital. I kept going. I'd go back to mental health and I had to keep going back to mental health. They kept referring me back to mental health. I kept telling them I don't have mental health issues. Because like I say, I do have mental health issues but it's caused because I have a medical history

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that causes me to have my mental issues, but if I was able to get my medical issues resolved, then it would resolve my mental health issues, which I could -- was never able to get.

And due to my -- due to my -- due to the police stating that I have these mental health issues, Ms. Jackson, she had -- she was -- she notified these other police of my condition and, therefore, I became, as they stated, I became a suspect automatically. And also, the State said that people who have issues share these issues, they share with people. That's what I did. I told the police. I told them. I told mental health, I told the hospitals. I can't -- I went to every hospital that -- I went to every hospital in Columbia. I go from one to the next, same day. One would deny me, I'd go to the next one. I shared these issues. I asked for help.

I sought out -- I went to the police. I asked them for medical help. Help when I got arrested I asked them for medical help. They knew I wanted medical help. They took advantage of that. They told me they was going to help me get medical attention.

Tross's report, it's -- she doesn't even -- she didn't have all -- she didn't have all of the information. She didn't even have all the information from -- from the places that she had, from the hospitals that she had, she

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didn't have all the reports. She didn't have all the police reports. She didn't have all the incident reports. She didn't have my complete history to be able to make a determination. I signed waivers for -- I explained to her, I signed waivers for -- multiple waivers, not just one, the one that she did get I was diagnosed with like 10 different disorders. And -- well, probably like 7 multiple disorders that corroborate and go with what the doctor at the hospital -- I mean at the jail stated, well, he failed to state. He only stated that he gives me medication. He gave me one medication, which he actually gave me four medications and he gives me medication for bipolar, he gives me medication for paranoid schizophrenia, depression. And that's -- those symptoms that they try to say that Dr. Higgins stated that I'm malingering, yet from -- every time -- every time that the, that the hospital -- at the jail comes -- puts my name in the computer, it has a big caution on it and it says 4/2 was the date that I was arrested, 4/2/14 and it says acute bipolar disorder not otherwise specified.

And then that same day acute depression and then it says, same date, acute paranoid schizophrenia. It doesn't say anything about me malingering. These are the cautions that these people have to use, these people have to use and also because of my medication. It reflects that. They're

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trying to say -- I told him that I want medication. They want to over medicate me. He wanted to give me a bunch of medication that I really don't want to take. I told him I don't have -- I have medical issues I need help with. I need medical help and he said, well, that, you got a delusion that you need medication for. I said I don't want to take medication. I don't -- that's not going to help me. That's not going to help me get -- resolve these issues.

And so then I didn't want to take the medication I was labeled as malingering and that I was faking the symptoms, which I -- I have no reason to fake no symptoms, I'm not trying to get out of it, I'm trying to get medical attention. That's not through fake anything. I also told the police that I -- only thing I wanted was medical attention. I told the State that. I told all my lawyers that. All my lawyers know that. That's where all my issues came from with my previous lawyers is because they weren't willing to assist me to get the medical attention that I need.

They want to misrepresent the law and they want me to -- they pretty much want me to work with the State. They didn't want to represent me and my rights as was claimed by the State that my rights have been honored. My rights have not been honored, my rights have not been

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respected.

I have had to -- the judge will instruct you on the other prior offenses. As I stated, I am going -- I asked to defend myself against another crime that has nothing to do with the crime that I'm charged with and the sole purpose of the State was to use this crime, this alleged crime against me in this trial to cause unfair and undue prejudice toward me to make it seem like, as the cases state, well, the proof of one, proof of the other, when there is no clear and convincing evidence in either one of them.

They don't even have a date of the other one. They don't have no physical evidence. They said that there was -- they tried to say well, there's no man in the house. I know them people and there was two men in the house. I've had to defend myself from that statement, which I even in a letter, I never admitted to anything with that. I didn't say I went there you know what I'm saying to rob them, which, just because he owed me some money, but I did not do that.

So even with the intent, the person having intent to do something and then not do it and I wasn't -- I didn't go there by force, I didn't have a knife out. I didn't knock on the doors and they let me in and there was no force, there was no forcibly taking, there was no forcibly

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kidnapping. There was no forcibly anything.

And there was nothing but perjury in that as well. Then the dad, the daughter, as well as Ms. Tucker, she gave a statement, she told the police, well, her dad actually convinced her, her dad had to convince her to go forward when her dad testified he didn't take her to the hospital. He didn't -- he consoled her. That -- to me that doesn't make any sense to me, but that's just me. I know I would feel a different way if somebody came to my house with a gun or with a knife and tied up my daughter and abducted her from my house, dragged her out in my car and then raped her and then she just comes home and tells me about that? I don't understand any of that. I don't. That doesn't make sense to me.

But the officers, you've heard from Russell Shumard, you've heard from Charles Morrison, and you've heard from Colin D Bailey. All three of these officers were in the same room. They were all present, yet they all give different accounts. And what -- two of them from Forest Acres, Lieutenant Shumard and Charles Morrison, they didn't write a report as to what was said, yet Colin D. Bailey, he did. He also -- Colin D. Bailey also had audio recording device present that was issued to him by the City of Columbia Police Department, by his division, the criminal investigative division, but he didn't use that.

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He used discretion and didn't record this interrogation.

Why would he not do that when he gave a BOLO two days before that stating that, use caution. He suffers from paranoid schizophrenia and possibly other mental illnesses. Why would you not, for your sake and the sake of your case, they claim this is so important and so serious to the State, it was to me as well as to the victims you're not going to use the tools that was provided to you -- why -- I think it's police chief or the captain of their division, he went and bought these devices for you to use so that you can use them in your dealings, when you're conducting your interrogations. And you've known an entire two days beforehand you're dealing with someone who suffers from paranoid schizophrenia. This is in their words, not mine. They're saying that I said this. No, this is what the police told them. This is what their police people told them. I didn't go and tell them that I suffer, the police went and told them this.

I told them this when I was there, but they already knew that, but they didn't want to say that. They said Oh, we don't remember you saying that and then Charles Morrison said, yes, we talked about that, but it was only like a couple of times. It was only a couple of times.

And then Mr. Colin D. Bailey, he contradicts everything they say. He said it took all three of these

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officers just to keep me on topic because the only thing I want to talk about was my problem of how I was illegally implanted with microchips. Why would they -- if I'm so anxious to speak with you, if I'm so anxious and willing and wanting to speak to them, why is it taking three officers to keep me on topic?

You heard from Mr. Shumard. They're stating that they tracked me through a phone. They're stating that -- you heard from Mr. Berube, Berube gave a four page -- four page court order. They wanted GPS. They wanted GPS on the phone if -- GPS on the phone existed. You're going to follow that phone and know exactly where that phone is. They're trying to say that it generalized area. GPS is GPS on a phone. They wanted incoming calls, outgoing calls, they wanted caller ID. They wanted -- they wanted everything. They wanted prior text messages. They was reading the text messages. They was reading the incoming and outgoing calls. They knew who was calling, when they was calling, where they were calling from. They had a four page, a four page court order where they was asking the carrier for all this information. That would have told them exactly where that phone was a month prior. So they would have been able to track that phone and see where that phone was at the time they allege -- that they allege these incidents happened. And if, if it was with my mom, then it

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would have been with her at work. It wouldn't have been moving around, it would have just been with her at work.

But they tried to say that they didn't get all this. They just wanted GPS, yet officer Warren Cavanaugh was referring messages back and forth in between SLED and Russell Shumard about when the phone was being used prior to when they claim that they even had the Court order. They said they got a special clearance to have the court order for the 31st to begin the 31st of March, March 31st 2014 they started watching the phone. That's what they claim. That's when the order was signed, it was signed the next day, April 1st. They was able to get it days ahead so they could start monitoring and watching the phone.

Yet they got information from the phone from the 29th of March. They got where it was used at, who called, what time they called, yet they stated they wasn't watching the phone at that time. So how are they going to have this information if they're not watching it at that time? And they're also asking for a map of where the phone has been at. Which, if -- if they would have gotten that, they would have seen exactly where the phone was. But due to their testimony, they didn't ask for that information. They only asked for GPS. Yet they have other information.

And the State asked if it's a conspiracy, if I feel like it's a conspiracy and I'm going to have to say -- and

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I'm going the have to say yes, it is. It's a conspiracy. And their evidence, their evidence will show that.

The clerk of court, this guy went and took his order, after he got it signed by the judge, he said he took it and put it in the basket. They're supposed to give it to the clerk of court, but she's like there's somebody who takes all these orders and they take it and they file it in a specific order -- in a specific place with the rest of the orders. And then when this became an issue, they called SLED and asked them, Hey, you guys have this order. They said, we don't even know what you're talking about. They don't have that, but yet they come up with some copy, they come up with a copy of this that they -- the day the trial begins, might have been the second day after I requested this information to see the Court order. And they don't even have it.

You heard from Rachel Grant, their DNA expert. She testified that there is somebody else's DNA, but it's too weak for a match right above Ms. Hurshman's vagina. It doesn't match me. It doesn't match her husband. Part of it matches her. It doesn't match anybody that was tested. And they can't say that it was artifacts because as I questioned Mr. Amick, wouldn't it be retested, re amplified to see if it's an artifact or not and he said yes.

And I said well, was it re amplified and it was re

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amplified. And the same DNA, the same DNA was present and the reason why they now provide it is to see if it's DNA or if it's an element and it still came back, so therefore, the probability of it, or in their words probability is that it's actually somebody else's DNA. And even if it is too weak for a match, it still does not represent mine, it doesn't represent hers, it doesn't represent her husband's, it doesn't represent anyone's that was tested.

You heard her state that the phone cover was a match. They said there was a match, yet, Mr. Amick even said there's not a match. It's a probability test and he even stated just as my DNA expert, Ms. Word, Dr. Word said that these probability tests can only be accurate if you have an exact number of contributors who have contributed. And even as Mr. Amick testified that it's a complex mixture.

They can't -- they can say, okay, well he can't be excluded, but also, I can't be included. Because they don't know. This is just a probability test that it's highly likely or is unlikely. Just like he said, you can get 100 different people, 100 different DNA experts and they're probably going to have 100 different opinions as to how it's done. And the thing about it is, is with this DNA, they misrepresented the DNA. They didn't say that there was someone else's DNA present on Ms. Hurshman. They

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didn't say that there's other DNA present on the phone cover that's not testing from any others. There's other alleles from other people on it.

My DNA expert came and stated that they never -- they suppressed that -- they withheld that information they actually misrepresented the facts and stated that it's like the DNA they found on her was like the victims. They didn't sate that there was another person present. They misrepresented that.

They attacked the credibility and the experience of Dr. Word. Dr. Word is not a technician, she doesn't run tests as she testified. Her job has always been to make sure that what's being ran is ran correctly. And what's being said, it's being stated correctly. Her job is to read and how it's being said and what's this and what's that. And she knows these programs, she may not -- she might not -- she might not work this program, but she knows what they do and she knows how they work, therefore, when they work them, she knows what to look for and how they came to this number.

And as she stated, the only way they can come up with this number is if they have a match or if they have a number of people who contributed to this match. They can't say how many people's in this match or how many people's in this mixture. They can't say that. They can't say -- they

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can't say who's in there or who's not in there. They can't even -- Ms. Grant tried to say that she can break it down, but yet in her on wording, in her own report, she can't -- she says she can't tell if the family members are included or excluded in this mixture so that's saying she doesn't know who's in this mixture.

But they do know that I can't be excluded. They do know that. They know that because of their probability tests. And as Ms. -- Dr. Word testifies, there's no way that you can say it should have been ruled inconclusive. The DNA should have been ruled inconclusive because there's no way to tell who's in there.

You can't say that I'm in there and you can't say that I'm not in there. We don't know who's in it. They don't even know if the family's in there because it's just a mixture, it's a complex mixture of a bunch of DNA mixed together.

And as I stated, Dr. Word, she's the one, she came with her opinion and she requested additional information. When I requested that from the State, they took that information and requested that it -- that things be redone, things be changed, retested. They didn't get me that test last Wednesday; they've had that test. They could have ran that test months ago, last year. They started in like 2015, I think that Dr. Amick said that they got that

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testing, they started using that testing. They could have ran it last year. But no, they wanted to run it after the DNA expert, Dr. Word, the one that they claim doesn't -- lacks experience, doesn't know what she's talking about, and doesn't -- doesn't know the program. She had a two hour workshop, but yet, she stated exactly how it works. She knows exactly how it works.

She knows what it does, she knows what it's for and she -- she stated that she knows that it's wrong because just as the reports from even Mr. Amick stated it's only accurate if you know the exact numbers of the contributors. And if you don't know the exact number of contributors, it's not going to be able to read an accurate number.

They can have all the numbers they want, but they don't have a match as the State promised you at the beginning. The State promised you that they was going to have a match with a 99.999 percent chance that it's me. They don't have that. They have a probability test that's ran by a computer and that computer just runs numbers based on what it's fed. It doesn't -- it's a complex mixture as I stated. They don't even know how many people was in there. It's the victim's phone, it's their family's phone and they can't even tell you if you're in it. They can't even tell you that it's their DNA on their own phone. But yet she told you that she can break down this mixture and

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tell how many people was in there but yet she didn't and she can't because it's a complex mixture.

As Ms. Tross hesitated with her she just -- she could not give an accurate description. Without all the records, without all my history, without knowing all the facts pertaining to even just the circumstances that she testified to, she had -- she had the hospital record that didn't even have all the reports in it. She had her police record that didn't even have all the reports in it. She didn't have my full history. There's no way that she can come to an accurate conclusion without knowing a complete history, especially a mental health. Mental health is a complete history. It goes from the onset to the present and it goes from -- from childhood, when he was a child, did he take medication? Did he have special needs, did he have -- was he held back, was he on medication, did he have traumatic experiences; and it goes all the way up to the present. She doesn't have any of that.

She claimed that she had enough evidence off of what she had, but what she had was not even the full report. It wasn't accurate and she misquotes everything that I said. She misquotes what my mother told her. She misquotes -- she misquotes the reports that was given to her. And in my complaint I stated that. I stated that I never told her that I did this. The only thing I know

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about this is what I've read from the reports. I never told her that I knew anything about this. I don't know nothing about that.

The only thing that I know about this is what I read from the police reports. And that's what I told her and that's what I told her and I told that in my complaint they wrote. It wasn't because of the decision. Her whole decision was based off of inaccurate misrepresentations of the records. And I stated that in my complaint as well.

They went over saying the evidence, the evidence before you and they also spoke to the credibility of the witnesses. And they also wrote to -- it's pretty much -- they also went into what the judge allows into evidence and as they state, some of the stuff was allowed in later on and it wasn't allowed in later on because I had to make a defense for myself and defend myself against unrelated incidents; and therefore, that's how it came in. That's how this other evidence came in.

And they talk about the credibility of Elexia Tucker. Ms. Tucker's gave false testimony, not only on the stand, but also to the police. She changed her story this time. When she testified this time to she knew who I was when she got home and asked her dad. She told the police that it was an unknown male, that she didn't know who it was. Her dad testified that he didn't even know who I am,

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yet, he's the one who told his daughter my name.

As I told you they're trying to confuse you. They're trying to misrepresent the facts, misrepresent the evidence. They're stating that it's -- she even stated don't let this divert your attention because even if the waters have been muddied, I don't know how that could have happened, but please don't let that -- your attention be diverted just because of them trying to say that I'm making excuses. I'm not making excuses as I stated. My mental health comes into factor on the voluntariness of my statement and the voluntariness of -- just because initially someone waives their right as their, their board that they showed you states. That voluntariness ends when circumstances arise that would -- that would show that a person's will was overborne for self-incrimination. And at that time, the voluntariness of that waiver, that waiver would be inadmissible and that's my argument. That's always been my argument is the voluntariness of that statement because as they stated as well, that a person can't be promised anything for their statement. They can't be coerced, they can't feel threatened, they can't be threatened, however slight or directly or indirectly implied duress.

A person can't -- can't be in a situation where he doesn't want to be in and be forced to give compelling --

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be compelled to give a statement against his will. And that has always been my standpoint on the voluntariness of the statement, not as to me making excuses for any actions. As you heard me yesterday, I wasn't even there. And they try to -- they try to say bluff, well, where's he at? What's his name? And I told them with the police, his own handwriting, where I told them that. I told them that previously. And as they would say, do you see him in the courtroom? Did you see him on the stand? I gave them the name of the person who I was with. I told them that I was not there. I told them that on the day that they arrested me. But the cops did not want to hear that. The cops only care about the same thing that they all care about and that goes back to Miranda and all the case law and cases. Their whole objective is to secure and to obtain a confession. That's their whole -- it doesn't matter if a person 's guilty or not. It doesn't matter, the police -- their whole objective is to obtain a confession and then the person's rights can be -- okay, now we're going to give you something to eat, now we're going the give you something to drink. Now that we have no use for you. We're going to help you out. We're going to show these to the solicitor. That's where my mental health came into factor.

That's where all the testimony from my whole -- that the whole time I wanted medical attention. My

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statement states I only want to get help to resolve this. I only want to be able to show the police that what I'm saying is the truth. How am I going to do that by giving a statement if I wasn't promised medical attention? I wasn't promised help, how am I going the give a statement and prove to everyone that I have microchips in my head? Just because I was so anxious to give a statement that I'm going the resolve everything? My issues are going to be resolved?

I -- they went over criminal sexual conduct in the first degree. They went over all that. That also takes evidence. Ms. Hurshman was touched by force, she was grabbed on her breast, she was wrapped up with cords, she was -- they don't have no fingerprints, they don't have no DNA that matches me, connecting me to her -- they have DNA from somebody else on her above her vagina.

She -- she could not identify me. They state all these apply to me. They went over the list of the person's degree of attention, how long they got to see this person, the lighting, all that -- all that stuff according to the law. And it also, in the law, states that a person's degree of attention who's a victim of a crime is more acute. They're more aware. They know -- they know what's going on more likely than just a normal person just seeing somebody walking by.

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Ms. Hurshman had a gun pointed in her face. She had a hammer threatened to bash her head in. She seen this guy, she seen -- she smelled him, seen his eyes and still did not pick me out of a photo lineup. She stated that she begs you to take into consideration their credibility. I don't understand what credibility she's talking about. Credibility means that you have trustworthy, reliable, dependable testimony. That's something that she hasn't been able to offer this whole time.

As I stated, she doesn't know the difference between a penis and a finger. She doesn't know the difference between the right hand and the left hand. She stated on the stand that the person came in with a gun in his right hand, pointed in her face. When she originally gave her statement, she said that it was in his left hand which would make the person more than likely left-handed.

But she has been able to and allowed, not only able to -- or she's been encouraged to fabricate her story. Her story has gradually continually changed. She went from attempting to be entered with a penis and then she went to she was raped from behind with a penis and then she went to, no it was just a finger. And now she's back to it's just a finger.

And not only was the opinion allowed to contradict herself and -- you take these mere inconsistencies, these

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are material facts. These are material facts that they have not only been allowed to -- they've been encouraged to fabricate the story. They've been encouraged to exaggerate the facts. Not only that, they've been allowed, knowing that their testimony is false, they're giving false testimony.

The credibility of which witness? The police? The police can't even state their own reports correctly. They got half of their reports -- they've got to have their reports just so they know what I'm talking about.

The credibility of Ms. Culpepper, Ms. -- she didn't even give and accurate description of me looking at me. She can't even tell you -- well, I guess she can now, but she's lived in Forest Acres for 23 years and she doesn't remember the exact location where she saw me at. And she says she drives that area every day to take her kids to school. But she can't tell me the exact location of where she saw me at.

The credibility of Colin D. Bailey. Colin D. Bailey doesn't even understand his own reports. He doesn't even know what he's talking about by his own reports. He's changed his story almost every time he's testified. He's changed his story against his own reports and then when I show him where he's stated something that's on his report, then he still continues to make excuses of why he's making

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false reports now. I explained to him why is that -- why don't what you're saying match up with your report and then he goes into making excuses as to why he's changing his story. Well, at that time, you told me this and that's why I did that because you told me this.

Well, if I told you that, why is that not in the statement that I wrote? Oh well, you agreed to give me a verbal statement. Well, I didn't want to do a written statement, why would I want to do a verbal statement? I didn't want to talk to you. I didn't even want to speak to you. I told him I was at the house, I know them people. He doesn't state that in his report. I told him there was a guy, there was a guy there that seen me, that knows me -- doesn't know me, but knows that I was there. He doesn't go back and ask Ms. Tucker as he testified. But she said that he did.

She goes back and tells the dad, asked his dad about him and the dad said, Yeah, he doesn't want to cooperate. Well, here's the number, but the guy doesn't even want to cooperate. Your best friend, your best friend's house has been broken into. His daughter's been abducted at knife point and taken and raped in your best friend's car and you don't even want to tell the police you didn't see nothing? You don't even want to talk to the police and help your best friend out and his daughter?

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They're stating that it's offensive. The crimes are offensive. The crimes are offensive. The thing about it is though crimes like that consist of evidence. Crimes like that consist of proof. They don't have that. They don't have any proof. They don't -- my presence -- Investigator Berube consists of whoever did that to him, they still have to prove beyond a reasonable doubt that the person was actually there. And according to the witnesses, Kendall Decker can't put me inside that house. He didn't see me inside that house.

Ashley Culpepper, she seen me -- if she did see me a mile and a half down the street. Ms. McRae, she claims that she saw me with a bunch of other parents waiting for the school bus, she's the only one who saw the South Carolina jacket. And even if she did see me, she can't put me inside that house.

Ms. Hurshman can't even put me inside the house. L.H. can't put me inside the house. They told the police it wasn't me. They didn't identify me. Commits multiple crimes, they said. As I stated before, Ms. -- the Tucker case, they won't go the trial with that because they don't have the evidence to go to trial. The whole purpose for that case is simply for this purpose to attempt to incriminate me to make me look like a prior bad act, like I have -- like I have a history of that to -- I've done that

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before.

Again, I'm not convicted of that crime. I've asked to go to trial for that crime. I want to go the trial for that crime; yet I haven't. So therefore, that makes that crime simply just allegations. Allegations with no evidence, perjured testimony, and they don't have a date. They can't even say, Hey, they've got an officer who says Oh, I seen the phone and it corroborates. When I questioned what was the corroborating evidence, what did he say. He couldn't say what he said, he said that something happened. What happened? She didn't tell her girlfriend that she was just abducted? She didn't tell her girlfriend that she was just raped? As soon as she got home, what did she say? He didn't say none of that, he just said something happened. What happened? But he couldn't say that -- he can't say that. They're trying to -- as I stated at the beginning, they're going to use a lot of words to try to -- to try to cause prejudice towards me, to try to cause you guys to feel a certain way. They used guns on children, they used tying up children, they used raping, knowing -- yeah tying kids up, raping people in front of their mother, in front of the kids, the kids are right there. They're using all these terminology, you know, these words to try to incite, incite anger. They're trying to make you guys -- make you want to feel a certain

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type of way towards me. So therefore, they have brought in all this other evidence, all this police testimony and all these false testimony to make it seem like, Oh, he's faking, he's malingering, he's trying to get away with stuff. He's trying to -- he's trying to -- he has these mental, fake mental illnesses that he's trying to get away with stuff.

He's just trying to get some disability. Well, disability had nothing to do with these crimes. And mental illnesses has nothing to do with these crimes either. My -- as I stated, my mental health comes into factor with the police and the police reports. That's it. I never tied anyone up. I never wanted to control these people. I never wanted to hurt these people. I never did none of that stuff.

And I never wanted to rape and rob them. Ms. Hurshman -- the rings, as far as the rings go, Ms. Hurshman when I entered her -- her -- her statement from when she made pertaining to the rings, she said -- at first she said her husband's -- she said that her husband's ring was missing. She gave a description of a ring to the police and then she said the next day she went down and she changed that statement again. She says now she's missing two rings. And then after that, during her testimony, previous testimony she said that she never seen anything

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taken. She didn't see nothing taken. She seen her jewelry box being looked into and something taken -- she didn't know what it was, but something was taken. Which contradicts what she stated. And also she was shown pictures the next day and when she was shown pictures, she still gave an inaccurate description of the rings after looking at them in a picture.

She stated that it was a different color, that it had a notch in it that cut her husband. You heard from Investigator Morrison that there is no notch on there. There is no discoloration. She changed her story that the other ring could have possibly been somewhere else, she didn't know where it was, which I think she goes and she testified that she indicates he didn't take them.

She stated that you can't dissect a person's brain and that this case reeks of criminal intent. They have to -- a person's intent, they'd have to know what a person's doing in order to say that that's what he intended to do. So if a person says that they didn't do it and then even with an involuntary statement, they still -- which makes it voluntary, they can't -- still can't say -- they really can't -- there's no way to prove intent unless exactly like she said, you can get into someone's brain. She stated that it doesn't get anymore criminal than this.

I don't -- I would agree with that as far as the

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police how they conducted their search, how they violated their own laws, how they violated my rights. It doesn't get more criminal than this. From their evidence and from their testimony, it shows that I've been targeted, that I've been illegally sought; I've been illegally placed into a photo lineup and led to believe that I'm the person that did this. I've been -- and that's not just from what I'm saying, what I'm saying, that's their own testimony, that's their own evidence.

You heard from officers who said that he's received a call and I became a suspect. You've heard from an officer who made that call. They make a photo lineup that doesn't even go with their policy. It's not even a fair -- this whole thing is supposed to -- it's supposed to be based off of features. There's supposed to be similar attributes, same race. There's supposed to be similarities. I'm the only person on there with a tattoo and they try to say, Well, you can't see your neck. Well, you can clearly see everybody else's neck. You can clearly see above my eye, especially in Ms. Tucker's case. I'm the only one with a tattoo above my eye, which is highly suggestive.

Even if she claims she didn't know me, but yet she told the police well, He has a tattoo above his eye and one on his neck, but yet, they show her a photo lineup and I'm

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to only one with a tattoo above his eye. But not only that, as she testified and as I said, the officer, Mr. Colin D. Bailey told her that the guy's in there, according to her own testimony, which is highly suggestive, which they're not supposed to do. And that's where it boils down to, again, identification. She stated that it goes to credibility.

There is no -- these people don't have no credibility. Credibility takes truthworthiness. It takes telling the truth consistently; telling the truth, not when your story consistently changes every time you testify, you've got something else to add, where you need or when you testify later on, you're adding more into it. You're exaggerating from what you said before, Oh, you know, she originally -- like Ms. Culpepper, she stated that she just saw me just by my face. When she gets on the stand this time, she saw sweat running down my face. She's exaggerating, I looked like some kind of trouble. He's a bad guy. He was a bad guy. Supposedly she just drove right past me and she seen all that. She said his own statement, his own statement he admits to -- to doing these things as that goes back to what I'm saying, with the voluntariness it goes to that according to even their own board, what she showed you.

Trying to minimize, she said. I tried to minimize

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when I didn't try to minimize anything. The only thing I'm trying to -- that I asked for was medical attention. My whole thing was obtaining medical attention. You never minimized or tried to -- tried to state anything. The only thing I stated was I needed medical attention. I wanted medical help.

She stated that there was no intimidation. Well, she clearly, Ms. Campbell clearly showed you how they intimidate people. She showed you that when Dr. Carroll testified how she was intimidating her --

THE COURT: Dr. Carroll?

MR. MARTINEZ: Or Dr. Word I mean.

THE COURT: Thank you.

MR. MARTINEZ: Charlotte Word, how when she was testifying how she was treating her, disrespectful towards her. She showed you the intimidation, how they talk to people. They asked me where's my mother, where's my brother at. Well, my mother and my brother can't be in the courtroom. Well they can, but they have altercations with these -- my mother feels intimidated. She doesn't like to be here because of that, because of the intimidation factor.

THE COURT: That's not in the record.

MR. MARTINEZ: It was on the record when she got to come over here and speak.

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THE COURT: Not before the jury. That is not in the record in this case. It's not to be in any way stated to the jury.

MR. MARTINEZ: All right.

THE COURT: The jury was not in the courtroom, Mr. Martinez.

MR. MARTINEZ: They go and speak about the mental ability of the suspect -- of me. Well, let's go, not from my words but from their own words and their diagnosis of me and from what people told them. That was their words. That's their reports, that was their -- they're the ones that stated that. They said, yeah, I told him that at the time but previously before that they knew about my mental health issues. They knew about that. They talked about the background, the environment at the time of the statement. My background is no issue. You don't trust cops. I live in fear of my life from police because they -- they have implanted a device in my head and they're trying to drive me crazy so I will commit suicide and they've done that for the -- since 2012 and they know that and they have taken advantage of that.

As well as the environment that they claim, the environment was a police dominated atmosphere to where there's three police in a room where I'm cuffed and they're telling me that I have to -- that I have to cooperate.

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They're telling me if I want medical attention that I have to cooperate with them.

They state that I was bragging about being on TV. I don't even remember telling them anything about being on TV. I didn't even know why I was under arrest. I didn't even know why I was at their place. They wouldn't tell me. They just came and said -- they arrested me and took me there.

So as far as me bragging, I didn't do no bragging or even stated that I knew why I was there. She states that my rights -- my rights were clearly not followed according to Miranda and according to their little chart that they showed because they took advantage of me psychologically and they coerced me with not only the cigarettes, which they denied -- one of them denied, the other ones stated that, yeah, there was. Previously they said no there wasn't no cigarettes, but when they got their notes an I cross-examined what their previous testimony, they changed their stories to, yes, there was. And that coercion and inconsistencies and the police's statements and their treatment of me goes to show that my statement wasn't given voluntarily. And they claim that they just did their jobs. And they didn't even -- they didn't do their jobs.

Their job consisted of police calling and telling

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them that I was a suspect. That was their job. That's how they did their job. And from their reports, they already had it planned out they was going to bring me to the station. They was going to get a confession, they was going to do whatever it took to get my waiver -- the waiver signed. They had that filled out through their own testimony previously before I even got there. They already knew that they were going to secure a waiver. They was going to do what it took to secure that waiver. They had an address that I didn't even live at. I never gave them that information.

They state that nothing would suggest his will was impaired. From the police's record, from the police's testimony, you heard Mr. Shumard state that I may have spoke about my concerns maybe once or twice. You heard Mr. Morrison state that it was only like a couple of times. Then you heard Mr. Colin D. Bailey testify that, yeah, I continuously spoke about my issues. And in his own writing, in his own report, he states that although it took three investigators to keep Mr. Martinez on topic because the only thing he wanted to talk about was his problems that he suffer -- that he has -- by being illegally tracked by the Utah police where they had implanted devices in his head and that he has the cut -- attempted to cut the device out of his head himself.

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Now, if that doesn't suggest that a person's will is impaired, then I don't -- I don't understand why a person is so anxious as they claim to confess, why would it take three officers to keep him on topic? When the only thing that I want to talk about was microchips. That's really logical. That pertains to some burglaries and stuff like that. All I wanted was those medical tests, as I stated in my statement.

She stated that she wants a verdict that speaks the truth. As I stated, I wish they knew what the truth was. That way they could act what they preach.

They said, I beg you to judge Briona's and L.H. 's credibility. I agree with that. I beg you as they do to judge Briona and L.H. 's credibility. They do not identify me. They then went to the police and said it was me. They came two and a half years later with the fabricated story of some Facebook, Google search that they never reported to the police. They never reported to anyone. They had opportunity to report it to the police on both locations. Her husband, Mr. Vanguard had every opportunity, sexual trauma, to victim's advocates, to police, to the State. They never came forward with this information.

The police had photographs of me. They never went to them and copied them. They never went to show them these pictures, it's this guy. They never did none of

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that. They never -- they was around these police. They never came and told them anything until maybe two months ago. Fly over here from California when they was court ordered they didn't even want -- Ms. Campbell had to subpoena the sexual trauma place to get the records and the sexual trauma people had to tell Ms. Hurshman that she had to comply.

THE COURT: That certain statute is titled under 44-53 of the South Carolina Code of Laws requires certain procedures must be followed and certain medical records are to be obtained. It also goes hand in hand with HIPAA, U.S. federal law.

You may continue, Mr. Martinez.

MR. MARTINEZ: They talk about bias, prejudice, or gain or something to lose and that is what they're trying to do with -- with all of you. They're trying to cause a bias, they're trying to cause prejudice, they're using all these words and we all have something to gain or to lose from this. And my whole, as with them, I would ask that you give a verdict that speaks the truth according to not what was said but by the credibility of their witnesses and the credibility of the State.

It's unreliable as with the police. You know trustworthy. They're trying to say that Elexia Tucker is in on this conspiracy. Ms. Tucker has given false,

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perjured testimony. I'm not saying she's in on any conspiracy, I'm just stating the facts of the matter. And it's true some people do suffer from mental illnesses, delusions and as I testified, I can't diagnose myself and state that, but I have records that will reflect what other people have said about me and the thing about, about doctors is each one has their own opinion. Every doctor has their own opinion. They're relying upon Ms. Tross, whose opinion is directly -- she's hired by the State, she worked for the State. She doesn't have all the records. Her diagnosis came out inaccurate because she doesn't have all the facts. So she can't understand or know how to, to know what's going on with me or know what's happening with me if she didn't know all the facts.

They also state Mr. Chavez and if what they're saying is true, then he's committing malpractice because he's prescribing like five medications. I guess he's prescribing me this just because they said I needed them. So if that's the case, he's committing malpractice by just giving me all those psychotropic medications for mental illnesses that I don't really have, just by stating I have. He's just providing me medication just because I state that I have them.

They also misrepresented the facts with my mom. My mom didn't tell me I need to get out and get a job or get

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disability. My mom was concerned about me because of me wanting to return home and deal with the situation on my own because I was tired of living with the voices in my head and not being able to get the medical attention that I needed. I was frustrated. So my mom went to the police and explained to the police my situation. It wasn't a -- it wasn't an issue that they were trying to make seen that I was forced to get, get a job or to get disability. My mom was more concerned about me going to get in trouble. She wanted me to go and deal with the police like I intended to.

So she went to Heidi Jackson and Heidi Jackson took me to the mental places and as I stated before, it wasn't -- it had nothing to do with malingering, faking nothing. They diagnosed me off of what's available there. They never gave those tests. They never ran those -- they never ran any kind of test on me. They only stated what somebody else said about me.

Again, they went to L.H. and Briona stating that the person did go in there and say I'm doing this because microchips are making me or this and that trying to say that a person was suffering from delusional experience, or at the time of the crime. I never -- I never -- she -- they went over the verdicts and the verdicts was just barely agreed upon last night.

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THE COURT: The charges do not have to be agreed upon after the close of all the testimony in the Rules of Civil Procedure.

MR. MARTINEZ: What about the insanity.

THE COURT: The charges, all the charges do not have to be agreed upon under the Rules of Criminal Procedure until the close of all of the evidence unless the judge in his discretion set an earlier time. The charges are not the State's, they're not the defense. They're the Court's.

MR. MARTINEZ: Okay.

THE COURT: There's no set period of time prior to the close of all of the evidence unless in my discretion I require that. That's something I have to do. That doesn't go to you or the State whatsoever.

MR. MARTINEZ: All right.

THE COURT: Okay. Thank you, thank you, Mr. Martinez.

MR. MARTINEZ: Well, pardon me, the judge decided to charge -- the added charge besides guilty and not guilty. That was not -- I was given the option beforehand to plead insanity and they said I have to prove that beyond a reasonable doubt.

THE COURT: And Mr. Martinez, under the rules, any offers that may or may not have been given are not

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admissible under the rules of evidence. I want to say it's 408, but I could be wrong in that regard, but that's not admissible and that will not be an issue before the jury, your determination and your consideration of the facts in the case.

MR. MARTINEZ: The solicitor made it seem like I was looking for an excuse to --

THE COURT: All right. You can address -- you certainly can address the comments by the solicitor, but perhaps I wasn't tracking properly when you said they offered in that way.

MR. MARTINEZ: And they --

THE COURT: You may address the jury.

MR. MARTINEZ: Okay.

THE COURT: I'm not trying to -- to limit or intimidate you in any manner whatsoever. If you give me a ballpark idea how much longer you think you'll be? And you -- Mr. Martinez, with that being said, you take all the time you want, but can you give me a ballpark idea.

MR. MARTINEZ: About 15 more minutes.

THE COURT: Let's -- our jury's lunch is here.

MR. MARTINEZ: Okay.

THE COURT: Let's let our jury take their luncheon recess. Do not discuss the case during this brief recess. I'll say an hour, ladies and gentlemen, about quarter till

1703

two. If you want to take a walk about, feel free to do so. Thank you. Thank you very much.

(The jury left the courtroom at 12:45 p.m.)

THE COURT: And again, Mr. Martinez, I'm not limiting your time in any manner whatsoever. I understand it's an important case. It's an important case to you, it's an important case to the State. I realize the stakes are high. The stakes are high.

MR. MARTINEZ: Yeah.

THE COURT: And I understand that so I don't want you to feel that I cut you off in any manner. Sometimes the mind can only comprehend what the seat can endure so to speak and they appeared that they needed a break. It's just because of the timing not because of you whatsoever. You understand?

MR. MARTINEZ: Yes, sir.

THE COURT: And as far as your mom in the conversation I had with her, I hope your mother didn't feel intimidated because quite frankly, I had a delightful conversation with her. I wasn't trying to intimidate her at all. I do try -- you know, I do try the maintain the decorum and the dignity in the courtroom. I had one excluded from the courtroom that's not associated with you or the State and I had two other individuals admonished about they wanted to speak. They wanted to talk to each

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other, they could go outside and talk. I didn't want to divert the jury's attention or my attention in the case. All right?

Solicitor?

MS. CAMPBELL: Your Honor, can I put -- he has just put in front of this jury to let him plead not guilty by reason of insanity which is untrue. Never happened. Not proper before this jury. We would ask for some kind of curative instruction. Additionally, he has eluded that the charges, we just decided on not guilty by reason of insanity and the GBMI, that's at his request. He's the one that said he wanted those charges.

THE COURT: Well --

MS. CAMPBELL: It's just inaccurate and untrue what he's saying to this jury. Especially that about any plea offers.

THE COURT: I understand about the plea offers and I will give a curative instruction in that regard.

MS. CAMPBELL: But even if you give a curative instruction saying Oh, any plea offer should not be considered, he's now put it in front of this jury that there was a plea offer to plead not guilty by reason of insanity, which is not true. I mean is he -- at this point is he trying to cause a mistrial? I don't know. Simply now this jury thinks that I offered to let him plea to not

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guilty by reason of insanity or someone in my office did? That's a cross misstatement and highly prejudicial to the State.

THE COURT: Thank you, Solicitor.

Mr. Martinez?

MR. MARTINEZ: I never said that. I said there was a charge. I never said they offered me to plead guilty by reason of insanity. I never stated that I wanted to plead guilty.

THE COURT: Well, that's still -- I deny your motion for a mistrial. I'm not granting a mistrial. I'll give an instruction to the extent that it was a misunderstanding as to charges and as to plea offers there are no plea offers, there were no plea offers. It was just the semantics of the charges versus offers. Again, the charge is my charge. It's not the State's charge, not the defense charge. I have the obligation to charge the law and it doesn't matter when it comes up I'll read in the rule.

I can hear from the State and I can consider what y'all want to charge, of course, as y'all know my decision was based on this record before this jury in this case, that it's appropriate to charge all four forms of verdicts.

Under the law as I understand it or misunderstand it, but it's my charge and I will explain to the jury --

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you agree, Mr. Martinez there has been no offer for you to plead not guilty by reason of insanity.

MR. MARTINEZ: Yes, sir, I never said that.

THE COURT: Yes, sir. Well I mean you agree there's never been an offer for you to plea.

MR. MARTINEZ: Yes, sir.

THE COURT: To not guilty -- to enter -- to enter a plea to whatever the nature of that plea is of not guilty by reason of insanity?

MR. MARTINEZ: Yes, sir.

THE COURT: Okay. All right. Anything else.

MR. MARTINEZ: No, sir.

THE COURT: And how much longer did you tell me you were going to be? 15 minutes or 50? I apologize. I just didn't quite --

MR. MARTINEZ: Probably about 15, 20 minutes.

THE COURT: All right. And like I say I'm not limiting your time. I'm going to take our recess --

Anything further, Solicitor?

MS. CAMPBELL: No, sir.

THE COURT: Thank you. Thank you very much. Court will be in recess until quarter till.

(A recess for lunch was observed.)

THE COURT: All right. Anything from the State, Solicitor?

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MS. WALKER: Briefly, Your Honor. Mr. Martinez asked where Marc Powell was. That was one of the questions that he asked the jury. The first time he raised Marc Powell as an alibi was when our case in chief and our reply case were over. The only person that the point in time who could have called Marc Powell to the stand to corroborate his story is him. And so I think at this point I should be allowed to respond to that question.

THE COURT: I think it's shifting the burden. He had no burden whatsoever to prove himself innocent. He has no burden to call any witnesses or present any testimony.

MS. WALKER: So I can't respond to that during our statement.

THE COURT: I think I just ruled.

MS. WALKER: Okay.

THE COURT: Anything from the defense, Mr. Martinez?

MR. MARTINEZ: No, sir.

THE COURT: Are y'all waiting on any other --

MS. CAMPBELL: Your Honor, our victims are on their way in. We can go ahead and start if you will allow them to walk in after -- I just don't want to violate the Court's rules. And it's my fault. I should have told them to be back at quarter till.

THE COURT: So as far as you know they're on the

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way.

MS. CAMPBELL: Yes, they're just upstairs, so they should walk in any second.

THE COURT: All right. We'll wait on them. We'll wait on them.

(There was a pause in the proceedings.)

THE COURT: Now, Solicitor, you can certainly comment on the record that's in evidence, Solicitor Walker, the testimony. You can't -- there can't be any burden placed on Mr. Martinez or any defendant hasn't produced that witness.

MR. MARTINEZ: Your Honor?

THE COURT: Sir.

MR. MARTINEZ: I stated that Ms. Walker -- yesterday, Ms. Walker is the one who questioned me about where I was at.

THE COURT: She stated that also.

MR. MARTINEZ: She's the one that said she was going to go get Mr. Marc Powell. I never said that. She said she was going to go call him.

THE COURT: I understand. I'm not trying to cut you off. Go ahead. I understand that it came up towards the end your cross-examination by Ms. Walker, where you'd been at the McDonalds on Beltline, waiting to meet Mr. Marc M-A-R-C, Powell and he was a friend of yours and it was

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around 7:30, or what have you. And he lived on Covenant Road and he had recently moved and you described him along with his age and you hadn't been in touch with him for a while.

I understand she brought that up, but that's still in the record. My rule is you or any criminal defendant has no burden of proving himself innocent. But she can comment on what's in the record. What's in the record.

MR. MARTINEZ: Okay.

THE COURT: Because it's in the record. It was asked and you testified to it.

MR. MARTINEZ: Yes, sir.

THE COURT: All right.

MR. MARTINEZ: Thank you.

THE COURT: Thank you.

(There was a pause in the proceedings.)

(The jury entered the courtroom at 1:52 p.m.)

THE BAILIFF: Your Honor, the jury is present.

THE COURT: Thank you. Thank you very much.

Ladies and gentlemen of the jury panel, welcome back. I hope y'all have had a pleasant lunch. As an initial matter, just prior to our break, there was a statement placed in the record that there was a plea offer made to one of the particular forms of verdict. That is not correct. That's not a fact at issue in the record of

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this case. There was not one. There is not one. I think it was a matter of semantics, however, I did go back and have my court reporter check that that was the language that was used.

At the conclusion to have closing arguments, I have do what is known as charge you or instruct you on the law that you would apply -- you've heard me say this before -- to the facts of the case as you find those facts to be. That's my responsibility. That's my duty as the trial judge in this case, among other responsibilities, obviously.

But it's my charge and I charge the entire criminal law, both general that applies to all cases and the specifics as to the charges in the indictments and any and all potential defenses that may apply. It doesn't mean they apply, it means you find the facts, you take the arguments, apply your facts to the standards of the law as I tell you it will be and you make that decision based on your verdicts in the case. But, again, no plea offer -- and I'm charged with the responsibility as I would state it to the parties because they know, all requests for legal instructions to the jury shall be submitted at the close of the evidence or at such earlier times the trial judge shall reasonably direct. All requests must include accurate citation of authority and then I decide -- I decide, it's

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the Court's instructions to you, not the parties instruction to you. And so any, any -- there should be no question, no discussion whatsoever as to any plea offers. There are no plea offers. There have been no plea offers. It's a jury trial. The jury is the fact finders based on the law as I tell you the law is.

All right. Mr. Martinez, you may continue your closing argument to the jury.

MR. MARTINEZ: Thank you.

THE COURT: Yes, sir.

MR. MARTINEZ: Ladies and gentlemen of the jury, Ms. Campbell was telling you guys that I'm trying to make excuses or that I'm trying to avoid and I'm trying to avoid prosecution or state that I have, as she stated, the voices give him rise to do whatever he wanted. That is not true. She states that, don't let insanity divert you from the truth. She states that, that the experts testified to me not having any symptoms at the time of the alleged crimes. And as I stated, I make no excuses. I'm not offering no excuses. My facts and my medical issues are not no excuse to do or think or whatever act as she was state -- and as a skilled person knowing what they're doing.

A skilled person is not -- I'll say stupid enough to go and steal something and then go and pawn that in their own name and act like it's nothing. That's not very

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skilled of someone to do that. As well as not very skilled for someone to just be running down the street with a very distinguishable marks right down the main street of this road where kids and people -- as they stated where kids and people were at. And as she -- I don't know where she came to the conclusion that what I'm hoping for of this -- these different pleas, as I stated my whole -- based on the facts, based on the evidence, the voluntariness of my statement is not voluntary and that's where my mental health issues come into factor and with insanity, as they state, it comes into play at the time of the commission of the incident and also -- not only that, but also the person's symptoms have to be directly related with the situation, which it was.

I live in fear of my life from the police. The police knew this and the police took advantage of that. And according to their statements, it states that -- she states that I have a bad personality, that I have an antisocial disorder. She also doesn't state that I have multiple disorders, such as paranoid schizophrenia, such as depression, such as bipolar. And she doesn't state that. She states that I'm antisocial and that I don't care about other people. Yet I'm at the hospital asking for help because I don't want to hurt myself, because I don't want to hurt other people; yet the voices are telling me to do

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that. I'm at the police, telling them that I don't want to hurt nobody.

So for them to say that I don't care or they just want to make excuses for actions that I didn't do is -- is not the truth. And especially for disability. They said that I was acting a specific way for disability when I one, even allowed to get disability because I -- for the simple fact that I wouldn't even go get a primary care physician. And also she said that he thought that he could get away. Hold him responsible. This comes down to evidence, proof. A person can come and say -- obviously, they can come and say whatever they want and get away with it. They can go up there and tell as many lies as they want and the thing about it is though is that they don't have the proof, they don't have the evidence to support what they're saying.

They don't have nothing to support what they're saying. They're -- not only do they have reports, they don't have their own testimony to support what they're saying and that's what it comes down to when they say credibility. A person who's credible does not contradict themselves, does not state different things every time that they're questioned about a specific issue that they're so confident about.

They know, I'm guaranteeing I know I seen this, I know I seen that, I know I seen him, I know it's this guy.

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But yet they can't even give an accurate description of me. They can't -- they couldn't even identify me. They couldn't do anything.

I agreed with the credibility as to what she's talking about. I ask that you take into consideration the credibility and base your verdict off the facts as -- not as to what people said but what the evidence they have to be able to prove what they said. Because what they said and what actually happened are not the same and I thank you guys, I thank all of you for your patience and for being here this week. Thank you.

THE COURT: Thank you. Thank you, Mr. Martinez.

Solicitor.

MS. WALKER: Thank you, Your Honor.

Good afternoon.

THE JURY: Good afternoon.

MS. WALKER: Two weeks ago, last Monday when y'all were on your way to the courthouse, there was no way that you knew or had any way of preparing yourself about the things that you were going to hear for the past two weeks. And quite frankly, there was no way for us to prepare ourselves either. We didn't know what the defense was going to be.

What's the defense when the victims are brave enough to come and confront you. To look you in your face

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and tell you what you did to them? What's the defense when you can't tie them up, when you can't put stuff around their mouth and you can't shove their own clothes in their mouth and they will stop talking. What's the defense to that? What's the defense when your DNA is in the house? What's the defense when people see you coming and going from the house? What's the defense when the man who you took the rings to the pawn comes in here and identifies you in court? What's the defense to raping a woman in front of her children? How do you defend the indefensible?

What we've learned here is the first thing you do is deny the evidence. Then you call victims liars. At the last moment, you make up an alibi. And when all of that's failed, you get up and filibuster for two hours.

Everything a jury could want and convict someone of these crimes is there. He's confessed to anyone who will listen. He's confessed to his own doctor. He confessed to law enforcement. He wrote a confession letter. His DNA was in the house. He's picked out of lineups. And to him, this is all a grand conspiracy because the Utah police, the Forest Acres police, the Richland County Sheriff's Department, the victims in the case, the witnesses in our community all got together and they conspired because they were going the set someone up for rape. And they didn't go with the president, they didn't go with Donald Trump, they

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didn't think about maybe setting the mayor up, they set up Nathan Martinez because he's that important. Out of all the people in the world, they decided to frame him.

There's absolutely no credibility to that. But before I talk to you about his witnesses and his defense, I want to talk to you about credible witnesses that came forward and told you what happened.

We had Charlisa McRae and he couldn't even say what she testified to. She never said there was a bunch of people who saw him out there. She said I know I saw him, I can't speak to what anyone else saw. There were people waiting for the school bus. She picked him out of a photo lineup after she saw his sketch on the news. What did she have to gain? Why would she make that up? Why would she come forward to, as he states, offer perjured testimony?

This sketch. I mean look at it. That's about as close as you can get. And remember he wants to talk about a tattoo that's right here above the eye that they didn't point out, he has on a hoodie. I'm sorry not a hoodie, a hood.

Then you heard from L.H. and Briona. Came in and used their own weapon, their own tools as weapons. Tied her up with a drill. He told her he was going to bash her baby with a hammer and her daughter's heard that.

And remember what L.H. said? The first thing, the

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first time she saw him, he had something covering his face. The second time he'd taken it down. That's not a man out of his mind. He knew what he was doing. He was trying to get away with it. And he thought at this point they were so scared and so intimidated that they wouldn't come forward because most rape victims don't, after all. Why would they be any different? The lady he raped before them hasn't come forward yet.

He wants evidence. He wants corroborating evidence. Here you are. You got the cords with the loop still tied in them. He wants to know why whatever tied L.H. up wasn't still there. Remember, she said she had on, there were a pair of pants there that he tied her up with? Here they are right there on the floor. Here's the hammer that he dropped on the stairs as he left. When we told you that people were going to come forward and say certain things, we brought them forward. We didn't just ask you to take our word for it. We brought Charlisa McRae and Ashley Culpepper in to tell you what they saw.

Ashley, she's driving like many others, her kids to her mother's house and she saw him coming out of the bushes. All of these people who call law enforcement, his own mother's neighbor saw the sketch. These people called law enforcement. We know who you're looking for.

Kevin Isenhoward from the sheriff's department is

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the one who called Forest Acres and said, Hey, I know your guy. I know who you're looking for. And we called Melissa Rone to the stand. You remember who she was? She was Briona's boss at the time. Briona called her. It was the first time she ever called in and said she wasn't coming to work. It concerned Melissa so much that she tracked down a friend of Briona's husband and he wants to ask, well, where is he. Remember Briona and L.H. told you, there's a young child, D.H. , who's so scarred by what happened that she can't come into this courtroom because she's afraid of the bad man. He's with his daughter.

And he talks about Briona Hurshman a lot in his closing argument. That you can't believe her because her story has evolved and changed. So he entered her statement into evidence and you'll have it back there with you. And on this day after she'd just been violated in the most personal way, in the most humiliating way, here's what she told the law enforcement.

Can I see that?

On today's date of March 27th, 2014, I was in the bathroom off of my master bedroom. That's what she testified to. I was sitting putting on my makeup and told my youngest daughter D.H. to go down to the second floor and check on my other daughter L.H. She returned to the bathroom very quickly, so I turned in my chair to see what

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was happening. She was followed into the room by the intruder. He said, Shut the fuck up and get out. I was confused and he then pointed the gun he held in his left hand in my face and then he said get up and go lie down on the floor. I got up and asked where on the floor. He came over me with the gun and said, Lie face down and shut the fuck up. He continued to tell me to shut up. He asked who else was in the house and I told him.

Remember, that's a very important question he asks that when he goes in people's house to rape women. Who else is in here.

He asked where did I work and I replied that I work in Camden. He tried to hand me the phone and told me to call my boss and tell them that I was sick and I wasn't coming in today. He had tied my hands so I told him he would have to dial.

That's how his DNA gets on the phone because he's handling the phone.

He went and got my daughter from her room and I could see that he tied her hands too with an article of clothing. He put her in the bathroom with D.H. . And shut the door. I continued to beg him to leave us alone and then he threatened to bash my head in with the hammer he had in his other hand. He put an article of clothing in my mouth and got behind me.

1720

My phone started to ring. It was my husband calling me.

Remember at this point he's trying to figure out what's happening at his house. Because this has to be every man's worst nightmare. You leave to go to work because Mr. Hurshman has a job. You get a phone call that says there's something going on at your house. I don't know what it is, but you need to get home and you're frantically calling and no one is answering the phone. He's calling back to back to back to back.

He called four times and the intruder let it keep ringing. He then felt up my shirt to my right breast. Now, remember there are two DNA profiles on Ms. Hurshman's right breast. One that's hers that we expect and then one that is too weak to rely on to interpret.

Now, if there was a grand conspiracy, if the police were framing him, the DNA would have come back. It would have -- we would have had his DNA all over that place. We would have had his fingerprints there. We would have had all sorts of video evidence. This isn't a conspiracy. This is what happened. This is the evidence that he left behind.

He then inserted his fingers inside my vagina again. He started to get on top of me but became frustrated and told me to turn over. When I made no move,

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he turned me over himself then inserted his fingers into my vagina again and felt my right breast again. He then attempted to rub his penis on my vagina and then his hands on my vagina. He went back to rubbing his penis which had a condom covering it on my vagina and attempted penetration.

Because he's not crazy out of his mind. He's wearing a condom so that he doesn't leave any DNA evidence. This was thought out.

When I would not cooperate and he did not become fully erect, he became more frustrated and stopped; then rolled me back onto my stomach. He then started looking around the room.

He had taken my bank card from my night stand along with a few dollars. He asked me what my bank number was. After he repeated the question, I lied and told him the wrong number. He asked again and I again answered and he repeated it.

He then opened the door to the bathroom, but before he let them out, he went through my jewelry box and stole my husband's wedding ring. Before he opened the bathroom door, he tied my feet together with an extension cord. He looked around again and I asked him to leave my phone, please. He asked which car was mine outside and I told him. He made no move the find my keys. He then took a

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sheet from my bed and wrapped it around my head and tied it around my head. He said that he just needed time to get out of the house. He promised me he wasn't going to hurt us.

He had my girls follow him down to the second floor, where he put them in the bathroom. I untied myself and went to look for them. He had left my phone on a desk in front of our entrance door. I then called my husband, my boss, and then the police.

That's the 9-1-1 call that you heard. It seems like forever ago.

What type of bank card do you have? A red Bank of America Visa debit without a picture.

The back three numbers were 898. It was just for the checking account. The last four digits were 0704.

What did the ring look like that was taken? It was a family heirloom from my husband's grandfather. It was a thin gold band. I do not believe that it was gold on the inside -- the outside.

Well she said she couldn't remember if it was gold plaited or sold gold. And here it is, a thin gold band. He wants corroborating evidence.

The items used by the suspect, were they your family's or did you he bring them to your home.

They were my family's, all except the gun.

1723

Do you remember if the suspect had gloves on his hand? No, I do not believe he was wearing gloves.

Can you describe the suspect.

He spoke very well, no Spanish or southern accent, black charcoal beanie hat and wearing wire rim glasses. He had a beard, a very large neck tattoo with what looked like lettering.

Remember, the C-R-I-P that you see on his neck.

A white shirt and a faded dark red zip up, hoodie sweatshirt, Hispanic male about 5'9", 5'11", had no accent. She'd never seen him before.

The suspect ever say or make movements with the gun and hammer or harm to you?

He pointed the gun in my face several times.

He also threatened to use the hammer on me. I will bash your head in, I will knock you out with this. But I did not hear him threaten the children, just myself.

What hand was the gun and hammer? The gun was in the left hand, the hammer was in the right.

What manner did he use with your girls after the attack?

He did not touch the girls, he barely spoke to them. He opened the door to the bathroom and let them out and then he said come on to them. They followed him downstairs to their bathroom. I never heard anyone of them

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speak once they left.

Were you in fear of your safety and the children's safety?

Yes.

Is everything in this statement true and correct?

Yes.

Why would she make it up? Why would she lie about a home invasion? So she could spend hours being cross-examined by him?

And then Detective Morrison went, got pictures of the rings and sent them to Mr. and Ms. Hurshman and they said, yes, those are the rings.

And they gave -- asked Briona about the rings more.

Did R. W. Shumard show you pictures of two rings?

Yes.

Did you recognize them?

Yes.

How do you recognize them?

The plain yellow gold band was thin due to us having to stretch to a larger size on multiple times. It was my husband's wedding ring. The second ring was a Christmas gift from my aunt. I thought it was located elsewhere because I couldn't recognize it because it is so small and I couldn't fit it on to my ring finger. Also I remember the stone and the gold waves along the sides.

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Are these real diamonds on this particular ring? I do not believe so but I never had it appraised. I think the stones may be fake.

This story hasn't changed. It's the same story she told on the very day that it happened.

Then Mr. Decker ran the pawnshop back then, came in Nathan Martinez pawned the rings because remember in his statement, he says he was looking to steal stuff so he could have something to sell because he didn't have a job and his disability benefits had been denied; remember those two things.

And he got there at 9:11. So he would have had some time to make his way from the crime scene, which actually isn't that far away, arrived in a van, tried to pawn the rings.

He also said that there was no evidence that she'd even been raped, that Briona Hurshman had even been touched in any way. But you remember Bridgette De Guzman, the SANE nurse? She said that it was rare that people suffered with physical injuries during a rape, but in this case -- excuse me, Ms. Hurshman had actual injuries. There was a diagram where she diagrammed those, those injuries. She talked about the abrasion to Ms. Hurshman's face. And this defendant actually put in the notes -- you'll have these back there in evidence with you.

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It will have her statement that she gave that's consistent with the statement that I just read. Take a look at it, read it and it will have where she documented the actual injuries to corroborate what she says happened to her. The evidence in this case is so overwhelming because everything that we've said to you we've corroborated.

You have Rachel Grant, the DNA expert. The defendant -- there are two different statistics that were run. One excludes 99.99 percent of the rest of the population. The other one is 300 trillion times more likely to be him than it is anyone else.

Let's talk about the mans pubis and that is where Mr. And Ms. Hurshman's DNA appears on that. That's why I asked her the very personal question about whether or not she and her husband had actually been intimate in the days prior to her rape.

Dr. Grey Amick, who runs the DNA lab and came down here and explained to you their protocols, the methods that they take to insure that they are giving straightforward and truthful evidence. Deborah Goff who did the sketch, Charles Morrison who processed the crime scene and Colin Bailey, Colin D. Bailey. He's the investigator with the Columbia Police Department sitting right there. And he asked him why he didn't record it, why didn't you record it

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why didn't you record it. Remember he said I came from home, I didn't come from the office. It was 1:30 in the morning. I came and I took your statement.

He went to the area with Elexia. She showed him exactly where she was taken. And the lead investigator, Shumard who went to the crime scene arranged for Briona to be taken to the hospital, arranged for her to meet the sketch artist, and took the defendant's statement in this case, before he took his statement, as all three officers and even Nathan Martinez eventually admitted, they read him his Miranda Rights.

You will have a copy of this back in the jury room with you. Remember he said they wrote this part out and then he initialled by each and every single Miranda right, stating that he understood his rights. He understood that he had the right to remain silent. He understood that anything he said could and would be used against him in court. He understood that he had the right to have a lawyer, to consult with a lawyer before and while answering any questions. He understood that if he could not afford a lawyer that one would be provided for him before any questions. And he understood that he could answer questions now without a lawyer present. He would still have the right to stop answering questions at any time. You also have the right to stop answering questions at any

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time until you consult with a lawyer.

He then read the waiver of rights, signed it, put his name down in print, wrote that he had two years of college and at this point in time because I think what we've all come to understand is that in any room Nathan Martinez goes into, he knows he's the smartest person in the room. He knows more medicine than the medical doctors, he knows more law than the judge. And what he was going to do at this point in time is make the police officers believe what he wanted them to believe. So they start talking to him.

And you'll have a more clear copy of this with you.

Do you know why you are here? Yes. And he initialled it.

I'm here -- why? I'm here for the incident in Forest Acres. And he initialled it.

What was this? When -- what day was this? Thursday. He initialled it and in his writing, he said because of the news story about it. He initialled that.

What did you do in Forest Acres? I was looking for a house to break into to find something to sell. He initialled that and in his own words he said, because the voices in my head said to.

What did the place look like that you broke into? I don't know it was some apartment. I don't remember which

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ones. I walked past a BP. He initials again.

What did you -- why did you pick this particular apartment? It was unlocked. Unlocked. I had checked a few others -- that he had checked a few others that were locked.

When you came into this apartment, what did you see or what did you do? I don't know, I remember walking up some stairs. I was alone.

Did you see a lady tied up? Yes. I remember coming to and seeing a lady tied up and the girls in the bathroom. I had something on my face and I was thinking what the fuck am I doing and I left.

Did you take anything out of the home? Credit card, three dollars and two gold rings. And he initialled it and said after I left -- found after I left.

Did the victim ask you not to take them -- take her phone? Yes, I had it in my hand and she told me not to take it.

What did you do with the rings? I pawned the two rings at the Quickie something. I got $55 for them. I talked to a white guy there. I walked there. I was alone and I pawned them on the same day.

What were you wearing at the time you went to the apartment? Blue pants, a burgundy Carolina jacket and a Carolina beanie, burgundy in color. He's initialled there

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and then he said, don't remember what shirt and he initialled there.

Where are those clothes now? I don't know, he initialled there.

Why did you do all this? I'd been complaining about being mentally impaired with microchips inside of my head, that the Utah police -- also they want to tell me to hurt myself and others. I did not want to do this or hurt no one, but the voices make me lose my mind and that and thoughts. I blank out and can't recall or remember things that happened to me because of the chips inside of my head. Once I realized what I was doing, I left.

Then he starts to put in the mental illness defense, right, because it's -- I mean quite honestly it's easy for all of us to believe that people do this for some other reason than just wanting to hurt someone, than just having that disregard for others in their heart. It's easier to believe that they're crazy than it is to believe that they were just out doing evil because it's hard for us to wrap our heads around the fact that maybe somebody does just walk into a church and shoot it up. They have to be crazy, right?

Maybe someone does just walk into a school and shoot it up because they want to hurt people. Because as the doctor testified, the only doctor that has come before

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you and testified to anything was at the time he knew right from wrong, morally and had he chosen to, he could have controlled his actions, or that he has an antisocial personality disorder, which means he takes what he wants when he wants it.

He takes someone's providence over their own body. He takes their jewelry. He takes their freedom. He takes away their safety in their own home. Takes away a children's belief that maybe their parents can protect them. He takes those things when he wants to.

And he said there's no evidence in Elexia's case. Talked about that one as well.

Why did you go to Mr. Tucker's house? The voices in my head told me to rob him.

It wasn't that he owed me money, it was I went to rob.

Why did -- did you have a steak knife when you went in and confronted his daughter? Yes.

Did Elexia leave the house with you? Yes. She talked me out of robbing her dad and offered to give me a ride in her father's car.

Where did Elexia sit in the car after you left? She got in the backseat of her own will.

Did you still have a knife while driving? Yes, it was in my pocket.

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Did you have sex with Elexia? Why? Yes, we talked about it. She said it was okay and was willing.

Did you ask her to give you a blow job? She said she'd never done that before.

So she just decided that the first time she'd want to do it was with a knife wielding man who just took her from her father's house?

Can you understand why she was in fear for her life? I told her I was there to rob her.

Remember all of these -- all of this is Nathan Martinez's own handwriting.

You remember tying Elexia up with a belt and blow-dryer cord? No, I do not remember this.

Do you regret this incident? I do regret this incident because I do not want to hurt no one, but the voices in my head tell me and want me to hurt others and kill myself.

He is able to ignore all the voices that tell him to kill himself, but as you can see he's still here. But the voices that tell him to go hurt other people, he fully embraces.

I'm not responsible for any of this because I am being electronically harassed, tracked, and chipped by the Utah police in my head and hear voices that tell me they want me to harm myself and others. I need help and have

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asked for it from mental health and Richland County police, lieutenant Heidi Jackson and Holly Wagner.

Is any part of Elexia's statement untrue? Yes, I don't remember or know about tying her up or that I forced or made her leave with me, or I forced her to have sex with me. I don't remember this.

He has a very convenient memory. He's remembered everything pretty clearly in the courtroom here over the past two weeks.

After we presented our case, Mr. Martinez presented his case. Deputy Abraham, the K-9 deputy said with those types of busy apartment complexes, it's hard to get a track. Heidi Jackson, he said he e-mailed about hearing the voices. Wanted her to check to see if he had charges in Utah that were pending. He also wanted help getting a disability check. Wanted to know if he could be charged with a crime if he was crazy.

Dr. Chavez has treated the defendant. The defendant is noncompliant with his medicine. He too noted malingering. Investigator Denizard who showed some of the photo lineups and talked to the convenience store manager, Warren Cavanaugh, who was present for the defendant's arrest. Mark Berube, who helped track the defendant's mother's phone.

Now, when he says we could have told y'all exactly

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where the phone was over the past month, we weren't concerned about where the phone was for the past month. It's his mother's phone. She's not on trial for rape. We were concerned about where the defendant was.

Chris Tucker, that's Elexia's father, called him to the stand and cross-examined him about how he handled his daughter's rape. He doesn't agree with the things that he did once his daughter came to him traumatized and broken and told her -- and told him about what she had just gone through. Nathan Martinez doesn't think that that was up to snuff.

So he called a man in here and cross-examined him about his daughter's rape that he admitted. And there is Cr. Charlotte Word 2ho flew 478 miles down here from the Washington D.C. area to tell us that we were running our DNA lab incorrectly. This is a lady who has no training, who doesn't work in a lab. The last lab she worked at got shut down for putting out false DNA results. And that's the person who he came in here to tell us we were doing it wrong down here in the sticks in South Carolina.

But under cross-examination, she too had to acknowledge that his DNA is there. She highlighted every single -- well, Ms. Campbell highlighted while she testified every single place this defendant's DNA appears and it is at every single point. And yes, our DNA lab

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reran the results once they got what she -- what her complaint was because her complaint was about the statistical analysis. She wanted it in different wording so they went from 99.9 percent to 300 times more likely to be him than anyone else.

And I was trying to figure out what would make someone go out on such a limb to stretch their testimony the way she did. And then I realized she was getting $2,000 a day. I think a lot of people could be encouraged to say a lot things for $2,000 a day. If she works one day a week, she's bringing in $104,000 a year. You're paying someone to say -- you can find someone to say just about anything and I tell you that's what we experienced here with her testimony.

Then Mr. Martinez took the stand and for the first time he says -- because he didn't mention this in his opening, this is what I would have opened with if I was on trial: I was with Marc Powell you'll hear all about it. I wasn't there. But he didn't mention any of that because he didn't think about it until he got on the stand. He was with Marc. They were having some sort of a breakfast meeting at the McDonalds. Marc could clear this whole thing up. We'll take Mr. Martinez's word for that.

That's the testimony that you've heard. That's the evidence that you've had in front of you and sometimes we

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have trials because defendants know that justice is sometimes just hard to come by. Maybe the victim will get scared, maybe they won't testify right at the moment. Maybe there'll be one juror who just refuses to convict someone. I mean, after all, we can watch someone get gunned down in the back and still not get justice.

So maybe by some fluke he gets away with this. Maybe you believe Elexia just wanted to have sex with him in the backseat of a car. Maybe you'll believe L.H. and Briona got with the Utah Police Department to frame him. Maybe one of you will buy that. And if you don't buy that he didn't do it, then let him walk away from this for another reason, that he's not guilty by reason of insanity because he wants you to do one of those two things: Either not guilty, which I think is kind of off the table because the evidence is overwhelming; or he's not guilty by reason of insanity. He wants you to pick one of those two things so he can walk away from this.

He says we're afraid to try Elexia Tucker's case. That case is for a different jury at a different time. No one is afraid to try that case.

All we ask, all we've ever asked -- and I'm almost finished, I promise -- is that you will take the evidence, look at the testimony, say that's unacceptable -- that's just unacceptable behavior. You are guilty. The DNA's put

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him there. Ms. Hurshman identified him. Ashley saw him leaving. Charlisa saw him going into the apartment complex. He pawned the rings in Kendall Decker's store. This whole account, tell him his malingering won't work. His calling, insinuating that the victim -- well, not insinuating, calling victims liars won't work. His last minute alibi won't work because in South Carolina, in Richland County, in this courtroom, we're going to hold him accountable for his actions.

We ask you to return a verdict of guilty on all of the charges. Thank you.

THE COURT: Thank you. Thank you, Solicitor.

JURY CHARGE

THE COURT: Ladies and gentlemen, my charge can take up to 40 minutes. I'm not easy to listen to, to start with, particularly for 40 minutes, so if anyone wants a break now, please say so, we can take a break. If not, I'm going the press on. Again, even if during the course of my instruction to you that you need a break, please raise your hand and I will comply.

The way I instruct a jury with a case such as this is I cover the general criminal law that applies to all of these types of criminal cases. As I move from one topic to another, I will give you the subject matter of the particular area of the law that I'm fixing to cover. Once

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I've covered the general law, I will cover the specific charges in the indictments. I usually do that by the numerical sequence that the indictments were handed down. Thereafter, I will cover what I call the form of verdict. No one part of my charge is any more or less important than the other part of my charge. It's all encapsulated within the entire instruction to the jury.

Charge, arrest, indictment, not evidence: The indictments charge the defendant with burglary, first degree armed robbery, three counts of kidnapping, criminal sexual conduct in the first degree, and possession of a weapon during the commission of a violent crime.

I remind you that the fact that the defendant was arrested, charged and indicted in this case is not evidence in the case and cannot be considered by you as evidence of guilt in this case. Nor does it create any presumption of innocence or inference of guilt. These documents, again, are a formal written documents, which contain the charges made against the defendant. It is the formal documents by which the case is brought before this Court.

Multiple charges: The indictments in this case allege several different offenses against the defendant. Each indictment contains a separate and distinct offense. You must decide each indictment separately on the evidence and the law applicable to it uninfluenced by your decision

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as to any other indictment. The defendant may be convicted or acquitted on any or all of the offenses charged, or found guilty but mentally ill, or not guilty by reason of insanity, which I will cover those forms of the verdict more thoroughly in the latter part of my charges.

You will be asked to write a separate verdict of guilty, or guilt but mentally ill, not guilty by reason of insanity, or not guilty as to each indictment. Again, separately.

Presumption of innocence: The defendant has pled not guilty to these indictments and that plea puts the burden on the State to prove the defendant guilty. A person charged with committing a criminal offense in South Carolina is never required to prove himself or herself innocent.

I charge you that it is an important rule of the law that a defendant in a criminal trial, no matter what the seriousness of the charge may be, will always be presumed to be innocent of the crime or crimes for which the indictment was issued unless guilt has been proven by evidence satisfying you, the jury, of that guilt, beyond a reasonable doubt.

This presumption of innocence does not end when you begin your deliberations, but it accompanies the defendant throughout the trial until you reach a verdict of guilt

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based on the evidence satisfying you of that guilt beyond a reasonable doubt.

The presumption of innocence has been said to be like a robe of righteousness placed about the shoulders of the defendant which remains with the defendant until it has been stripped from the defendants by evidence satisfying you of the defendant's guilt beyond a reasonable doubt.

The presumption of innocence is not a mere legal theory. It is not just a legal phrase. It is a substantial right to which every defendant is entitled unless you the jury are satisfied of the defendant's guilt from the evidence beyond a reasonable doubt.

What is reasonable doubt in the law? A reasonable doubt is the kind of doubt that would cause a reasonable person to hesitate to act. The State has the burden of proving the defendant guilty beyond a reasonable doubt. Some of you may have served as jurors in the past in civil cases where you were told that it was only necessary to prove that a fact is more likely true than not true, which is known as the greater weight or the preponderance of the evidence. In criminal cases, the State's proof must be more powerful than that. It must be beyond a reasonable doubt.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt.

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There are very few things in this world that we know with absolute certainty and in criminal cases, the law does not require proof that overcomes every possible doubt. If based on your consideration of the evidence you are firmly convinced that the defendant is guilty of the crime or crimes charged, you must find the defendant guilty. If, on the other hand you think there is a real possibility that the defendant is not guilty, you must give the defendant the benefit of that doubt, that reasonable doubt and find him not guilty.

Duties of trial jury and trial judge: I remind you that during this trial you and I have certain distinct duties to perform. As the trial judge, it is my responsibility to preside over the trial of this case and I also have the duty to rule on the admissibility of the evidence offered during this trial. You are to consider only the competent evidence before you. If there was any testimony ordered stricken from the record in this case during this trial, you must disregard it. You are to consider only the testimony which has been presented from the witness stand and any exhibits which have been made a part of the record in this case.

I have the additional duty to instruct you on the law applicable to this case. As the presiding judge, I am the sole judge of the law of this case and it is your duty

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as jurors to accept and apply the law as I now state it to you.

If you already have any idea as to what the law is or what the law ought to be and it does not agree with what I now tell you the law is, you must abandon, you must set aside your idea because you are sworn -- you have taken an oath to accept the law and apply the law exactly as I state it to you.

In every case tried in this court before a jury, the jury becomes the sole and the exclusive judge of the facts in the case. A trial judge cannot intimate, state, comment on, or make any statement to you -- to a trial jury about the facts in a case. Since you the jury are the sole judge of the facts in this case, you are not to infer from what I have said degrees the progress of this trial in ruling upon the admissibility of evidence or otherwise, or anything that I say now to you during the course of this instruction that I have any opinion about the facts in this case. The law does not allow me to have an opinion about the facts in this case. That is a matter solely for you, the jury to determine.

As jurors, it is your duty to determine the effect, the value, the weight and the truth of the evidence that has been presented during this trial.

Direct and circumstantial evidence: There are two

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types of evidence which are generally presented during a trial, direct evidence, circumstantial evidence. Direct evidence is the testimony of a person who claims to have actual knowledge of a fact, an eyewitness or an earwitness. It is evidence which immediately establishes the main fact to be proven.

Circumstantial evidence is proof of a chain of facts and circumstances indicating the existence of a fact. It is evidence which immediately establishes collateral facts from which the main fact may be inferred. Circumstantial evidence is based on inference and not on personal knowledge or observation.

The law, our law, makes absolutely no distinction between the weight or the value to be given to either direct or circumstantial evidence; nor is there a greater degree of certainty required of circumstantial evidence than of direct evidence. You should weigh all of the evidence in the case, direct and circumstantial. After weighing all of the evidence, if you are not convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant not guilty.

If after weighing all of the evidence, if you are convinced of the guilt of the defendant beyond a reasonable doubt, you must find the defendant guilty.

Credibility of witnesses -- and in this part of my

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charge, I also instruct you from the background of the use of your good judgment and common sense, both individually and collectively in determining the credibility of witnesses who have testified in this case. Necessarily, you must determine the credibility of the witnesses who have testified in this case as you all know that simply means the believability. It becomes your duty as jurors to analyze and to evaluate the evidence and determine which evidence convinces you of its truth.

In determining the believability of the witnesses who have testified in this case, you may believe one witness over several witnesses or several witnesses over one. You may believe a part of the testimony of a witness and reject the remaining part of the testimony of that same witness. You may believe the testimony of a witness in its entirety or reject the testimony of a witness in its entirety.

You may consider whether any witness has exhibited to you any interest, bias, prejudice, or other motive in this case. You may consider the appearance, the manner, the witness while on the witness stand. Again, in the use of both your individual and collective good judgment and common sense and determine the credibility, the truthfulness of the sworn witnesses who have testified before you in this case.

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Expert witnesses: You have heard somewhat of a briefer charge or instruction during the progress of the trial. Again, the rules of evidence ordinarily do not permit witnesses to testify to opinions or conclusions. An exception to this rule exists for witnesses that we call expert witnesses, a witness who by education and experience has become an expert in some art, science, profession or calling, may state an opinion as to relevant and material matter in which the witness claims to be an expert and may also state the reason, the foundation, for holding such opinion. You should consider any expert opinion received in evidence in the case and like any other evidence give it the weight that you think it deserves.

If you decide that the opinion of an expert is not based on sufficient education or experience, or if you conclude that the reasons given in support of the opinions are not sound, or that the opinion is outweighed by other evidence, you may disregard the opinion entirely. An expert witnesses testimony is to be given no greater weight than that of other witnesses simply because a witness is an expert. Further, you are not required to accept an expert's opinion even though it is not contradicted.

Prior bad act: You have heard that the defendant -- evidence has been presented that the defendant has committed a prior bad act, not the subject of a conviction

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and a prior bad act other than the one for which is defendant is on trial for now. This testimony, if you conclude it is true, may only be considered by you on the question of common scheme or plan, or identification or motive or intent and for no other reason and no other purpose.

You may give this evidence the weight and value, if any, which you find it should have on those sole issues. Again, common plan or scheme, identification, motive or intent. You must not consider evidence of the bad act not subject to conviction as proof of the defendant's guilt on the charges we are trying today. But only and solely for those purposes that I have just stated to you.

Again, ladies and gentlemen, you've heard this charge previously during the course of the trial. It is what is known as a curative instruction and it is as to the neck tattoo. Ladies and gentlemen, some evidence presented that Mr. Martinez, both neck tattoo and one other issue. Ladies and gentlemen, as to I believe it's 70, 71, and 72, the neck photographs of the neck tattoo, you may use that. However, the words that the letters spell out are not relevant. Should not be considered by you in your consideration in your deliberations and verdict on this case.

Also there was some evidence presented that Mr.

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Martinez may have been a member of a gang. It is not unlawful to be a member of a gang. You are to disregard that evidence. It is not an issue for your consideration or your determination of Mr. Martinez's guilt or innocence. Again any statements that Mr. Martinez may have been a member of a gang is not at issue nor your consideration and should not be discussed by you during your deliberation.

Identification: An issue in this case is the identification of the defendant as the person who committed the crimes charged. The State has the burden of proving identification beyond a reasonable doubt. You must be satisfied beyond a reasonable doubt of the accuracy of the identification of the defendant before you may convict the defendant. Identification testimony is an expression or belief or impression by a witness. You must determine the accuracy of the identification of the defendant. You must consider the believability of each identification witness in the same way as any other witness. You may consider whether the witness had an adequate opportunity to observe the offender at the time of the offense. This may by affected by things like how long or how short a time was available; how far or close the witness was, the lighting conditions and whether the witness had a chance to see or know the person in the past. Once again, I instruct you, the burden of proof on the State extends to every element

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of the crimes charged and this specifically includes the burden of proof beyond a reasonable doubt the identity of the defendant as the person who committed the crime.

If after examining the testimony you have a reasonable doubt as to the accuracy of the identification, you must find the defendant not guilty. If, on the other hand, after examining the defendant, both of the eyewitnesss and all other testimony you find the accuracy of that, credibility of that, you must find the defendant guilty.

Statement of the defendant: A statement or perhaps more than a statement, but I'll use the singular throughout the instruction to you. It would apply to any and all statements that may have been introduced into evidence. A statement alleged to have been made by the defendant has been admitted into evidence in this case. While the Court has determined that the statement is admissible, I instruct you that you make the ultimate decision of whether or not the defendant made the statement. If the defendant did make the statement, you must determine whether the statement was made by the defendant voluntarily and of his own free will.

This means that the statement was not caused by pressure, force, fear, threats, coercion, or other intimidation or by hope or a promise of leniency or a

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reward of any kind. In determining whether the statement was voluntary, you should consider both the characteristics of the defendant and the details of the questioning. Some of the factors that you must consider are, the age of the defendant, the defendant's education or lack of education, the defendant's mental ability or capacity, the defendant's IQ or intelligence, the defendant's background and environment, the place and the length of detention, the nature of the questioning, and the so called -- not so called -- the Miranda Rights, the advisement of the Miranda Rights, the advice or the lack thereof to the defendant that his constitutional rights include, but are not limited to: The right to remain silent, that any statement could be used against him in a court of law. The right to have a lawyer present, that if he could not afford a lawyer, a lawyer would be appointed to represent him without any cost and that he could stop making a statement at any time. You must carefully consider all -- all of the surrounding circumstances before you give any weight to any alleged statement.

The State has a burden of proving beyond a reasonable doubt that any alleged statement was voluntary. If you determine it was, you may give the statement any further consideration that you deem proper and appropriate. You must decide what weight, if any, should be given to any

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alleged statement. If you determine the alleged statement was not the free and voluntary statement of the defendant you should not consider that statement at all.

If a person is taken into custody, prior to any questioning, the person must be warned that he has a right to remain silent along with the other Miranda, constitutional rights, and that any statement he does make may be used as evidence against him and that he has the right to the presence of an attorney and the right to stop questioning at any time.

Further, once a voluntary waiver of Miranda Rights is made, that waiver continues until the individual being questioned in custodial questioning indicates that he wants to revoke that waiver or circumstances exist which indicate that his will was impaired or overborne.

Voluntariness of a statement must be determined by the totality of all the surrounding circumstances.

Intent: In order to establish criminal liability, criminal intent is required. For example, the mental state required for a particular crime might be purpose, might be intention, might be knowingly, might be recklessness, or might be criminally negligent. Criminal intent must be proven by the State beyond a reasonable doubt. Criminal intent is always a matter that must be determined by the jury from the circumstances surrounding the situation.

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There is no way the prove criminal intent to a mathematical certainty. There's no way medical science can dissect a person's brain and determine what the person had in mind. So the law, our law, says that criminal intent may be inferred from the circumstances shown to have existed. This is how you, the jury, make your determination whether or not the element requiring intent is present.

It is not necessary to establish intent by direct and positive evidence, but intent may be established by inference in the same way as any other fact by taking into consideration the acts of the parties and all the facts and circumstances of the case. Criminal intent, ladies and gentlemen is a mental state, a conscious wrong doing. It is up to you to determine what the defendant intended to do based on the circumstances shown to have existed.

Criminal intent can arise from action or a failure to act. It may arise from negligence, recklessness or indifference to duty or to consequences that is considered by the law to be the equivalent of criminal intent.

Ladies and gentlemen, now I'm going the go to the specific charges in the indictments. Again, as you have done throughout the course of my instruction to you if you would give me your complete and undivided attention.

The defendant is charged with first degree

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burglary. The State must first prove beyond a reasonable doubt that the defendant entered a dwelling without consent. A dwelling is any building or a portion of a building in which a person ordinarily sleeps. In order to prove that the defendant entered the dwelling, the State does not have to show that the defendant's entire body entered the dwelling, the smallest entry is sufficient.

If a person enters a dwelling or a building by using deception, articles of trick or misrepresentation to get consent to enter, this is an entry without consent.

Next, the State must prove beyond a reasonable doubt that the defendant intended to commit a crime, either a felony or a misdemeanor at the time of the entry. The mere entry into a dwelling without consent is not burglary. If the intent to commit a crime is formed after the entry, it is not burglary. On the other hand, if the defendant intended to commit a crime at the time of the entry, it is a burglary, even if the intent was abandoned after the entry. It does not matter that the intended crime was not completed.

Intent may be shown by acts and conduct of the defendant and other circumstances from which you may naturally and reasonably infer intent.

Finally, the State must prove beyond a reasonable doubt that when entering while in the residence or when

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fleeing, the defendant was armed with a deadly weapon or explosive. A deadly weapon under the burglary statute is defined as an article, instrument, or substance which is likely to cause death or great bodily harm.

The following are examples of instruments which may be deadly weapons: A pistol, a shotgun, rifle, a dirk, a dagger, a knife, a slingshot, metal knuckles, a razor, gasoline, a fire bomb, or Molotov cocktail, lighter fluid. A gun may be a weapon even if it is not operating. Or the State must prove beyond a reasonable doubt when entering or while in the dwelling or when fleeing therefrom, the defendant caused physical injury to anyone not participating in the crime. Or when entering while in the dwelling or while fleeing the defendant used or threatened to use a dangerous object. Or when entering or while in the dwelling or when fleeing the defendant displayed what was or appeared to a knife, pistol, revolver, rifle, shotgun, machine gun or other firearm.

That is the instruction on burglary in the first degree.

The defendant is charged with armed robbery. In order the prove this offense, the State must first prove beyond a reasonable doubt that the defendant took personal property from the person or presence of another person. Property is in the presence of another person if it is

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within the person's reach, inspection, observation, or control so that the person could, if not overcome with violence or prevented by fear, keep possession of the property.

The State must also prove beyond a reasonable doubt that the defendant carried the property away intending to permanently deprive the owner of the property and to keep the property for his own use. The slightest removal of the property or the complete possession of the property, even if for an instant, by the defendant is sufficient to show a taking and carrying away of the property.

The taking and carrying away of the property must have been done with violence or by putting the owner of the property in fear of violence.

Finally, the State must prove beyond a reasonable doubt that the defendant was armed with a deadly weapon during the robbery. For purposes of the armed robbery statute a deadly weapon is any article, instrument, or substance which is likely to cause death or great bodily harm. Whether an instrument has been used as a deadly weapon depends on the facts and circumstances of each case.

Again, the following may be instruments or examples of instruments of deadly weapons: Again, a pistol, a rifle, a shotgun, a dirk, a dagger, a knife, slingshot, metal knuckles. A gun may be a deadly weapon even if it is

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not operating.

Next the defendant is charged with kidnapping. The State must prove beyond a reasonable doubt that the defendant knowingly and unlawfully seized, confined inveigled, decoyed, kidnapped, abducted, or carried away another person without the authority of law. To do a thing unlawfully is to do it willfully against the law. Knowingly means with knowledge, consciously, not accidentally. Seize means to take hold of suddenly or forcibly. Confine means to limit, to restrict, or enclose within bounds, imprison or shut or keep in.

Inveigle means to lure, entice, or lead astray by false representations, promises, or other deceitful means. Kidnap is to remove a person against his or her will by unlawful force or by fraud. Abduct means to carry off secretly or by force for an illegal purpose.

Carry away means to remove.

The State does not have to prove that the defendant did all of these things, instead, if you find beyond a reasonable doubt that the defendant did any of these things, you may find the defendant guilty of kidnapping.

Something done without authority of law is something which the law does not sanction, does not permit, does not allow, does not condone or provide justification for. The kidnapping does not have to be for any personal

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or monetary gain for any illegal purpose, but may be for any reason whatsoever.

Kidnapping, ladies and gentlemen, is a continuing offense. The offense commences when one is wrongfully and unlawfully deprived of his or her freedom and continues until his or her freedom is restored.

That covers five of the indictments if I counted that right. Burglary, first degree; armed robbery, and there are three counts of kidnapping, one as to Briona Hurshman, one as to L.H. , and one as to D.H. [redacted].

The next indictment, the defendant is charged with criminal sexual conduct in the first degree. The first element which the State must prove beyond a reasonable doubt is that the defendant engaged in a sexual battery with the victim. Under our code of laws, a sexual battery is sexual intercourse, cunnilingus, fellatio, anal intercourse or any intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body except when the intrusion is accomplished for medically recognized treatment or diagnostic purposes. That is the definition in our Code of Laws for the term sexual battery.

If you find that the State has not shown beyond a reasonable doubt that a sexual battery occurred, you would

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stop deliberating as to that indictment and your verdict would have to be not guilty. If you find that the sexual battery did occur, you must then decide whether the State has proven beyond a reasonable doubt that the defendant used aggravated force to accomplish the sexual battery.

Aggravated force is a term defined under our code. It means the use of physical force or physical violence of a high and aggravated nature to overcome the victim. This includes the threat of using a deadly weapon. Whether or not an instrument is a deadly weapon depends on the surrounding facts and circumstances of the case.

Or you may decide whether the State has proven the victim submitted to sexual battery while the victim was also the victim of forcible confinement, kidnapping, robbery, extortion, burglary, housebreaking, or any other similar offense or act.

That is the instruction as to criminal sexual conduct, first degree.

And finally, ladies and gentlemen, possession of a weapon during the commission of, or attempt to commit a violent crime. That is a code section 16-23-490. The defendant is charged with that offense.

The State must prove beyond a reasonable doubt that the defendant was in possession of a firearm or visibly displayed what appeared to a firearm during the commission

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of a violent crime. For purposes of this section, a firearm means any machine gun, automatic rifle, revolver, pistol, or any weapon which will or is designed to or may be readily converted to expel a projectile.

In order to find the defendant guilty of possession of a weapon during the commission of a violent crime, you must first find the defendant guilty of committing a violent crime or attempting to commit a violent crime. I instruct you criminal sexual conduct in the first degree, kidnapping, armed robbery and burglary in the first degree are all violent crimes under the Code of Laws of the State of South Carolina.

The State must prove beyond a reasonable doubt that the weapon furthered, advanced, or helped in the commission of the violent crime or crimes.

That is my charge with the exception of reviewing the form of the verdict with you, ladies and gentlemen, which I placed within eyesight so I could find it readily.

Madame Forelady, along with all -- you and members of the jury, along with all of the items that have been introduced into evidence, you will have this verdict form. And I will explain to you -- before I explain the verdict form, one other issue that will feather into the verdict form itself.

The defendant has raised the defense of insanity.

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Criminal intent is required to prove that the defendant is guilty of the crime or crimes charged. A person who is insane cannot have criminal intent and therefore cannot be found guilty of a crime. In order to be found not guilty by reason of insanity, it must be shown that at the time of the crime, the defendant had a mental disease or defect which made him unable to distinguish moral or legal right from moral or legal wrong or to recognize the crime or crimes as morally or legally wrong. By raising the defense of insanity, the defendant does not necessarily admit that the crime or crimes was admitted. The State must still prove beyond a reasonable doubt that the defendant committed the crimes. However, the defendant must prove insanity by a preponderance of the evidence.

A preponderance of the evidence means the greater weight of the evidence or more likely than not.

If you find that there is evidence in the record that at the time that the crime was alledgedly committed it is more likely than not that because of a mental disease or defect the defendant did not know that the alleged crime or crimes was morally or legally wrong. The State must then prove beyond a reasonable doubt that the defendant was sane.

It is for you to decide what the state or condition of the defendant's mind was at the time of the alleged

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crime or crimes were committed.

Another possible verdict is guilty but mentally ill. If you have no reasonable doubt that the defendant committed the crime or crimes and that the defendant had the mental capacity to distinguish moral or legal right from wrong, or to recognize a crime is morally or legally wrong, but you find that it is more likely than not because of a mental disease or defect that the defendant could not follow the law, you must find the defendant guilty, but mentally ill.

As with insanity, the defendant has the burden of proving that he is guilty but mentally ill by a preponderance of the evidence.

Now, as to the verdict form, it lists, Madame Forelady, ladies and gentlemen of the jury, the indictments in the order in which they were numbered and the order in which I explained them to you: Burglary in the first degree, armed robbery, three counts of kidnapping, criminal sexual conduct in the first degree and possession of a weapon during the commission of a violent crime.

Thereunder -- and you I will take burglary in the first, it's the first. I have the four formal verdicts listed. The order in which I have them listed has no meaning whatsoever. One must be -- one must be listed first. And it states indictment number whatever, As to

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burglary, first degree, we the jury, unanimously find the defendant -- and it's got them listed -- guilty, guilty, but mentally ill; not guilty by reason of insanity, not guilty.

If after your deliberations and your determination of the facts in the case and applying them to the law as I have explained what the law is, you find that the State has met its burden of proving its case beyond a reasonable doubt as to burglary in the first degree, as to the other charges also, and that is a unanimous verdict, you're verdict would be guilty.

If you find that the State has proven beyond a reasonable doubt the guilt of the defendant and you find that at the time of the crime, the defendant was able to distinguish moral or legal right from wrong or to recognize his acts as being morally or legally wrong, he could recognize right from wrong, but because of a mental disease or defect, the defendant could not have sufficient ability to follow the law, he could not conform his conduct to the requirements of the law based on a mental disease or a defect, then your verdict -- and that is a unanimous verdict, your verdict would be guilty, but mentally ill. Guilty but mentally ill.

If, on the other hand -- and the defendant has the burden of proving guilty but mentally ill by a greater

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weight, a preponderance of the evidence.

If, on the other hand, you find that you have no reasonable doubt that the defendant committed the crime, but you find that it is more likely than not it's because of mental disease or defect, the defendant could not distinguish moral or legal right from wrong or recognize the crime is morally or legally wrong, you must find the defendant not guilty by reason of insanity. Again the defendant has the burden of proving that by a preponderance or greater weight of the evidence.

So not guilty by reason of insanity, the State has proven the defendant guilt beyond a reasonable doubt because of mental disease or defect, the defendant cannot distinguish moral or legal right from wrong, or know the crimes he committed were wrong, that is not guilty by reason of insanity.

Finally, if you find, it's your determination by the facts and the evidence in the case that the State has failed to meet its burden of proving its case beyond a reasonable doubt and that is a unanimous verdict after taking those facts, applying them to the law as I've told you the law is, that is a unanimous verdict, you're verdict would be not guilty.

Whatever you're verdict is, as to each indictment, Madame Forelady, ladies and gentlemen, Madame Forelady, if

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you would just check to the left of whatever the verdict is, circle both your checkmark and whatever words apply: Guilty, guilty but mentally ill, not guilty by reason of insanity, not guilty, as to each and every indictment.

Further as to -- again as to the possession of a weapon during the commission of a violent crime, please remember all my charges of course, but this one you must first find the defendant guilty of a violent crime before you can find him guilty of possession of a weapon during a violent crime. All the other charges in the indictments are by violent crimes: Burglary first degree, armed robbery, kidnapping, criminal sexual conduct in the first degree.

The law requires that I meet one final time outside of your presence with the attorneys to see if I have -- have to make any additions or any other instructions to you. If I do not have to bring you back out, they will marshal the exhibits, they will be brought to you by the bailiff and the clerk. Our alternates will come out and I will talk with y'all further after you come out of the jury room. Our alternates will come out and you will be notified by the clerk to begin your deliberations.

If at any time during the course of your deliberations you have any questions, if you would please write out a note, knock on the jury room door, the bailiff

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will give it to me and as y'all know, I will reply in a timely manner.

All right. Any questions or anything you need that the Court can assist you with, please let me know. You may take your notes with you now, but do not -- again, do not begin your deliberations and remember that one juror's memory is as good as another juror's notes.

Thank you, thank you very much for your focus and attention, ladies and gentlemen, you may now go with your bailiff.

(The jury left the courtroom at 3:37 p.m.)

THE COURT: All right. Any exceptions, Solicitor?

MS. CAMPBELL: No, sir.

THE COURT: Mr. Martinez?

MR. MARTINEZ: Yes, Your Honor. I once again object to the neck tattoo, as well as the gang reference cur --

THE COURT: So you don't want me to give them the curative instruction? You want me to bring them out and tell them I take it all back or --

MR. MARTINEZ: No.

THE COURT: What do you want me to do?

MR. MARTINEZ: I just said I object to it. I renew my previous objections to it under rule 403 and 404.

THE COURT: All right. I misunderstood you. Thank

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you, Mr. Martinez.

Solicitor anything further?

If y'all, whoever with the solicitor's office, if y'all would check the exhibits, please.

Thank you.

(The jury began deliberations at 3:38 p.m.)

THE COURT: Bring the alternates, please.

(The alternate jurors entered the courtroom at 3:57 p.m.)

THE COURT: All right. Mr. And Ms. Alternate. I'm going sequester y'all in a separate room. Having tried this case now for nine days, the length of the trial, I don't anticipate, but I have no way of predicting if a member of the jury panel were to fall out for some unknown reason during the course of their deliberations, our law is such that I can plug an alternate in and I don't know if it's foresight, but I'd rather err on foresight than hindsight, saying I wish I had kept them around.

I realize the disruption the last nine days has caused to y'all's personal and professional lives and I appreciate the work ethic y'all have shown throughout that trial, throughout this trial. But I'm going have you in a separate room. Plenty of snacks, reading materials, you can think all you want, but you can't talk about the case amongst yourselves. If the jury returns with a verdict,

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I'll have y'all back in here and release you at the time.

Hopefully I won't need you, but again, I don't -- I would rather have you here and not need you than not have you here and need you. Okay? All right.

Madam Clerk have you made arrangements for our alternates?

THE CLERK: Yes, sir.

THE COURT: Thank you.

All right. Anything from the State, Solicitor?

MS. CAMPBELL: No, sir.

THE COURT: Defense?

MR. MARTINEZ: No, sir.

THE COURT: All right. We'll be awaiting our jury's verdict.

(A brief recess was observed.)

THE COURT: It appears they would like to have the blown up statements. Any objections?

MS. WALKER: No, sir, they're in evidence. We don't have any objections to that.

THE COURT: Any objections?

MR. MARTINEZ: No, sir.

THE COURT: All right. If y'all would marshal those together, please, and we'll send them in.

Thank you, Mr. Martinez, Solicitor.

(A brief recess was observed.)

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(It was reported to the Court that a verdict had been reached at 4:21 p.m.)

VERDICT

THE COURT: I understand we have a verdict, Madam Clerk?

THE CLERK: Yes, Your Honor.

THE COURT: All right. I would remind those in the gallery, many times taking a verdict can be very emotional for one side, the other, or both. Please control your emotions. If you feel like you cannot, I would ask you to not remain in the courtroom.

All right. Bring us our jury, please.

(The jury entered the courtroom at 5:27 p.m.)

THE BAILIFF: Jurors all present, Your Honor.

THE COURT: Thank you, thank you Mr. Bailiff.

Madam Clerk?

THE CLERK: Madam foreperson, have you reached a verdict?

THE FOREPERSON: Yes, Your Honor, we have.

THE CLERK: Can you hand it to the bailiff.

(The Court received the verdict form.)

THE COURT: All right. Madam Clerk, would you publish the verdict.

THE CLERK: Indictment Numbers 2014-GS-40-4849, 4850, 4851, 4852, 4853, 4854, 45856, the State of South

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Carolina verses Nathan Daniel Martinez; Question Number 1, Indictment Number 2014-GS-40-4849 as to burglary in the first degree, We the jury, unanimously find the defendant guilty.

Question number 2: Indictment Number 2014-GS-40-4850, as to armed robbery, We the jury, unanimously find the defendant guilty.

Question Number 3: Indictment Number 2014-GS-40-4851, as to kidnapping, We the jury unanimously find the defendant guilty.

Question Number 4: Indictment Number 2014-GS-40-4852, as to kidnapping, We, the jury, unanimously find the defendant guilty.

Question Number 5: Indictment Number 2014-GS-40-4853, as to kidnapping, We, the jury, unanimously find the defendant guilty.

Question Number 6: Indictment Number 2014-GS-40-4854, as to criminal sexual conduct in the first degree, We, the jury unanimously find the defendant guilty.

Question Number 7: Indictment Number 2014-GS-40-4856, as to possession of a weapon during the commission of a violent crime, We, the jury, unanimously find the defendant guilty.

This is signed, foreperson, Juror Number 93, December 8, 2016.

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Madam foreperson, are these your verdicts and the verdicts of the entire jury?

THE FOREPERSON: Yes, they are.

THE COURT: Thank you, thank you very much.

Mr. Martinez, anything further for the jury before I release them?

MR. MARTINEZ: No, sir.

THE COURT: Solicitor, anything additional for the jury before I release them?

MS. WALKER: No, sir.

THE COURT: Thank you, you may be seated, Mr. Martinez.

Madam Forelady, ladies and gentlemen of the jury, as I think was stated during the closing statements by one of the parties, perhaps both, Monday week ago, I think the 28th of November, I'm not exactly sure, the Monday after Thanksgiving, you probably never imagined that you would be here for nine days on your jury service. Typically when I qualify a jury, generally I always tell them that jury service should end by Friday because many times, we have to -- not often, but we carry over into additional weeks. But you have -- you have certainly fulfilled your service.

I never criticize nor commend a jury for its verdict. However, in watching y'all throughout the week, observing your focus, your attention, your work ethic, and

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actually some comradery such that I commend you for that. I really do.

Now this happens throughout our state in the 46 Counties, week in and week out. It's the citizens that are the most important part of the process whether it's civil or criminal court; whether they're resolved civil suits, a person suing a person, or business, or whatever combination; and, of course, in criminal court, deciding serious issues between the State and its citizens that would have significance for many, many parties.

I -- the privilege that I have of being a circuit judge and the people I work with, both my wonderful court reporter and of course my law clerk, Ms. Marsh, court staff, bailiffs, law enforcement, security, defense lawyers, I have respect for all of them. And more than anything else, just being able to meet the people of South Carolina, I just love that.

I won't delay y'all much longer in your departure, I've never had a jury send me two pieces of cake. Never have I had a jury bring me a piece of cake or really anything to eat, quite frankly, now that I think about it. And my last note I received from y'all concerning the charts, I've never gone from being Your Honor -- which I don't call myself that -- I've never gone from Your Honor to the monicker "J". It sure feels good.

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But it has been my pleasure to be with y'all and I've never told a jury I'm going to miss you. I'm going to miss you very much. Thank y'all for your focus and attention. Thank you for being with us. You're now excused. Y'all have a pleasant evening and a pleasant rest of the season.

(The jury left the courtroom at 5:32.)

THE COURT: Motions, Mr. Martinez?

POST-TRIAL MOTIONS

MR. MARTINEZ: Yes, sir, I have a motion. I'd like to renew my previous objections, as well as a motion for a new trial.

THE COURT: Thank you. Thank you very much.

I would -- as far as all objections from the defense, evidentiary and otherwise, I would renew all of my previous trial rulings. And as to the motion for a new trial, I would respectfully deny that motion based on the standards that I am required to follow.

Any other motions or matters, Mr. Martinez?

MR. MARTINEZ: I'd like to be able -- I'd like to file a motion to have the DNA tested, the one that was saved.

THE COURT: I think you -- I think there's a procedure that you go through, Mr. Martinez, a specific statute where that motion has to be filed -- I haven't

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researched it, but I believe it becomes a civil action is my understanding.

Be that as it may, I'm not going to take that under advisement.

Mr. Kata, would you assist Mr. Martinez in preparing an affidavit or researching the law --

MR. KATA: Yes, Your Honor.

THE COURT: I know there's post conviction DNA testing. The only one I've been familiar with is a civil -- it's filed as a civil action similar to a PCR. I'm not sure that it's proper before the judge in a general sessions court.

MR. KATA: Yes, sir, Your Honor. I'll talk to him about it.

THE COURT: If you would talk to him about it and prepare me a brief, I think you would just have to file a motion in civil court.

MR. KATA: Yes, Your Honor.

THE COURT: All right. Anything else, Mr. Martinez?

MR. MARTINEZ: Yes, I would like to put on the record that I plan to appeal this decision. I don't have the -- Mr. Kata stated that he's going to get it done for me. I won't be in a position to file my own appeal.

THE COURT: All right.

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MR. KATA: Your Honor, I did tell him I would contact --

THE COURT: I think you would notify indigent defense, the appellate.

MR. KATA: I'll do the necessary appeal and notify them, and I'll notify the State as well.

THE COURT: All right. Anything else?

MR. MARTINEZ: No, sir.

THE COURT: All right. Step up here a moment, Solicitor, Mr. Kata.

(There was a bench conference out of the hearing of the Court Reporter.)

(There was a pause in the proceedings.)

SENTENCE

THE COURT: All right. Mr. Martinez, you know of any reason under the law why sentence could not be imposed at this time.

MR. MARTINEZ: Excuse me?

THE COURT: Do you know any reason under the law why sentence could not be imposed at this time.

MR. MARTINEZ: No, sir.

THE COURT: If you'd come around to the microphone for me, please.

All right. Solicitor, anything additional from the State?

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MS. WALKER: Your Honor, victim impact at the appropriate time, as well as his prior record.

THE COURT: All right. Yes, ma'am, prior criminal history?

MS. WALKER: Your Honor, beg the Court's indulgence.

(There was a pause in the proceedings.)

MS. WALKER: Your Honor, beginning at the age of 18 in 1997, he was convicted of riot, unlawful possession by a minor and intoxication. In 1998, he was convicted of burglary and sentenced to 1 to 15 years. In 1999 he was charged and convicted with aggravated -- well, he was charged with aggravated burglary and he was convicted of burglary and riot. In 2008 he was charged with dangerous drugs and possession with intent to distribute counterfeit substances. He was convicted an sentenced up to 5 years in prison. In 2013, he was charged with assault, criminal trespass, false information to police officers and theft of service.

So prior to moving to Columbia, Judge, from Utah, out of the 15 years prior to moving here, I think he was only out of prison for about 9 months.

Your Honor, the victim, I think also...

THE COURT: All right. Ms. Hurshman, I'll be glad to hear from you.

Is there a microphone up there?

MS. CAMPBELL: Your Honor, there's one down here, she could come down here.

THE COURT: All right. Yes, she may come down to microphone.

(The victim moved to the microphone.)

THE COURT: And please tell me your full name for the record, Ms. Hurshman.

MS. BRIONA HURSHMAN: Briona Elizabeth Hurshman.

THE COURT: All right. Yes, ma'am, and speak up for me as best you can.

MS. BRIONA HURSHMAN: Yes, sir. I'm sorry.

Your Honor, on March 27th, 2014, a complete stranger came into my home and proceeded to terrorize my daughters and I. My family was altered on that day. My youngest child, D.H. , still has nightmares. L.H. constantly worries about my safety and wellbeing. I struggle with emotional instability, anxiety, and irrational panic.

That stranger on that morning was Nathan Martinez. There is not a day that goes by that his hateful face doesn't come to mind and fill me with fear and depression.

Nathan Martinez is a dangerous man who will hurt others if he's released. I know this because it wasn't only my family he hurt. He has shown no remorse for the

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damage he has done, and instead has constructed excuses and victimized himself. Those acts only further prove that he will repeat his criminal behavior.

I am pleading with you to please give him the maximum prison sentence possible. Please make it possible for me to go home and tell my D.H. that the bad guy won't ever be able to hurt us again. Thank you.

THE COURT: Thank you, thank you, Ms. Hurshman.

Anything further?

MS. WALKER: Your Honor, of course, Mr. Martinez still has pending charges from both the City of Columbia and Richland County Sheriff's Department. Your Honor, due to the nature of this crime and his criminal record, the State respectfully requests life sentences.

THE COURT: Thank you. Thank you, Solicitor.

So he has Ms. Tucker's case pending --

MS. WALKER: Yes, sir. And an additional --

THE COURT: And an additional victim?

MS. WALKER: An additional rape, yes, sir.

THE COURT: All right. Mr. Martinez, as far as sentence in mitigation, anything you'd like to say?

MR. MARTINEZ: I just want to renew -- as I said before when I had my motions for -- to have my neurologist examination, I wasn't able do that to show clear and convincing evidence of what's in my head, but other than

that, no, sir.

THE COURT: Thank you. Thank you, Mr. Martinez.

All right. Mr. Martinez, typically I try to explain my sentences. They may be of no moment to you, or the solicitor, or anyone else. I think it's important to share the thoughts of a member of the judiciary when he or she hands down sentences.

The respect for an individual is the life blood of the law. You know where that comes from, Mr. Martinez?

MR. MARTINEZ: The Bible?

THE COURT: Perhaps going back into history, it may. But it actually comes from a case called Ferrata versus California, and that, of course, is the case that I reviewed with you your rights to represent yourself. Your right to act as your own counsel, to proceed pro se, to be the captain of your own ship, to make your own decisions, because of the value that our society places on respect on an individual.

And you know, I have seen over the times you've been in front of me, both during this trial and other proceedings, you're a very intelligent man. You're intelligent. You knew the case very well, probably as well as anybody in the courtroom save the -- probably as well as anybody in the courtroom except perhaps the victims.

But you knew it that well because you were there.

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The evidence is overwhelming, both direct and circumstantial; not your -- not your written statement. But they really boil down to one word, finger. Your finger is what it boils down to; used as a weapon of assault; left DNA; left your fingerprint, your genetic fingerprint on a telephone. Your finger, like this ring. This ring of truth. No matter how you try to hide it, how you try to conceal it, it claws its way out. The truth. That's what its done. And then the genetics, forensics. Intelligent? Yes. Representing yourself well? Yes. You are competent to stand trial, you were competent to represent yourself.

But if you read the characteristics of an antisocial personality disorder, among those characteristics, the symptoms, you will see: Disregard of right and wrong, persistent lying and deceit; callous, cynical, disrespectful, use your charm, wit, manipulation of others for personal gain or personal pleasure. Arrogant, senseless superiority, extremely opinionated, recurring problems with the law, including criminal behavior; repeatedly violating the rights of others through intimidation, dishonesty. Lack of empathy for others and lack of remorse from harming others; failure to consider negative consequences of behavior or learn from it; aggression towards people.

It's never your responsibility. You blame the

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police, you blame the victims, you blame the doctors, you blame the lawyers, in which you've had what, five or six. You blame the circuit court. It was the labs fault; Dr. Tross's report. Not only do you blame them all, it was a conspiracy between all of them, somehow the Utah police, the South Carolina police, Forest Acres police, this huge web.

You know I try to imagine what's happening simultaneously during the events of a crime of this magnitude. Why a young lady's mother is having to process the violation to her concern for her children and then her children being consumed, at the same time restrained, and having to hear the sounds of their anguished mother. All of that simultaneously, all of it.

There's a book that has a saying in it: There's only one thing greater than a tiger's hunt for its prey. That's a mother's love. You are dangerous because you're intelligent. You have no consideration of the right and safety of others, Mr. Martinez. None. It's not an illness, it's not a mental disease, defect; not insane. Whatever meaning this has, I'm sorry for whatever happened in your life, but you've stole, you stole some children's innocence; you stole all of their safety, security, future, wounds that may never heal. May never heal.

With that being said, Mr. Martinez,

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2014-GS-40-304849, Nathan Martinez, burglary in the first degree, defendant is committed to the State Department of Corrections for a determinate term of life without parole.

2014-GS-40-4850, Nathan Daniel Martinez, armed robbery, defendant is committed to the State Department of Corrections for a determinate term of 30 years. That's concurrent.

2014-GS-40-4852, Nathan Daniel Martinez, kidnapping, the defendant is committed to the State Department of Corrections for a determinate term of 30 years, that is concurrent.

2014-GS-40-04851, Nathan Daniel Martinez, kidnapping, the defendant is committed to the State Department of Corrections for a determinate term of 30 years, concurrent.

2014-GS-40-4854, Nathan Daniel Martinez, criminal sexual conduct, first degree, the defendant is committed to the State Department of Corrections for a determinate term of 30 years. That is consecutive.

2014-GS -40-4853, Nathan Daniel Martinez, kidnapping, defendant is committed to the State Department of Corrections for a determinate term of 30 years, that is concurrent.

2014-GS-40-4856, Nathan Daniel Martinez, possession of a weapon during the commission of a violent crime, the

defendant is committed to the State Department of Corrections for a determinate term of 5 years, that is concurrent.

Good luck to you Mr. Martinez.

MR. MARTINEZ: Thank you.

THE COURT: All right. Anything further from the State?

MS. WALKER: No, sir, Your Honor.

THE COURT: Well, I'd be remiss not recognizing Mr. Kata for being a stand-up member of the bar throughout these proceedings in taking on, not voluntarily, but still voluntarily taking on standby counsel for Mr. Martinez. Makes me proud to be a member of the bar. Thank you.

Thank y'all as always, Solicitor.

* * * * * * * * * END OF TRANSCRIPT * * * * * * * * *

1782

State of South Carolina)
) **Certificate of Reporter**
County of Aiken)

I, THE UNDERSIGNED, Brenda J. Sigwald, Official Court Reporter for the Eleventh Judicial Circuit of the State of South Carolina, do hereby certify that I reported the proceedings in the captioned case in the Court of General Sessions in and for the State of South Carolina on the days of the 28th of November through the 8th day of December, 2016.

I FURTHER CERTIFY that the foregoing pages constitute a true, accurate, and complete transcript of said hearing.

I FURTHER CERTIFY that I am neither kin, counsel, nor of interest to any party hereto.

IN WITNESS WHEREOF, I have hereunto set my hand and seal at Aiken County, this 9th day of September, 2017.

Brenda J. Sigwald

Brenda J. Sigwald,
Court Reporter and Notary Public
For the State of South Carolina
My commission expires
January 4, 2020.

WITNESSES

(S) Russell W Shumard
– Forest Acres Police Department

Morrison

ARREST WARRANT NUMBER

2014A4020400061

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date SEP 08 2016

VERDICT

Foreperson of Petit Jury
Date:

AMENDED
DOCKET NO. 2014-GS-40-04849

AMENDED INDICTMENT
The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
BURGLARY
FIRST DEGREE

SC Code: **16-11-0311**
CDR Code: **0079**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS AND G.S.

SCANNED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

BURGLARY - 1ST DEGREE

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, enter the dwelling of HEATH & BRIONA HURSHMAN located at [redacted], without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, the defendant was armed with a deadly weapon; and/or caused physical injury to a nonparticipant in the crime; and/or used or threatened the use of a dangerous instrument; and/or displayed what was or appeared to be a knife, pistol, revolver, shotgun, machine gun, or other firearm; and/or the entering or remaining occurs in the nighttime, in violation of Section 16-11-0311(A), S.C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr Apt [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4004849
A/W#: 2014A4020400061
Date of Offense: 3/27/2014
S.C. Code § : 16-11-0311
CDR Code #: 0079

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Burglary / Burglary (After June 20, 1985) - First degree

in violation of § 16-11-0311 of the S.C. Code of Laws, bearing CDR Code # 0079
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 13005 _____ _____ _____
Campbell, Luck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited to the ☑ **State Department of Corrections,** ☐ **County Detention Center,**
for a determinate term of LWOP days/months/years or ☐ under the **Youthful Offender Act** not to exceed — years
and/or to pay a fine of $ —; provided that upon the service of — days/months/years and/or payment
of $ —; plus costs and assessments as applicable*; the balance is suspended with **probation** for —
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: _____ _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

☐ Appointed PD or appointed other counsel; Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette McBride
Court Reporter: Lynn
Presiding Judge
Judge Code: 2145
Sentence Date: 8 DEC 2016

SCCA/217 (07/2016)

WITNESSES

(S) Russell W Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400061

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04849

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
BURGLARY
FIRST DEGREE

SC Code: **16-11-0311**
CDR Code: **0079**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury

Defendant

I _____
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness.

C.C.C. PLS AND G.S.

1786

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

BURGLARY - 1ST DEGREE

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, enter the dwelling of HEATH & BRIONA HURSHMAN located at [redacted], without consent and with the intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight, the defendant was armed with a deadly weapon, in violation of Section 16-11-0311(A), S.C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

WITNESSES

(S) Russell W. Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400072

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04850

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
ARMED ROBBERY

SC Code: 16-11-0330(A)
CDR Code: 0139

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

SCANNED

STATE OF SOUTH CAROLINA)
) **INDICTMENT**
COUNTY OF RICHLAND)

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

ARMED ROBBERY

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, commit robbery by feloniously taking from the person or presence of Briona Hurshman, by means of force or intimidation, goods or monies of Briona Hurshman and Heath Hurshman, such goods or monies being described as Jewelry and/or a debit card and/or U.S. Currency and/or household effects, with the intent to deprive the owner permanently of such property, while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by actions or words, that he or she was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon. All in violation of §16-11-330(A), S.C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

1790

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr Apt [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4004850
A/W#: 2014A4020400072
Date of Offense: 3/27/2014
S.C. Code § : 16-11-0330(A)
CDR Code #: 0139

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Robbery / Armed Robbery, robbery while armed or allegedly armed with a deadly weapon

in violation of § 16-11-0330(A) of the S.C. Code of Laws, bearing CDR Code # 0139
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☑ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.
ATTEST:

Campbell Luck | SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited 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 ___ years
and/or to pay a fine of $ ___; provided that upon the service of ___ days/months/years and/or payment
of $ ___; plus costs and assessments as applicable*; the balance is suspended with **probation** for ___
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may he pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Puhlic Defender Fund
Other: _____

SCANNED

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette McBridge
Court Reporter: Segwalter
Presiding Judge
Judge Code: 2145
Sentence Date: 8 Dec 2016

SCCA 217 (07/2016)

WITNESSES

(S) Russell W. Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400073

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04851

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
KIDNAPPING

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

SCANNED

1791

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one BRIONA HURSHMAN, without authority of law, in violation of Section 16-03-0910, S.C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr Apt [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4004851
A/W#: 2014A4020400073
Date of Offense: 3/27/2014
S.C. Code § : 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐PLEADS
TO: Kidnapping / Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☑ VIOLENT ☐SERIOUS ☒MOST SERIOUS ☐Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐§17-25-45

The charge is: ☒ As Indicted, ☐Lesser Included Offense, ☐Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 13009 _____ _____ _____
Campbell/Luck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited 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 ___ years
and/or to pay a fine of $ _____; provided that upon the service of _____ days/months/years and/or payment
of $ _____; plus costs and assessments as applicable*; the balance is suspended with **probation** for _____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____ _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐**RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

SCANNED

☐ Appointed PD or appointed other counsel. Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette M. Bridges
Court Reporter: Signed
Presiding Judge _____
Judge Code: 2145
Sentence Date: 6 Dec 2016

SCCA/217 (07/2016)

ORIGINAL

WITNESSES

(S) Russell W Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400074

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04852

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
KIDNAPPING

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

SIGNED

Defendant

Witness:

C.C.C. PLS. AND G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one L.H. , without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

1796

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr Apt [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4004852
A/W#: 2014A4020400074
Date of Offense: 3/27/2014
S.C. Code § : 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Kidnapping / Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☑ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 13009 _____ _____
Campbell-Luck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited 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 ___ years
and/or to pay a fine of $ ___; provided that upon the service of ___ days/months/years and/or payment
of $ ___; plus costs and assessments as applicable*; the balance is suspended with **probation for** ___
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

SCANNED

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette McBride
Court Reporter: Signature
Presiding Judge _____
Judge Code: 6145
Sentence Date: 8 Dec 2016

SCCA/217 (07/2016)

ORIGINAL

WITNESSES

(S) Russell W. Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400075

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04853

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
KIDNAPPING

SC Code: 16-03-0910
CDR Code: 0095

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I
hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

SCANNED

STATE OF SOUTH CAROLINA)
)
COUNTY OF RICHLAND)

INDICTMENT

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

KIDNAPPING

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one D.H. , without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr Apt [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 1799

INDICTMENT/CASE#: 2014GS4004853
A/W#: 2014A4020400075
Date of Offense: 3/27/2014
S.C. Code § : 16-03-0910
CDR Code #: 0095

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Kidnapping / Kidnapping

in violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095
☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. ____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Campbell Luck | 13008 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited 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 ____ years
and/or to pay a fine of $ ____; provided that upon the service of ____ days/months/years and/or payment
of $ ____; plus costs and assessments as applicable*; the balance is suspended with **probation** for ____
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: ____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ ____ plus 20% fee: ____ $ ____
Payment Terms: ____
☐ Set by SCDPPPS ____
____
Recipient: ____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP ____
____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. ____
May serve W/E begining ____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ ____ beginning ____
$ ____ paid to Public Defender Fund
Other: ____

SCANNED

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette McBride
Court Reporter: Sigwald
Presiding Judge ____
Judge Code: 2145
Sentence Date: 8 Dec 2016

SCCA/217 (07/2016)

SIGNED

1800

WITNESSES

(S) Russell W. Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400076

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04854

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
CRIMINAL SEXUAL CONDUCT
FIRST DEGREE

SC Code: **16-03-0652**
CDR Code: **0160**

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I _____ hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

SCANNED

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF RICHLAND)

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That Nathan Daniel Martinez did in Richland County on or about March 27, 2014, engage in sexual battery with BRIONA HURSHMAN, by using force to accomplish sexual battery or the victim submitted to sexual battery while the victim was also the victim of forcible confinement and/or kidnapping and/or robbery and/or extortion and/or burglary and/or housebreaking and/or any other similar offense(s) or act(s), in violation of Section 16-03-0652, S.C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA)
1802
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr Apt [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2014GS4004854
A/W#: 2014A4020400076
Date of Offense: 3/27/2014
S.C. Code § : 16-03-0652
CDR Code #: 0160

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Sex / Criminal sexual conduct - First degree

in violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160
☐ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: Campbell Luck | 13009 SC Bar# | Defendant | Attorney for Defendant | SC Bar#

WHEREFORE, the Defendant is commited 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 — years
and/or to pay a fine of $ —; provided that upon the service of — days/months/years and/or payment
of $ —; plus costs and assessments as applicable*; the balance is suspended with **probation** for —
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☐ CONCURRENT or ☑ CONSECUTIVE to sentence on: _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Ahuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

SCANNED

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette McBride
Court Reporter: Signature
Presiding Judge
Judge Code: 2145
Sentence Date: 8 DEC 2016

SCCA/217 (07/2016)

ORIGINAL

WITNESSES

(S) Russell W Shumard
– Forest Acres Police Department

ARREST WARRANT NUMBER

2014A4020400077

ACTION OF GRAND JURY

TRUE BILL

Foreperson of Grand Jury
Date: DEC 18 2014

VERDICT

Foreperson of Petit Jury
Date:

DOCKET NO. 2014-GS-40-04856

The State of South Carolina

County of

Richland

COURT OF GENERAL SESSIONS

DECEMBER TERM 2014

115

THE STATE
vs.

Nathan Daniel Martinez

Indictment for
POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

SC Code: 16-23-0490
CDR Code: 0549

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

SCANNED

1803

STATE OF SOUTH CAROLINA)
) INDICTMENT
COUNTY OF RICHLAND)

At a Court of General Sessions, convened on December 16, 2014, the Grand Jurors of Richland County present upon their oath:

POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT CRIME

That Nathan Daniel Martinez did in Richland County, on or about March 27, 2014, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S.C. Code of Laws, (1976, as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.

DAN JOHNSON, SOLICITOR

STATE OF SOUTH CAROLINA)
COUNTY OF Richland)
STATE VS.)
Nathan Daniel Martinez)
AKA:)
Race: WHITE Sex: M Age: 37)
DOB: [redacted]-1979 SS#: [redacted])
Address: [redacted] Chaucer Dr # [redacted])
City,State,Zip: Columbia, SC 29229)
DL#: SID#:)
*CDL Yes☐ No☐ CMV Yes☐ No☐ Hazmat Yes☐ No☐

IN THE COURT OF GENERAL SESSIONS 1805

INDICTMENT/CASE#: 2014GS4004856
A/W#: 2014A4020400077
Date of Offense: 3/27/2014
S.C. Code § : 16-23-0490
CDR Code #: 0549

SENTENCE SHEET

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or ☐ PLEADS
TO: Weapons / Poss. weapon during violent crime, if not also sentenced to life without parole or death

in violation of § 16-23-0490 of the S.C. Code of Laws, bearing CDR Code # 0549
☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☒ As Indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. _____ (defendant's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST: _____ 13019 _____ _____ _____
Campbell, Luck SC Bar# Defendant Attorney for Defendant SC Bar#

WHEREFORE, the Defendant is commited 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 — years
and/or to pay a fine of $ —; provided that upon the service of — days/months/years and/or payment
of $ —; plus costs and assessments as applicable*; the balance is suspended with **probation** for —
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☑ CONCURRENT or ☐ CONSECUTIVE to sentence on: _____ _____
☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied by the State Department of Corrections.
☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.
Pursuant to 18 U.S.C Section 922,it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ **RESTITUTION:** ☐ **Deferred** ☐ **Def. Waives Hearing** ☐ **Ordered**
Total: $ _____ plus 20% fee: _____ $ _____
Payment Terms: _____
☐ Set by SCDPPPS _____
_____
Recipient: _____

*Fine:		$
§ 14-1-206 (Assessments 107.5 %)		$
§ 14-1-211(A)(1) (Conv. Surcharge)	$100	$
§ 14-1-211(A)(2) (DUI Surcharge)	$100	$
§ 56-5-2995 (DUI Assessment)	$12	$
§ 56-1-286 (DUI Breath Test)	$25	$
Proviso 61.6 (Public Def/Probation)	$500	$
§ 14-1-212 (Law Enforce. Funding)	$25	$
§ 14-1-213 (Drug Court Surcharge)	$150	$
§ 50-21-114(BUI Breath Test Fee)	$50	$
§ 56-5-2942(J) (Vehicle Assessment)	$40/ea	$
3% to County (if paid in installments)		$
TOTAL		$

PTUP _____
_____ days/hours Public Service Employment
Obtain GED ☐
Attend Voc. Rehab. or Job Corp. _____
May serve W/E begining _____
Substance Abuse Counseling ☐
Random Drug/Alcohol testing ☐
Fine may be pd. in equal, consecutive weekly/monthly pmts. of $ _____ beginning _____
$ _____ paid to Public Defender Fund
Other: _____

SCANNED

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires $500 be paid to Clerk during probation and shall be collected before any other fees.

Clerk of Court/ Deputy Clerk Jeanette McBride
Court Reporter: Signed
Presiding Judge _____
Judge Code: 2145
Sentence Date: 8 Dec 2016

SIGNED

SCCA/217 (07/2016)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of April, 2018.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,

LaNelle Cantey DuRant
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 18th day of April, 2018.

RECEIVED
APR 18 2018
SC Court of Appeals