

STATE OF SOUTH CAROLINA

IN THE SUPREME COURT

Certiorari to Newberry County

Honorable G. Thomas Cooper, Circuit Court Judge

HENRY DELOS ANDERSON,

PETITIONER

V.

STATE OF SOUTH CAROLINA,

RESPONDENT

APPELLATE CASE NO 2017-002065

APPENDIX

KATHRINE H. HUDGINS
Appellate Defender

South Carolina Commission on Indigent
Defense
Division of Appellate Defense
PO Box 11589
Columbia, SC 29211-1589
(803) 734-1330

ATTORNEY FOR PETITIONER

ALAN WILSON
Attorney General

MEGAN HARRIGAN JAMESON
Senior Assistant Deputy Attorney General
Rembert Dennis Building
1000 Assembly Street, Room 519
Columbia, SC 29201

ATTORNEYS FOR RESPONDENT

Vol. I of II
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State of South Carolina)
) Court of General Sessions
County of Newberry) 2013-GS-36-238, 239, 240

State of South Carolina)
) vs.) Transcript of Record
)
Henry Delos Anderson)
 DEFENDANT)

February 10, 2014
Newberry, South Carolina

B E F O R E:

Honorable Frank R. Addy, Judge

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

Dale Scott, Deputy Solicitor
Taylor Daniel, Assistant Solicitor
Attorney for the State

Thomas E. Mosley, Esq.
Attorney for the Defendant

Joy E. Holston
Official Court Reporter

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(DW) - Denotes defense Witness
(SW) - Denotes State's Witness

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1 THE COURT: Call your first case please, sir.

2 MR. SCOTT: Thank you, Your Honor. State v. Henry
3 Delos Anderson. Indicted on three counts, first count,
4 Criminal Sexual Conduct, Indictment number
5 2013-GS-36-0238. Indictment two is for Kidnapping,
6 13-GS-36-0239. Finally, Pointing and Presenting a
7 Firearm, Indictment 13-GS-36-0240. Each of these
8 Indictments were true billed by Newberry County Grand
9 Jury, April 19th, 2013.

10 THE COURT: All right. Now, ladies and gentlemen,
11 we're about to begin the trial of the case of the State of
12 South Carolina vs. Henry D. Anderson, Indictments
13 13-GS-36-240, 238 and 239. The defendant in this case is
14 Mr. Anderson who is being represented by Mr. Mosley. Mr.
15 Mosley, if you'd care to stand and introduce yourself and
16 your client to the jury panel please.

17 MR. MOSLEY: Yes. Thank you, Your Honor. Good
18 morning, ladies and gentlemen. Good morning. My name is
19 Thomas Mosley, M-O-S-L-E-Y and I have the distinct, not
20 necessarily pleasure, but responsibility to represent Mr.
21 Henry Delos Anderson, who's from your community. Stand
22 up, please, Mr. Anderson. He's from the Mountville
23 section of Newberry, I mean, excuse me, Laurens County, I
24 believe it is. Good morning.

25 THE COURT: Thank you, Mr. Mosley. The State of South

1 Carolina in this case, is being represented by Mr. Scott.
2 Mr. Scott, if you'd care to stand and introduce yourself
3 and certainly anyone seated at counsel table with you.

4 MR. SCOTT: Yes, sir. I'm Dale Scott. I'm the Deputy
5 Solicitor here in Newberry County. I also prosecute cases
6 in Laurens County. The circuit here is the Eighth Circuit
7 comprised of Greenwood, Laurens, Abbeville and Newberry
8 counties. I'm going to be assisted with various members
9 of Newberry County and Laurens County law enforcement this
10 week, who I'll introduce as they come to testify. Here
11 seated at counsel table with me is Assistant Solicitor
12 Taylor Daniel. He's going to be helping me prosecute the
13 case. He also prosecutes for the Eighth Circuit. Garrett
14 Lominack with the Laurens, I mean, excuse me, the Newberry
15 County Sheriff's Department and Matt Veal right here, he's
16 with the Laurens County Sheriff's Department.

17 THE COURT: Thank you, Mr. Scott. Now, ladies and
18 gentlemen, I have some questions I'm going to need to ask
19 you that are specific to this case in order to determine
20 your qualification to serve as jurors on this individual
21 case. Okay. First of all, is there any member of the
22 jury panel who is related by blood or marriage or has any
23 close business or social relationship with any of the
24 attorneys involved in this case, either Mr. Mosley, Mr.
25 Scott or Mr. Daniel? If so, please stand. No one is

1 standing. Oh, I'm sorry. Yes sir, what's your name?

2 MR. WORKMAN: Mr. Workman.

3 THE COURT: Mr. Workman. That's juror number 163 and
4 who, who do you know.

5 MR. WORKMAN: Mr. Mosley.

6 THE COURT: All right. Has he, is he representing you
7 on something or are you related to him?

8 MR. WORKMAN: No. No.

9 THE COURT: Okay. How do you know Mr. Mosley?

10 MR. WORKMAN: He married into my family.

11 THE COURT: He married into your family?

12 MR. WORKMAN: Yes.

13 THE COURT: Okay. His wife is who?

14 MR. WORKMAN: My cousin.

15 THE COURT: Your cousin?

16 MR. WORKMAN: Yes, sir.

17 THE COURT: Okay. All right. In that case, Mr.
18 Workman, you won't serve on this jury. All right. You
19 can have a seat Mr. Workman. You won't serve on this
20 jury, but I need you to stay with us. Okay, sir. Anyone
21 else?

22 (No response.)

23 THE COURT: Is there any member of the jury panel who
24 is currently being represented by any of the attorneys or
25 has previously been represented by the, any of the

1 attorneys involved in this case, either Mr. Mosley, Mr.
2 Scott or Mr. Daniel? If so, please stand.

3 (No response.)

4 THE COURT: No one is standing. Is there any member
5 of the jury panel related by blood or marriage to the
6 defendant in this case, Henry Anderson, or has any close
7 business, social, or personal relationships with Mr.
8 Anderson? If so, please stand.

9 (No response.)

10 THE COURT: No one is standing. Ladies and gentlemen,
11 these Indictments allege that Mr. Anderson did on January
12 the 30th willfully and unlawfully kidnap Tywanda [REDACTED].
13 That Mr. Anderson did on the same date willfully and
14 unlawfully commit criminal sexual conduct with Ms. [REDACTED]
15 and did on the same date willfully and unlawfully point
16 and present a firearm at Ms. [REDACTED]. Where is this
17 incident alleged to have taken place, Gentlemen?

18 MR. SCOTT: Stoney Battery Road.

19 THE COURT: Where?

20 MR. SCOTT: Stoney Battery Road which is obviously
21 here in Newberry County. It's, I think it's Silverstreet
22 community. In the general area, Your Honor.

23 THE COURT: All right. Again, this incident alleged
24 to have taken place on January the 30th of last year on
25 Stoney Battery Road in Silverstreet, you said?

1 MR. SCOTT: Yes, sir.

2 THE COURT: All right. In Silverstreet. Is there any
3 member of the jury panel who has any prior knowledge or
4 thinks that they might have any prior knowledge about this
5 case or has formed or expressed any opinion concerning the
6 allegations in this case? If so, please stand.

7 (No response.)

8 THE COURT: No one is standing. Now, I'm going to
9 read a list of potential witnesses in this case, ladies
10 and gentlemen, I need you to listen carefully because
11 after I read this list of witnesses, what I'm going to
12 ask, is whether you're related by blood or marriage to any
13 of these people or you have any close business or social
14 ties to any of these folks. Okay. Here are the possible
15 witnesses.

16 MR. SCOTT: I'm sorry, Your Honor. And I have at
17 least four of them on there, would you like them to stand
18 as you call their name?

19 THE COURT: Yes. If you're, if this particular
20 witness is present, I'd ask that y'all stand when your
21 name is called. So, if you're here, I want you to stand
22 up so that the jury panel can see you. Here are the
23 possible witnesses that may be called in this case.
24 Stephen Bradley Epps with the Newberry County Sheriff's
25 Office. Tywanda [REDACTED], Ms. [REDACTED], come here, face them

1 please. Thank you, Ms. [REDACTED]. Sharonda Brown. Thank
2 you, Ms. Brown. And after y'all stand, you can have a
3 seat after I finish calling your name. Thanks. James
4 "Ren" Henderson of the Newberry County Sheriff's Office,
5 Earnest Brown. Thank you, Mr. Brown. Matthew Veal with
6 the Laurens Sheriff's Office, Garrett Lominack with the
7 Newberry Sheriff's Office. Thank you. Kaye Epps with the
8 Newberry Sheriff's Office; Wesley Boland, also with the
9 Newberry Sheriff's Office; Ben Chapman with the Sheriff's
10 Office; Richie Moore with the Sheriff's Office; Susie Ann
11 Brown. Thank you, Ms. Brown. Cindy Anderson and Lisa
12 Anderson. All right. Ladies and gentlemen, is there any
13 member of the jury panel who is related by blood or
14 marriage to any of those possible witnesses or do you have
15 any close business or social ties or friendships with any
16 of those possible witnesses? If so, please stand. Yes,
17 ma'am. What's your name, please?

18 MS. JOINER: Kendyl Joiner.

19 THE COURT: Ms. Joiner. That's juror number, juror
20 number 78. And which of those witnesses do you know, Ms.
21 Joiner?

22 MS. JOINER: James "Ren" Henderson is my first cousin.

23 THE COURT: All right. First cousin?

24 MS. JOINER: Yes.

25 THE COURT: All right. Ms. Joiner, I will excuse you

1 then from serving on this case. Stay with us though
2 please. Yes, ma'am. What is your name, please?

3 MS. WILLIAMS: Lisa Williams. Juror 158.

4 THE COURT: Yes ma'am. And who do you know, Ms.
5 Williams?

6 MS. WILLIAMS: Sue Brown.

7 THE COURT: All right. How do you know Ms. Brown?

8 MS. WILLIAMS: She was married to my nephew.

9 THE COURT: Formerly, how long have they been
10 separated would you guess or how, how well do you know Ms.
11 Williams?

12 MS. WILLIAMS: About ten years.

13 THE COURT: You've known her for ten years or they've
14 been separated?

15 MS. WILLIAMS: They've been separated for about ten
16 years.

17 THE COURT: And how do you know Ms. Williams?

18 MS. WILLIAMS: I'm Ms. Williams.

19 THE COURT: All right. I'm sorry. How do you know
20 Ms. Brown?

21 MS. WILLIAMS: I know myself quite well.

22 THE COURT: And, obviously, thank you. Ms. Williams,
23 do you still have any contact with Ms. Brown? They've
24 been separated or divorced, divorced for ten years. Is
25 that right?

1 MS. WILLIAMS: Yes.

2 THE COURT: Okay. Do you still see her or have any
3 relationships with her?

4 MS. WILLIAMS: No, not really.

5 THE COURT: Not really. Okay. If she were to serve
6 as a witness in this case, would the fact that she used to
7 be related to your, to your nephew, would that affect your
8 ability to be fair and impartial to both the State and the
9 defense?

10 MS. WILLIAMS: No.

11 THE COURT: You're certain of that?

12 MS. WILLIAMS: I'm certain.

13 THE COURT: Okay. Thank you very much, Ms. Williams.
14 You can have a seat. Yes, ma'am. What's your name?

15 Ms. Johnson: Brandi Johnson.

16 THE COURT: Juror number 73. Yes, ma'am. How's that
17 question apply?

18 MS. Johnson: I've known Matthew Veal for
19 approximately fifteen years.

20 THE COURT: And how do you know Mr. Veal?

21 MS. Johnson: Just a friendship.

22 THE COURT: As a friendship. All right. Do you see
23 him frequently?

24 MS. Johnson: No.

25 THE COURT: About how frequently do you see Mr. Veal?

1 MS. Johnson: I haven't seen him in years but we do
2 have mutual friends.

3 THE COURT: Okay. You got mutual friends, but you
4 don't hangout on a regular basis with him?

5 MS. Johnson: No.

6 THE COURT: If Mr. Veal were to be called as a witness
7 in this particular case, would that affect your ability to
8 be fair and impartial to both the State and the defense in
9 this case?

10 MS. Johnson: No, sir.

11 THE COURT: You're certain of that?

12 MS. Johnson: Yes.

13 THE COURT: Thank you very much, Ms. Johnson. You can
14 have a seat.

15 Anyone else need to respond to that last question?
16 If so, please stand. Yes, sir. What's your name, please?

17 MR. EPPS: Frederick Epps.

18 THE COURT: Mr. Epps. That's juror number 45. And
19 yes, sir.

20 MR. EPPS: The officer you called, Kaye Epps.

21 THE COURT: Yes, sir.

22 MR. EPPS: That's my Aunt.

23 THE COURT: That's your Aunt?

24 MR. EPPS: Yes, sir.

25 THE COURT: Okay. Yes, Kaye Epps. All right. In

1 that case, she's your Aunt you said?

2 MR. EPPS: Yes, sir.

3 THE COURT: All right. In that case, Mr. Epps, I will
4 excuse you from serving on this case then. Okay, sir.
5 Mr. Epps won't serve. Anyone else? No one is standing.
6 Ladies and gentlemen, is there any member of the jury
7 panel who has been a victim of any violent crime or any
8 crime that you would characterize as violent? What I'll
9 do, is if you need to discuss that privately with me, I'll
10 let you come down here and talk to me about it. But if
11 there's any member of the jury panel who has been a victim
12 of a violent crime or crime of this nature, if you would,
13 just stand please.

14 MR. MOSLEY: Your Honor, if we can approach.

15 THE COURT: Yes, come on up.

16 (Whereupon, a bench conference was held in the
17 presence of the jury panel but out of the hearing of
18 the jury panel.)

19 THE COURT: Is there any member of the jury panel who
20 has any close family member or very close friend whose
21 ever been the victim of a violent crime or sexual assault?
22 If so, please stand. And again, we can discuss this down
23 here if y'all choose to do so, if you need to discuss it
24 down here, just let me know. Okay. Yes, ma'am. Your
25 name, please?

1 MS. SHEALY: Cathy Shealy.

2 THE COURT: Ms. Shealy. All right.

3 MS. SHEALY: My daughter.

4 THE COURT: All right. She, and how long ago was
5 that, Ms. Shealy?

6 MS. SHEALY: Fifteen years.

7 THE COURT: All right. The fact that your daughter
8 went through that, Ms. Shealy, would that affect your
9 ability to be fair and impartial to both the State and the
10 defense in this case?

11 MS. SHEALY: I will be fair.

12 THE COURT: You will be fair. All right. Thank you,
13 Ms. Shealy. Anyone else? All right. No one is standing.
14 All right. Is there any member of the jury panel who has
15 any strongly held beliefs concerning gun ownership, either
16 for, very strongly for gun ownership or very strongly
17 opposed to gun ownership. I think you know what I'm
18 getting at, gun control, things of that nature, either
19 incredibly strong for gun control or incredibly strong
20 against gun control? If so, please stand.

21 (No response.)

22 THE COURT: No one is standing. Is there any member of
23 the jury panel who has any strong moral or religious
24 beliefs regarding individuals who live in, who live
25 together outside, outside of marriage or outside of lawful

1 marriage. Anyone who has strongly held beliefs about
2 relationships outside of marriage where people cohabiting
3 together outside of marriage in a romantic way? If so,
4 please stand.

5 (No response.)

6 THE COURT: All right. No one is standing. Is there
7 any member of the jury panel who has a close friend or
8 close family member whose a law enforcement officer
9 wherein you would tend to believe a law enforcement
10 officer more so than you would some other witness? Any
11 close, any member of the jury panel who has a close
12 relationship with a law enforcement officer either as a
13 friend or a family member and that relationship would
14 cause you to believe a law enforcement officer over an
15 ordinary citizen? If so, please stand.

16 (No response.)

17 THE COURT: No one is standing. Is there any member
18 of the jury panel who knows of any reason whatsoever that
19 you can not give both the State of South Carolina and the
20 defendant in this case, Mr. Anderson, a fair trial? Any
21 concerns whatsoever that you can not be a fair and
22 impartial juror and hear this case and judge this case
23 based solely on the evidence presented in Court? Any
24 reason whatsoever that you have any hesitation about being
25 a juror? If so, please stand.

1 (No response.)

2 THE COURT: No one is standing. Is there any member
3 of the jury panel who, who subscribes to any religious
4 philosophy that would prevent you from serving on a jury
5 in that you would be prevented by your religious beliefs
6 from sitting in judgment of someone else? Anyone who
7 because of their religious beliefs, would be unable to
8 serve as a juror because you would not be able to render a
9 verdict, you can not, according to your faith, render or
10 judge another person? If so, please stand.

11 (No response.)

12 THE COURT: No one is standing. Additional voir dire
13 from the State, Mr. Scott?

14 MR. SCOTT: None, Your Honor.

15 THE COURT: From the defense?

16 MR. MOSLEY: None, Your Honor. Thank you.

17 THE COURT: Very good. Strikes will be 10 and 5. We
18 will take two alternates. Strikes on those will be 2
19 defense, 1 State. Now, ladies and gentlemen of the jury,
20 if you served as a juror in a civil trial, the way that we
21 pick juries in criminal cases is a little bit different.
22 Okay. If your name is called, what I need you to do is
23 bring with you any belongings that you brought to the
24 annex here today, come forward and if you could, just
25 stand right there where the two rows of seats are divided,

1 just stand there and face towards me. At that point in
2 time, the State will be offered an opportunity to either
3 seat you or to excuse you and the defense will be given a
4 similar type of an opportunity. Okay. I'll tell you what
5 I tell every jury or every jury panel, if you're excused,
6 don't take it personally, every lawyer has their own way
7 of picking a jury. Okay. So if you, they ask you not to
8 sit on this jury, again, don't take it personal. It's not
9 personal. All right. Ms. Bowers, if you'll give me a
10 jury please.

11 MADAME CLERK: Number 33, Sammuel Connor. What says
12 the State?

13 MR. SCOTT: Please excuse the juror.

14 MADAME CLERK: 138, Wanda Suber. What says the State?

15 MR. SCOTT: Please present the juror.

16 MADAME CLERK: The defense?

17 MR. MOSLEY: Excuse the juror.

18 MADAME CLERK: 72, Von James. What says the State?

19 MR. SCOTT: Please present the juror.

20 MADAME CLERK: defense?

21 MR. MOSLEY: Present the juror.

22 MADAME CLERK: 98, Kathleen Harmon. What says the
23 State?

24 MR. SCOTT: Please present the juror.

25 MADAME CLERK: Defense?

1 MR. MOSLEY: Present the juror.

2 MADAME CLERK: 130, Mary Shull. What says the State?

3 MR. SCOTT: Please present the juror.

4 MADAME CLERK: The defense?

5 MR. MOSLEY: Excuse the juror.

6 MADAME CLERK: 112, Freddie Neal. What says the
7 State?

8 MR. SCOTT: Please present the juror.

9 MADAME CLERK: The defense?

10 MR. MOSLEY: Excuse the juror.

11 MADAM CLERK: 69, Michael Huggins. What says the
12 State?

13 MR. SCOTT: Please present the juror.

14 MADAME CLERK: The defense?

15 MR. MOSLEY: Present the juror.

16 MADAME CLERK: 151, Brenda Werts. What says the
17 State?

18 MR. SCOTT: Please present the juror.

19 MADAME CLERK: The defense?

20 MR. MOSLEY: Present the juror.

21 MADAME CLERK: 52, Shavius Gallman. What says the
22 State?

23 MR. SCOTT: Please excuse the juror.

24 MADAME CLERK: 64, Andrea Hawkins. What says the
25 State?

1 MR. SCOTT: Please present the juror.

2 MADAME CLERK: The defense?

3 MR. MOSLEY: Present the juror.

4 MADAME CLERK: 134, Christopher Smith. What says the
5 State?

6 MR. SCOTT: Please present the juror.

7 MADAME CLERK: The defense?

8 MR. MOSLEY: Excuse the juror.

9 MADAME CLERK: 44, Drema Ellison. What says the
10 State?

11 MR. SCOTT: Please present the juror.

12 MADAME CLERK: Defense?

13 MR. MOSLEY: Present the juror.

14 MADAME CLERK: 21, Laurie Franklin Bryant. What says
15 the State?

16 MR. SCOTT: Please present the juror.

17 MADAME CLERK: The defense?

18 MR. MOSLEY: Excuse the juror.

19 MADAME CLERK: 153, Carroll Wicker. What says the
20 State?

21 MR. SCOTT: Please excuse the juror.

22 MADAME CLERK: 54, Sidney Graham. What says the
23 State?

24 MR. SCOTT: Please present the juror.

25 MADAME CLERK: The defense?

1 MR. MOSLEY: Excuse the juror.

2 MADAME CLERK: 7, Timothy Beach. What says the State?

3 MR. SCOTT: Please present the juror.

4 MADAME CLERK: The defense?

5 MR. MOSLEY: Present the juror.

6 MADAME CLERK: 161, George Wilson. What says the
7 State?

8 MR. SCOTT: Please present the juror.

9 MADAME CLERK: The defense?

10 MR. MOSLEY: Excuse the juror.

11 MADAME CLERK: 102, Kelly Martin. What says the
12 State?

13 MR. SCOTT: Please present the juror.

14 MR. MOSLEY: Present the juror.

15 MADAME CLERK: 123, Donald Rutherford. What says the
16 State?

17 MR. SCOTT: Please present the juror.

18 MADAME CLERK: The defense?

19 MR. MOSLEY: Present the juror.

20 MADAME CLERK: 84, Joseph Kingsmore. What says the
21 State?

22 MR. SCOTT: Please present the juror.

23 MADAME CLERK: The defense?

24 MR. MOSLEY: Present the juror.

25 MADAME CLERK: 38, Larry Crosson. What says the State?

1 MR. SCOTT: Beg the Court's indulgence.

2 THE COURT: Yes, sir.

3 MR. SCOTT: Please present the juror.

4 MADAME CLERK: The defense?

5 MR. MOSLEY: Excuse the juror.

6 MADAME CLERK: 158, Lisa Williams. What says the
7 State?

8 MR. SCOTT: Please present the juror.

9 MADAME CLERK: The defense?

10 MR. MOSLEY: Excuse the juror.

11 MADAME CLERK: 157, Carl Williams. What says the
12 State?

13 MR. SCOTT: Please present the juror.

14 MADAME CLERK: The defense?

15 MR. MOSLEY: Present the juror.

16 MADAME CLERK: 133, Terry Sligh. What says the State?

17 MR. SCOTT: Please present the juror.

18 MADAME CLERK: The defense?

19 MR. MOSLEY: Present the juror.

20 THE COURT: Moving to alternates, strikes will be 1
21 for the State, 2 for the defense on each alternate.

22 MADAME CLERK: 80, Felix Jones. What says the State?

23 MR. SCOTT: Please present the juror.

24 MADAME CLERK: The defense?

25 MR. MOSLEY: Present the juror.

1 MADAME CLERK: 85, Christopher Koon. What says the
2 State?

3 MR. SCOTT: Please present the alternate.

4 MADAME CLERK: The defense?

5 MR. MOSLEY: Present the juror.

6 THE COURT: All right. Any issues concerning
7 selection or composition of the jury from the State?

8 MR. SCOTT: No, Your Honor.

9 THE COURT: From the defense?

10 MR. MOSLEY: No, Your Honor.

11 THE COURT: Very good. All right. Ladies and
12 gentlemen who were picked on this particular jury, the
13 Deputy Bailiff, somebody's going to show you where the
14 jury room is. I'm only going to keep you for about ten
15 minutes and then I'm going to release you for lunch.
16 Okay. But I need to discharge the rest of the jury panel
17 then I'll bring you back in here and give y'all some very
18 brief instructions, and let y'all go until sometime early
19 this afternoon because there's some issues I need to take
20 up concerning this case and a few other cases. So if you
21 were picked on this jury, follow this gentleman right
22 here, and he'll show you where to go.

23 (Whereupon, the jury was excused from open court.)

24 THE COURT: Ladies and gentlemen who were not
25 selected on this particular case, I was talking with the

1 Clerk of Court and the Solicitor, this may be the only
2 case that, and it's entirely likely this is the only,
3 especially with the weather, this may be the only case
4 that we can get to this week. Okay. Right now, there's a
5 lot of question marks out there. First of all, how long
6 this case is going to take, second of all, what the
7 weather is going to do to us. So, what I'm going to ask
8 that you do is, if you could, just call back anytime after
9 6:00 o'clock on Wednesday, to this number, that's listed
10 on your juror information card, the 321-2110 number. Call
11 that number anytime after 6:00 o'clock on Wednesday and
12 follow whatever those instructions are for the jury panel.
13 Okay, for the jury panel because I may have a different
14 message on there for this trial jury. So, you guys are
15 the jury panel, whatever the message is, follow that
16 instruction. It could say we need you to report back
17 Thursday morning. It could say that, thank you very much,
18 we don't need you to come back at all, but we're just
19 going to have to see the weather and with this trial. If
20 for some reason, okay, just, just to let you know, the
21 Court is going to follow whatever the schedule is for
22 Newberry County. So if Newberry County, if the County
23 emergency director orders Newberry County offices closed,
24 the Court will also be closed. So for example, on
25 Wednesday, if the message is, report back at 10:00 o'clock

1 on Thursday morning and it turns out that the County
2 manager has ordered County offices closed Thursday
3 morning, do not come in here. Do not try to come in here,
4 okay, Thursday morning because nobody's going to be here.
5 All right. So, I think you know that the County makes
6 those announcements, both on the media and on their
7 website, so you can check the County website which is
8 www.newberrycounty.net. So, you can check the website or
9 you can tune into radio or TV. Call back on Wednesday.
10 It's been a pleasure to meet you folks. I hope I have a
11 chance to see y'all again, but it's entirely likely I
12 won't. If I don't have a chance to see you, have a great
13 week, stay warm, stay dry and don't get into an accident
14 if we have bad weather. Y'all take care and thank you
15 much.

16 (Whereupon, the remaining jury panel was excused from
17 open court.)

18 (Whereupon, the trial was moved to the Family
19 Courtroom.)

20 THE COURT: Let's have the jury in.

21 (Whereupon, the jury came into open court at
22 approximately 12:10 p.m.)

23 THE COURT: Now, ladies and gentlemen, you understand
24 that you have been picked as jurors on this particular
25 case. So it's very important that you judge this case

1 with an open mind and not be influenced by anything
2 anybody says to you while the case is going on. So if you
3 happen to go to lunch with a friend or family member or
4 you go back home and grab something at home, and your
5 spouse or kids or whoever's there, I know that they know
6 that you were summoned for jury duty this morning, it's
7 fine to tell them that you were picked on a jury but don't
8 talk about anything else with them about the particular
9 case. And the reason for this admonition, ladies and
10 gentlemen, it's very simple, you've got to judge this case
11 based on the testimony and the evidence that's presented.
12 This will be your decision to make and it should not be,
13 and cannot be, influenced by anybody else no matter how
14 well intentioned their remarks might be. Okay. So it's
15 fine to tell them that you've been picked on a jury but if
16 they, you know, want to talk about it more, just tell them
17 that the Judge told me I can't. All right. And it'll be
18 part of your oath that you take when you return from
19 lunch. It'll be part of your oath to try this case based
20 solely on the facts and the evidence presented and I
21 wouldn't want any of you to, to violate that oath
22 prematurely by having a conversation with anyone over
23 lunch. There are some matters that I have to take up that
24 involve this case and some other stuff. So I'll ask that
25 you be back in the jury room at 3:00 o'clock. When you

1 get there, because of the weather, I've talked with the
2 Clerk and you're going to have a little pad like this. If
3 you could, I think we've got most of your contact
4 information but if you could, just write down on this pad
5 your name and the best number for the Clerk or somebody
6 from Court to reach you at in the event that we wind up
7 with inclement weather. I don't want y'all waking up and
8 showering, shaving and getting in your car and coming here
9 just to find the courthouse closed. Okay. So we will try
10 to contact you as soon as we know if there is a weather
11 issue in the next couple of days. We're going to try to
12 contact you guys as soon as possible, as soon as we know.
13 Okay. So you'll find this piece of paper, pad like this,
14 in your jury room, same room that you were in when you
15 come back for lunch. Give us the best number to reach you
16 at and your name. Okay. With that, I'm not going to keep
17 you any longer. Y'all go to lunch. When you come back at
18 3:00 o'clock, I hope to have you in here and we'll proceed
19 with the trial of that case. I'll appoint a foreperson
20 and we'll go forward with the trial. With that, you're
21 excused until 3:00 o'clock. I'll see y'all then. Keep
22 those badges on too. It helps identify y'all as jurors
23 when you come back. Thank you.

24 (Whereupon, the jury was excused from open court for
25 a lunch break.)

1 THE COURT: All right. The jury is out. There are
2 some preliminary motions that we need to take up. I've
3 been apprized of what those are from discussions with the
4 attorneys in chambers. One housekeeping matter, the
5 Solicitor had informed me that they had re-indicted Mr.
6 Anderson for possession of a weapon during the commission
7 of a violent crime. Basically, I ruled in chambers that
8 because Mr. Anderson was never served with a copy of the
9 indictment and arraigned that it's not appropriate to go
10 forward on that. So we won't be going forward on that
11 particular charge. The other three charges that we picked
12 the jury on, those we will be going forward with. There
13 don't seem to be any procedural issues or defects or
14 jurisdictional problems with those.

15 MR. MOSLEY: Judge, may I add a comment?

16 THE COURT: Yes sir, please.

17 MR. MOSLEY: Just for way of an editorial comment,
18 Judge. I believe also in terms of the Court ruling on that
19 new charge that was only, I guess, presented in November.
20 I believe the Solicitor made the side comment. I don't
21 mean to misquote him, that, we'll just drop that. And I
22 think that's important in terms of prosecutorial
23 discretion that, that will be something at a later point
24 would not be able to come up. I know that's a technical
25 issue.

1 THE COURT: Sure. Right. We may wind up with double
2 jeopardy on it anyway, but in the event we don't wind up
3 with a double jeopardy issue, because it wasn't served, I
4 don't feel the proceeding with that charge now, or in the
5 future, I don't feel that would be appropriate and that
6 will be my ruling on that.

7 MR. MOSLEY: Thank you, Your Honor.

8 THE COURT: All right. There was, I don't know which
9 order y'all care to take these in, I think that there are
10 three motions regarding text or, there are three motions,
11 with one regarding text messages which were exchanged
12 between the defendant and Ms. [REDACTED]. There's also an
13 issue concerning the Rape Shield statute and the Jackson
14 v. Denno. Mr. Mosley, how would you care to proceed with
15 those?

16 MR. MOSLEY: Judge, with regard to the, well the Rape
17 Shield statute, I, we have showed proof or proffer, I
18 would like to make to that and I don't know whether or not
19 the, the Court would consider the current dynamics of the
20 room and in-camera examination because we have witnesses
21 here. If this is the in-camera hearing pursuant to the
22 law, and the Court is going to allow us to make an offer
23 of proof, I would, because the offer of proof actually
24 involves some of the witnesses for the State that's been
25 called. I would ask that the witnesses be sequestered.

1 And that way, that's going to avoid a lot of things that
2 may go forward. I think my colleagues, in response to the
3 Rape Shield statute earlier on, and I don't mean to
4 misquote them but there's always this notion pursuant to
5 the law that that's unequivocal admonition or prohibition
6 against evidence coming in but I think the case law, in
7 terms of the State v. Finley, a 1989 case and other case
8 law seem to indicate some degree of flexibility with
9 regard to right of confrontation and, and the credibility
10 of the victim. So I may be wanting to question some of
11 the State's witnesses, you know, some of the victim's
12 sisters with regard to prior sexual conduct so that we can
13 get to the bottom line, Judge. And I don't want to
14 embarrass or defame the integrity of, you know, the victim
15 in terms of the, you know, prejudicial effect.

16 THE COURT: Certainly.

17 MR. MOSLEY: In out weighing the probative value. But
18 I do want my client to have a fair trial.

19 THE COURT: All right.

20 MR. MOSLEY: So, I mean, and I, and if you want me to
21 be specific about who I want to sequester at this point, I
22 will say the person whose not the victim, that's in the
23 courtroom that I want sequestered at this point. And I
24 would like to call the victim to the stand to ask her some
25 questions under oath.

1 THE COURT: All right. Solicitor, what's the State's
2 position? I hear two things. Obviously, they want to
3 move forward under Rape Shield. I know what the State's
4 position is on that. Any problem with sequestering
5 certain witnesses while we do this proffer?

6 MR. SCOTT: No. I would just ask for, I think we got
7 to on there, there's going to be a sequestration of
8 State's witnesses.

9 THE COURT: Who would you like to have step out, Mr.
10 Mosley?

11 MR. MOSLEY: The victim's sisters.

12 THE COURT: Okay. Are they here?

13 MR. SCOTT: They are, Your Honor.

14 THE COURT: All right.

15 MR. SCOTT: One of them is.

16 THE COURT: If you would ask the sister who is here
17 to step out, please. Thank you. They'll show you some
18 place that you can be comfortable.

19 MR. MOSLEY: One of my allegations as it states in my
20 affidavit in support of the Rape Shield statute, Your
21 Honor, was this notion that the victim, the victim herself
22 had actually been sexually molested as a young lady by her
23 own brother. Now, I would've thought by now, the
24 Solicitor may have been able to check their records
25 because also in that affidavit for my client, is a

1 statement that he knew through the victim that her own
2 brother had previously been charged with rape by the
3 Newberry County's prosecutor or entities. I don't know
4 anything about it but I'm just basing my, my motion based
5 on what my client has been trying to, in defense of
6 himself. Your Honor, the Court may want to inquire of the
7 Solicitor's office, because I know I can't ask them, as to
8 whether or not they have any rap sheet or arrest records
9 of, of the victim's brother. And his name is Ricardo
10 Brown.

11 THE COURT: Is, is that the person that you're
12 alleging?

13 MR. MOSLEY: That's the person my client is alleging
14 that the victim told him that when she was a minor child
15 she had been sexually molested as a minor, by her own
16 brother, Ricardo Brown.

17 THE COURT: Okay.

18 MR. MOSLEY: And then my client also told me that he
19 knew through the community, prior to being arrested, that
20 Ricardo Brown had actually been charged with a rape charge
21 here in Newberry County.

22 THE COURT: All right. Solicitor, would you care to
23 speak to any of that?

24 MR. DANIEL: Your Honor, this, this motion of defense
25 counsel, I just would submit is totally improper on the

1 Rape Shield statute. This attempt to circumvent the Rape
2 Shield statute and have disclosed the victim's sexual
3 history, references to a relationship she had with her
4 brother. All the allegations addressed in defense
5 counsel's motion, is really based upon his client, Henry
6 Anderson's affidavit he submitted. It's a seven point
7 affidavit, pointing to her sexual history and it doesn't
8 even relate to his sexual history with the victim herself.
9 Clearly, it's not an exception under the Rape Shield
10 statute. It's based upon hearsay. Totally irrelevant to
11 the date in question, to the actual sexual assault that
12 occurred on January 30th 2013. Irrelevant, it's probative
13 value is clearly prejudicial. It's based on speculation
14 innuendo, essentially. So it's not well grounded, in
15 fact, it's purely hearsay, Your Honor.

16 MR. MOSLEY: Judge, Judge, we'll--

17 MR. DANIEL: It goes to character propensity as well
18 to the victim. Clearly, we could not do the same to the
19 defendant in this case. The same would go to the victim,
20 not want to expose the victim to any embarrassing or
21 disparaging allegations that don't even relate to this
22 case.

23 MR. MOSLEY: Judge, I mean, the reason why I wanted
24 the sister to step out is that it's my understanding from
25 my client, this is something recently that I didn't even

1 become aware of, is that, you know, similar to what was
2 stated in the Finley case, there was some motive for the
3 victim falsely accusing the defendant. So we use that
4 particular case law for the proposition and, I don't mean
5 to defame anybody's family or anything. But I recently
6 come to find out that the, my client, the defendant in
7 this case, right prior to the incident, the alleged rape
8 that happened in January 30th of 2013, right around
9 Christmas of 2013 the defendant was at the victim's place
10 of residence and I believe the story goes that the, the
11 victim's sister needed a ride somewhere. And the victim
12 said it was okay for her boyfriend, Henry Brown, to give
13 her sister a ride home. And it's my understanding from my
14 client recently doing an interview, that that's when he
15 happened to have sexual intercourse with the victim's own
16 sister. And Judge, if you notice in the incident reports
17 attending to this case, the, one of the incident reports,
18 when the victim initially alleged that she had been
19 sexually raped by the defendant she didn't call law
20 enforcement. She called her sister about a civil
21 disturbance. So Judge, I just think that some things need
22 to come out in in-camera. I'm not trying to pre-try the
23 case, but it's, it'll be much more smoother if we got to
24 some bottom line points in terms of the process upon which
25 the Court, evidence is going to come in front of the jury.

1 So that the Court can make a, some decisions on these
2 matters. So if the Court wants me to call my client to
3 make a proffer or call the victim to the witness stand so
4 she can answer truthfully herself about whether or not her
5 brother had sexually molested her, we would, we would
6 encourage the Court to do so and then we can really go
7 forward. I think the tenure of the Rape Shield Statute is
8 not prohibitive of denying a, a defendant to the six
9 member right to confrontation nor to the issue of
10 credibility. I think the, the Rape Shield Statute was
11 only reenacted into law, came about historically at a, in
12 an atmosphere whereby we had these things going on within
13 the narrative of, of the American system. And they say,
14 well, we got to protect women. I, I think enough has went
15 on now with some degree of parity whereby we, we still
16 have some fundamental issues of fairness, and credibility
17 is always at stake in these cases, Your Honor.

18 THE COURT: All right. Well, let, let me, not to cut
19 you off Mr. Mosley, but when I'm looking at your motion
20 the thing that jumps out at me was that, you know,
21 certainly, I'm happy to entertain any proffer that you may
22 want to present and whoever you want to call is your
23 business in order to try to proffer that evidence.
24 Paragraph four of your motion relates to how many previous
25 instances supposedly of--

1 MR. MOSLEY: Yeah, that was one, excuse me, Judge.
2 You have the written document. I don't really have to
3 deal with that and I, I thought that I was possibly in
4 error in doing that. But to me, that coincided with this
5 notion of, you know, that may sort of prejudice that
6 particular question in and of itself. But the, these
7 facts about causation or motive, so to speak, one of the
8 exceptions was when people are married. And in this case,
9 another thing that, to me, would come to the Court's mind
10 is that these parties had dated on and off, to the extent
11 whereby the, and I think my colleague mentioned this
12 earlier that the victim had actually had a miscarriage.
13 And then there's also a statement, and, and I don't know
14 whose statement it is, but there is a, some notion that
15 during the act of cohabitation there was some statement
16 between the plaintiff, I mean, between the victim and the
17 defendant that, well, you going to have my baby.

18 THE COURT: Well, I, I think I can help you out and
19 perhaps we can break this down a little bit easier.
20 Solicitor, I assume the State is not taking the position,
21 or I'm assuming that the State would agree that the
22 relationship between the defendant and Ms. [REDACTED], whatever
23 the nature of that relationship may be, even if it is
24 sexual, but that obviously they can testify as to that
25 because that relates to the accused as opposed to some

1 third party. Is that correct?

2 MR. DANIEL: Yes, Your Honor. And that's clear, clear
3 exception within the prohibitions of the Rape Shield
4 Statute.

5 THE COURT: Right.

6 MR. DANIEL: It allows for that. As far as the other
7 allegations in the affidavit submitted by Mr. Mosley,
8 highly inflammatory--

9 THE COURT: Well, let, let me ask you this, there's,
10 from what Mr. Mosley is suggesting, there's an allegation
11 that Ms. [REDACTED]'s sister and the defendant may have been
12 involved in a sexual relationship around December of 2013,
13 I think is what he said. That's not Rape Shield either,
14 correct? Because that involves someone other than Ms.
15 [REDACTED].

16 MR. DANIEL: The, December of 2012,--

17 THE COURT: Yes. Mr. Mosley, is that, am I correct?

18 MR. MOSLEY: Yes sir, that's correct. That's correct.

19 THE COURT: Around Christmas of December 2012.

20 MR. MOSLEY: Well, excuse me, yes, 2012. Because it
21 would happen, yeah, 2012. I'm sorry.

22 THE COURT: All right.

23 MR. DANIEL: If it's, if the proffer is the defendant
24 had sex with someone other than the victim, I don't see
25 how the Rape Shield would be applicable to that.

1 THE COURT: I would tend to agree. You know, assuming
2 relevance and obviously, I think I know where Mr. Mosley
3 might be going with that but I think that only leaves us,
4 that only leaves us the question, Mr. Mosley, of the
5 allegation of a sexual assault when Ms. [REDACTED] was a
6 juvenile.

7 MR. MOSLEY: Yeah, that's--

8 THE COURT: Can you help me understand how perhaps
9 that might be relevant or would you care to offer any
10 evidence?

11 MR. MOSLEY: Well, to me, you know, Your Honor, the
12 only thing that's relevant would be, I would think that
13 if, if that occurred, that there would be some counseling,
14 something that if that happened to her as a young lady.
15 That would show her mental state and whether or not she
16 had been to counseling about that or make some inquiry as
17 to how she dealt with that, which would be relevant. A
18 parties mental status to me, would be, you know, her
19 mental status would be relevant and to allow just to ask
20 her whether or not that had actually occurred.

21 THE COURT: If you, if you want to proffer evidence,
22 you're at liberty, at this point, Mr. Mosley, to call any
23 witness that you may need to call.

24 MR. MOSLEY: Well, I call the victim, Tywanda [REDACTED],
25 to the witness stand.

1 THE COURT: Ms. Brown, would you mind coming up
2 please?

3 TYWANDA [REDACTED], being
4 first duly sworn, testified as follows:

5 DIRECT EXAMINATION

6 BY MR. MOSLEY:

7 Q. May it please the Court. Good morning young lady,
8 good morning.

9 A. Good morning.

10 Q. How are you?

11 A. I'm okay.

12 Q. Okay. You need to talk loud enough for me to hear
13 you. Can you hear me?

14 A. Yes, sir.

15 Q. Okay. And I can hear you now. Okay. You having a
16 good day?

17 A. No, sir.

18 Q. Okay. All right. Well, you've been here this
19 morning and I don't want to embarrass you by no means.
20 And respectfully, you just heard what was going on. Now,
21 had you, as a small lady, during the time when you were
22 dating Mr. Henry Anderson, had you ever told him that you
23 have been sexually molested by your own brother, Ricardo
24 Brown?

25 A. No, sir.

1 Q. You never told him that?

2 A. No, sir.

3 Q. Did you tell anybody that?

4 A. No, sir.

5 Q. Thank you, no further questions.

6 THE COURT: Nothing?

7 MR. SCOTT: Your Honor, I just really, I think before
8 we conclude, I think there should be some sort of motion
9 in limine. We have actually, just to caution counsel not
10 to refer to any of this stuff that clearly violates Rape
11 Shield.

12 THE COURT: Did you have any questions of Ms. [REDACTED]?

13 MR. SCOTT: Oh no I don't. I'm sorry, Your Honor.

14 THE COURT: Ma'am if you want to step down you can,
15 please.

16 MR. MOSLEY: Can, can I ask you one more question?

17 THE COURT: Hold on, Ms. [REDACTED]. I'm sorry.

18 MR. MOSLEY: One more question.

19 Q. The other questions is, would you have said that to
20 anybody else? Would you have told anybody else, whether
21 it be anybody in the community, that you said that to?

22 A. No, sir.

23 Q. You sure?

24 A. Yes, sir.

25 Q. Thank you.

1 THE COURT: Thank you, ma'am. You can step down. Any
2 other witnesses that you want to call, Mr. Mosley, on this
3 issue?

4 MR. MOSLEY: Not at this time, Your Honor.

5 THE COURT: All right. Anything further that you want
6 to speak to? She says it has not happened.

7 MR. MOSLEY: Well, I mean, I understand that the Court
8 would agree that, that there be a motion in limine with
9 regard to that. But I won't ask her that question no
10 more, but I'm surely going to ask my client that question
11 if he takes the witness stand and then it would just have
12 to, you know, just go back and forth with a dialogue. But
13 I'm not going to, I'll be asking him a question of hearsay
14 and she will be here to challenge that and there may be
15 some other people in here that may say that she told them
16 that. That doesn't mean that it didn't happen just
17 because she says it didn't happen.

18 THE COURT: How do you allege that that testimony
19 would be relevant to any issue involved in this particular
20 case?

21 MR. MOSLEY: Credibility. Credibility. Judge, see
22 one thing about this particular case is that you, you
23 know, the State is, their case is couched in such a
24 fashion as, it's almost like an unbelievable story of some
25 incident that occurred between two people. And, you know,

1 I'm just basically doing my job with regard to the
2 fairness and a right to confrontation. The Court rules,
3 depending on how the Court rules, I just want to make sure
4 that my client has his day in court and I respect the
5 Court's, you know, rulings on these particular motions.

6 THE COURT: Okay. Solicitor, obviously y'all know
7 more about this case than I do, you and Mr. Mosley. Is
8 it, there's a Jackson v. Denno I know we have to deal
9 with, so obviously the defendant, I'm assuming, gave a
10 statement to law enforcement. Is it, in that statement,
11 is it his contention that they engaged in consensual
12 relations on this date?

13 MR. SCOTT: Yes, sir.

14 THE COURT: Is that the defense?

15 MR. SCOTT: Yes, sir.

16 THE COURT: Okay. Can you explain to me, Mr. Mosley,
17 again please how any allegation of molestation at a
18 younger age, how that dovetails in with either the defense
19 or the State's case-in-chief?

20 MR. MOSLEY: Judge, I just think it's a issue of
21 credibility. You know, that's, and that's the point that
22 I would say. In terms of it's probative value and so
23 forth and so on. I really don't know, but I'm
24 representing my client to the best of my ability under the
25 circumstances. And, you know, I would think that

1 credibility would go both ways. In other words, not only
2 for the defendant who has a right to not even say
3 anything, but more importantly I would think that there
4 would be some serious questions about the voracity of the
5 victim herself. You don't, you don't get past that. And
6 the only way that we can scrutinize these, these issues is
7 to actually have this discourse, you know, have this back
8 and forth questioning of people.

9 THE COURT: All right. I'm struggling, Mr. Mosley, to
10 see how this does not fall within the Rape Shield Statute.
11 Assuming for the moment that your client is correct in
12 that molestation did take place when she was a young
13 child, that would clearly fall within the providence of
14 the Rape Shield Statute. If it did not take place then I
15 don't see how that can be relevant to any issue involved
16 in this case. And it could also, such testimony could
17 also relate to the Rape Shield Statute just as, you know,
18 in one of the paragraphs you referenced an allegation that
19 she's had, and the motion speaks for itself, but the
20 allegation that, that she's had multiple sexual partners.
21 That kind of testimony is clearly outside what's allowed
22 under the Rape Shield Statute. So, my initial ruling,
23 because I'm not hearing anything else that would indicate
24 that this would be appropriate testimony. My initial
25 ruling on this matter is that any discussion or

1 questioning about molestation as a child, that is not
2 competent evidence under Rape Shield. Obviously, any
3 testimony about a sexual relationship with other third
4 parties between the, between Ms. [REDACTED] and those third
5 parties, that would also not be relevant or permissible
6 under the Rape Shield. Any testimony of your client's
7 involvement around Christmas of 2012 with the, with Ms.
8 [REDACTED]'s sister, that would be relevant, that would not be
9 prohibited by the Rape Shield Statute. So you could go
10 into that and similarly you can also discuss the
11 relationship, sexual or otherwise, between Mr. Anderson
12 and Ms. [REDACTED]. So that would be my preliminary ruling
13 absent something else or something else being brought to
14 my attention. Okay.

15 MR. MOSLEY: Thank you, Your Honor.

16 THE COURT: All right. The text messages, can we move
17 on to that, gentlemen? The State has prepared a text
18 message timeline that is about five, six, seven pages
19 long, of various text messages between, supposedly between
20 Mr. Anderson and Ms. [REDACTED] beginning on January the 21st
21 of 2013 and concluding, I believe, on the alleged incident
22 date. Is that right, Solicitor?

23 MR. SCOTT: Yes, sir.

24 THE COURT: And, I think that you do have, you said
25 you have the screen shots of these items, you're showing

1 those to me now.

2 MR. SCOTT: Yes, sir.

3 THE COURT: The screen shots are clearly legible?

4 MR. SCOTT: They are.

5 THE COURT: And for what purpose does the State intend
6 to produce this evidence?

7 MR. SCOTT: Your Honor, the story we're going to tell,
8 it's kind of what leads up to this event. These would be
9 statements made by the defendant as well as responses from
10 the victim to the defendant all corroborating what Ms.
11 [REDACTED] would testify to. Basically, giving the jury kind
12 of the background story, what leads up to this and it
13 explains how we come to this point on January 30th where
14 there is the kidnapping and the alleged rape. Just under
15 res gestae type of theory, Your Honor. We think the jury
16 is entitled to seeing these admissions.

17 THE COURT: Okay. So these are essentially, the point
18 of this is to provide context to how we got to this point
19 or what lead up to the date in question?

20 MR. SCOTT: Yes, sir.

21 The court: And I'm assuming you will be able, for the
22 purposes of this ruling, I'm assuming you'll be able to
23 lay a proper foundation through Ms. [REDACTED] that these were
24 received by her and they were from a number that had been
25 either preprogrammed to indicate Mr. Anderson or something

1 to that effect?

2 MR. SCOTT: That is correct, Your Honor.

3 THE COURT: Okay. Mr. Mosley, what's the defense
4 objection concerning the text messages?

5 MR. MOSLEY: Judge, you know, we would like to see,
6 you know, in pre-trial discovery, we got a lot of text
7 messages some of which were a lot of duplication, a lot of
8 volume.

9 THE COURT: Sure.

10 MR. MOSLEY: And by going to put in the CD we, we
11 received via a CD, and then we have to put it on the
12 computer and print it out. I would like to have some
13 opportunity prior to going through this, to actually see
14 the exact document so that I can make sure they
15 corroborate and to check the phone numbers out, to look at
16 the foundation, it would take a lot of time to stop and
17 going in front of the jury. So we can have a little
18 hearing before that. Also, Your Honor, it is my
19 understanding that these text messages, at some point,
20 even though they're text messages on the screen, there's
21 no guarantee that, depending upon what the response was
22 that the person received it. I've talked to some tech
23 people and plus I notice there's a history towards the end
24 of all these text messages that apparently summarizes the
25 message in terms that some of them maybe have been

1 deleted. And even during the conversations there is
2 mentioned of, well, I'm just going to delete you out. So
3 the question today becomes whether or not the text
4 messages is actually symbolic of an event that occurred
5 versus, well, this was on a phone, but it really didn't go
6 through and the other person really didn't say that or
7 didn't hear that. So, I just think the Court, to accept
8 this in without some scrutiny over it, needs to be done,
9 not to delay or deal with, you know, the Court's, you
10 know, judicial economy in terms of time. But I think
11 that, you know, and then the question is, it doesn't,
12 there's no threat. In other words, the issue is there's
13 no threat in the text messages. There's no indication of
14 no gun or anything in these text messages. All these is,
15 is a lover's quarrel that went south on a particular day.
16 But, when you read them, there's no threat. So that's, we
17 would object because it's really irrelevant.

18 THE COURT: All right. Solicitor, you had a moment
19 ago held up what looked like a number of pages of screen
20 shots. I'm assuming that's in the batch that you provided
21 to him, are you looking to introduce all the text messages
22 that were exchanged between these two individuals or
23 simply those that you find more relevant or more probative
24 on this particular issue?

25 MR. SCOTT: We're going to introduce all of them, Your

1 Honor.

2 THE COURT: Okay.

3 MR. SCOTT: It's a string of texts that just sort of
4 lead up to this between Mr. Anderson and Ms. [REDACTED].

5 THE COURT: And all of those that you intend to
6 introduce have been--

7 MR. SCOTT: Yes, sir.

8 THE COURT: Reduced down to this?

9 MR. SCOTT: Every single one that's on there and on
10 here are the one, they've been provided.

11 THE COURT: Sure.

12 MR. SCOTT: And those will be the ones we'd introduce
13 as well and I, I intend, during the break, just to get
14 with Mr. Mosley. Of course, he's got these but I'll, I'll
15 show him what we intend to introduce as well. We will
16 introduce these through Ms. [REDACTED], Tywanda [REDACTED].

17 THE COURT: Okay. And those are arranged
18 chronologically just as this is?

19 MR. SCOTT: They are, my little breakdown here is
20 chronologically track the synopsis.

21 THE COURT: Okay. All right. Let me let you get
22 together with Mr. Mosley then. Y'all just discuss this.
23 Mr. Mosley, take a look at what he intends to introduce.

24 MR. MOSLEY: Yes, sir.

25 THE COURT: And what I'm hearing, and I'll, we can

1 come back after lunch after you've had a chance to take a
2 look at this, Mr. Mosley. But what I'm hearing is that
3 these are being introduced, not so much for purposes of
4 showing a threat, but more for the purpose of giving a
5 context to the events leading up to this particular date
6 which would, I assume, Solicitor, go to the question of
7 motive or, and Mr. Scott's nodding over there.

8 MR. SCOTT: I'm sorry, Your Honor. Yes, sir.

9 THE COURT: Why are you introducing these?

10 MR. SCOTT: It's not the vacuum, in other words, like,
11 I don't want them to think, just January 30th he shows up
12 with a gun and the back story, they're entitled to hear
13 how it kind of leads up to that.

14 THE COURT: All right. My initial ruling would be
15 that, that they can proceed and introduce those text
16 messages. If any were not there or if the State or if the
17 defense is contending that any were deleted or things of
18 that nature, that would go to the weight as opposed to the
19 admissibility. And certainly, you would be at liberty to
20 argue that as well. Can we address Jackson v. Denno at
21 this point or do we have enough time, gentlemen?

22 MR. SCOTT: I'm ready to proceed, Your Honor.

23 THE COURT: All right. I wish I'd had the jury come
24 back at 2:30 instead of 3:00 o'clock. Go ahead.

25 MR. SCOTT: Okay. We call Matt Veal, Your Honor.

1 MATTHEW VEAL, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. SCOTT:

5 Q. Mr. Veal, January 30, 2013, were you on duty?

6 A. Yes sir, I was.

7 Q. And how did you become involved with this case from
8 Newberry?

9 A. We were contacted by SLED advising us that they were
10 looking for an individual out of Newberry County for a
11 rape case that happened and they were looking for Mr.
12 Anderson somewhere in the Mountville Community of Laurens
13 County.

14 Q. Okay. So, that's how you became involved, basically
15 a BOLO?

16 A. Yes, sir.

17 Q. Be on the look out kind of call?

18 A. I'm an investigation with the Sheriff's Office, and
19 they asked a couple of the investigators to go down with
20 SLED and Newberry County as well to see if they could
21 apprehend Mr. Anderson.

22 Q. Okay. And were you able to locate him?

23 A. Yes sir, I was.

24 Q. And where was he?

25 A. We went to a road, it's right off of 560, I'm not

1 sure of the name of the road. But when we arrived on
2 scene, they advised us that Mr. Anderson had just left the
3 house. Due to my vehicle being the last one pulled into
4 the driveway I left and went back towards Highway 560 and
5 Mr. Anderson was walking up the road back towards the
6 residence.

7 Q. Okay. And were you able to detain him at that time?

8 A. I was. As soon as I got out, I identified myself as
9 the Sheriff's Office and put hands on Mr. Anderson.

10 Q. All right. And did you tell him, you put hands on
11 him, you put him under arrest?

12 A. I detained him, advised him why he was being
13 detained, that Newberry County had outstanding warrants
14 for his arrest. And he asked me for what and I advised
15 him of his rights and while doing so the other
16 investigators came to where we were at.

17 Q. Okay. Garrett Lominack, was he one of the
18 investigators?

19 A. Investigator Lominack. Yes sir, he was.

20 Q. Okay. But you say you did read him his Miranda
21 rights?

22 A. Yes sir, it was verbatim, just as a, everything
23 happened so quick. It was a more of a, so he wouldn't say
24 anything that would incriminate his self or, or if I would
25 say anything to him involving why I was arresting him.

1 Q. Okay. Did he make any statements?

2 A. He did not make any statements to me.

3 Q. Tell me what the rights were that you read to him.

4 A. I advised him that he had the right to remain silent,
5 anything he say would be used against him in a court of
6 law, he had the right to speak with an attorney before or
7 while answering any questions. And asked him if he
8 understood those rights.

9 Q. Did he indicate that he did?

10 A. I'm not aware of an answer, like I said, that
11 investigators were pulling up. I'm assuming that he
12 acknowledged that he did. I didn't ask him any questions
13 about the case. Investigator Lominack put him in his
14 vehicle and we went back to the residence where I
15 witnessed him read the Miranda again. But I advised him
16 in the middle of the roadway of his Miranda.

17 Q. Okay. So you, you're the one who initially detains
18 him?

19 A. Yes, sir.

20 Q. Put handcuffs on him?

21 A. Yes, sir. Yeah, I did. Yes, sir.

22 Q. You read those rights you just recounted?

23 A. Yes sir, I did.

24 Q. And you said you assumed he understood, I mean--

25 A. Yeah. I don't remember him responding, like I said,

1 due to the other investigators pulling up and we both
2 directed our attention towards them as they were coming
3 down the roadway. And I can't recall him acknowledging
4 that he understood them at that particular time.

5 Q. But you were just the first on the scene?

6 A. Yes, sir.

7 Q. So then you transferred him to Garrett Lominack?

8 A. Yes sir, I gave, he actually took possession of Mr.
9 Anderson in the roadway, put him in his vehicle,
10 two-tenths of a mile back up the road, back to where he
11 was residing.

12 Q. Okay. So essentially, your involvement was you were
13 just sort of the first one to make contact with him
14 walking down the road?

15 A. Yes, sir.

16 Q. And Garrett Lominack was behind you?

17 A. Yes, sir.

18 Q. Okay. Thank you.

19 THE COURT: Any questions Mr. Mosley?

20 CROSS EXAMINATION

21 BY MR. MOSLEY:

22 Q. You, you saw Mr. Anderson, he was just walking down
23 the road?

24 A. Yes, sir.

25 Q. And this was in Mountville?

1 A. Yeah, this was in Mountville. Yes, sir. It's in
2 Laurens County.

3 Q. Right. And, when you say you took him back to the
4 residence, you took him back to the, to the residence that
5 he actually lived at, not to the residence of the victim.

6 A. I stopped him in the middle of Highway 560 in
7 Mountville. Investigator Lominack is actually the one
8 that brought his patrol vehicle down there and escorted
9 Mr. Anderson back to the residence which is, like I said,
10 no more than two-tenths of a mile, quarter mile.

11 Q. Okay. Key question that hadn't been answered yet,
12 what day was this on?

13 A. I honestly don't know an exact date. I, we helped,
14 I'm not familiar with the exact date.

15 Q. What time was it?

16 A. It was in the morning or right at around lunch. I
17 would say right before lunch. I'm sorry, I just deal with
18 a lot of incidences every day. I'm not, I don't try to
19 keep up with a time of every one of them. I apologize. I
20 remember stopping Mr. Anderson.

21 Q. So, did you put the handcuffs on Mr. Anderson?

22 A. Yes, sir. I asked him to put his hands behind his
23 back.

24 Q. And did he put his hands behind his back?

25 A. Yeah, he was very, he, he was compliant. He didn't

1 resist.

2 Q. Did he, what did he say to you?

3 A. He asked me what was going on and I advised him that
4 Newberry County had outstanding warrants for his arrest.
5 And he asked me for what.

6 Q. Okay. And, but at that particular time, there
7 weren't any arrest warrants outstanding, were they?

8 A. I was under the impression that there was.

9 Q. But there wasn't, was they?

10 A. Not that I'm, I can't answer that question because I
11 don't know. I was acting on good faith from the Newberry
12 County Sheriff's Office that they were looking for Mr.
13 Anderson.

14 Q. So, now, where was he going and where was he coming
15 from, Mr. Anderson? From which you could tell.

16 A. We were advised by some family members that he had
17 walked down the street, I believe, to an uncle's house or
18 another cousin's house. And I believe they made contact
19 with him via cell phone and asked him to come back to the
20 house. But due to the nature of that, me being the last
21 vehicle that pulled in the driveway because it, it's kind
22 of a cul-de-sac.

23 Q. Right. So he was walking back to the house that he
24 lives at?

25 A. Yes, sir.

1 Q. What did he have on?

2 A. I can't recall what, what he was wearing. Like I
3 said, I deal with a number of subjects everyday that I, I
4 don't recall what they were wearing.

5 Q. He wasn't wearing no red gym shorts, was he?

6 A. I, I can't answer, I can't confirm nor deny that.

7 Q. Did you, in terms of your involvement on the day that
8 you speak reference to, did you participate in anything
9 else that particular day?

10 A. I can't recall. I can't, I'm sure I did. I work
11 anywhere from eight to ten hours every day. I'm a
12 narcotics investigator with the Laurens County so I'm, I'm
13 unaware of any, I can't tell you what exactly what I did.
14 But I was there for the entire day.

15 Q. You were where for the entire day?

16 A. In Laurens County where I'm employed.

17 Q. Yeah, but, I mean, the Mountville address, at this
18 gentleman's particular house, how long did you stay there?

19 A. We were there I would say several hours.

20 Q. Several hours. Doing what?

21 A. He asked or Investigator Lominack, after speaking
22 with him, we gained consent to search the residence
23 because I was aware, they told me of a gun that possibly
24 may be located inside the house. And I'm not sure which
25 family member, I'm sure it was the property owner gave us

1 consent and I helped Investigator Lominack recover a
2 weapon out of the house.

3 Q. You were there when that occurred?

4 A. Yes, sir. I'm actually the one that picked the
5 weapon up in the house.

6 Q. Well tell the Judge what happened.

7 A. Tell the Judge what happened?

8 Q. Yeah.

9 A. I picked up the weapon.

10 Q. From where?

11 A. The house, up under the bed.

12 Q. What bed?

13 A. From the residence where Mr. Anderson was staying in.

14 Q. So you went in, so you actually went inside the
15 house?

16 A. Yes sir, I did.

17 Q. And you got a gun.

18 A. Yes, sir.

19 Q. What type of gun?

20 A. I'm, I can't recall exactly make, model and serial
21 number off of it.

22 Q. Okay. Who was standing there with you when that
23 occurred? Who was present?

24 A. Investigator Lominack went inside. I'm sure there
25 was a couple SLED agents there from the Fugitive Task

1 Force. There was my lieutenant, my other partner,
2 Sergeant Wilkie. I would say there was seven to ten of us
3 there.

4 Q. Okay. Was Mr. Anderson standing there?

5 A. Mr. Anderson was in the vehicle with Mr. Lominack at
6 the time that I believe he asked him where the gun was at.
7 I'm just under the impression that he, he told Mr.
8 Lominack there was a gun inside. We asked for consent to
9 search, she gave consent and we retrieved the weapon.

10 Q. Who is, who is she gave, who is she?

11 A. I can't, I don't remember her name.

12 Q. Okay.

13 A. We were advised of the property owner.

14 Q. Okay.

15 A. By the property owner that we could search the
16 residence. When we first arrived on scene, we asked if Mr.
17 Anderson was there, she advised us that she had, he had
18 just left. She allowed us to go through the home to make
19 sure he still wasn't there because we get told on a
20 regular basis that someone's not there when actually they
21 are. So we actually went in and searched it. She made a
22 phone call. I can't remember her name.

23 MR. SCOTT: Judge, may I interrupt.

24 THE COURT: Yes.

25 MR. SCOTT: I'm sorry.

1 MR. MOSLEY: What?

2 MR. SCOTT: If it, being a Jackson v. Denno hearing, I
3 feel like we've kind of just gone a little bit beyond the
4 scope of the Jackson v. Denno.

5 MR. MOSLEY: Yeah. Well, I'm, I was about to finish
6 but, but what I'm noticing now is a rehearsal.

7 Q. So in other words, when you first got involved, you
8 just didn't pull up and see him on the side of the road.
9 You went to the house looking for him and searched the
10 house first.

11 A. Yes, sir.

12 Q. Okay. Well you didn't say that at the beginning.

13 A. You asked me where, I was asked where I picked Mr.
14 Anderson up at and that's what I advised.

15 Q. Yeah but, you know, in other words, you picked him up
16 there?

17 A. I was, I answered the question that I was asked.

18 THE COURT: Y'all be careful about talking over each
19 over. My Court Reporter needs to make a clean record of
20 this.

21 MR. MOSLEY: Right.

22 A. I apologize, Your Honor.

23 THE COURT: It's okay.

24 Q. Yeah, but, but now I'm finding out that you had been
25 to the house first.

1 A. You, you didn't ask me that.

2 Q. Well.

3 A. You asked me where I, where I came in contact with
4 Mr. Anderson.

5 Q. No. I'm on cross-examination. He asked you the
6 question.

7 A. Okay. He asked me where I came in contact with Mr.
8 Anderson, which I advised in the roadway near his home.

9 Q. Okay. So around what time that day did you get a
10 call to go to his home?

11 A. I arrive at work at 8:30 in the morning every
12 morning. And my Lieutenant advised me that he was
13 contacted by SLED that they wanted to go to the Mountville
14 area to locate Mr. Anderson.

15 Q. So, in other words, you got a call.

16 A. I would say that, I would say that it would take, I'm
17 assuming we went there right after, we have a meeting
18 every morning with the investigators that normally takes
19 about thirty minutes. We get prepared to go. Due to a
20 weapon being involved we were getting prepared, you know,
21 just for any instance that may arise. I would say an hour
22 from the time we left Laurens to get to Mountville which
23 is probably a good thirty minute ride. So, I would say
24 anywhere from an hour to a hour and a half from after our
25 thirty minute meeting that starts at 8:45. So, I would

1 say somewhere around 11:00 o'clock.

2 Q. Somewhere, okay, 11:00.

3 A. I'd say right around lunch.

4 Q. Okay. Now, when you first got to the house, who was
5 at the house?

6 A. I remember a female being at the door when we knocked
7 on the door and there was, I think, several other folks
8 inside that may have been asleep.

9 Q. Do you remember what day of the week this was on?

10 A. No sir, I don't.

11 Q. So you went to the house first and you actually
12 searched the house.

13 A. We asked if Mr. Anderson was there. She told us no
14 and we asked, do you mind if we come in just to make sure.
15 And she was very compliant and said, come on in, he's not,
16 he just left. But I can, I believe she said I can get him
17 back here and I think that is when she made the phone call
18 to Mr. Anderson for him to come back to the house.

19 Q. Okay. So when you searched the house, after you
20 gained consent, did you see any guns in the house during
21 your search?

22 A. We searched the residence, the initial search was for
23 persons only, only where people could be.

24 Q. Only where people could be?

25 A. Yes, sir.

1 Q. Okay. And so you searched the house and then you got
2 a phone call or you were leaving and you went to the, down
3 the road and saw Mr. Anderson coming?

4 A. We were advised that he was down the road and she
5 made the phone call, I believe to come back to the house.

6 Q. Right.

7 A. Due to the nature of the crime, my Lieutenant advised
8 me just to go see if she was actually telling the truth
9 and see if he, we could locate Mr. Anderson.

10 Q. And?

11 A. And when I left the, I'm not familiar with the name
12 of the road, but went back towards Highway 560, I took a
13 right, right turn and as soon as I made that right hand
14 turn Mr. Anderson was walking up the middle of the road.

15 Q. And you got the impression that he was walking back
16 to his house?

17 A. Back towards the house. Yes, sir.

18 Q. Right. And he had been told, you overheard his
19 family member tell him that the police was looking for
20 him?

21 A. I don't remember the exact conversation that she had.
22 I know that she said, I can get in touch with him. I
23 don't remember the exact words that the female of his
24 family advised him. I didn't hear that.

25 Q. Okay.

1 A. I mean, messages was relayed by other law
2 enforcement, you know, on scene that he was going to be
3 making his way back towards the house.

4 Q. Right. When you, Mr. Lominack was there too, right?

5 A. Yes, sir.

6 Q. Okay. He was in his car somewhere else?

7 A. No, he was at the, he was at the residence.

8 Q. Okay. Okay.

9 A. And when I advised over, over our radio that I had
10 Mr. Anderson detained, Mr. Lominack, Investigator Lominack
11 came to where I was at due so that he could ask any
12 questions if he needed to because it was his
13 investigation. I was only there to help apprehend Mr.
14 Anderson. Didn't know the allegations that, you know,
15 other than it was a possible rape case involving a gun. I
16 take that serious so, I mean, we offer our assistance to,
17 to the Newberry County Sheriff's Office.

18 Q. You put him in the handcuffs?

19 A. I remember asking him to put his hands behind his
20 back, I don't know if I actually, I didn't use my
21 handcuffs. I think Mr. Lominack, when he got on the
22 scene, actually used his handcuffs to put them on Mr.
23 Anderson. Due to my hand, it's my property versus Mr.
24 Lominack's property so that way property wouldn't get lost
25 in transport from Laurens to Newberry.

1 Q. You talking about the handcuffs, not the person.

2 A. Yeah, the handcuffs. I mean, but I put handcuffs on
3 Mr. Anderson.

4 Q. Let me, I'm talking to my client over here asking him
5 how things happened. Now when you first encounter
6 somebody and they are charged with rape. When you find
7 him, you ask him, you say, well put your hands behind your
8 back, right?

9 A. I ask him what his name was.

10 Q. Yeah. What, what his name was.

11 A. Yes, sir.

12 Q. Right.

13 A. And he advised me of Henry Anderson.

14 Q. Right. And then immediately, put your hands behind
15 your back.

16 A. Yes sir, because we had questions or he was under
17 investigation for the alleged crime.

18 Q. Okay. So now you ask a man, put your hands behind
19 your back.

20 A. Yes, sir.

21 Q. That's the first command?

22 A. Yes, sir.

23 Q. And then, after he got his hand behind his back, you
24 reading him his Miranda rights?

25 A. Yes, sir.

1 Q. Okay. So, put your hands behind your back, why read
2 him his rights then?

3 A. That's what I'm trained to do.

4 Q. So--

5 A. I knew that, I knew he was going to be, he was asking
6 why he was being detained. And I didn't want him to make
7 any statements to me about what crime did or did not
8 happen.

9 Q. So that means that your recollection, your
10 recollection today is based upon how you are trained to do
11 stuff?

12 A. Yes, sir.

13 Q. No further questions.

14 THE COURT: Anything on redirect?

15 MR. SCOTT: No, Your Honor.

16 THE COURT: Thank you, sir. You may step down.

17 MR. SCOTT: The State calls Garrett Lominack.

18 THE COURT: All right. Come on up and have a seat,
19 please. Let me ask you this, Solicitor, it's about five
20 after one. I'm starting to get a little bit hungry.

21 MR. SCOTT: Oh yeah.

22 THE COURT: I mean, I imagine this witness is going
23 to take a little bit longer than the last one, perhaps.

24 MR. SCOTT: No. Just kind of seeing how things are
25 going, he probably will. I didn't even think that last

1 one would take more than five minutes.

2 THE COURT: All right. Very good. We're going to go
3 ahead and take a break for lunch and we'll be back around
4 a quarter after two. We can take his testimony at that
5 point. We're at ease.

6 (Whereupon, a lunch break was taken.)

7 THE COURT: If we may, we'll go ahead and go back on
8 the record in State vs. Anderson. We were in the middle
9 of the Jackson v. Denno when we broke for lunch. At this
10 point, Solicitor, you want to call your next witness
11 please?

12 MR. SCOTT: Yes, sir. The State calls Garrett
13 Lominack.

14 Garrett Lominack, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SCOTT:

18 Q. Okay. Mr. Lominack, January 30th of last year, did
19 you have an occasion to become involved with a, a possible
20 kidnap rape incident that occurred here in Newberry?

21 A. That is correct.

22 Q. And how did you become involved with that case?

23 A. I remember that morning coming out on the radio and
24 the road deputies started following up on the case,
25 requesting additional assistance, meaning investigators

1 Sheriff's Office. I got involved by assisting with the,
2 with followup on the matter.

3 Q. Where was the alleged incident supposed to of taken
4 place?

5 A. It started at, I believe, at her home on [REDACTED].
6 I'm not familiar with the exact, with the numerics, and
7 then it went over to across the road, across Highway 121
8 on the road at a cell phone site tower.

9 Q. I might have your notes right, are these your notes?

10 A. It would be my supplemental report and also the
11 incident Report. Yes, sir.

12 Q. All right. What was her address, Silverstreet, is
13 that right?

14 A. Well it's Newberry. It's still Newberry, but it is
15 on the way to Silverstreet. Probably just a couple miles
16 outside of the town.

17 Q. Okay. [REDACTED]?

18 A. According to the report her address, or at least at
19 the time, was [REDACTED].

20 Q. All right. Where did you first respond?

21 A. I went to the address of [REDACTED] and at the
22 time, I think Deputy Epps, maybe one or two of the road
23 deputies were on the scene. And she had already been
24 taken to the ER, I'm not exactly sure about the time when
25 I responded. And so I didn't spend much time, in fact, I

1 never got out of my vehicle when I went to the house.
2 There was nothing left to do there. The crime scene was
3 not there other than her being removed from her residence.
4 And at that point, I went back to the Sheriff's Office and
5 just started collaborating everything from what the, the
6 deputies had found out, what Investigator Epps who
7 responded to the emergency room to speak with Ms. [REDACTED]
8 and to go there to get a plan together.

9 Q. Okay. Now you mentioned she and her a couple times,
10 you mean Tywanda [REDACTED]?

11 A. That is correct. I'm sorry.

12 Q. You don't recall if she was there at [REDACTED] when
13 you got there?

14 A. I think she had already been taken to the emergency
15 room, but I can not be one-hundred percent sure of the
16 time when she went to the emergency room.

17 Q. All right. Now, did y'all develop a suspect at that
18 time?

19 A. She had identified Henry Delose Anderson.

20 Q. Okay.

21 A. Ex-boyfriend.

22 Q. All right. So, after you cleared the scene at [REDACTED]
23 [REDACTED] what did you do next?

24 A. Just go back to the Sheriff's office and just, you
25 know, we just figured out what we, what our next step was

1 and where we were going to go from there.

2 Q. What did y'all decide?

3 A. Henry Anderson, we felt as if we had the right amount
4 of information to extend our search for Mr. Anderson. And
5 she had indicated, she being Ms. [REDACTED], that he had left
6 the area. So we felt like he probably went back to his
7 home, his address that we had found through his driver's
8 license. And according to his driver's license search it
9 was [REDACTED] in Mountville, South Carolina which is in
10 Laurens County.

11 Q. All right. Now at that time did you contact
12 authorities over there in Laurens County?

13 A. We contacted the State Law Enforcement Division or
14 SLED and wanted to get some assistance being that we were
15 going to be crossing county lines. And also we contacted
16 the Laurens County Sheriff's Department as well.

17 Q. All right. So, now did you proceed to Laurens County
18 as well?

19 A. That is correct.

20 Q. And did you, did you go to Mr. Anderson's home?

21 A. We went and met with Laurens County investigators,
22 personnel, the State Law Enforcement Division again to
23 gather, put together a game plan, to figure out what you
24 are going to do. At the time, we were in the process of
25 having Mr. Henry Anderson entered into the NCIC as a

1 temporary felon. We felt that we had probable cause to
2 issue arrest warrants.

3 Q. Okay. All right. So, you go to his home over there
4 in Mountville, and was he there when you got there?

5 A. He was not there. Myself, along with State Law
6 Enforcement Division agents, investigators with the
7 Laurens County Sheriff's Office, which included
8 Investigator Veal. We went to the home at [REDACTED] in
9 Mountville. SLED and Laurens Investigators made contact
10 with some family members of Mr. Anderson at the home.
11 They indicated that he was not there. They allowed
12 consent to search persons of the residence. They did not
13 locate Mr. Brown in the residence. One of the family
14 members, they called Mr. Brown on the phone because they
15 felt like that he had just went up the road not too far
16 from there to a uncle's house. And to my knowledge, if I
17 remember, they made contact with him by phone, advised
18 that he was willing to walk back down to the house.

19 Q. All right. Just to be clear, you say you searched
20 the home, you just insuring that or confirming, I reckon,
21 that he's not in the home?

22 A. That he is not in the home. That is correct.

23 Q. Not searching for any items of any kind?

24 A. Not searching, you know, in drawers for any sort of
25 contraband or evidence or anything, any place that a human

1 being could be located.

2 Q. So, they tell you he, he just walked down the road
3 towards his uncle's, what did y'all do next?

4 A. A couple investigators with the Laurens Sheriff's
5 Department and with SLED, they proceeded up the road. I
6 was advised that they located him walking in the road.
7 Asked me to come up there, in which I did, I got there and
8 I secured him in my vehicle, took him back to the
9 residence to that address of [REDACTED]. Mr. Veal
10 indicated, excuse me, Investigator Veal indicated that he
11 Mirandized. I Mirandized him again myself in which he
12 indicated that he understood his rights.

13 Q. Okay. When did you Mirandize him, once you took him
14 back to his house?

15 A. That is correct.

16 Q. All right.

17 A. I didn't want to do it while I was driving, so I
18 waited until I got back in the driveway, I put my vehicle
19 in park and then Mirandized him.

20 Q. All right. Now, do you read it from or do you recite
21 it from memory, you read it from a card?

22 A. Verbatim from a card that I keep on me.

23 Q. You got the card on you right now?

24 A. That is correct.

25 Q. Tell the Court the rights you read to Mr. Anderson at

1 his home.

2 A. You have the right to remain silent, anything that
3 you say can or will be used against you in court. You
4 have the right to an attorney and to have that attorney
5 present during questioning. If you can not afford an
6 attorney an attorney will be provided at no cost. You can
7 decide at any time to exercise these rights and not to
8 answer any questions or make any statements. And then
9 there's the waiver portion of it. And I asked him, I said
10 do you understand each of these rights I've explained to
11 you? He indicated yes. And I said having these rights in
12 mind would you like to talk to us now? He indicated that
13 he would.

14 Q. Okay. Now these are verbal, all right, are you
15 reading from a waiver form or this is just what you read
16 from the card to him at that time?

17 A. Just a card that I, that I keep on me, waiver form.

18 Q. Okay.

19 A. Or waiver card.

20 Q. Okay. You're saying he verbally indicated that he
21 understood?

22 A. That is correct.

23 Q. And he verbally indicated that he wished to speak?

24 A. That is correct.

25 Q. He's under arrest, correct?

1 A. We have him in investigative detention at the time.
2 As I explained that we were investigating this case of
3 criminal sexual conduct and kidnapping.

4 Q. And he seemed to understand his rights?

5 A. That is correct.

6 Q. Did he appear to be under the influence of anything?

7 A. He did not.

8 Q. Did you threaten him in any way?

9 A. No, we did not.

10 Q. He never asked for a lawyer during this time?

11 A. He did not.

12 Q. All right. What did he say at this time?

13 A. Well, I explained to him, you know, introduced myself
14 as well, to explain it to him who I am, where I worked and
15 what we were all doing there. And let him know about this
16 situation and ask if you want to talk about it. And he
17 said yeah, I went to Ms. [REDACTED]'s residence that morning.
18 I text her and wanted to get my coat back, and went there
19 to get it back, and he just basic, just indicated that,
20 that he got there. I think he had to wait a few minutes,
21 she brought it out. And, she being Ms. [REDACTED], brought his
22 personal property to him and he grabbed it and left and he
23 explained the route that he took going home, that he
24 pulled out on [REDACTED], shot across Highway 121, 34
25 onto Stoney Battery Road, traveled Stoney Battery all the

1 way out to Belfast Road. He traveled Belfast Road all the
2 way to Highway 56. 56 onto 560 in Laurens County and JW
3 Drive. I'm not sure if you have to take another road off
4 560, but it's just not that much further into Laurens
5 County.

6 Q. So, essentially, that was the gist of his statement
7 at the time in the car, was that he had just gone and
8 picked up a coat and then left. Kind of spent most of the
9 time explaining the route he took home.

10 A. That and that, you know, he was there to get it
11 because they had previously broken up and he wanted to get
12 his property back.

13 Q. All right. What did you do with him next, did you
14 take him over here, bring him back to Newberry County?

15 A. Yeah. After we talked and I explained to him, I
16 asked him if he was in possession, did he take a firearm
17 with him, a gun. It had been reported to us by Ms. [REDACTED]
18 that he had pointed and presented a firearm to her. And
19 he essentially said that he does keep a weapon in the
20 house. At that time, I was also made aware about a video
21 to where he had sent to her on the cell phone, where he's
22 holding a gun up to his head. And he said that he did
23 have that gun in his house, in the house he was staying
24 in, in his bedroom under his mattress. I asked him if we
25 can get it, and he said no problem. He signed a written

1 consent form to give us permission to go get the gun in
2 the house. Investigator Veal walked in with another agent
3 along with family members that are present and brought the
4 gun out.

5 Q. Okay. You have that consent form?

6 A. That is correct.

7 Q. Did you see the gun?

8 A. That is correct.

9 Q. Okay. What about the ride back to Newberry? Any
10 other statements at that time?

11 A. Nothing that sticks out, I mean, just casual talk
12 throughout the ordeal.

13 Q. All right. Tell me about what happens once y'all get
14 back here. Did you go to your office, go to jail, where
15 did y'all go?

16 A. We go back to the Newberry County Sheriff's Office at
17 520 Wilson road. And I went into Lieutenant Richey
18 Moore's office, a little more roomier than mine. He
19 wasn't in, he was out. So I used his office because
20 there's a desk, chair behind the desk and two more chairs.
21 One place for Mr. Anderson can sit and another place where
22 Investigator Kaye Epps can sit, to go along with myself.
23 Read him his rights again, this time we did it on a form.
24 And I'm taking his information, made sure everything was
25 correct, that his name was Henry Delos Anderson, that his

1 social security number was correct. What we already had
2 to go along with his date of birth, home address and even
3 a phone number. And once again, read it verbatim through
4 this form. That you had the right to remain silent, and
5 anything you say can and will be used against you in the
6 court of law. You have the right to a lawyer for advice
7 before we ask any questions and have him or her present
8 with you during any questioning. If you have no money for
9 lawyers fees the Court will appoint one to represent you
10 without cost if you wish. If you decide to answer
11 questions now without a lawyer present, you will still
12 have the right to stop the questions any time. You also
13 have the right to stop answering questions at any time
14 until you talk to a lawyer. Up under that, it says I have
15 read this statement of rights, I understand what my rights
16 are. He signed his name and dated it, that he understood
17 his rights. Underneath that is a waiver. The waiver says
18 I am willing to make a statement and answer questions.
19 And in bold, it says I do not want a lawyer at this time.
20 I understand and know what I am doing, no promises or
21 threats have been made to me and no pressure or coercion
22 has been used against me. He signed and dated his name
23 again, witnessed by myself and Investigator Kaye Epps.
24 Q. Okay. Now, let me see that form, please. This is
25 his original advisement of rights?

1 A. That is correct.

2 Q. All right.

3 MR. MOSLEY: I'm going to object to this, Your Honor,
4 because this, excuse me, I'm sorry. Excuse me, Judge.
5 I'm sorry.

6 THE COURT: That's all right.

7 MR. MOSLEY: I mean, I understood the testimony that
8 he signed another waiver of rights, another form too or
9 did I misinterpret that?

10 THE COURT: My recollection of the testimony and feel
11 free to, I mean, you can ask him about this on cross. But
12 what I remember him testifying to is he gave the rights
13 orally at the defendant's home and then when he got him to
14 the Police Department or Sheriff's Department here in
15 Newberry, that's when he did that form. Is that your
16 recollection, Solicitor?

17 MR. SCOTT: It is, Your Honor.

18 THE COURT: All right.

19 MR. MOSLEY: So, in other words, the first time, there
20 was no written consent, it was just oral and the second
21 time he--

22 THE COURT: Right. Is when the rights form, the
23 actual paper form was completed.

24 MR. MOSLEY: Now, Judge, I don't mean no harm towards
25 my colleagues or law enforcement. But in pre-trial

1 discovery, I've been given two statements by the young
2 man. Two signed statements.

3 MR. SCOTT: We're getting there.

4 THE COURT: All right.

5 MR. MOSLEY: Well, I mean, I'm going to get there
6 before you because I want to make sure that things are
7 straight because, you know. I discern that there was one
8 statement that he just got the coat, and another statement
9 that he got, had sex. So, if that's the case, if one of
10 them is based upon an oral recitation, the first one, why
11 do we have a, two written statements?

12 A. You haven't let me get that far yet, we just got to
13 the office where we got his rights.

14 THE COURT: Gentlemen, let's handle it this way--

15 MR. MOSLEY: Wait. Wait. Hold on one second now.

16 THE COURT: I have an idea.

17 MR. MOSLEY: You ain't got to say nothing right now,
18 this is, excuse me.

19 THE COURT: Solicitor, he's objecting to that
20 statement. I don't know that we need to move it into
21 introduction or into evidence at this point in time. Why
22 don't you just continue with this witness and then at the
23 close, your direct, you can move everything in and we'll
24 deal with it at that time.

25 MR. SCOTT: Yes, sir. Okay.

1 Q. All right. He indicated the he, he understood the
2 Miranda warnings. How did he indicate that he understood
3 them?

4 A. He signed the form.

5 Q. All right. Did he appear to be under the influence
6 of anything?

7 A. No, sir.

8 Q. And, in your observation did he seem to understand
9 the rights given to him?

10 A. That is correct.

11 Q. And then of course, you said he signed it to indicate
12 that he understood?

13 A. That is correct.

14 Q. Now, Richey's office has a window, what a 14x14 or
15 12x12?

16 A. I'm not sure the dimensions of the office.

17 Q. Well, how many of y'all were in there?

18 A. Three of us. It was myself, Mr. Anderson and
19 Investigator Kaye Epps.

20 Q. All right. Did y'all take his handcuffs off, did you
21 leave them on, what did you do?

22 A. Yes. The handcuffs were off so he could sign the
23 form and everything. We were in the office. We did not
24 feel threatened at the time or anything like that, that he
25 would run out the door on us, attack us or anything.

1 Q. Okay. Well, did y'all do anything to threaten him?

2 A. No sir, we did not.

3 Q. All right. After you advised him of those rights,
4 did he give another statement?

5 A. He gave a statement indicating basically what he had
6 already told me prior when he was sitting in my vehicle in
7 his driveway in Mountville. And basically that, you know,
8 I went there to get the coat, talked briefly, whatever,
9 and then end up leaving and then going back home.

10 Q. Okay. But whereas, at his home he gave a verbal
11 statement, now he's putting it to paper is what you're
12 saying?

13 A. That is correct.

14 Q. All right. Do you have that statement?

15 A. That is correct.

16 Q. Is that an original statement there?

17 A. That, yes sir, it is.

18 Q. Okay. What did he say?

19 A. You want me to read it?

20 Q. Yeah.

21 A. Do to the best of my knowledge, I got up, this is,
22 you know, Newberry County Sheriff's Office, is a voluntary
23 statement form. It says at the top, which my name is
24 Henry Delos Anderson, address [REDACTED], Mountville,
25 South Carolina 29370. Date of birth [REDACTED]/88, social is

1 XXX-XX-XXXX. He indicated his phone number that he could
2 be reached at was area code [REDACTED]-1810. He indicates
3 here that I, that he completed the eighth grade in school
4 but he can read and write. Once again, it gives the
5 waiver form. It gives his Miranda rights again. So up
6 under that he writes, I got up and left my house, I'm not
7 sure, 6:10, which it takes twenty minutes to get to her
8 house. When I got to her house it was about 6:30 so I
9 texted and told her to bring me my coat and stuff outside.
10 She responded five minutes later and said, okay hold on.
11 She came outside and gave me my coat and stuff and then I
12 asked her why a, why our friendship, I'm not sure of the
13 spelling. But why a five year friendship over some thing
14 that didn't have anything to with her. She said that she
15 didn't feel comfortable with being around me so then I
16 backed up, unsure the spelling, Highway 34 121 and then
17 bear off on Stoney Battery Road until I got to Belfast.
18 The, then I rode Belfast until I get to Highway 56 and I
19 turn on Highway 560 which I went home. End of statement.

20 Q. All right. Well, do you have any times on there? Is
21 it dated?

22 A. This statement was completed at 3:44 p.m. on the 30th
23 day of January 2013. Signed by Mr. Anderson, witnessed by
24 myself and Investigator Kaye Epps.

25 Q. Okay. You may have indicated, but now did he write

1 that or did y'all write that for him?

2 A. He wrote that himself.

3 Q. Okay. All right. So that is, I guess, the third
4 time he had been Mirandized to your knowledge?

5 A. Right.

6 Q. The second time he has given a statement. The first
7 time was orally and that was a written statement. Did he
8 give any other statements while he was with y'all over at
9 the Sheriff's Department?

10 A. After that, we continued to talk about the entire
11 situation, everything and asked him again if he was
12 truthful on the statement. Felt like that he was holding
13 back or not exactly telling exactly what happened. And
14 then he came forth and indicated that, and one of the
15 questions we were asking, did he have sex with Ms. [REDACTED].
16 And then which he, and at that time, indicated that he did
17 go over there and he did have her to get in the car, take
18 her across the road and then, and then interact or did
19 have sexual intercourse with Ms. [REDACTED]

20 Q. All right. Did y'all Mirandize him again?

21 A. Did another Newberry County Sheriff's Office
22 voluntary statement. Which at the same time, he is, as
23 you read it off, is basically given his Miranda warnings
24 again.

25 Q. Okay. So, just to make sure I'm clear, essentially

1 the first one it looks like he, he X'd out at the bottom
2 and did his initials indicating that--

3 MR. MOSLEY: Your Honor, I'm, I'm going to object to
4 leading the witness. You know, respectfully.

5 Q. All right.

6 A. At the bottom of the first statement, he was complete
7 with his statement. I X'd it out and had him to
8 initialize in four blocks in there that way that we would
9 give him a copy, if you wish to do so. But we wanted to
10 make sure nothing more could be added to the bottom of
11 statement once it is completed.

12 Q. Okay. He indicated that he was done talking at that
13 time?

14 A. That is correct.

15 Q. But now your saying that he, he decided he did want
16 to give another statement?

17 A. And he did give a second statement.

18 Q. All right. And did he write it by hand?

19 A. He wrote it. That is correct, he wrote it by hand by
20 himself.

21 Q. You say y'all did Mirandize him a fourth time?

22 A. No, sir.

23 Q. Okay. So he's still under Miranda from the first
24 one?

25 A. He's still on Miranda from the previous one.

1 Q. Okay. So he indicated that he did wish to speak some
2 more though?

3 A. That is correct.

4 Q. All right. What did he say during the second written
5 statement?

6 A. The second voluntary statement that he gave to us and
7 it says, I got up and left the house, 6:10, I got there
8 around 6:30. I sent a text to my friend, Tywanda [REDACTED],
9 and asked for my coat and stuff. And she responded, okay,
10 hold on. Then she came out and gave me my coat. Then I
11 asked her to sit in my car and stay and talk. So I drove
12 off to the phone, I'm not sure what is going off to the
13 phone talk, and we got out and she pressed her butt up
14 against me. Then I felt on her and she never said stop so
15 I kept on then it turned into sex. After sex, I drop her
16 off, excuse me, it turned into sex. I believe it should
17 have been a period there. And then it says after sex, I
18 drop her off at her house which, which around, I can't
19 quite make it out, then Sharon Brown, possibly. So I back
20 up and went home on 34 121, got on Stoney Battery Road
21 until I got on Belfast Road until I came to Highway 56 and
22 I got on 560 where I came home to stop at [REDACTED],
23 Mountville. Once he was done, since there was several
24 lines left in which you could write on this statement, we
25 X'd it out. He signed in all four spots indicating that

1 he was done with that statement, which he signed, I
2 witnessed along with Investigator Kaye Epps.

3 Q. Okay. In between the first statement, the second
4 statement, did y'all threaten him or make any promises for
5 any additional statements?

6 A. No, we did not.

7 Q. Okay. After that statement, was there anything else
8 said? He wish to make any other statements?

9 A. There were no other statements or anything after
10 that.

11 Q. Y'all take him back to jail after that?

12 A. He was transported to the jail.

13 Q. Now these three sheets of paper, there's a, the
14 waiver of rights and then the two subsequent statements,
15 these are original documents here?

16 A. That is correct.

17 MR. SCOTT: Your Honor, the State would offer the
18 advisement of rights and the two statements, exhibits at
19 this point.

20 THE COURT: All right. It's Court's exhibits, you
21 said it's Court's exhibits or State's?

22 MR. SCOTT: I'm sorry. State's exhibits at this
23 point. I apologize, Your Honor.

24 THE COURT: You're not seeking introduction at this
25 point.

1 MR. SCOTT: That's correct, Your Honor.

2 (Whereupon, State's exhibit 24, 25 and 26 were marked
3 for identification only.)

4 Q. You said Kaye Epps was in there witnessing these
5 statements?

6 A. Yes, sir.

7 Q. Who else? Anybody else?

8 A. No sir, just the three of us, myself, Ms. Epps and
9 Mr. Anderson.

10 Q. She signed off as a witness?

11 A. That is correct.

12 Q. Thank you. Please answer any questions Mr. Mosley
13 has, please.

14 THE COURT: Mr. Mosley.

15 MR. MOSLEY: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MOSLEY:

18 Q. So, if I could see the statements. One, one
19 statement was given at what time now?

20 A. The first one is completed at 3:44 p.m.

21 Q. 3:44. That's this statement right here?

22 A. That is correct.

23 Q. Okay. Problem.

24 A. Okay.

25 Q. Who is the Notary Public?

1 A. It was not notarized.

2 Q. Wasn't notarized. Is there a requirement that
3 appears on the document?

4 A. There's not a requirement.

5 Q. Well, let me finish my question, but is there a place
6 for a notary to notarize?

7 A. There's a place on there if we wanted to notarize it.

8 Q. Okay. All right. Then there's a place for the
9 defendant to sign that says that he was given a copy of
10 that statement?

11 A. If he was given a copy and he didn't request one.

12 Q. Well, did you have time enough to go copy it and give
13 him a copy?

14 A. We would've had plenty of time.

15 Q. Yeah. But, there's nothing on there--

16 A. It is, it is blank. That is correct.

17 Q. It's blank. Okay.

18 A. Yes, sir.

19 Q. That's at 3:44 p.m.

20 A. That's when, when it was completed. That is correct.

21 Q. Okay. And you took a statement from the victim about
22 11, 10 or 11:00 o'clock that morning, correct?

23 A. I didn't, Ms. Epps may have been the one that took
24 the, took her, taken her statement. Taken a written
25 statement.

1 Q. Okay. Is Ms. Epps here?

2 A. She's here available if she needs to be called.

3 Q. Okay. Ms. Epps, is she your superior?

4 A. No sir, she's an investigator with the Sheriff's
5 Office.

6 Q. You're her superior?

7 A. I'm not technically or, or her direct supervisor.
8 Captain Robert Dennis is.

9 Q. Okay.

10 A. But, I am the rank of Lieutenant.

11 Q. What's the length of time between the first statement
12 and the statement, the one at 3:44 p.m. What's the length
13 of time between the two statements?

14 A. Probably within the twenty to thirty minute time
15 period. I know on the second statement, that I did not
16 write down the time that it was completed but it was
17 before 5:00 o'clock because I think his booking report has
18 him being booked in shortly after 5:00 p.m. that evening.

19 Q. Right. So, it was around, let's say 4:00 or 5:00
20 o'clock. There's no time on here.

21 A. No sir, I did not write the time down.

22 Q. So what you're saying is that the, all of the
23 handwriting on the statement is his handwriting?

24 A. In the narrative, that is correct.

25 Q. Yeah. And on the victim's statement, her statement

1 is written by Ms. Epps, correct?

2 A. What I have written from Ms. [REDACTED] is, I believe, is
3 going to be her own handwriting.

4 Q. What do you have from Ms. [REDACTED]? Let me see it.

5 A. I have it with my notes over there.

6 MR. SCOTT: Judge, I think that's a little bit outside
7 the scope of the Jackson v. Denno. He's talking about the
8 victim's statement.

9 MR. MOSLEY: Well, I mean, just like a lot of your
10 notes and things, I, I don't, that was mentioned earlier,
11 I don't have none of your handwritten notes.

12 THE COURT: Well, let me ask you this. The statement
13 from the victim, you did receive that? There was a
14 handwritten statement apparently given by Ms. [REDACTED]?

15 MR. MOSLEY: Yes, sir.

16 THE COURT: You did receive that though, right?

17 MR. MOSLEY: I got a document, and that's why I'm
18 questioning about that, because of the fact that I, you
19 know, I've been able to discern that it's signed by her,
20 but it wasn't written by her.

21 THE COURT: All right. What, I'll let him have a
22 little bit of leeway. We're, of course, dealing with the
23 Jackson v. Denno hearing at this point in time concerning
24 your client. And, if at such point in time as the, as Ms.
25 [REDACTED]'s statement comes into evidence we can address that

1 at that point in time. But if you want to show him the
2 copy of the statement that you got that's reported to be
3 from Ms. [REDACTED], Mr. Mosley, that might be the best way to
4 go about this.

5 MR. MOSLEY: Yes, sir. Thank you.

6 Q. But do you have anything in your file or in your
7 notes that I don't have?

8 A. Not to my knowledge.

9 Q. Okay. So these statements that you're introducing as
10 originals were actually written by and signed by y'all?

11 A. The narrative of these two are written by Mr.
12 Anderson.

13 Q. Okay. So what in particular occurred that would have
14 the gentleman change his story, so to speak?

15 A. Excuse me?

16 Q. I said, my question was what in particular occurred
17 that would, that would cause Mr. Anderson to, my
18 understanding is that he gave you an oral statement and
19 then he corroborated the oral statement in writing. So he
20 gave the same statement twice, one orally and then he
21 wrote down what he had told you previously?

22 A. Yes, sir.

23 Q. And then for some reason, hour or thirty minutes
24 later, he gave an actual, another written statement
25 contradictory to the oral statement. What occurred in

1 between, if anything, that would've caused him to change
2 his mind?

3 A. You'd have to ask him that. I mean, just basic
4 conversation with him that we felt like that just wasn't
5 being truthful. And asked him again, and he changed his
6 story. He said I did have sex with her. I did take her
7 over to that cell phone tower. Where at first he
8 indicated all he did was go over to the house and then
9 just, just go get some of his personal belongings such as
10 that coat.

11 Q. Right. So, but you came of the opinion, you just
12 said it, that you felt like he wasn't being truthful?

13 A. We advised him that Ms. [REDACTED] had went to the
14 emergency room where a rape kit was performed on her. We
15 explained to him that, you know, if he was indicating to
16 us that he had not had sex with Ms. [REDACTED], that perhaps a
17 sexual assault kit might provide otherwise.

18 Q. Yeah, that was a form of coercion, I mean, just
19 because she had a rape kit.

20 A. No, that's not coercion, that's just telling him what
21 we did.

22 Q. Yeah. What else did you tell him that you did?

23 A. I don't know anything specific. But if you are
24 indicating that we threatened him or anything like that,
25 we didn't threaten him, Mr. Mosley, we just talked to him.

1 Q. Okay. Well, you know, using the language of threat,
2 is sort of difficult because, you know, you have a job to
3 do. And we respect that, but were you present the entire
4 time Ms. Epps was in the room talking to him?

5 A. There might of been once or twice, I do remember
6 exiting the room one time. And so if there was a
7 conversation that, that he had between the two, you would
8 have to ask Ms. Epps about that.

9 Q. Did the victim indicate that there were any witnesses
10 that could corroborate her version of the facts?

11 A. I didn't speak with Ms. [REDACTED], so I'm not sure.
12 That'd be another question for probably Investigator Epps.

13 Q. But based upon your knowledge of the facts from the
14 investigation up until now, were there any eyewitnesses to
15 any of the allegations made by the victim?

16 A. None that I'm aware of.

17 Q. Okay. Now, you know, your lawyer, the Assistant
18 Solicitor, has given me some pictures. And I don't mind,
19 but I'm going to show you, and we, and we have already
20 stipulated that these pictures are pictures of the scene.
21 And I'm going to show them to you because this is not
22 going to be objectionable. This is a picture of the house
23 that the young lady lives in?

24 A. It appears to be the address. Yes, sir.

25 Q. I mean, you've been there, yeah.

1 A. Yes sir, I'm not, as far as I know, this is her
2 residence.

3 Q. Okay. Now, what was your understanding, from the
4 victim, what was your understanding as to the location of
5 the parties prior to the allegation across the street?

6 MR. SCOTT: Your Honor.

7 MR. MOSLEY: I'm going to get to my point, Judge.

8 MR. SCOTT: Objection.

9 MR. MOSLEY: I don't want to bird dog my question.
10 I'm going to get to the main question in just one second.

11 MR. SCOTT: It's, first of all, he is eliciting
12 hearsay. Second of all, it appears to be a dry run at
13 cross-examination.

14 MR. MOSLEY: What a minute, now he's been testifying
15 about what--

16 THE COURT: One second, Mr. Mosley. One second.

17 MR. MOSLEY: Okay.

18 THE COURT: Okay. The primary gist of your objection
19 is it's beyond the scope of Jackson v. Denno?

20 MR. SCOTT: That's correct, Your Honor.

21 MR. MOSLEY: I'm getting ready to get there now, Your
22 Honor.

23 THE COURT: Fair enough.

24 MR. MOSLEY: Just one, one question, just one more I'm
25 going to get there.

1 THE COURT: Good enough.

2 Q. Now, when we say threat, you were actually talking to
3 Mr. Anderson within the confines of Newberry County
4 Sheriff's Department, correct?

5 A. Yes sir, when we got to the Sheriff's Office we were
6 in one of our offices.

7 Q. Yeah. He wasn't free to go, was he?

8 A. No, sir.

9 Q. And you would agree that a person can be threatened.
10 For example, you know, boy don't you lie to me, tell me
11 the truth. That's, without a gun, you can threaten
12 somebody with words, correct?

13 A. I'm sure you can.

14 Q. Okay. Now, would it surprise you that in my
15 inclination is that, you know, based upon the location,
16 the pictures that I just showed you. Now, they
17 encountered each other on the side of the road, correct?

18 A. No, sir. From what I understand, he went to her
19 house.

20 Q. Yeah. But was he at the front door, knocking on the
21 door?

22 A. To my understanding, he was in the driveway on her
23 property.

24 Q. In the driveway. Now, the pictures I just showed
25 you, you see a driveway there?

1 A. You have to let me look at it again.

2 Q. Let me show it to you again.

3 A. Not on these photographs.

4 Q. Okay.

5 A. I'm not saying that there is a driveway or not, but
6 just these photographs here do not indicate a driveway.

7 Q. Right. Now, did you or Ms. Epps tell the young man
8 that, don't lie to me boy because somebody was on the
9 inside of the house watching you when you pulled the gun
10 on her and drove off having sex?

11 A. No, sir. I don't recall that statement. I did not
12 say that.

13 Q. Wouldn't that be a more plausible reason for why he
14 would change his story because somebody threatened him?

15 A. I don't know. You'll have to ask him that. I don't
16 know. I don't want to answer for him.

17 Q. Well, I'm asking you. You, so you're saying that no
18 type of--

19 A. I mean, it's sort of an opinionated question. I, I
20 mean, I don't want to say what, what he would or would not
21 do.

22 Q. Yeah. But I'm asking you. I mean, you're
23 respectfully saying that we didn't threaten nobody.

24 A. Right.

25 Q. And that we didn't do anything untoward the

1 gentleman, you know, we took two statements from him and
2 we got him because he changed his statement. And either
3 statement he gave was a lie, wasn't it, in your mind?

4 A. Just depends on how you look at it. The first
5 statement, the second statement does differ from the first
6 statement, and also his oral statement.

7 Q. Yeah, but why?

8 A. Because at that time, he indicated that he did have
9 sex with Ms. [REDACTED] on the second one.

10 Q. Right. Well, what happened to coerce the young man
11 or threaten the man to change his statement?

12 MR. SCOTT: And this has been asked and answered, Your
13 Honor.

14 MR. MOSLEY: You know, he's already answered it, now
15 he can answer it one more time.

16 THE COURT: Last time. Last time.

17 MR. MOSLEY: Yeah, last question.

18 THE COURT: Go ahead.

19 A. No, sir. There wasn't any coercion. We didn't
20 threaten to beat him down or anything like that, we just
21 talked to him.

22 Q. Think we need to ask Ms. Epps what she said to him?

23 A. If you want to ask Ms. Epps, I don't know if she's
24 going to have anything different to what I've already
25 added or not.

1 Q. All right. Thank you. No further questions.

2 THE COURT: Thank you, sir. You can step down. Any
3 additional witnesses on this issue?

4 MR. SCOTT: Yes sir, Your Honor. The State calls Kaye
5 Epps.

6 KAYE EPPS, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. SCOTT:

10 Q. State your name.

11 A. Kaye Epps-Williams

12 Q. I always call you Kaye Epps.

13 A. I'm married now.

14 Q. Oh.

15 A. Ms. Epps-Williams. Okay.

16 Q. Ms. Williams, now were you working January 30th, 2013
17 with the Sheriff's Department?

18 A. Yes, sir.

19 Q. Now, Ms. Williams, did you have occasion to become
20 involved with a rape kidnapping allegation that would've
21 originated from [REDACTED] address?

22 A. Yes, sir.

23 Q. How did you become involved in that case?

24 A. I received a call from my supervisor, Officer
25 Lominack, that I need to response to the hospital to speak.

1 with a victim involved on a rape case. Yeah, rape case.

2 Q. Okay. Tywanda [REDACTED]

3 A. Yes, sir.

4 Q. Where was she, at Newberry Memorial?

5 A. Yes, sir.

6 Q. Did you respond there and speak with her?

7 A. Yes, sir.

8 Q. Later that afternoon, did you have an occasion to
9 speak with the suspect in that case?

10 A. Yes, sir.

11 Q. And who was that?

12 A. Mr. Anderson.

13 Q. Henry Anderson?

14 A. Yes, sir.

15 Q. Where did you go speak with him?

16 A. In Officer Lominack's office at the Sheriff's Office.

17 Q. Okay. And who was with you?

18 A. Officer Lominack.

19 Q. And Mr. Anderson?

20 A. Yes, sir.

21 Q. Okay. Was it Lominack's office or Richey Moore's
22 office? Do you remember which one?

23 A. I think we was in Richey's office because it's the
24 first office when you come in all the, well their trailer,
25 it'd be the first office when you come to the doorway on

1 your right. So it's Richey's office.

2 Q. Well, describe what the inside of the office was
3 like.

4 A. It have a desk sitting when you come in the door, two
5 chairs, you had a computer and like a bookshelf on the
6 right hand side and TV.

7 Q. All right. Just the three of y'all in there?

8 A. Yes, sir.

9 Q. When he was brought in, was he Mirandized to your
10 knowledge?

11 A. I'm not sure. He was already there when I got there.

12 Q. Okay. Let me show you, let me show you State's
13 number 24.

14 A. Yes, sir.

15 Q. You recognize that?

16 A. Yes, sir.

17 Q. How are you able to do so?

18 A. Because this is the rights we read to somebody before
19 we question them. And the rights is on the paper and then
20 that defendant signed it, the person asking the question
21 will sign it and a witness.

22 Q. Is there a witness signature on that?

23 A. Yes, sir.

24 Q. Who is the witness?

25 A. My name, Kaye Epps.

1 Q. Okay. So you would've witnessed him being Mirandized?

2 A. Yes, sir.

3 Q. And do you recall that?

4 A. Yes, sir.

5 Q. And what are the rights that are read to him? What
6 were the rights that were read to him on that January 30th
7 in Richey Moore's office?

8 A. You have the right to remain silent--

9 MR. MOSLEY: Excuse me, Your Honor. I'll stipulate to
10 that. I mean, the form speaks for, I'll stipulate to what
11 she read and we can speed things up a little bit.

12 THE COURT: All right.

13 MR. MOSLEY: I'll stipulate that.

14 Q. All right. He was Mirandized?

15 A. Yes, sir.

16 Q. Generally accepted and understood the Miranda
17 warnings?

18 A. Yes, sir.

19 Q. And did he indicate that he understood?

20 A. Yes, sir.

21 Q. And how did he do that?

22 A. By signing it, and I think Officer Lominack asked him
23 did he understand everything before he signed it, and he
24 said yeah.

25 Q. Okay. Do you recall him having any difficulties

1 understanding these rights as read to him?

2 A. Not that I recall of.

3 Q. Did he appear to be under the influence of anything
4 at the time?

5 A. Not that I recall of.

6 Q. Did he indicate what education level he had?

7 A. Not that I recall.

8 Q. Okay. I didn't know if your forms had that or not.
9 Did you threaten him at any point? Did Lominack threaten
10 him?

11 MR. MOSLEY: Objection, Your Honor. That's a leading
12 question. Objection.

13 THE COURT: Overruled. It goes to the heart of the
14 question involved here. I'll interpret the question as
15 did anybody threaten him as opposed to Lominack in
16 particular.

17 Q. Did anyone in your presence threaten him during these
18 questions?

19 A. No, sir.

20 Q. Did anyone make him any promise, or did he have any
21 hope or reward?

22 A. No, sir.

23 Q. Okay. Well after he received those rights, did he
24 give a statement to you guys?

25 A. He gave Officer Lominack a statement. One statement

1 and then he turned around and wrote another statement.

2 Q. Okay. Do you recall the gist of the first statement?

3 A. No, sir.

4 Q. Okay. But you were present?

5 A. Yeah. I was present on this.

6 Q. Tell me about the second statement, do you remember,
7 what happened in between the first statement and the
8 second statement?

9 A. The first statement, Officer Lominack questioned him,
10 I don't know what happened. And Office Lominack asked me
11 would I question to see would he talk to me and he did
12 speak with me.

13 Q. Okay. Well what did you say to him to make him speak
14 with you?

15 A. I asked him, Mr. Anderson, would you tell the truth
16 and he told me he would tell me the truth. And I said,
17 okay, what happened. And he told me that he did go by the
18 house to pick up Ms. [REDACTED]. And I said, well what
19 happened after that? He said he left from there, took her
20 to some road, they had sex. I said, well did she say yes
21 or no. And he said she said no, but he thought it was
22 okay to do it because they had just broke up. And I
23 explained to him, you can't do that.

24 Q. Okay. So it's your, did you coerce him in any way to
25 make him give you a second statement?

1 A. No, sir.

2 Q. Did he put it in writing?

3 A. I think he did.

4 Q. Let me show you State's number 26. You recognize
5 that?

6 A. Yes, sir.

7 Q. Now what is that?

8 A. This is the statement he gave to me and Officer
9 Lominack.

10 Q. Okay. Was it that, the first or second one there?

11 A. This is going to be the second statement. I think
12 this is the second one.

13 Q. Okay, don't think. Let me show you State's number
14 25.

15 A. I don't know if this is going to be the first one or
16 second one. But I know he gave two statements.

17 Q. Okay. You can't tell by looking at them which one's
18 the first or the second?

19 A. One statement have the time on it, the other one
20 don't. But my name is on both of them. Office Garrett's
21 on both of them also.

22 Q. All right.

23 A. This one would be the first one.

24 Q. Which one?

25 A. The one that's got the time on it. It's got 3:44

1 p.m. and the other one don't have a time on it.

2 Q. Okay. And how you able to tell that that's the first
3 one?

4 A. Because it's got one circled on it.

5 Q. Okay. Now one has a one and one has a two?

6 A. Yeah and one has a two on it.

7 Q. All right.

8 MR. MOSLEY: Would you refer to them as exhibits so I
9 can know which one you talking about?

10 THE COURT: That'd be helpful. Which exhibit is one
11 and which exhibit is two, Solicitor?

12 MR. SCOTT: The one that you stated had a one on it.

13 A. Exhibit.

14 Q. Exhibit 25 you're showing me?

15 A. Yes.

16 Q. Okay.

17 A. Yeah.

18 Q. So exhibit number 25 is the first statement?

19 A. Yeah.

20 Q. Okay.

21 A. And this is exhibit number 26, it's got number, got
22 two on it.

23 Q. All right. Exhibit number 26 has a two in the upper
24 right hand corner, that would be the second statement?

25 A. Yes.

1 MR. MOSLEY: I don't mean to ask her a question. Did
2 you put the one and the two on there?

3 A. I didn't put anything. I don't put those numbers on
4 there.

5 THE COURT: Why don't you ask the question he just
6 asked.

7 Q. Did you put the one or the two on there?

8 A. No sir, I didn't.

9 Q. All right. Were you present during both of those
10 statements?

11 A. Yes, sir.

12 Q. Okay. What was different between the first one and
13 the second one?

14 A. With the first one, I think he was kind of, my
15 opinion, I think he was kind of iffy with telling Officer
16 Lominack what was going on. And on number two when he
17 talked to me by myself, he kind of changed his story a
18 little bit.

19 Q. How so?

20 A. When he talked to Officer Garrett on exhibit number
21 one, he didn't go in detail like he did with me on number
22 two about what really happened.

23 Q. Exhibit number one is State's exhibit number 26.

24 A. I'm sorry.

25 Q. I, I'm trying to get you to elude a little bit, how,

1 how are they different? What did he, what was different
2 in the first statement and the second one?

3 A. On the first statement, he didn't tell Officer
4 Garrett, he didn't tell him that he did, I don't think, he
5 explained to him that he did have sex with her. But with
6 me, he told me he did have sex with her and that he
7 thought it was okay.

8 Q. Okay. So at first he's not talking he had sex?

9 A. No, sir.

10 Q. What happened in between the first one and the second
11 where he admitted to it?

12 A. I said like, I guess he, when I talked to him, he
13 kind of changed his story. And I asked him, like I said,
14 I asked him exactly what happened. And he told me that he
15 did go by the house and pick her up and he took her to
16 some other road, I can't think of the road, I want to say
17 Stoney, I am not sure. And there was something like a
18 telephone pole on that road or some tower or something.
19 And he made her go around to the front of the car and told
20 her that he wanted to have sex. And he said she said no,
21 but he thought it was okay to do it since they were
22 dating, but they had broke up.

23 Q. All right. Did you threaten him?

24 A. No, sir.

25 Q. Did you tell him that you were going to cut him some

1 slack if he told you a different story?

2 A. No, sir.

3 Q. Did you trick him?

4 A. No, sir.

5 Q. And he understood his rights?

6 A. Yes, sir.

7 Q. And you were present during the Miranda warning?

8 A. Yes, sir.

9 Q. Thank you. Please answer any question Mr. Mosley
10 has.

11 THE COURT: Cross.

12 CROSS-EXAMINATION

13 BY MR. MOSLEY:

14 Q. Just one or two questions. Earlier that day, you had
15 been to the hospital with the victim?

16 A. Yes, sir.

17 Q. And you had taken her statement?

18 A. Yes, sir.

19 Q. You took her statement?

20 A. I think I did. It, yeah, I did.

21 Q. Around 11:00 o'clock in the morning?

22 A. Yes, sir.

23 Q. Because the first place you went to was the hospital?

24 A. Yes, sir.

25 Q. So you hand gotten the story straight of her, her

1 version of it, so to speak?

2 A. Yes, sir.

3 Q. In terms of time, when you see the big hand on the
4 clock, see the clock up there?

5 A. Yes.

6 Q. And that big hand is going to go from that 3 to the
7 6, and that's about fifteen minutes. Could you give the
8 Court some indication as to the length of time you were
9 with the victim earlier that day? Were you with her for
10 about an hour, fifteen minutes, twenty minutes?

11 A. I probably was with her about an hour.

12 Q. An hour?

13 A. Yeah.

14 Q. Okay. So that means that you were with her from
15 about like 10 to 11?

16 A. Possible.

17 Q. Right. And did you take a lunch break?

18 A. No sir, I didn't.

19 Q. So you left the hospital with her and you went
20 straight to the Sheriff's Department?

21 A. No sir, I didn't.

22 Q. What'd you do next?

23 A. When I left the hospital I took her home.

24 Q. Took her home?

25 A. Yes, sir.

1 Q. And you went by the house?

2 A. Yes, sir.

3 Q. And you talked to her mother?

4 A. Yes, sir.

5 Q. And you talked to her sister?

6 A. Yes, sir.

7 Q. And their witnesses?

8 A. Witness to what?

9 Q. To what happened that, during the rape. Their
10 witnesses.

11 A. I don't know, I just, I don't know.

12 Q. I mean, you talked to them though, didn't you?

13 A. I just talked to them to make sure she was okay
14 because I was going to put her in shelter and she did not
15 want to go to shelter. She said that she felt comfortable
16 staying at home with her parents.

17 Q. Where was she living before the incident? She was
18 living there before, right?

19 A. [REDACTED]

20 Q. So there was no need for a shelter for her, right?

21 A. I can't say that.

22 Q. Yeah, but you offered her a shelter?

23 A. Yes, sir.

24 Q. Okay. Fine. Okay. And you stayed at the house
25 about how long?

1 A. Probably about twenty, thirty minutes at the most.

2 Q. Twenty, thirty minutes.

3 A. Just to make sure she's okay.

4 Q. Okay. So during that twenty, thirty minutes, she's
5 there, her mother's there and one or two of her sister's
6 are there and y'all are talking about what had occurred,
7 correct?

8 A. No, I didn't explain it to her people, her family.

9 Q. Beg your pardon?

10 A. I didn't explain it to her parents.

11 Q. No. I'm not saying that you explained anything, I'm
12 just saying y'all were talking about what had just
13 occurred, correct?

14 A. Okay. Who are you saying, y'all?

15 Q. You, her mother and her sisters.

16 A. I talked with her.

17 Q. Right.

18 A. The victim.

19 Q. Okay. And so, and then after you talked to the
20 victim at her home for about twenty, thirty minutes,
21 that's going to take you over there to the Sheriff's
22 Department as your next place, correct?

23 A. Yeah.

24 Q. Okay. And when you get there, Mr. Anderson is there
25 and, and Mr. Lominack is your supervisor?

1 A. Yes, sir.

2 Q. Okay. And you met with him to get a game plan
3 together before you started talking to Mr. Anderson,
4 correct?

5 A. Yes, sir.

6 Q. Okay. And you shared with him what you had gotten
7 from the victim, correct?

8 A. Yes, sir.

9 Q. Right. And, and the general nature of that?

10 A. Yes, sir.

11 Q. And he told you that the gentleman had given him an
12 oral statement at the scene, correct?

13 A. Who is he?

14 Q. Lominack.

15 A. Told me that?

16 Q. Yeah.

17 A. No. No. No. No sir, he didn't.

18 Q. He didn't?

19 A. No.

20 Q. Okay. So Lominack, you told him what you had found
21 out. But it's your testimony that Lominack did not tell
22 you what he had been able to discern through his
23 investigation?

24 A. Yes, sir.

25 Q. Okay. And that's because Lominack is your

1 supervisor?

2 A. No.

3 Q. He doesn't have to tell you what he's up to, right?

4 A. No. He don't have to tell me nothing.

5 Q. I understand. All right. Now, so Lominack allows
6 you to take another statement from Mr. Anderson, correct?

7 A. Yes, sir.

8 Q. Now when people give these statements, this is a
9 question. Do you watch him, did you see him actually
10 write out the whole statement?

11 A. I watched him watch my statement, not Officer
12 Lominack. I watched him with mine.

13 Q. You watched him give your statement, the second one?

14 A. Yes, sir.

15 Q. Okay. So that means that when he gave the statement
16 to Officer Lominack earlier, you witnessed the signing of
17 it but not the writing of it?

18 A. True.

19 Q. So that means there's a possibility that when you
20 witness things or when you say that you witness things,
21 that you just witness the signature not the actual writing
22 of the statement?

23 A. Not in this case.

24 Q. Well, which case, the first statement or the second
25 statement?

1 A. When he wrote his statement for Officer Lominack--

2 Q. Which one?

3 A. Exhibit one.

4 Q. The one, now, you didn't put that number one on
5 there?

6 A. No, sir I didn't. I didn't put that on there.

7 MR. MOSLEY: So this is exhibit number 26, Judge.

8 THE COURT: Okay.

9 Q. Ma'am just to clarify, with the court reporter and
10 the Judge, sometimes it's easier to just say number 26 in
11 the red. And that way, everybody will know what we
12 talking about as opposed to that little one or two.

13 A. Okay then.

14 Q. Yeah. Okay.

15 A. Okay.

16 Q. All right. So now tell us what you got to say.

17 A. Now for exhibit number 25, which will have a number
18 one on it, is going to be Officer Lominack's statement
19 from Mr. Anderson.

20 Q. Right.

21 A. Once he gave him this statement, he'll read over the
22 statement in front of me and Mr. Anderson.

23 Q. Right.

24 A. And if Mr. Anderson said that is what he wrote, he
25 will sign it, Officer Lominack signed it and then I'll

1 sign it as a witness.

2 Q. Right. So that means that there's a difference,
3 that's a difference in terms of protocol of how y'all do
4 business. There's a difference between the way you do
5 business, halleluiah. There is a difference between how
6 you witness a signature. Your witnessing a signature does
7 not mean that you witnessed the person writing the
8 statement. Is that correct?

9 A. Yes.

10 Q. That means that it's later on after he give it to one
11 guy or one officer, that means they'll call you around and
12 you'll come in and just say, okay, he's getting ready to
13 sign it, witness it. Is that, that's your testimony?

14 A. No, but I'm not going to witness anything until they
15 read it in front of me and the other officer.

16 Q. Okay. So in other words, you have a double way of
17 checking things out?

18 A. Yes.

19 Q. That means that to make sure that you're clear?

20 A. Yes.

21 Q. And that there's no threat of anything?

22 A. Yes.

23 Q. You want the person to actually read it in front of
24 you?

25 A. Yes, sir.

1 Q. Why do you do that?

2 A. That's just to cover our behinds. We might check it
3 one, two, three, four.

4 Q. Whose behind? Why you covering somebody's behind?

5 A. We want to make sure it's correct. That's just a
6 phrase we use, cover your behind.

7 Q. But why you covering anything?

8 A. So, if we have to check it one, two, three or four
9 times, we would do that.

10 Q. Okay. So, there was a period of time when you talked
11 to Mr. Anderson and he's giving the, exhibit, State's
12 exhibit number 26 statement. There was a period of time
13 whereby you were in the room with him without Lominack
14 being in there?

15 A. Yes, sir.

16 Q. Okay. And you were in there with him for about
17 twenty minutes or so?

18 A. Probably. I'm not sure.

19 Q. Now the statement is one very short paragraph?

20 A. Yes, sir.

21 Q. It didn't take him twenty minutes to write that down,
22 did it?

23 A. I'm not sure but he wrote it.

24 Q. Yeah. Yeah. Yeah. But now as he would write the
25 statement, would he write it and talk to you a little bit

1 and then write a little bit more?

2 A. No, sir. He would write it and once he completed, I
3 would ask him, is that everything. And he would say, yes.
4 And once he wrote everything down and then I will call
5 Officer Garrett Lominack back in and he would read over
6 it, and he said that's everything he remember, he'll sign
7 it. Office Lominack signed it and I'll sign it.

8 Q. Right. And it doesn't have any date on it, does it?

9 A. I'm not sure.

10 Q. Exhibit number 26 doesn't have any date on it?

11 A. No, it don't. It's not going to have a date on it
12 because it was done the same time, that same date.

13 Q. Yeah, but, it doesn't have a date so that the Court
14 or anybody else would know the date?

15 A. No, sir.

16 Q. It only has certain things and not completed. Would
17 you, would you agree to that?

18 A. Yes, sir.

19 Q. Thank you. I have no further questions.

20 REDIRECT EXAMINATION

21 BY MR. SCOTT:

22 Q. Ms. Williams.

23 A. Yes, sir.

24 Q. Why, do you know why it doesn't have a date on it?

25 A. Because we did them at, soon as he finished, soon as

1 Officer Garrett finished his, turned around and did the
2 same, did mine on the same date.

3 Q. Okay.

4 A. And they was attached together.

5 Q. Okay. But it's your testimony that exhibit 26 came
6 directly on the heels of exhibit number 25?

7 A. Yes, sir.

8 MR. MOSLEY: Objection. Objection, Your Honor.
9 Objection. All right. I didn't hear nothing about
10 something came right on the heels of something. I heard
11 that there was an hour, twenty minutes between. I didn't
12 hear that and I, I'm going to object to counselor
13 paraphrasing the witness absolutely incorrectly.

14 THE COURT: All right. The testimony stands for
15 itself.

16 MR. MOSLEY: Yeah.

17 MR. SCOTT: Okay. Thank you, Your Honor.

18 Q. He was still under Miranda warnings from the first
19 one?

20 A. Yes, sir.

21 MR. MOSLEY: Objection, Your Honor. That's been asked
22 and answered.

23 MR. SCOTT: Nothing further.

24 THE COURT: Thank you, ma'am. You can step down. Any
25 further witnesses from the State?

1 MR. SCOTT: No, sir.

2 THE COURT: Anything else on this matter from anyone?

3 MR. SCOTT: No, Your Honor.

4 THE COURT: Nothing from you, Mr. Mosley?

5 MR. MOSLEY: No, sir.

6 THE COURT: Mr. Scott.

7 MR. SCOTT: Your Honor, simply the testimony is that
8 he was given Miranda warnings of being, upon being first
9 approached and detained at investigative detention by Mr.
10 Veal. Was transferred directly into custody of Garrett
11 Lominack who again issued Miranda warnings from a card
12 which he recited here in Court. Testimony was that he
13 appeared to understand the warnings as given to him.
14 Thereafter gave an oral statement which essentially was
15 that he had gone to pick up a coat and left. Once they
16 arrived back at the Sheriff's Department, he is under
17 custody. However, he is given Miranda warnings for a
18 third time. We did produce the waiver form which he
19 indicates that he understood every one of his Miranda
20 warnings as they're listed out on the waiver form. He has
21 initialed them. Furthermore, the testimony from Garrett
22 Lominack and Kaye Epps-Williams was that he understood at
23 the time, did not appear to be under the influence of
24 anything, was not threatened. Thereafter, gave his first
25 written statement which pretty much mirrored the oral

1 statement given in the car ride. Your Honor, the
2 testimony is that there was no threats in between the
3 first written statement and the second written statement.
4 Simply, they pointed out to him, you know, that his story
5 didn't really jive with what the victim had said.
6 Thereafter, he admits to having sex but at the time says
7 it's consensual. So, Your Honor, just for purposes of
8 Jackson v. Denno, he is of course under, in custody and
9 there is an interrogation. However, he has been
10 Mirandized. By the time he gives his first written
11 statement, that would've been three times at that point.
12 Each time it's indicated that he understands and at length
13 it was testified to that he was not threatened or under
14 any duress. You know, just based on all the testimony
15 here at this hearing we would submit to you that these
16 statements were freely and voluntarily given.

17 THE COURT: All right. Anything, Mr. Mosley, that you
18 want to point out to me in particular?

19 MR. MOSLEY: Well, Judge, you know, I'm sort of old
20 fashion on these situations, in terms of the parties.
21 Both the victim and maybe the defendant, may have to ask
22 him to testify. It's sort of hard to cross-examine a
23 statement especially in these incidences. You know, the
24 threat, I mean, I could call my client to the witness
25 stand to testify about, you know, what he thinks actually

1 occurred or how he felt about it. I don't know whether or
2 not that would actually do any good at this particular
3 point based upon the testimony. But I would like to know
4 from the State, are they planning to introduce the
5 statements into evidence.

6 THE COURT: I would assume that would be correct.

7 MR. SCOTT: Yes, sir.

8 MR. MOSLEY: Excuse me one second.

9 THE COURT: Yes, sir.

10 MR. MOSLEY: We'll call Mr. Anderson.

11 THE COURT: All right. Mr. Anderson, you do
12 understand you don't have to testify in this case, you
13 understand that, sir?

14 MR. ANDERSON: Yes, sir.

15 THE COURT: And obviously if you testify even in this
16 limited Jackson v. Denno hearing, I realize the jury is
17 not present, but obviously you'd be subject to
18 cross-examination by the Solicitor on any point related to
19 this Jackson v. Denno hearing. You understand?

20 MR. ANDERSON: Yes, sir.

21 THE COURT: All right. And I'm sure you've discussed
22 with your attorney your right to testify or not testify,
23 is that right?

24 MR. ANDERSON: Yes, sir.

25 THE COURT: Okay. Are you certain that you,

1 individually, want to testify?

2 MR. ANDERSON: Yes, sir.

3 THE COURT: At this point? All right. Come on up.

4 HENRY ANDERSON, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. MOSLEY:

8 Q. Okay. Henry, how you doing?

9 A. I'm doing fine.

10 Q. Okay. You know, the Judge just asked you some real
11 important questions. You know, one of which you don't
12 have to testify if you don't want too and that they can
13 cross-examine you on the issue of Jackson vs. Denno. The
14 purpose of this pre-trial hearing under Jackson vs. Denno
15 is to determine whether or not your statements that you
16 gave to law enforcement were voluntarily submitted.

17 MR. SCOTT: Your Honor, I think the proper, I think
18 it'd be more of a line of questioning instead of the--

19 MR. MOSLEY: I'm asking him a question.

20 THE COURT: Hold on. Lets make sure that we're clear
21 on what the law is. The proper inquiry at this point in
22 time is pretty limited. It's whether or not his Miranda
23 rights were given. Obviously, the State has the burden of
24 proving beyond a reasonable to the satisfaction of the
25 jury that the statement was voluntary. But the threshold

1 question to the Court, as we all know Mr. Mosley at this
2 point in time, is whether or not the statements were
3 given.

4 MR. MOSLEY: That's, I'm limited.

5 THE COURT: Sure.

6 MR. MOSLEY: I was just getting ready to ask a, I
7 wasn't going to say anything other than that.

8 THE COURT: Fair enough.

9 MR. MOSLEY: I was going to stop right there.

10 THE COURT: All right. Go ahead.

11 MR. MOSLEY: Right there. Okay.

12 Q. You gave two statements?

13 A. Yes, sir.

14 Q. Do you, that's your hand, you've seen copies that I
15 have given to you, right?

16 A. Yes, sir.

17 Q. And you recall giving those statements?

18 A. Yes, sir.

19 Q. Where were you located when you gave those
20 statements?

21 A. At Newberry County Sheriff's Department.

22 Q. Okay. Why did you write two statements?

23 A. Because Investigator Kaye Epps came in there and told
24 me that she know I had sex with the victim. And that they
25 had already done did the rape kit and it came back with my

1 DNA.

2 Q. Anything else?

3 A. And then I wrote a, I wrote the statement. And then
4 she was like, that's all we wanted, we just wanted to know
5 did you have sex with her.

6 THE COURT: Will you repeat that last part, please?

7 Q. Excuse me. Let me stand over here. You have to talk
8 to the court reporter. I'm sorry.

9 A. She just, she just wanted to know did I have sex with
10 her. She kept interrogating me about did I have sex with
11 the victim and she kept going on with it. That's why I
12 wrote two statements.

13 Q. And, she said that, she said that they had a rape
14 kit?

15 A. Yeah. They had done a rape kit that day. And that
16 they knew that my semen was inside her because the victim
17 said I didn't use a condom.

18 Q. Okay. And, but other than that, you know, were you
19 threatened? Did you feel threatened?

20 A. I felt really annoyed by what Kaye Epps was coming at
21 me with. Like she didn't believe my word or anything.
22 Like she kept pressuring me, pressuring me, just to write
23 another statement.

24 Q. So, did you volunteer to write the second statement?

25 A. Yes, sir.

1 Q. Because of what?

2 A. Because of pressure.

3 Q. No further questions.

4 THE COURT: Mr. Scott.

5 CROSS-EXAMINATION

6 BY MR. SCOTT:

7 Q. Mr. Henderson, where did you go to school?

8 A. At Bell Street Middle School.

9 Q. And then where?

10 A. That's it. I went to GED.

11 Q. You had a GED?

12 A. Yes, sir.

13 Q. Okay. When did you complete that?

14 A. In 2012.

15 Q. Okay. You have a job?

16 A. I had one.

17 Q. Where at?

18 A. I was working in Fountain Inn at Faurecia.

19 Q. You can read and write?

20 A. Yes, sir.

21 Q. You can text, right?

22 A. Yes, I can.

23 Q. You recall the Miranda warnings you received?

24 A. I recall, I recall them.

25 Q. Do you recall them?

1 A. Yes, sir.

2 Q. State's number 24, advisement or rights, do you
3 remember giving the officers all the information up top,
4 to include your name and your phone number and your
5 social?

6 A. Yes, sir.

7 Q. Did you feel threatened when you gave them that?

8 A. No, I did not.

9 Q. And then State's exhibit number 25, after you've been
10 Mirandized, you indicated that you understood your Miranda
11 warnings, correct?

12 A. Yes, sir.

13 Q. Did you understand them?

14 A. Yes, sir.

15 Q. And you freely and voluntarily--

16 A. Yes, sir.

17 Q. --gave a statement, correct?

18 A. Yes, I did.

19 Q. And that's what's outlined in statement, number 25,
20 State's exhibit number 25, correct?

21 A. Yes, sir.

22 Q. And what did you tell officers then?

23 A. I just told her that, I just told Investigator
24 Lominack that I went down there to get my possessions. I
25 never told Investigator Lominack that I never had sex with

1 the victim. I just told him I went down there to get my
2 stuff and I went back home.

3 Q. How long had you and Tywanda been together at that
4 point?

5 A. We had been--

6 MR. MOSLEY: Objection, Your Honor. That's outside
7 the scope.

8 THE COURT: All right. Fair enough. Sustained.
9 Let's limit this to what the issue is.

10 Q. So in your first one, it's just about getting the
11 coat?

12 A. Yeah. It's just about getting my possessions.

13 Q. Did you get your coat?

14 A. I got my coat, but I never got the rest of my stuff.

15 Q. What kind of coat was it?

16 A. It is like a brown, like a brown American Eagle coat.

17 Q. That coat meant a lot to you?

18 A. It really--

19 MR. MOSLEY: Objection, Your Honor. That's not
20 relevant, what that coat meant to him.

21 THE COURT: All right. Overruled. It goes to the
22 totality of the circumstances of why, we have gone into
23 this. You can answer.

24 A. Yes, it really meant a lot to me because it was my
25 possession.

1 Q. How much time went by after you completed statement
2 one, which is State's exhibit number 25, and when you did
3 State's exhibit number 26, which is statement number two?

4 A. I would say about twenty to thirty minutes at most.

5 Q. So what happened in between those two statements?

6 A. That's when Investigator Lominack had left the room
7 and Kaye Epps was in there talking to me. That's when she
8 was pressuring me to write another statement because she,
9 she said that she knew that I had sex with her. That I
10 wasn't telling the truth.

11 Q. Okay. Did she threaten you?

12 A. It was like she was pressuring me. She wasn't
13 threatening me, but she was pressuring me.

14 Q. What you mean?

15 A. She kept, like, she kept annoying, kept asking the
16 same question, did you have sex with her, we know you had
17 sex with her, we got semen, we took her to the hospital,
18 we doing a rape kit on her right now.

19 Q. So you're saying you wrote this statement that you
20 had sex with her because you were annoyed?

21 A. And because, because simple of the fact that Kaye
22 Epps said there was a witness that seen me do this and she
23 called Sharonda, which is Bootsie, which is the victim's
24 sister.

25 Q. Help me understand, I don't understand. She told you

1 there was a witness and she--

2 A. Yes.

3 Q. --told you there was a rape kit. So you said, okay,
4 well I admit it then?

5 A. I just told her that I did in fact have sex with her
6 to go ahead and, you know, clear my name. But I did not
7 rape the victim.

8 Q. Okay. Well did you have sex with her?

9 A. Yes, I did.

10 Q. Okay. And then you put it in the statement, correct?

11 A. Yes, I did.

12 Q. Thank you. Nothing further.

13 MR. MOSLEY: No further questions, Your Honor. That's
14 it, Your Honor. You can step down please, sir.

15 THE COURT: That's it? Okay. I thought you said you
16 had one question.

17 MR. MOSLEY: No. I'm sorry, Judge.

18 THE COURT: All right. Very good. On this initial
19 question of whether or not Miranda rights were given, the
20 Court finds that clearly, and by the preponderance of the
21 evidence Miranda rights were given. By Mr. Anderson's own
22 admission, he understood the warnings and the statement
23 that was given was freely and voluntarily made. So, the
24 Court finds that the State has met it's threshold
25 requirement to demonstrate that Miranda was given.

1 Obviously, if the defense chooses to contest the
2 voluntariness of the statement that would be an issue for
3 the jury to decide. And I'll be happy to entertain any
4 instructions that defense may want on that particular
5 question, Mr. Mosley. All right. Now, gentlemen, I think
6 that you have already pre-marked several exhibits. I
7 don't know which ones y'all are able to stipulate to. I
8 think I heard, perhaps the defense say before we came on
9 the record that there were a lot of them that we, that
10 we're okay with. And they are in evidence or y'all have
11 agreed to not contest them. Is that right, Mr. Mosley, or
12 am I wrong?

13 MR. MOSLEY: Well, Judge, I only dealt with those
14 three photographs initially.

15 THE COURT: Oh okay.

16 MR. MOSLEY: I will have a serious objection to
17 State's exhibit number 20. The love letters that, you
18 know, occurred during the first part of December 2012
19 before, thirty days before the incident. That's totally
20 irrelevant. There is no threats in there. Nothing other
21 than love letters about how much I love you and that's
22 going to be a continuing objection for the text messages
23 and all of that, you know.

24 THE COURT: All right. Mr. Mosley held up a
25 composition book, State's 20 I guess, any referenced love

1 letters, are these love letters from the defendant to Ms.
2 [REDACTED] or vise versa or what are we talking about,
3 Solicitor?

4 MR. SCOTT: Yes, they appear to be, they were found
5 in the trunk of his car and they appear to be written to
6 Ms. [REDACTED]. In fact, I think mentions her name, Tywanda
7 [REDACTED].

8 MR. MOSLEY: But they were never sent to her. In
9 other words, they appear to be letters that would've
10 actually went in the mail, but she never received them.
11 This is like a diary that was found in the trunk of his
12 car.

13 MR. SCOTT: They appear to be addressed to her, Your
14 Honor. They're dated. They were found in the trunk of
15 his car, and again, just his state of mind is going to be
16 kind of a big issue we're going to be hitting on a number
17 of angles, I guess.

18 THE COURT: The State's theory is, is essentially, I
19 assume, that Mr. Anderson took the breakup hard and had
20 obsessed about her and that goes to his state of mind?

21 MR. SCOTT: Yes, sir.

22 THE COURT: To demonstrate motive? All right. Do you
23 intend to introduce those today?

24 MR. SCOTT: No, sir. For scheduling purposes, I'm
25 just curious how, how far we'll get today.

1 THE COURT: I'm wanting to get as far as we humanly
2 can.

3 MR. SCOTT: Okay. No, we won't get to that today.

4 THE COURT: While we're taking other testimony, then I
5 may go ahead and take an opportunity to review it.

6 MR. SCOTT: Yes, sir.

7 MR. MOSLEY: And Judge, just for the judicial economy,
8 I don't know how far we are going to get into the text
9 messages either. There a number of them and when I
10 reviewed them during the break and my colleague was, I
11 think, making additional copies and these numbers, at this
12 particular point, as many as fifteen text messages. One
13 of the concerns that I have is that there, it's sort of
14 like a flowing, you know, chronology. However, the
15 problem is that I'm having is that, you know,
16 intermittently you will see a time in terms of a.m. and
17 maybe a date of January 21st, or whatever. And then
18 you'll see sometimes, whereby you don't know, you might
19 know the time without the actual date. So, I'm not going
20 to stipulate, I mean, we just have to do this the hard way
21 in terms of, and then they're beginning as early as
22 January 22nd. And I believe there's a period of time
23 whereby they end around January 22nd. And there's
24 absolutely no more text messages until the morning of the
25 30th of January.

1 THE COURT: All right.

2 MR. MOSLEY: So it's going to be some problems with
3 this.

4 THE COURT: That's fine. And just interpose an
5 objection whenever you feel the need to. When we get to
6 those text messages and we can address them as need be.
7 I've already made it pretty clear, I think that the
8 State's going to have to establish a foundation and
9 relevancy on those text messages and we can simply address
10 them as we come to them. We're going to take five minutes
11 for ourselves and then we're going to bring the jury in
12 and do openings and see how far we can get this afternoon.

13 MR. MOSLEY: Thank you, Your Honor.

14 THE COURT: I anticipate y'all probably won't need
15 more than ten minutes for openings. Is that correct,
16 gentlemen? Ten, fifteen, something like that, ballpark?

17 MR. SCOTT: Yes, sir.

18 MR. DANIEL: Yes, sir.

19 THE COURT: You going to open, Mr. Daniel?

20 MR. DANIEL: Yes sir, I am.

21 THE COURT: All right. Very good. We'll be at ease
22 for about five, ten minutes then we'll have the jury in.

23 (Whereupon, a short break was taken.)

24 THE COURT: The defendant, Mr. Anderson, is present
25 and we are back on the record. At this point, let's go

1 ahead and bring the jury in please.

2 MR. SCOTT: Your Honor, Sharonda Brown is in the
3 courtroom. My understanding was the sequestration was for
4 the pre-trial motions only.

5 THE COURT: That was my understanding. The
6 sequestration matter was only for pre-trial. Right, Mr.
7 Mosley?

8 MR. MOSLEY: Yeah, but at a certain point, I mean, I
9 would like to have the witnesses, I would like to have the
10 witnesses sequestered.

11 THE COURT: All right. At this point, I would
12 typically grant that motion. So, I'll ask, of course, the
13 other witnesses be excused with the exception, of course,
14 of your investigator and Ms. [REDACTED]. So, if there's a
15 witness in this courtroom besides from Ms. [REDACTED], y'all
16 need to leave. The Solicitor will show y'all a place
17 where you can go.

18 (Whereupon, the jury came into open court at
19 approximately 4:00 p.m.)

20 THE COURT: All right. Ladies and gentlemen, I'm
21 sorry to keep you waiting. I know y'all were there at
22 3:00 o'clock. The matters that I was telling you about,
23 they simply took longer than I expected. I hope you
24 weren't too terribly bored and I'm sure that all of you
25 have given us contact information. It's probably on the

1 tablet sitting back there. We'll make sure we get that
2 before we leave today. First thing I need to do, is
3 appoint a foreperson of the jury. Who is Von James? You
4 were the first person picked, Mr. James, so if it's okay
5 with you I'll appoint you as the foreperson of the jury.
6 If you don't want to do it, that's fine, I can pick
7 somebody else. But I'll tell you, the job of a foreperson
8 is really just to preside over the deliberations and make
9 sure everybody has the chance to have their fair say and
10 then to be the jury spokesperson here in court once a
11 verdict is returned. Are you okay to do that for me?

12 MR. JAMES: Yes, sir.

13 THE COURT: All right. Very good. When you come back
14 in, you'll switch seats with the gentleman in the black
15 jacket there. That'll be your assigned seat throughout
16 the trial. The two alternates in the case who I believe
17 are Mr. Jones, Mr. Felix Jones and Mr. Koon. You
18 gentlemen, where are y'all? All right. Typically, we put
19 y'all on the back row, but we're, we've got somewhat of a
20 makeshift courtroom going on here. Wherever the Bailiff
21 asks y'all to sit, will be perfectly fine. Okay. Now,
22 just a couple of housekeeping rules, ladies and gentlemen,
23 while the trial is going on. If at any time you have any
24 difficulty hearing the testimony or hearing the attorneys,
25 what I want you to do is raise your hand. Okay. That'll

1 be my cue to ask the lawyers or the witness to speak up.
2 So, if you can't hear, hand goes up, I'll tell them to
3 speak up. All right. Now ladies and gentlemen, before we
4 begin and before I administer your oath to you, I want to
5 let you know that this case is probably going to be a
6 little bit different from what you may have come to expect
7 from watching cases depicted on TV or in the movies or
8 reading about them in books. From what you see on TV or
9 in the movies or read about in books, you might think that
10 trials are filled with riveting drama and intense action
11 and that these matters are neatly wrapped up in an hour or
12 two hours. Sometimes that's the case, ladies and
13 gentlemen, but more often that not, trials take a long
14 time. They took a good bit of time and that's because
15 what we're engaged in here, ladies and gentlemen, is a
16 search for justice and doing that often takes a great deal
17 of time. You've been picked as twelve or fourteen rather,
18 fair and impartial individuals who have no interest in the
19 outcome of this case. All right. This is a very
20 important role that you have as jurors. I want to thank
21 you for your willingness to undertake this role. I
22 realize none of you volunteered for this, that you were
23 essentially drafted and asked to come in here today. But
24 I will tell you that our criminal justice system cannot
25 function without the willingness of citizens who have to

1 come in here and do their civic duty on a regular basis
2 and decide a dispute between the State and a defendant.
3 So again, thank you very much for your willingness to
4 undertake this important role today. And with that, I'm
5 going to ask that you stand up and raise your right hand.
6 The Clerk of Court will administer your oath to you.

7 (Whereupon, the jury was sworn at approximately 4:05
8 p.m.)

9 THE COURT: Let the record reflect that all jurors
10 took the oath. Now, ladies and gentlemen, what I now say
11 to you is intended to serve as an introduction to the
12 trial of this case and these remarks are not a charge on
13 the law that applies. I will instruct you on the law that
14 applies at the conclusion of the trial before you retire
15 to deliberate. This is just an explanation of the
16 procedure that we're going to use or how the trial is
17 going to be conducted so that you can better understand
18 what's going on.

19 The defendant in this case, Henry Anderson, has been
20 charged by indictments filed in this Court with the
21 offenses of criminal sexual conduct, kidnapping and
22 pointing and presenting a firearm at a person. I'll
23 explain the elements of these offenses at a later point in
24 time. Ladies and gentlemen, I instruct you that these
25 indictments, these charges, are nothing more than pieces

1 of paper. The method by which a charge are brought,
2 charges are brought into this Court, and they are not in
3 any sense of the word evidence of any of the allegations
4 contained in the indictment. The defendant in this case,
5 Mr. Anderson, has pled not guilty to these charges and
6 that plea puts the burden of proof on the State of South
7 Carolina to prove each and every element of those
8 indictments beyond a reasonable doubt. It'll be your
9 duty, ladies and gentlemen, to determine whether the State
10 has met this burden of proof. Your purpose as jurors is
11 to find and determine the facts in this case. You're the
12 sole judges of the facts. So if at any time, I make any
13 comment concerning the facts you must disregard that
14 comment. You'll determine the facts from the testimony
15 that you hear and the other evidence which is presented
16 during the course of the trial. It's up to you to
17 determine the inferences which you feel may properly be
18 drawn from the evidence presented. Now ladies and
19 gentlemen, it's especially important that you perform your
20 duty of determining the facts diligently and
21 conscientiously because ordinarily there is no way to
22 correct an erroneous determination of facts by a trial
23 jury. Now ladies and gentlemen, even though you are the
24 judges of law, the same law that makes you the judges of
25 the facts makes me the judge of the law in this case.

1 You're the judges of the facts and the law as given by the
2 Court is the only law that you can consider. You have to
3 accept and follow it even though you may disagree with it.
4 I can't tell you what the facts are and you're not allowed
5 to disagree with me about what the law is or what the law
6 ought to be. Your job will be to take the law as I give
7 it to you, apply it to the facts as you find them to be
8 from the testimony and the evidence presented and after
9 doing that you'll render your verdict, a true and just
10 verdict under the oath that you have just taken.

11 Until I advise you to begin your deliberations,
12 please don't discuss this case with anyone. You cannot
13 discuss this case with anyone, not even your fellow
14 jurors, your friends, family members or anyone involved in
15 this case. After the case is submitted to you, you can
16 discuss only in the jury room in the presence of all your
17 fellow jurors: The lawyers and the parties in this case
18 have been told that they're not to have any contact with
19 you while the case is going on. So if you happen to see
20 one of the lawyers or one of the parties coming or going
21 from the courthouse, and they don't say hello to you,
22 please understand they're not being rude, they're just
23 following my instructions to have no dealings with you
24 while the case is going on. The reason for this rule is,
25 is self apparent. If the other side were to see the other

1 party or the other attorney talking to you, they could
2 easily misinterpret this as jury tampering or an effort at
3 jury tampering. And the easiest way to keep this from
4 happening is to simply have a blanket rule that no one has
5 contact with jurors while the case is going on. Okay.
6 Now, I don't anticipate there will be any media in this
7 case, but please, if there is a story published in the
8 paper don't read about it, don't watch anything on the
9 news that might relate to this case. And again, I don't
10 think that there is going to be any media coverage, but
11 obviously, you cannot consider anything that's said
12 outside the courtroom during the course of this trial.

13 Ladies and gentlemen, it's important that you keep an
14 open mind throughout the case and not decide any issue
15 until all the evidence has been presented and you've heard
16 my instructions on the law. It'll be your solemn
17 responsibility to determine the guilt or the innocence of
18 the defendant and your verdict must be made solely on the
19 evidence that's presented and on the law as I instruct you
20 at the conclusion of the trial.

21 Now in a moment ladies and gentlemen, the Solicitor
22 will make what's known as his opening statement or opening
23 argument to you in which he will explain to you what he,
24 what the issues are, at least what he believes the issues
25 are in this case. The attorney for the defendant, Mr.

1 Mosley, will be able to also make an opening statement,
2 although he's not required to do so. I tell you that what
3 the lawyers say during their opening statement, obviously,
4 is not evidence. It's merely their contention as to what
5 will be proven or will not be proven. Again, the evidence
6 will be presented through the testimony of sworn witnesses
7 from the witness stand as well as any exhibits introduced
8 into the record. Now during his trial, ladies and
9 gentlemen, from time to time I expect it may be necessary
10 to excuse you from the courtroom while I take up an issue
11 of law with the attorneys. The reason I'm asking you to
12 leave the courtroom during those times is that sometimes
13 in ruling on an issue of law it's necessary for me to make
14 a comment on what facts had been presented in evidence or
15 have not been presented. Okay. Since you are the sole
16 judges of the facts I don't want anything that I say to
17 you in ruling on an issue of law to have any effect on
18 what you ultimately find the true facts to be. So I'll
19 ask that you leave the courtroom during those times that I
20 have those discussions with the attorneys so that I can
21 speak candidly on the record and be sure that anything I
22 say about the facts has no bearing or no influence on what
23 you ultimately find those facts to be. During those
24 breaks please don't speculate on what is being said in
25 here. Okay. It's simply an issue of law that has to be

1 taken up by the Court and the attorneys. Now ladies and
2 gentlemen, in determining what the true facts are in this
3 case you must decide whether or not the testimony of
4 witnesses is believable. It will be my responsibility to
5 rule as a matter of law as to whether certain testimony is
6 admissible at all or not. But once that testimony is
7 admitted, whether or not you choose to believe it is
8 solely for you to determine. When deciding whether to
9 believe a witness, you have the right to consider the
10 interest of any witness, the bias of any witness, the
11 prejudice of any witness, the opportunity for the witness
12 to have seen the matters and things about which the
13 witness testifies as well as the way the witness acts on
14 the witness stand. You have the right to consider
15 anything that's in the record in this case which will help
16 you evaluate the testimony of the witnesses. That means
17 it's your duty to pay close attention to the witnesses,
18 observe them, listen to them, and pay close attention to
19 the lawyers and the Court. Try to keep your thoughts from
20 wandering, but give strict attention to the testimony in
21 this case so at the end of the trial you'll be in a good
22 position to determine what the true facts are and thus
23 render a true and just verdict. Now in order to preserve
24 everyone's rights, I'll give the lawyers an opportunity to
25 object to anything that I said to you during these opening

1 comments and then we'll proceed with the trial. Any
2 objections from the State?

3 MR. Daniel: None from the State, Your Honor.

4 THE COURT: From the defense?

5 MR. MOSLEY: None, Your Honor.

6 THE COURT: Very good. We'll now begin the trial.

7 Mr. Daniel, you're recognized for your opening, sir.

8 MR. DANIEL: Thank you, Your Honor. If it please the
9 Court.

10 THE COURT: Yes, sir.

11 MR. DANIEL: It's an obsession that turned
12 increasingly violent. Ultimately it culminated in Tywanda
13 [REDACTED] being held at gunpoint, taken against her will and
14 then sexually assaulted out by a cell phone tower by her
15 ex-boyfriend, Henry Anderson, the defendant who stands on
16 trial before you today. If I had to summarize this case,
17 that's exactly how I'd summarize it in one sentence.

18 Tywanda [REDACTED] was taken against her will, had a gun to her
19 head and then was sexually assaulted. Now let me give you
20 a little background. This doesn't happen in a vacuum, you
21 got to put it in context. As I stated earlier, Henry
22 Anderson, at the time of this assault, was, they had
23 undergone a breakup, Henry Anderson and the victim Tywanda
24 [REDACTED] January 30th 2013, Henry Anderson arrives at [REDACTED]
25 [REDACTED], it's just outside the city limits here in

1 Newberry County. He goes there to the residence of his
2 ex-girlfriend, Tywanda [REDACTED]. He's there to get some of
3 his belongings, as I stated, they had broken up, but he's
4 not just there for that. He has another purpose and that
5 other purpose was to sexually assault and brandish a
6 firearm and kidnap Tywanda [REDACTED] and take her off to the
7 cell phone tower. Now this cell phone tower that I
8 mention is within just in a few hundred feet of Tywanda's
9 [REDACTED]. He had a plan and that was why he was there that
10 day. Getting the coat was a pretext. That was just a
11 guide, that was just a way for him to put Tywanda at ease,
12 that that's all he's there for. But he was there for much
13 more, and the evidence is going to show you that. In
14 fact, if you take nothing else from this case, listen to
15 the testimony of the victim in this case, Tywanda [REDACTED].
16 Eyewitness victim testimony, because that's what this case
17 centers on, what happened to her that day. Henry
18 Anderson's action. As I stated, relationships can be
19 messy and they had done, the two individuals, Henry
20 Anderson, Tywanda [REDACTED], had broken up earlier, broken up
21 about a month prior to this incident, December 29th 2012,
22 when they actually broke up. They broke up for a number
23 of reasons. You're going to learn through text messages,
24 different correspondences that there was a, I guess you
25 could say Henry Anderson had an obsession, fatal

1 attraction, couldn't handle the fact that Tywanda [REDACTED]
2 didn't want anything to do with him, wanted to end the
3 relationship for a variety of reasons. He could not
4 handle it, he could not process it. So you're going to
5 see testimony that goes to Henry Anderson's state of mind.
6 What lead up to this sexual assault. You're also going to
7 hear testimony from the law enforcement officers that
8 investigated this case. How they seized the gun at Henry
9 Anderson's home following his arrest. You're going to
10 hear testimony from Garrett Lominack, the lead
11 investigator on this case who took a confession from Henry
12 Anderson. Now, it's the State's contention that there was
13 sex that day, and Henry Anderson agrees there was sex that
14 day. The only difference is Henry Anderson wants you to
15 believe that sex was consensual. Well the evidence that
16 the State's going to proffer, is not going to leave you
17 with the conclusion that the sex was consensual. No, the
18 sex was at gunpoint. It's rape in it's most classical
19 sense meaning, though the offense is actually called
20 criminal sexual conduct in the first degree, but it's
21 rape. It's sex by force and when you hold someone at
22 gunpoint and have sex with them it is not consensual.
23 This is not some type of fetish or role playing or
24 anything like. Tywanda [REDACTED] was victimized by her
25 ex-boyfriend on that date and you'll hear testimony of

1 that fact. The State will put in evidence that will lead
2 you to the conclusion, sex was not consensual, sex was by
3 force, that Tywanda [REDACTED] did not get in Henry Anderson's
4 vehicle that day on her own free will. You'll hear
5 testimony from Tywanda herself, how she did not have any
6 other choice but get into that car. She got in that car
7 at the threat of gunpoint, that is the only reason she got
8 into that vehicle. Briefly, as I stated, three offenses
9 Henry Anderson is on trial for today, criminal sexual
10 conduct in the first degree, rape. Kidnapping, that's
11 when you take someone, you abduct them, you carry them
12 away. You confine them or seize them, and that's holding
13 someone, holding a gun to someone's head, and saying get
14 in the car. Driving off to a cell phone tower a few
15 hundred feet away from your home, that's the kidnapping,
16 that's abducting someone. Then lastly, pointing and
17 presenting a firearm. Straightforward, he pointed a gun
18 at her head and said get in the car, drove her to the cell
19 phone tower, still had the gun to Tywanda [REDACTED]'s head
20 while they actually had sexual intercourse. So pointing
21 and presenting a firearm. Those are the three charges you
22 have to consider. And briefly, Solicitor Scott and also
23 the Judge at the end of this is going to talk about
24 reasonable doubt. The State is tasked with a burden of
25 proving Mr. Anderson's guilt beyond a reasonable doubt.

1 That simply means that we, the State, have to leave you
2 firmly convinced that Henry Anderson did these things to
3 Tywanda [REDACTED] on January 30th of 2013. Firmly convinced
4 just means you use your common sense that you walked in
5 here with. There's no sign that said check your common
6 sense at the door because you need it more than ever when
7 evaluating this evidence. If you believe Tywanda [REDACTED],
8 then you'll believe that Henry Anderson is guilty of this
9 crime. And I submit to you the evidence will suggest and
10 will lead you to that conclusion, that Henry Anderson did
11 these things. You'll see through his mental state, now we
12 can't read someone's mind, technology is not there yet,
13 but you'll see this all lead up, all his prior behavior,
14 irrational, even exhibiting suicidal behavior. You'll see
15 from a video that Henry Anderson sent Tywanda prior to
16 this assault, show Henry Anderson's state of mind, showing
17 that he was becoming unhinged, he couldn't handle the
18 breakup. You'll hear that testimony, you'll see that
19 video. You can't read his mind, but you can see his
20 conduct, his actions. You take all that, you piece it
21 together and you will be firmly convinced that Henry
22 Anderson did in fact commit these offenses on that day.
23 The same as if I told you it was raining and you don't go
24 outside to personally see it, just like we weren't there
25 that day, on that day that Tywanda was assaulted by Henry

1 Anderson. We didn't see it with our own eyes, so how can
2 we know it actually happened? Well, the same as if it's
3 raining, you don't actually go outside and see it, but say
4 you know the forecast is calling for a ninety percent
5 chance of rain. You're in your home and you hear what
6 sounds like rain drops hitting the roof or your ceiling,
7 and you see a family member come in with a rain coat and
8 their rain coats are wet. What are you going to conclude?
9 It's raining. Same here after you hear all of the
10 testimony and the evidence the State is going to
11 introduce. You're going to conclude that Henry Anderson
12 is guilty of these offenses. You can have doubts, there's
13 nothing a hundred percent. The State's burden is not to
14 leave you a hundred percent convinced because there are no
15 things in this world that are a hundred percent. Proof
16 beyond a reasonable doubt, is not some mathematical
17 formula. You can't put a percentage on it. Just use your
18 common sense, your God given common sense. Briefly, my
19 name is Taylor Daniel. I know we met during the jury
20 selection process. I'm Assistant Solicitor here in
21 Newberry County. I work for your elected Solicitor, David
22 Stumbo, who is here today. It's actually the Eighth
23 Circuit, it's comprised of Laurens, Newberry, Greenwood
24 and Abbeville Counties. In a Solicitor's office in other
25 States, we're just prosecutors, we enforce the criminal

1 laws in the State of South Carolina. We represent
2 victims, the public at large, and we do through enforcing
3 the criminal laws of this State. And that's our job and
4 that's what the State is tasked to do because the State is
5 just the people. The State is the people, the people are
6 the State, and that's what we are here to do, to enforce
7 the criminal laws of the State of South Carolina. Thank
8 you for your time and attention.

9 THE COURT: Thank you, Mr. Daniel. Mr. Mosley, you're
10 recognized for your opening, sir.

11 MR. MOSLEY: Thank you, Your Honor. Good day. How
12 y'all doing? May it please the Court. I'm not going to
13 bother you too much with my opening statement and I'm
14 certainly not going to kind of testify and tell you what's
15 going to come from the witness stand. I'm a little bit
16 more, how can I say, objective or waiting to see what's
17 going to happen. We have to realize that everybody has a
18 role to play in this particular process. My role is
19 unequivocal to represent my client to the best of my
20 ability under the law. No friends to reward, no enemies
21 to punish. The Judge is the referee. And I really want
22 to beg your indulgence, if I appear to at some point
23 objectionable. You know, that's going to be my word,
24 objection, Your Honor, to certain things that may happen.
25 I may not object and my colleagues have a job to do and

1 they likewise have no friends to reward and no enemies to
2 punish. And matter of fact, the law is that they have an
3 obligation to seek the truth and to seek justice. Not to
4 seek the word of a victim just because it's her word.
5 They have just as much obligation to seek under the rule
6 of law exculpatory evidence also. So I want to challenge
7 my colleague whereby, you know, you get into this thing of
8 people's mind set and this notion of your common sense.
9 You know, we need to deal with, because that's what this
10 is about. This is about a common experience of sex
11 between two people. A very private place we're about to
12 embark on between two young people. So, we're advised to,
13 not necessarily leave our common sense out because when
14 you use the word common, you know, hey, use your common
15 sense, that's got to be the way it is. No. You want to
16 use what? Good sense. Nobody wants their child to marry
17 somebody that's common. No. We want goodness from
18 people. So just like there's a mind set and the
19 credibility question for Mr. Anderson, there's likewise
20 one for the victim, Tywanda [REDACTED] Matter of fact, the
21 Judge will read to you what the law is and the law is
22 this, Mr. Anderson sits there with a blank page. He don't
23 have to say nothing and you can't use that against him.
24 He may or may not testify. But if he doesn't say
25 anything, you know, your decision is going to be based

1 upon do I have a doubt in my mind that this event
2 occurred? You know, do I have a doubt in my mind that on
3 January 30th of 2013, almost a year ago, two people had
4 sex on the hood of a car. When, you know, if you got a
5 gun and you want to have sex, in January 30th, it's cold
6 outside. Have it where? On the inside of your car. Why
7 get out of the car? And then, how do you have sex on the
8 hood of a car when one of them got a gun in their hand?
9 And then the question is, in terms of this lovers quarrel,
10 you got pregnant by that guy? You been knowing the guy
11 for eight years and he's madly in love with you. And he
12 go by, there's a lot of reasons why you may have some
13 doubt. Now, I can't tell you what to vote for, you know,
14 the Judge was very specific in telling you that you are
15 the sole finders of the facts. Each one of you come into
16 the courtroom with your prior experiences, you know, your
17 use of good sense and, you know, we do have common sense.
18 But there's a little bit of both going on within the cycle
19 of people as they navigate, you know, their life. And as
20 the Judge told you, this is not Perry Mason. Nobody is
21 going to run in and say what's evidence. Matter of fact,
22 we've been working, we wasn't sitting around here playing
23 tiddlywinks while y'all were waiting all morning. We were
24 actually working, dealing with some very, very important
25 and legal issues that you aren't privilege too. Things

1 that I can't even tell you about, but you see all these
2 desks with all these papers, this is not a game. And so,
3 it's just not that easy. I'm not going to, you know, say
4 a lot more but the only thing I ask is that you abide by
5 your oath. Winston Churchill once said that one of the
6 most important duties in America is jury service, aside
7 from the military. We need you or else we wouldn't be
8 able to solve the problems of our society. People would
9 be taking the law into their hands. We need you to listen
10 real carefully to that witness stand. Listen real
11 carefully to what motivates people. The Judge is going to
12 read a lot of rules of law and we're operating under the
13 rules of law. And, I mean, unfortunately, these people
14 had sex. No doubt about, and Mr. Anderson never denied
15 that he had sex with her. Never has denied that. The
16 only problem is, we're going to have a problem with a gun
17 and we're going to talk about that gun and we're going to
18 talk about two grown people having sex on the hood of a
19 car with one of them with a gun. And you're going to see
20 pictures of her house where they went to. You're going to
21 hear it all. But please, I beg of you, be cautious to
22 just automatically, you know, and I'm sensitive too, you
23 know, the feminine issue. We have a narrative of the
24 airways around, and peoples predisposition to judge and,
25 oh yeah, this is, we hearing about this one. No, we not

1 on TV, we not on TV. This is live. This is live in
2 Newberry. Halleluiaah. Listen real carefully.

3 THE COURT: All right. Thank you, Mr. Mosley.
4 Solicitor, if you'll call your first witness, please.

5 MR. SCOTT: Your Honor, may I approach?

6 THE COURT: Sure. Gentlemen, come on up.

7 (Whereupon, a bench conference was held in the
8 presence of the jury but out of the hearing of the
9 jury.)

10 THE COURT: Call your first witness, please.

11 MR. SCOTT: The State calls Tywanda [REDACTED].

12 TYWANDA [REDACTED], being
13 first duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MR. SCOTT:

16 Q. Ms. [REDACTED], how you doing?

17 A. (No response.)

18 Q. Move that microphone just a little bit closer so you
19 can speak up just so the court reporter can hear you.

20 Where are you from?

21 A. Newberry.

22 Q. How long have you lived there?

23 A. All my life.

24 Q. Where did you go to school?

25 A. Newberry High School.

- 1 Q. Did you graduate?
- 2 A. Yes, sir.
- 3 Q. Are you employed?
- 4 A. Yes, sir.
- 5 Q. And where do you work?
- 6 A. U-Save car and truck rental.
- 7 Q. How old are you?
- 8 A. Twenty four.
- 9 Q. Do you have children?
- 10 A. Yes, sir.
- 11 Q. Two little boys?
- 12 A. Yes, sir.
- 13 Q. Who is Henry Anderson?
- 14 A. My ex-boyfriend.
- 15 Q. How long did y'all date?
- 16 A. About ten months.
- 17 Q. When did y'all first get together?
- 18 A. What do you mean?
- 19 Q. Well, when did you meet, I guess?
- 20 A. I went to his house when we first met.
- 21 Q. Give me a year.
- 22 A. 2012.
- 23 Q. How did y'all meet?
- 24 A. We first initially met online.
- 25 Q. Okay. Like a dating service or something?

1 A. Yes, sir.

2 Q. Where's he from?

3 A. Mountville.

4 Q. That's in Laurens County?

5 A. Yes, sir.

6 Q. All right. So 2012, you all meet on a dating site,
7 and you were together approximately a year?

8 A. Yes, sir.

9 Q. Boyfriend and girlfriend?

10 A. Yes, sir.

11 Q. And sexual relationship?

12 A. Yes, sir.

13 MR. MOSLEY: Your Honor, I'm going to object to
14 leading questions. I'm going to object to leading, just
15 leading questions, and I can't hardly hear the gentleman
16 for purposes of making notes and me hearing. But I can't
17 hear my colleague and I'm going to object to leading the
18 witness.

19 THE COURT: Okay.

20 MR. MOSLEY: Because that wasn't a question.

21 THE COURT: I'll sustain just to leading. And if you
22 could just speak up perhaps just a little bit more, Mr.
23 Scott.

24 Q. What was the basis of your relationship? What kind
25 of relationship was it?

1 A. It was a okay relationship.

2 THE COURT: Scoot that microphone just a littler
3 closer to you. Go ahead Mr. Scott.

4 Q. All right. Was it a sexual relationship?

5 A. Yes, sir.

6 Q. Okay. Boyfriend and girlfriend?

7 A. Yes, sir.

8 MR. MOSLEY: Objection, Your Honor. I don't know
9 whether or not he's, he's making a statement. And she's
10 just blurting out yes, yes, yes. I don't even hear a
11 question.

12 THE COURT: Overruled. This is background. Keep
13 going please.

14 Q. Thank you, Your Honor. All right. Now, eventually
15 the relationship became to deteriorate. Is that fair to
16 say?

17 A. Yes, sir.

18 Q. What were the reasons?

19 A. He had became kind of suffocating.

20 Q. How so?

21 A. Always wanting to be around.

22 Q. Well, give me an example, I mean, can you explain any
23 further?

24 A. For my sister's birthday we had wanted to go out but
25 he wanted me to stay in with him.

- 1 Q. Okay. When did y'all break up?
- 2 A. About December 29th.
- 3 Q. Did y'all ever have any children in common?
- 4 A. No, sir.
- 5 Q. Did you become pregnant?
- 6 A. Yes, sir.
- 7 Q. What happened?
- 8 A. I miscarried.
- 9 Q. This have anything to do with your breakup?
- 10 A. No, sir.
- 11 Q. These are very personal questions, I apologize. When
- 12 was the miscarriage?
- 13 A. We found out on his birthday, [REDACTED]th.
- 14 Q. Okay. How did Mr. Anderson take that?
- 15 A. Took it kind of hard.
- 16 Q. Okay. What was the date of y'all's breakup?
- 17 A. About December 29th.
- 18 Q. And how did you break up with him?
- 19 A. It was over the phone.
- 20 Q. What did you tell him?
- 21 A. That we needed to take time off.
- 22 Q. What did he say?
- 23 A. We kind of went back and forth. I can't remember the
- 24 whole phone conversation.
- 25 Q. Did he, did he agree with you that it was good to

1 break up?

2 A. No, sir.

3 Q. Did you begin receiving text messages from him after
4 the breakup?

5 A. Yes, sir.

6 Q. What kind of things was he saying to you?

7 A. In the text messages? Like he wanted us to still
8 remain friends.

9 MR. MOSLEY: Objection, Your Honor.

10 THE COURT: Hold on one second, she's marking these
11 exhibits. Mr. Mosley, does this relate to your earlier
12 objection?

13 MR. MOSLEY: Yes, sir. I mean, I don't know, my
14 colleague would just walk over and show me something.
15 That's improper just to show me something.

16 THE COURT: Okay. Probably to give you a heads up
17 this is the area we're getting into. Solicitor, as I've
18 mentioned pre-trial, you'll need to lay a foundation to
19 those.

20 MR. SCOTT: Yes, sir.

21 Q. I want to show you what's marked State's number 32.
22 You recognize that?

23 A. Yes, sir.

24 Q. What is that?

25 A. My cell phone.

1 Q. That of been the cell phone you were using December
2 and January of last year?

3 A. Yes, sir.

4 Q. And is that the phone you would've received text
5 messages on from Henry Anderson?

6 A. Yes, sir.

7 MR. SCOTT: Your Honor, the State would offer State's
8 number 32 for admission into evidence.

9 THE COURT: All right. No objection?

10 MR. MOSLEY: Objection, Your Honor. Just because you
11 show somebody a cell phone, doesn't mean that it's their
12 phone. It hasn't been opened. That could be my cell
13 phone. I don't, I don't agree with just the arbitrary
14 introduction of a cell phone into evidence.

15 THE COURT: All right. Well the threshold, the
16 threshold for authentication is pretty low. She has
17 stated that it is her cell phone. I mean, if you want to
18 ask additional questions, that's fine. Solicitor, but I'm
19 inclined to go ahead and overrule the objection and allow
20 it's submission.

21 MR. SCOTT: Nothing, Your Honor. She's identified it
22 being her phone and I'll move on from here.

23 THE COURT: Very good. Your objection is noted.

24 (Whereupon, State's exhibit 32 was admitted into
25 evidence.)

1 Q. Now, on that phone you received a number of text
2 messages, correct?

3 A. Yes, sir.

4 Q. Let me show you State's exhibit number 1. Tywanda,
5 without saying what that is, do you recognize that?

6 A. Yes, sir.

7 Q. Okay. How are you able to recognize it?

8 A. It's from my phone.

9 Q. From this phone?

10 A. Yes, sir.

11 Q. Okay. That is a, what is it?

12 A. It's a picture of a text message from my phone.

13 Q. Okay. Now is that a text message that you recognize?

14 A. Yes, sir.

15 Q. And when have you seen it?

16 A. I seen it when Mr. Anderson sent it to me.

17 Q. Now when did he send that State's exhibit number 1 to
18 you?

19 A. After the breakup.

20 Q. Okay.

21 MR. SCOTT: Your Honor, the State would offer State's
22 number 1 for admission into evidence.

23 THE COURT: Subject to the early object.

24 MR. MOSLEY: I would like to see it, Your Honor.

25 THE COURT: All right. Show him State's 1 then,

1 please.

2 MR. MOSLEY: Your Honor, you know, our objection would
3 be that, you know, it's no date on it. We don't know when
4 she got this, in terms of a chronology, there's no date on
5 the particular document. You know, there's just no date
6 on there.

7 THE COURT: That would go to?

8 MR. MOSLEY: Just has a time.

9 THE COURT: All right. That would go to weight as
10 opposed to admissibility even though there's no date,
11 she's testified as to the approximate time evolved. I'll
12 admit it subject to those objections. State's 1 is in
13 evidence.

14 (Whereupon, State's exhibit 1 was admitted into
15 evidence.)

16 MR. MOSLEY: Plus Judge, my other objection would be
17 she can testify to this, you know, the best evidence rule
18 would be that she can testify as to what he said. You
19 know, you trying to build a case based upon a text message
20 versus she's here and she can say what he told her.

21 THE COURT: All right. I believe that she is
22 testifying as to that by way of the evidence contained in
23 State's 1. Your objection is noted.

24 Q. Tywanda, when was State's exhibit 1, these texts
25 here, when did you receive those? What was the day?

1 A. January 21st.

2 Q. Okay. All right. State's exhibit number 1, what is,
3 what is Henry saying in the first text to you?

4 A. It says, good morning Tywanda. I'm just letting you
5 know that I am moving to North Carolina. This Saturday
6 will be my last day in South Carolina. I'm really sorry
7 that I f'd up our friendship. I just thought I would let
8 you know that you was right about me. And my uncle asked
9 me to move with him. So, saying goodbye. Tywanda, you
10 can get your things today if you want them.

11 Q. Okay. And did you respond back to him?

12 A. Yes. It says you can drop them off.

13 Q. Okay. Let me show you State's exhibit number 2.
14 Likewise, do you recognize that?

15 A. Yes, sir.

16 Q. And what is it?

17 A. It's another text message on my cell phone.

18 Q. Okay. And, same as before, is that, that came from
19 State's exhibit number 32?

20 A. Yes, sir.

21 Q. Do you recognize that text that you're holding,
22 State's exhibit number 2 that's coming from number 32,
23 your phone?

24 A. Yes, sir.

25 Q. All right.

1 MR. SCOTT: The State would offer number 2 for
2 admission into evidence, Your Honor.

3 THE COURT: Subject to the same objections, I assume
4 Mr. Mosley?

5 MR. MOSLEY: Yes, sir.

6 THE COURT: State's 2 will be in evidence.

7 (Whereupon, State's exhibit 2 was admitted into
8 evidence.)

9 Q. Okay. So, the green box, that would've been your
10 response?

11 A. Yes, sir.

12 Q. And what did you respond to him?

13 A. You can drop them off or mail it.

14 Q. Okay. What kind of things is he talking about?

15 A. For my things, he had my graduation ring, a CD book
16 and some of my brother's video games.

17 Q. Okay. Well, what did you have of his?

18 A. I had a coat and I had a car key.

19 Q. Okay. All right. After you say you can drop them
20 off or mail it, what does he say?

21 A. I need my coat and key and I will drop both rings off
22 at your house.

23 Q. Okay. Well, what did you say in response?

24 A. My rings, my shorts, my coat and Cardo games.

25 Q. What is Cardo games?

1 A. That's my brother's video games.

2 Q. Okay.

3 MR. SCOTT: Your Honor, State would, I'm sorry, did I
4 move number 2?

5 THE COURT: All right, 2 is on.

6 MR. SCOTT: Okay.

7 THE COURT: Okay, 2 is in evidence, yes sir.

8 MR. MOSLEY: Yeah. Same objection, Your Honor.

9 THE COURT: Same objection to number 3. Objections
10 noted. Overruled. 3 will be in evidence as soon as you
11 move it in.

12 (Whereupon, State's exhibit 3 was admitted into
13 evidence.)

14 Q. State's number 3, do you recognize that?

15 A. Yes, sir.

16 Q. And what is it?

17 A. It's a video that Henry sent to my phone.

18 Q. Okay. Were you able to open the video?

19 A. Yes, sir.

20 Q. What was on the video?

21 A. He was holding a gun to his head telling me he was
22 going to end his own life.

23 Q. Okay. Now that video showed up as a, like a text
24 video on your phone?

25 A. Yes sir, it's like a media message.

1 Q. Okay. Let me show you State's number 22. Do you
2 recognize that?

3 A. Yes, sir.

4 Q. And what is it?

5 A. It's the video from my phone.

6 Q. Okay. Have you ever been able to review this?

7 A. Yes, sir.

8 Q. And is it the same video that was on your phone?

9 A. Yes, sir.

10 MR. SCOTT: The State would offer, Your Honor, on
11 number 22, be the video, the State would offer that for
12 admission into evidence and permission to publish it, Your
13 Honor, to the jury.

14 THE COURT: Subject to the earlier objection?

15 MR. MOSLEY: This, this is the video itself?

16 THE COURT: This is the video itself, yes sir.

17 MR. MOSLEY: Well, it's a little bit more than. Well,
18 it's basically the same objection.

19 (Whereupon, State's Exhibit 23 was marked for
20 identification only.)

21 THE COURT: All right. Proceed Solicitor.

22 MR. SCOTT: So we're clear, I've admitted number 3,
23 which is a screen shot of the phone and now I'm going to
24 also admit number 22 which is the actual video.

25 THE COURT: Correct. 22 will be in evidence.

1 (Whereupon, State's exhibit 22 was admitted into
2 evidence.)

3 (Whereupon, a video was shown to the jury.)

4 Q. All right. Tywanda, now that was the video you
5 received on your phone from Mr. Anderson?

6 A. Yes, sir.

7 Q. All right. Well, what did you think after you saw
8 that video?

9 MR. MOSLEY: Objection, Your Honor.

10 THE COURT: The nature of the objection?

11 MR. MOSLEY: Well, that's speculation. What did she
12 think?

13 THE COURT: She can testify to what, she can testify
14 as to what she thought or how she took it.

15 MR. MOSLEY: But how is what she thinks relevant in
16 terms of him putting the gun on his head.

17 THE COURT: You want to tighten the question up,
18 Solicitor?

19 Q. Did you respond to him in any way after you saw that
20 video?

21 A. Yes sir, I did.

22 Q. And what'd you say?

23 A. I respond to him, don't pull that trigger, just put
24 the gun down.

25 Q. Okay. Here's State's number 3. Is that your

1 response after the video you seen?

2 A. Yes, sir.

3 Q. What exactly did you say to him?

4 A. I just got a chance to see this video. You better
5 not have pulled that trigger.

6 Q. Again, when were these videos and these responses?

7 A. It was while I was at work.

8 Q. Okay. What was the date?

9 A. January 21st.

10 Q. Let me show you State's number 4.

11 MR. MOSLEY: Same objection.

12 THE COURT: Subject to earlier objection. Go ahead
13 Solicitor.

14 Q. State's number 4, Ms. [REDACTED], do you recognize that?

15 A. Yes, sir.

16 Q. And what is that?

17 A. A text message he responded back to my message.

18 Q. And after these right here, he responded with State's
19 number 4?

20 A. Yes, sir.

21 Q. And again, is that taken from your cell phone?

22 A. Yes, sir.

23 MR. SCOTT: Now, the State would offer number 4 for
24 admission into evidence.

25 THE COURT: Subject to the earlier objection, State's

1 4 is in evidence.

2 (Whereupon, State's exhibit 4 was admitted into
3 evidence.)

4 Q. Okay. What does he respond?

5 A. Ty, I love you and I want to be friends but I can't
6 accept the fact that I still love you. Ty, I can be your
7 best friend but not like the old days. I really want you
8 in my life.

9 Q. And then what did he say?

10 A. Ty, I want to be your friend.

11 Q. Did you respond?

12 A. Yes, sir. I said, then be my friend and put the gun
13 away.

14 Q. Okay. Let me show you State's number 5. Do you
15 recognize that?

16 A. Yes, sir.

17 Q. And what is it?

18 A. It's the response that he gave me after I responded
19 to him.

20 MR. SCOTT: Your Honor, the State would offer number 5
21 for admission.

22 THE COURT: Same objection?

23 MR. MOSLEY: Yes, sir.

24 THE COURT: 5 is in evidence.

25

1 (Whereupon, State's exhibit 5 was admitted into
2 evidence.)

3 Q. Okay. What did he say?

4 A. Ty, I am your friend. Please respect the fact that I
5 still have feelings for you and that I will be your
6 friend, like best friend.

7 Q. And what did you say?

8 A. Okay. Just put the gun down.

9 Q. Did he respond?

10 A. Yes, sir.

11 Q. What did he say?

12 A. Ty, I will put this gun down when you respect my
13 feeling and give me a chance to overcome all this. I'm
14 not asking for a relationship, I'm asking for a friend.

15 Q. Okay. What did he say next?

16 A. I had a wreck.

17 Q. State's number 6, do you recognize that?

18 A. Yes, sir.

19 Q. Again, what is that?

20 A. It's a response of the message that he sent after he
21 sent the other message.

22 MR. SCOTT: Your Honor, the State would offer number 6
23 for admission.

24 THE COURT: Subject to the same objection?

25 MR. MOSLEY: Yes, sir.

1 THE COURT: State's 6 will be in evidence.

2 (Whereupon, State's exhibit 6 was admitted into
3 evidence.)

4 Q. What did he say next?

5 A. I'm on my way to the hospital.

6 Q. Did you say anything?

7 A. Yes, sir.

8 Q. What did you say?

9 A. Let me know what they say.

10 Q. Okay.

11 A. And then he responded, okay, I will.

12 Q. State's number 7, same question, you recognize that?

13 A. Yes, sir.

14 Q. How are you able to do so?

15 A. It came to my phone. It's the response of a message
16 that he sent me.

17 MR. SCOTT: Your Honor, the State would offer number 7
18 for admission.

19 THE COURT: Subject to the same objection. State's 7
20 will be in evidence.

21 (Whereupon, State's exhibit 7 was admitted into
22 evidence.)

23 Q. What did he say next?

24 A. I have a lower back injury and a left knee injury as
25 of right now. They think I tore my ACL and pulled or torn

1 a muscle in my back.

2 Q. Okay. What did you say.

3 A. I responded back with the letter, K.

4 Q. What does that mean?

5 A. That's okay.

6 Q. State's number 8, you recognize that?

7 A. Yes, sir.

8 Q. All right. What is it?

9 A. It's the response to the message that I sent him.

10 MR. SCOTT: Okay. Your Honor, the State would offer
11 number 8 for admission.

12 THE COURT: Subject to the earlier objection, Mr.
13 Mosley?

14 MR. MOSLEY: Yes, sir.

15 THE COURT: State's 8 will be in evidence.

16 (Whereupon, State's exhibit 8 was admitted into
17 evidence.)

18 Q. All right. What did he say next, Ms. [REDACTED]?

19 A. He said okay and then he said, going home now. I
20 have pulled muscles in my back and a contusion and
21 slightly torn ACL, contusion in my knee. Then I
22 responded, okay. I'm sorry to hear that and after today's
23 events, I wouldn't feel comfortable around you anymore.
24 I'm sorry but I'm going to have to ask you not to text,
25 call or come here anymore.

1 Q. Why did you say that?

2 A. Because I didn't feel comfortable. If someone put a
3 gun to their head, they will definitely put one to mine.

4 MR. MOSLEY: Objection, Your Honor.

5 THE COURT: I'm sorry. What's the nature of the
6 objection?

7 MR. MOSLEY: Well, I mean, she blurted out if somebody
8 was to put a gun to their head, that they'll put a gun to
9 hers. That's objectionable.

10 THE COURT: All right.

11 MR. MOSLEY: That's speculation on her part what
12 somebody else would do.

13 THE COURT: I understand. She's giving context to
14 what has been admitted under State's 8, so that's her
15 opinion. Certainly you can cross-examine her on that, but
16 that's the explanation for why she wrote what she wrote.
17 So, overruled. Go ahead, Solicitor.

18 Q. Thank you. All right. Tywanda, so you're asking at
19 that point not to contact you anymore?

20 A. Yes, sir.

21 Q. Let me show you State's number 9. You recognize
22 that?

23 A. Yes, sir.

24 Q. And what is it?

25 A. It's his response to my last text.

1 MR. SCOTT: The State would offer number 9 for
2 admission.

3 THE COURT: Subject to the same objection, State's 9
4 will be in evidence.

5 (Whereupon, State's exhibit 9 was admitted into
6 evidence.)

7 Q. Okay. After you asked him not to text or contact you
8 anymore, what did he say?

9 A. He said okay.

10 Q. Okay. Did you write anything else?

11 A. Yes, sir. I said, can you please mail my class ring
12 before Sunday? I will mail you your car key.

13 Q. What's with the mailing, why can't y'all meet?

14 A. I didn't feel comfortable enough to meet with him.

15 Q. So you specifically asked to mail it?

16 A. Yes, sir.

17 Q. Okay. What's the date these texts are being
18 generated?

19 A. January 21st.

20 Q. This is State's Number 10. Do you recognize that?

21 A. Yes, sir.

22 Q. What is that?

23 A. It's a response that he sent to my message.

24 Q. It came from you cell phone?

25 A. Yes, sir.

1 MR. SCOTT: The State would offer number 10 for
2 admission, Your Honor.

3 THE COURT: Subject to the same objection. State's 10
4 will be in evidence.

5 (Whereupon, State's exhibit 10 was admitted into
6 evidence.)

7 Q. All right. So, after you ask him to mail you your
8 stuff, and after you tell him you'll mail him his stuff,
9 what does he say?

10 A. He said, no. You can come and get it. I don't mail
11 nothing. If you want it, come get it. If not, then it'll
12 be a loss because, and I want my coat too. If you don't
13 come get it then it's a loss because I need my \$80.00
14 dollars you owe me, my key and the \$140.00 your brother
15 owes me and my coat so I won't bother you anymore. Bye.

16 Q. Ms. [REDACTED], this is State's number 11. Same question,
17 what is that and where did it come from?

18 A. Okay. It's a response to the message that I sent him
19 and it came from my cell phone.

20 Q. Okay. What did you say to him?

21 A. I said, Henry if you want to throw up money, you owe
22 me more than \$80.00 dollars. But keep the ring, I will
23 mail you your stuff and report mine stolen. He responded,
24 pay me my \$80.00 dollars and you can have your ring back
25 and your CD book and we can go our way. Tywanda, be a

1 woman and answer the phone.

2 Q. Okay. So, now had he been calling you at this time?

3 A. Yes, sir.

4 Q. And you, you weren't answering the phone?

5 A. No, sir.

6 Q. Why not?

7 A. I didn't want to to talk with him.

8 Q. Okay. State's number 12. That came from your phone?

9 A. Yes, sir.

10 Q. Have you read that before?

11 A. Yes, sir.

12 MR. SCOTT: Now, the State would offer number 12 for
13 admission into evidence.

14 THE COURT: Subject to the same objection, Mr. Mosley?

15 MR. MOSLEY: Yes, sir.

16 THE COURT: You moved 11 in correct?

17 MR. SCOTT: Yes, sir.

18 THE COURT: Yeah.

19 MR. SCOTT: Published it.

20 THE COURT: State's 11 and 12, just so that the record
21 is clear, will be in evidence subject to the objection.

22 (Whereupon, State's exhibit 11 and 12 were admitted
23 into evidence.)

24 Q. All right. What did Henry Anderson say after that
25 last text?

1 A. You might as well call the police, Tywanda. You
2 ain't getting nothing until I get my money from you and
3 your brother and my coat and stuff. And then later on a
4 different date, he said Ty, can I please have you as my
5 friend? I don't have anyone else. I'm depressed and I'm
6 getting help from the hospital. I swear I will never do
7 this again. Please just be my best friend. I need you
8 and I'm sorry.

9 Q. State's number 13, do you recognize that?

10 A. Yes, sir.

11 Q. What is that?

12 A. Another message from Henry to me on my phone.

13 Q. Okay. That's number 13.

14 A. Yes.

15 MR. SCOTT: Your Honor, State would offer number 13
16 for admission.

17 THE COURT: Subject to the earlier objection, State's
18 13 is in evidence.

19 (Whereupon, State's exhibit 13 was admitted into
20 evidence.)

21 Q. All right. Tywanda, what did he say next?

22 A. I'm frustrated and depressed. I need a friend, one
23 who knows me. Ty, I am very sorry. I will never hurt you
24 or try. I need you more now than I did before. Ty, I
25 want my friend back. Please, can I have you back? Ty,

1 please accept my friendship back, please. Ty can we
2 please be friends. I'm very sorry. I need you in my
3 life.

4 Q. Tywanda, what are you thinking at this point, after
5 all these texts?

6 A. I'm just thinking that he really just wants me back
7 and that he's getting kind of obsessed with it a little
8 bit.

9 Q. How does that make you feel?

10 A. I was scared. I was nervous.

11 Q. Did he keep texting you?

12 A. Yes, sir.

13 Q. All right. There's number 14. State's number 14.

14 A. Okay. Number 14, it's a response.

15 Q. Let me ask you, can I hold that back, I'm sorry.

16 A. This one.

17 Q. I'm jumping ahead a little bit. Does your phone have
18 capabilities of blocking a number?

19 A. Yes, sir.

20 Q. At some point did you do that?

21 A. Yes, sir.

22 Q. Do you know when you did it?

23 A. Don't remember the exact date but it was after I
24 reported, went to the police station to get a restraining
25 order against him.

1 Q. Okay. Because of these texts or why?

2 A. Yes sir, because of the texts.

3 Q. Okay. Any other reason? Did he, did you see him
4 after these texts at any time?

5 A. I didn't. He had stopped by my house with my mom and
6 my kids while I was at work. And she called me and told
7 me that he did have a gun on him.

8 Q. Okay. And then you reported this to the--

9 MR. MOSLEY: Objection, Your Honor. That would be
10 hearsay.

11 THE COURT: Sustained as to hearsay.

12 Q. You said you, you made a report though?

13 A. Yes sir, I did.

14 Q. And, I think you just testified that you blocked your
15 phone as a result of filing a report?

16 A. Yes, sir.

17 Q. Okay. What is Mr. Number? What is that?

18 A. It's a app you can download that you can block calls
19 and text messages from anyone.

20 Q. And did you do that?

21 A. Yes, sir.

22 Q. All right. Let me show you State's number 27. You
23 recognize that?

24 A. Yes, sir.

25 Q. And what is that?

1 A. Those are text messages that was blocked from the
2 app, Mr. Number.

3 Q. Okay. But they still show up on your phone?

4 A. Yes sir, they come to the app and I will get the
5 messages but I can't respond to the messages.

6 Q. Okay.

7 MR. MOSLEY: Judge, I'm going to objection, you know,
8 because we don't, you know, at this particular point we
9 may want to take the jury out. This is one of the
10 problems I had eluded to earlier. It now may be a problem
11 because if she blocked it and she gets it later, how much
12 later? We just don't know.

13 THE COURT: All right. I think that's something that
14 you can address with her on cross. I don't know that it
15 goes to admissibility. She, she states that, she's laid a
16 foundation for the way the app works and the way that you
17 have to retrieve the messages. So I think at this point
18 the testimony is allowable. Proceed Solicitor.

19 MR. SCOTT: Thank you, Your Honor.

20 Q. For instance, State's number 13, which is published
21 on the wall behind you. Where would that have shown up on
22 your phone?

23 A. In the messaging application that comes with the
24 phone.

25 Q. Okay. And the block numbers would've shown up where?

1 A. In the Mr. Number app.

2 Q. Okay. And would they have still been associated with
3 a number?

4 A. Yes, sir.

5 Q. Okay.

6 MR. MOSLEY: Your Honor, this is leading questions at
7 this point, Your Honor.

8 THE COURT: Overruled. He's laying a foundation. Go
9 ahead, Solicitor.

10 Q. Explain how Mr. Number works.

11 A. If you have a contact in your phone that you would
12 like to block, you can select that contact and put block
13 contact.

14 Q. Okay. Let's say that you had Dale Scott in your
15 phone.

16 A. Okay.

17 Q. And you blocked my number. In Mr. Number, would it
18 have my name?

19 A. Yes, sir.

20 Q. And would it have my phone number?

21 A. Yes, sir.

22 Q. And would have a time?

23 A. Yes, sir.

24 Q. And a date?

25 A. Yes, sir.

1 Q. Okay. Essentially it's just not showing up in your
2 general messenger application, correct?

3 A. Correct.

4 Q. It's sort of a, cleaving it out and putting it in
5 this other app where you, you don't even have to look at
6 them unless you choose to, correct?

7 A. Correct.

8 Q. Okay. So State's number 27, tell us again what that
9 is?

10 A. These are blocked messages from Mr. App.

11 Q. Okay. In your messenger, as we've been going, the
12 conversations go from top to bottom, right?

13 A. Yes.

14 Q. Is that how we have been reading them. Is that how
15 it's chronologically listed in Mr. Number?

16 A. No sir, it's from bottom to top.

17 Q. Okay.

18 MR. SCOTT: Your Honor, the State would offer State's
19 number 27 for admission.

20 THE COURT: All right. Subject to the earlier
21 objection, State's 27 will be in evidence.

22 (Whereupon, State's exhibit 27 was admitted into
23 evidence.)

24 Q. All right. So, as we were just describing, what is
25 this, State's number 27.

1 A. It is messages coming form my phone from Mr. App.

2 Q. Okay. And what is the first one? What is the first
3 blocked text you received?

4 A. Do you have my key? If so, I'll bring your ring by
5 your job. January 25th, 7:20 a.m.

6 Q. Okay. So we've jumped from the 21st to the 25th now?

7 A. Yes, sir.

8 Q. I think the 22nd to the 25th.

9 A. Yes.

10 Q. Okay. And then what did he say next?

11 A. Okay. Keep ignoring my call. I'm headed over to
12 your mother's house. I just want my darn coat.

13 Q. All right. Next.

14 A. Bring my coat to me tomorrow.

15 Q. Okay. What did he say next?

16 A. I took a warrant out for you for my stuff. So you
17 have until Wednesday to bring my stuff or you going to
18 jail.

19 Q. All right. What's the date on that one you just
20 read?

21 A. January 27th, 6:57 p.m.

22 Q. Okay. Now, do you recall, were you reading those and
23 keeping up with them at the time?

24 A. No, sir.

25 Q. Okay. Let me show you State's number 14. First of

1 all, do you know if a warrant was got, taken out for your
2 arrest?

3 A. I do not know.

4 Q. Were you ever arrested?

5 A. No, sir.

6 Q. Law enforcement ever contact you about a warrant?

7 A. No, sir.

8 Q. Okay. Let me see. I'm sorry. In State's number 14,
9 the last one, I took a warrant out on you for my stuff.

10 So you have until Wednesday to bring my stuff or you going
11 to jail. Did you respond to him via text message from
12 that one?

13 A. Yes, sir.

14 Q. Okay. And is that illustrated in State's number 14?

15 A. Yes, sir.

16 Q. And what did you say to him?

17 A. I found your coat. You can meet me in Walmart
18 parking lot and get it or do you prefer I mail it?

19 Q. All right. So is that, is that what we're seeing
20 here?

21 A. Yes, sir.

22 Q. Okay. Now if he responds to you, I found your coat,
23 you can meet me in the Walmart parking lot. If he
24 responded to that text, where would it of gone?

25 A. To the Mr. Number app.

1 Q. Okay. Let me go back to State's number 27 again.
2 Now you wrote, I found your coat. You can meet me in
3 Walmart parking lot and get it, or do you prefer I mail
4 it? All right. January 29th at 8, 8:35, what does he
5 say?

6 A. No, you can bring it to my house. I brought you your
7 stuff to you and the warrant says for me not to come to
8 your house or anything. You can bring it today.

9 Q. All right. Now back to State's number 14, how did
10 you respond to that?

11 A. Okay. So I'll mail it.

12 Q. All right. And then back on your blocked list, what
13 does he respond to that?

14 A. I can't tell on this one.

15 Q. Okay. January 29th, 8:41, what did he respond?

16 A. If you still, well, if you do, you're still going to
17 jail. I'm not playing with you. You will go to jail, Ty.
18 Bring me my stuff to me.

19 Q. State's number 28, what is that?

20 A. Responses to my phone from the Mr. Number app.

21 Q. Okay. What is the next text?

22 A. I'll be down there in the morning about 6:45 or 7:00
23 to get my coat.

24 Q. When does he say that?

25 A. January 29th, 9:10 p.m.

1 Q. He tells you he's going to be there in the morning
2 about 6:45 or 7:00?

3 A. Yes, sir.

4 Q. All right. Do you recall getting that or would it of
5 been in your blocked numbers?

6 A. It would've been in my blocked.

7 Q. And was that something you were checking regularly?

8 A. No, sir.

9 Q. Do you remember whether or not you read that--

10 MR. MOSLEY: Objection, Your Honor. Some of this is
11 leading, Your Honor, definitely leading questions, Your
12 Honor.

13 THE COURT: Overruled. Continue Mr. Scott.

14 Q. Do you recall whether you read that January 29th?

15 A. I do not recall.

16 Q. Okay. So next morning, was that a work day?

17 A. Yes, sir.

18 Q. And what time do you typically get up on a work day?

19 MR. MOSLEY: Objection, Your Honor. Excuse me. I
20 apologize for that objection. Go ahead. I'm sorry.

21 Q. Okay. What time do you typically wake up to go to
22 work?

23 A. 6:30.

24 Q. All right. And, then about what time are you leaving
25 the house?

1 A. Leaving the house about 7:35, 7:30.

2 Q. Okay. Did he say the same thing twice on your text
3 message?

4 A. Yes sir, because I did not respond.

5 Q. Okay. State's number 29, Tywanda, do you recognize
6 that?

7 A. Yes, sir.

8 Q. And what is that?

9 A. Text messages that was sent to my phone that was
10 picked up by the Mr. Number app.

11 Q. All right. What is the date that you're receiving
12 those messages?

13 A. January the 30th.

14 Q. Okay. And what time is the first one you received on
15 January 30th?

16 A. 6:31 a.m.

17 MR. SCOTT: Your Honor, let me introduce State's
18 number 28 for admission. 29 for admission into evidence.

19 THE COURT: It's 29, not 28?

20 MR. MOSLEY: The additional objection would be, Your
21 Honor, that she never received it. She's already
22 testified that she blocked, she didn't receive it.

23 THE COURT: Let's clarify which exhibit we're dealing
24 with first.

25 MR. SCOTT: I'm sorry. Your Honor, if I had failed to

1 mention or introduce number 28, I published it. That was
2 the last one. I would like to admit number 28 for
3 admission into evidence. Now, we're dealing with State's
4 number 29, which I'm about to publish and ask for it to be
5 admitted as well.

6 THE COURT: All right. Ask the witness if she
7 received it.

8 Q. Is this something you received on your phone?

9 A. Yes, sir.

10 Q. And, do you recognize the screen shot that you're
11 holding in your hand, State's number 29?

12 A. Yes, sir.

13 Q. And where did you receive that?

14 A. In the Mr. Number app.

15 Q. And who was it from?

16 A. Henry Anderson.

17 MR. MOSLEY: Judge, excuse me, Your Honor. I don't
18 mean to belabor the point. But the point is though is
19 that, we don't know when she would have received it. She
20 could have received it yesterday. According to her
21 testimony, she said she didn't look at these things.

22 THE COURT: You want to clarify that?

23 Q. When did you receive it, Ms. [REDACTED]

24 A. January the 30th at 6:30 a.m., 6:31 a.m.

25 Q. Will you ever forget that date?

1 A. No, sir.

2 THE COURT: State's 29, 28 are in evidence. Both 29
3 and 28 are in evidence.

4 (Whereupon, State's exhibit 28 and 29 were admitted
5 into evidence.)

6 THE COURT: And, Solicitor, are you moving State's 14
7 in or have you? I don't think you moved State's 14 in at
8 this point.

9 MR. SCOTT: I haven't, Your Honor.

10 THE COURT: Very good. I'll wait on that then.

11 MR. SCOTT: I'll get back to it.

12 THE COURT: I'll wait on you to do that.

13 MR. SCOTT: Thank you, Your Honor.

14 Q. State's number 29, 6:31 a.m., January 30th, what does
15 Mr. Anderson say to you?

16 A. I'm outside. Bring me my coat.

17 Q. Ms. [REDACTED], January 30th, early morning hours, did you
18 walk outside of your home over there in Silver Street or
19 just outside of Silver Street?

20 A. Yes, sir.

21 Q. Tell the jury what happened.

22 A. Went outside to give Henry Anderson his coat where he
23 was outside parked behind my car. He exited his vehicle,
24 came up to me, he had took the coat from me and asked can
25 we talk. I said, there's nothing to talk about. And he

1 wanted to know why couldn't we be friends. And I said
2 that we couldn't be friends because I wouldn't feel
3 comfortable around him anymore. That's when he asked for
4 a hug and he pulled me in and then placed a gun to my head
5 and told me to get into his vehicle. I got into the
6 vehicle on the passenger side door. He got in the drivers
7 side. He put his car in reverse and backed up and turned
8 around in my yard, exit [REDACTED] and went across the
9 road to the cell phone tower on Stoney Battery Road. When
10 we sat in the car, he asked me again, he just wanted to
11 talk about it. And I didn't have nothing to talk about.
12 By this time I had started crying. He exited his vehicle,
13 came around front, opened the passenger door and got out.
14 He placed me in front of him where I was leaning on him
15 and he continued to talk. And then he said, why am I
16 afraid, I will not hurt him. And I wouldn't say anything
17 and then he told me, well since you think I'm going to
18 hurt you, I have to hurt you. He lead me to the front of
19 the vehicle, lowered my clothes and then proceeded to have
20 sexual intercourse.

21 Q. Okay. Did he catch you by surprise when you came
22 outside?

23 MR. MOSLEY: Objection, Your Honor.

24 Q. Did you receive the text message from the blocked
25 number that day?

1 A. Yes sir, I did.

2 Q. Okay. So you knew he was outside?

3 A. Yes, sir.

4 Q. And did you have his coat?

5 A. Yes sir, I did.

6 Q. All right. Where was he parked?

7 A. Behind my car.

8 Q. Okay. Could you see him as you exited your house?

9 A. No, sir.

10 Q. Okay. So your testimony is you, you walked the coat
11 to the car and then what? He asked for a hug, is that
12 right?

13 A. Yes, sir.

14 Q. Did you give him a hug?

15 A. Yes, sir.

16 Q. Did you see the gun at that time?

17 A. No, sir.

18 MR. MOSLEY: I'm going to be objecting to leading
19 questions.

20 THE COURT: Overruled. Go ahead, Mr. Scott.

21 Q. Tell me about the hug, what happened after he hugged
22 you?

23 A. He placed the gun to my head. Side of my head.

24 Q. All right. Did you see the gun?

25 A. No sir, I did not get a good look at the gun.

1 Q. Okay. Did you get in the car voluntarily?

2 A. No, sir.

3 Q. Did you feel free to leave?

4 A. No sir, I did not.

5 Q. Okay.

6 MR. MOSLEY: Objection. Leading questions, Your
7 Honor.

8 THE COURT: Overruled. Go ahead, Mr. Scott.

9 Q. What, if anything, did you think would happen if you
10 resisted?

11 A. He would of--

12 MR. MOSLEY: Objection, Your Honor.

13 THE COURT: It goes to her, goes to her state of mind,
14 and the way she perceived events. It's overruled. Go
15 ahead, Mr. Scott.

16 A. He would of caused bodily harm to me.

17 Q. What do you mean?

18 A. He could of possibly hit me or shot me.

19 Q. That cell phone tower, how far away from that, from
20 your house is that cell phone tower?

21 A. If I had to estimate, I'll say at least 300 feet
22 maybe.

23 Q. Okay. So, very nearby?

24 A. Yes, sir.

25 Q. Describe it. What's around it?

1 A. Trees. Nothing but trees and the passing road of
2 Stoney Battery where you would turn into it.

3 Q. So, it's in the wood line?

4 A. Yes, sir.

5 Q. Is it out in the open?

6 A. No, sir.

7 Q. Okay. This is State's number 18. Do you recognize
8 that?

9 A. Yes, sir.

10 Q. And what is it?

11 A. It's the cell phone tower you can see out of my yard.

12 Q. Okay. Matter of fact, is that a view from your yard
13 of the cell phone tower?

14 A. Yes sir, it is.

15 Q. Okay. Are you able to see directly up under the cell
16 phone tower from your home?

17 A. No, sir.

18 Q. And why not?

19 A. It is trees surrounding it.

20 Q. Okay. And it was under that cell phone tower that he
21 took you, correct?

22 A. Not under the cell phone tower, but there.

23 Q. Okay. What do you, well explain.

24 A. It was like the driveway of the cell phone tower. We
25 didn't go under the cell phone tower itself. We was in

1 the driveway of the cell phone tower.

2 Q. Okay. Well, would you have been in the open, I
3 guess, for people to see you?

4 A. No, sir.

5 Q. How would you describe that little area there?

6 A. Enclosed, surrounded by trees and of course, it was
7 6:31, you know, it's dark outside.

8 Q. Okay.

9 MR. SCOTT: Your Honor, the State would offer number
10 18 for admission.

11 THE COURT: Any objection to State's 18?

12 MR. MOSLEY: Sir? Excuse me, Your Honor.

13 THE COURT: Any objection to State's 18?

14 MR. MOSLEY: No. No. No.

15 THE COURT: Without objection, State's 18 will be in
16 evidence.

17 (Whereupon, State's exhibit 18 was admitted into
18 evidence.)

19 MR. SCOTT: Just permission to publish, Your Honor.

20 THE COURT: Yes, sir.

21 Q. All right. So, he's got the gun to your head, but
22 he's saying he wants to talk about being friends?

23 A. Yes, sir.

24 Q. How was he acting? What was his demeanor?

25 A. Maybe a little nervous maybe.

1 Q. Okay. What was he doing with the gun while you were
2 driving to the cell phone tower?

3 A. Kind of playing with it.

4 Q. What you mean?

5 A. He had it in his hand, I guess, cocking it or
6 something. He was just playing with it.

7 Q. How did that make you feel?

8 A. Nervous.

9 Q. What was he saying during the ride?

10 A. He wasn't really saying much during the ride, it's
11 once we got there he started talking.

12 Q. What were you saying?

13 A. I wasn't saying anything. I was crying.

14 Q. How long did it take to drive from your house to the
15 cell phone tower?

16 A. Fifteen to thirty seconds maybe.

17 Q. Okay. You were crying?

18 A. Yes, sir.

19 Q. Why were you crying?

20 A. I was scared.

21 Q. State's number 19. You recognize that?

22 A. Yes, sir.

23 Q. And what is that?

24 A. The driveway of the cell phone tower.

25 Q. Can you see where y'all parked in State's number 19?

1 A. Yes, sir.

2 Q. Okay.

3 MR. SCOTT: The State would offer number 19 for
4 admission into evidence.

5 THE COURT: Any objection?

6 MR. MOSLEY: None, Your Honor.

7 THE COURT: State's 19 will be in evidence.

8 (Whereupon, State's exhibit 19 was admitted into
9 evidence.)

10 MR. SCOTT: Again, permission to publish, Your Honor.

11 THE COURT: Yes, sir.

12 Q. In State's number 19, directly under the, under the
13 cell phone tower, or in the vicinity, the area of the cell
14 phone tower.

15 A. It's in the area.

16 Q. Okay. If you're looking around, what are you seeing
17 all around you?

18 A. Trees.

19 Q. Okay. So it's, again, within the wood line, but very
20 close to your house, but within the wood line?

21 A. Yes, sir.

22 Q. He pulls the car up, and you're in the passenger
23 seat, what does he say?

24 A. That we need to talk about being friends. Why can't
25 we be friends?

1 Q. What were you saying? Were you just crying, or what
2 were you saying?

3 A. Just crying and I wouldn't feel comfortable with him.

4 Q. And how's he reacting to you saying that?

5 A. He wants to know why wouldn't I feel comfortable to
6 him. And I again said, because if you'll put a gun to
7 your head what will stop you from putting a gun to mine.

8 Q. Tell the jury what he said next.

9 A. He said that he would not hurt me, but if I think
10 he's going to hurt me then he has to hurt me.

11 Q. What does that mean?

12 A. I don't know what that meant.

13 Q. All right. After he said you think you're going to
14 hurt me then I'm going to have to hurt you, what did he
15 do?

16 A. We was outside the car, lead me to the front of the
17 vehicle, pulled my clothes down, and then proceeded to
18 have sexual intercourse.

19 Q. Was that consensual?

20 A. No, sir.

21 Q. What was he doing with the gun?

22 A. I did not see the gun at this time.

23 Q. What were you saying?

24 A. I was just crying and answering to the questions that
25 he asked me.

1 Q. Okay. Tywanda, what do you say that, I mean, I
2 guess, is this consensual sex? What is this you're
3 describing?

4 A. Rape.

5 Q. What did you feel would happen if you told him to, or
6 you ran or, you know, fought back? What would've
7 happened?

8 A. I felt that he would attack me.

9 Q. Did you want to be having sex with him out there
10 under that cell phone tower?

11 A. No, sir.

12 Q. You ever had sex with him out there by that cell
13 phone tower before?

14 A. No, sir.

15 Q. And again, this is about what time?

16 A. After 6:31 a.m. in the morning.

17 Q. At any time did you get to see the gun he had?

18 A. I got to saw it, but not a good look at it.

19 Q. What do you remember it looking like?

20 A. Just a black gun.

21 Q. Okay. Was it the gun he had in the video, or do you
22 know?

23 A. I couldn't see the gun in the video that clear, so I
24 couldn't determine.

25 Q. Just let me show you State's number 21. Does it look

1 familiar?

2 A. Yes, sir.

3 Q. Is that consistent with what you saw?

4 A. Yes, sir.

5 Q. All right. When all this is over, what does he say?

6 A. We get in the car. I better not tell anyone. We're
7 going to be friends. Everything's going to be okay. And
8 then we got to my house, he told me if I told anyone he'll
9 come back and kill everyone that's inside my house.

10 Q. Who does that mean?

11 A. I have two kids that stay there, a sister, my mom and
12 I had a step-dad that stayed there.

13 Q. How did that make you feel?

14 A. I was scared.

15 Q. Did you tell anybody what happened?

16 A. Yes.

17 Q. Who did you tell?

18 A. My sister, Sue Brown.

19 Q. Sue. Was Sharonda Brown there?

20 A. Yes, she was in her room at the time, and I did tell
21 her also.

22 Q. Okay. Did y'all contact law enforcement?

23 A. My sister did.

24 Q. Did you tell them or did you, did y'all relay to law
25 enforcement what had happened?

1 A. Yes, sir.

2 Q. Where did he go? Did you know where he went?

3 A. No sir, I did not.

4 Q. Okay. Where did he live?

5 A. Mountville.

6 Q. Okay. Had you been to his house before?

7 A. Yes, sir.

8 Q. Had you ever seen that gun before?

9 A. No, sir.

10 Q. After he leaves, is he trying to communicate with
11 you?

12 A. Yes, sir.

13 Q. Okay. Let me refer back to the exhibit number 29.
14 Okay. I believe the last one you talked about is, I'm
15 outside. Bring me my coat.

16 A. Yes.

17 Q. What's the next one?

18 A. Best thing for you to do is text me and be there as a
19 friend with benefits.

20 Q. Well, did that come after the rape?

21 A. Yes, sir.

22 Q. What does that even mean?

23 A. To me, I took it as that I better talk to him, be his
24 friend and have sex with him.

25 Q. What did he, what was the next text?

1 A. He said hello.

2 Q. And what time was that?

3 A. That was at 7:06 a.m.

4 Q. Okay. At this point, are you speaking with law
5 enforcement?

6 A. Yes, sir.

7 Q. Okay. Okay. Hello was the last one. All right.
8 Then, then what does he say, what time, hello is at 7:06
9 you said. What is the next text that he sends you?

10 A. So you're not texting me.

11 Q. Okay. And then what's the next one?

12 A. Okay. I'm going to make another trip down there.
13 You can't text me, then I'll have to just make you fear
14 me.

15 Q. Okay. How did that make you feel?

16 A. Scared. Nervous.

17 Q. All right. You've got law enforcement though around
18 you at this point, correct?

19 A. Yes.

20 Q. Okay. Did you contact him while law enforcement's
21 investigating this thing?

22 A. Yes, sir.

23 Q. And why did you do that?

24 A. Law enforcement asked me to.

25 Q. State's number 15, do you recognize that?

1 A. Yes, sir.

2 Q. Okay. And what is that?

3 A. It's a response that I responded to the text he
4 asked.

5 MR. SCOTT: Your Honor, the State would offer number
6 15 for admission into evidence.

7 THE COURT: All right. Subject to the same objection
8 earlier, Mr. Mosley?

9 MR. MOSLEY: Yes, sir.

10 THE COURT: All right. State's 15 will be in
11 evidence. I still have State's 29 not in evidence.

12 (Whereupon, State's exhibit 15 was admitted into
13 evidence.)

14 Q. All right. What do you ask him when you, when law
15 enforcement tells you to get in contact with him?

16 A. Where are you?

17 Q. All right. You've still got his number blocked,
18 right?

19 A. Yes, sir.

20 Q. Okay. You ask him, where are you?

21 A. Yes.

22 Q. I'm going back to State's number 29. What did he
23 respond in your blocked text messages?

24 A. Why.

25 Q. What did he say next?

1 A. You're going to have my baby?

2 Q. Any idea what, what does that mean?

3 A. Asked me was I going to have his child.

4 Q. All right. This have anything to do with the
5 miscarriage before, or what does this have to do with?

6 A. During the act, he was asking me was I going to have
7 his child.

8 Q. While he's raping you?

9 A. Yes, sir.

10 MR. SCOTT: The State would offer State's number 29
11 for admission into evidence, Your Honor.

12 THE COURT: Subject to the same objections, Mr.
13 Mosley?

14 MR. MOSLEY: Yes, sir.

15 THE COURT: State's number 29 will be in evidence.
16 (Whereupon, State's exhibit 29 was admitted into
17 evidence.)

18 MR. SCOTT: And, I think I'd offered number 15 for
19 admission, but I would offer it at this time, Your Honor.

20 THE COURT: All right. 15 is in evidence.

21 MR. SCOTT: Thank you.

22 THE COURT: I don't have 14 in though. That's the
23 only one not in evidence.

24 MR. SCOTT: I apologize, Your Honor. The State did
25 publish number 14. We would offer it for admission too,

1 Your Honor.

2 THE COURT: All right. 14 will be in evidence at this
3 point in time, subject to the same objections of Mr.
4 Mosley.

5 (Whereupon, State's exhibit 14 was admitted into
6 evidence.)

7 Q. I am going to show you number 30. Number 30 is what
8 now?

9 A. Text messages from Mr. Anderson.

10 Q. These are the last messages you ever received from
11 him?

12 A. No, sir.

13 Q. These aren't the last, this is 8:08, January 30th.
14 Okay. Well, State's number 30, what does it say?

15 A. Okay. Hello. Answer my question.

16 Q. And then what did he say after that?

17 A. Why you ain't texting me?

18 Q. Okay. Now you said you received another one after
19 this?

20 A. Yes, sir.

21 Q. And what was that?

22 A. You setting me up. I know that's why you not texting
23 me back.

24 Q. Okay. Now, that's back in State's number 15,
25 correct?

1 A. Yes, sir.

2 Q. All right. Okay. State's number 15, again, what was
3 that last one you received?

4 A. You're setting me up. I know you, that's why you not
5 texting me back.

6 Q. Okay. Now, why did that show up in your text? Was
7 that after law enforcement had you unblock him?

8 A. Yes, sir.

9 Q. Okay. Why were they trying to get you to do that?

10 MR. MOSLEY: Objection, Your Honor, state of mind.

11 MR. SCOTT: Withdrawn.

12 THE COURT: Sustained.

13 Q. Tywanda, when did you enter his phone number in
14 your--

15 MR. MOSLEY: Your Honor, I'm going to, Your Honor, I'm
16 going to, I'm going to ask my colleague to stop being
17 like, (sigh), acting on emotional. He's not on the
18 witness stand. And I tolerated that, you know, I would
19 ask that he be a gentleman and professional and not, oh
20 (sigh). I would ask my colleague not to grasp like that
21 for air in front of this jury. I would respectfully ask
22 that.

23 THE COURT: All right.

24 MR. SCOTT: Noted, Your Honor.

25 THE COURT: Please note that.

1 MR. SCOTT: I'm sorry.

2 THE COURT: Why don't you rephrase the last question.

3 Q. Trying to remember my last question. I'll move on,
4 Your Honor. When did you, I recall it now. When did you
5 enter his number into your cell phone?

6 A. When we was dating.

7 Q. Okay. You would've been in contact with him
8 regularly, is that right?

9 A. Yes, sir.

10 Q. Let me show you State's number 31. Do you recognize
11 that?

12 A. Yes, sir.

13 Q. What is that?

14 A. His contact information from my cell phone.

15 Q. Okay. And that's taken from your cell phone, which
16 is State's number 32?

17 A. Yes, sir.

18 Q. And those would've been the numbers you would've
19 been, how you would've contacted Henry Anderson?

20 A. Yes, sir.

21 Q. Okay. And these text messages would've been
22 associated with his number?

23 A. With the cell phone number.

24 Q. Okay. You can't really see it from my power point,
25 but what is the image up there with his name?

1 A. Is a picture of a--

2 MR. MOSLEY: Objection. Objection, Your Honor.
3 Objection. That's totally out of line for my colleague
4 to, well, I can't see what the picture is. If he can't
5 see it, don't introduce it into evidence.

6 THE COURT: But, if, if he--

7 MR. MOSLEY: I just think it's unprofessional. It's a
8 tactic and it's uncalled for, for a gentleman of the law
9 to act like, oh, I can't see something.

10 THE COURT: Mr. Mosley, if there's an image up there
11 that the witness can identify, I'll allow her to identify
12 it.

13 MR. MOSLEY: Yeah, but he's going on like he can't see
14 it from where he's standing.

15 THE COURT: I understand. And perhaps he's trying to
16 anticipate the concerns that the jury or the Court might
17 have, I don't know. I'm going to overrule your objection,
18 and if she's able to identify the object or whatever's
19 reflected in the State's 31 then that's perfectly fine.
20 If she can not, she can not. So, go ahead Solicitor.

21 Q. Ms. [REDACTED] what is the image associated with this
22 number?

23 A. It's a picture of him with a rifle and a deer that he
24 had shot during deer season.

25 Q. But it's a picture of him?

1 A. Yes.

2 Q. Is that right?

3 MR. MOSLEY: Objection, relevancy. He hunts. What's
4 that got to do with this? Objection.

5 THE COURT: Overruled. Go ahead, Mr. Scott.

6 Q. These texts are from Henry Anderson's phone as far as
7 you're concerned?

8 A. Yes.

9 Q. And the video of him with the gun to his head came
10 from his phone?

11 A. Yes.

12 MR. SCOTT: Your Honor, the State would offer number
13 31 for admission into evidence.

14 THE COURT: 30 and 31 Solicitor?

15 MR. SCOTT: Yes sir, Your Honor.

16 THE COURT: 30 and 31 will be in evidence subject to
17 the earlier objection.

18 (Whereupon, State's exhibit 30 and 31 were admitted
19 into evidence.)

20 MR. SCOTT: Beg the Court's indulgence, Your Honor. I
21 apologize.

22 THE COURT: Yes, sir.

23 Q. Ms. [REDACTED], what is your address?

24 A. [REDACTED], South Carolina.

25 Q. Okay. And is that in the city limits of Newberry?

1 A. No sir, it's the County.

2 Q. Okay. Thank you. Nothing further. Please answer
3 any questions Mr. Mosley has for you.

4 THE COURT: We've been at it for about an hour and a
5 half. Let me speak to the attorneys briefly up here if I
6 may, gentlemen.

7 (Whereupon, a bench conference was held in the
8 presence of the jury but out of the hearing of the
9 jury.)

10 THE COURT: All right. Ladies and gentlemen of the
11 jury, it's a little bit unusual to break in the middle of
12 a witness. And Solicitor, the Foreperson wants to hand
13 that back to you. So, if you'll take that from him
14 please. It's a little bit unusual to break in the middle
15 of a witness, but it is rather late. What we're going to
16 do is break until tomorrow morning at 9:30. My clerk has
17 checked the weather and it looks like it's not going to be
18 that bad tomorrow. I can't predict the weather. The
19 weatherman can't predict the weather. We all do our best.
20 All right. What we're going to do is, you've left us your
21 cell phone numbers or contact information back there. If
22 something happens, the Clerk is going to try to reach you
23 individually. But we're going to follow whatever
24 schedule, County Government here in Newberry County
25 orders. I'm assuming that it's not going to be an issue

1 for me to get from here, from Greenwood to here if it does
2 become an issue, which I'm positive it won't. Okay. If
3 it does become an issue, I'll have the Clerk to call you
4 because I know how to reach her. I'll need you back in
5 the jury room, if you would be, at 9:30 tomorrow morning.
6 They will have coffee and grab something to munch on.
7 Again, just follow whatever schedule, if County Government
8 decides to close County operations tomorrow, then we
9 simply won't have Court. And I'll have the Court Clerk to
10 tell you when to be back. All right. Again, the same
11 admonition that I gave you before lunch still goes. Don't
12 talk about this case with anyone. You obviously have not
13 heard all the evidence so it would be improper to make up
14 your mind on any issue involved in this particular case.
15 So don't talk to anyone about it, and I'll see y'all back
16 here tomorrow morning at 9:30. Okay. With that, I hope
17 you have a pleasant evening. Y'all take care.

18 (Whereupon, the jury was excused from open court for
19 the day.)

20 THE COURT: Ma'am, you can step down. Tonight you
21 can't talk about the testimony with anybody. Don't
22 discuss it with anyone this evening and have a pleasant
23 evening. We will be at ease until 9:30 tomorrow morning.

24 (Whereupon, the trial will resume the next morning at
25 9:30 a.m.)

1 February 11, 2014

2 THE COURT: All right. If we may, we'll go back on
3 the record, the State vs. Henry Anderson. Mr. Anderson's
4 present with counsel. The State is present. I'm told
5 that the jury is here. I'm going to go ahead and bring
6 them in and resume with cross-examination of Ms. [REDACTED].
7 So let's have the jury please.

8 (Whereupon, the jury came into open court at
9 approximately 9:46 a.m.)

10 THE COURT: Let the record reflect that jurors are
11 back. Ladies and gentlemen of the jury, I want to thank
12 you for being here and thank you for putting up with us in
13 this trial. I know that some of you are not at all happy
14 about having to come in this morning in light of the snow
15 and the ice conditions out there. Let me sort of explain.
16 Some of you may have been in the military or have a
17 military background, and if you do, you understand that
18 sometimes you just follow orders even though maybe orders
19 don't make a lot of sense. The orders that I have
20 received and the Clerk of Court received concerning
21 inclement weather basically is to follow the directions of
22 whatever the local county emergency preparedness person
23 does. Of course, that does not take into account the fact
24 that I have to travel from Greenwood and that some of you
25 may of had to travel from as far away as, I don't know, to

1 the dam over in Newberry County, or here in Newberry
2 County. So, it doesn't take that into account. But I am
3 following orders. That is the reason we have to hold
4 court. The order is that the County is operational, we
5 will be holding court, and I know how to follow orders.
6 So, I apologize if this was inconvenient to you. If the
7 conditions worsen, the Clerk of Court is going to let me
8 know and we'll adjourn the trial and I'll discuss with
9 y'all at that point in time when we might be in a position
10 to reconvene. Okay. But, rest assured, your safety is of
11 course very important to us and if any of you feel anxious
12 about driving home once you take a look outside, let me
13 know, ditch your car here, we'll get a deputy to get you
14 home. Okay. You can leave it here. I'm sure it will be
15 fine. Nobody is going to break into cars with weather
16 like this. Anyway, we're still in examination of the
17 first witness, Ms. [REDACTED]. At this point, if you will come
18 back up, Ms. [REDACTED], please, to the stand. I will remind
19 you, Ma'am, that you are still under oath. Okay. Mr.
20 Mosley, cross-examination, sir.

21 MR. MOSLEY: Thank you, Your Honor. May it please the
22 Court?

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. MOSLEY:

1. Q. Good morning.
2. A. Good morning.
3. Q. Okay. I hope you had a good rest last night.
4. A. I didn't.
5. Q. You didn't? You're not nervous, are you?
6. A. A little.
7. Q. A little. Okay. You are Tywanda [REDACTED]?
8. A. Yes, sir.
9. Q. Okay. How old are you?
10. A. Twenty-four.
11. Q. Twenty-four. What's your date of birth?
12. A. [REDACTED].
13. Q. [REDACTED]. You were born and raised here in Newberry?
14. A. Yes, sir.
15. Q. You went to Newberry High?
16. A. Yes, sir.
17. Q. And, did you go to Newberry College?
18. A. Yes, sir.
19. Q. Did you graduate?
20. A. Yes, sir.
21. Q. When did you graduate?
22. A. 2012.
23. Q. 2012. Would that of been in the middle of the year
24. where you, you graduated with your class?
25. A. Yes sir, I graduated with my class..

1 Q. Okay. And, as of the date of this incident, January
2 30th of 2013, you were married?

3 A. No, sir.

4 Q. Okay. Did you have any children?

5 A. Yes, sir.

6 Q. How many?

7 A. Two boys.

8 Q. Two boys. Well, are they twins?

9 A. No, sir.

10 Q. How old are they?

11 A. They was two and three, but now they are three and
12 four.

13 Q. So, and you had these children while you were in
14 college?

15 A. Yes, sir.

16 Q. You getting child support for those kids?

17 A. Not right now, sir.

18 MR. SCOTT: I'm going to object, Your Honor. I can't
19 imagine any relevancy regarding that question.

20 THE COURT: How is that relevant?

21 MR. MOSLEY: I mean, that's the only question I was
22 going to ask. She already answered. I'm sorry.

23 THE COURT: Very good. Let's just move along.
24 That'll be fine.

25 Q. You, at the time of the incident, you were living at

1 your parent's home?

2 A. Yes, sir.

3 Q. Okay. And with your two boys?

4 A. Yes, sir.

5 Q. And you also, did you have any other family members
6 living in the house?

7 A. Yes, my sister and my step dad.

8 Q. Your step dad. Okay. So, and your mother has been
9 here earlier today?

10 A. Yes, sir.

11 Q. And how long you been living with them?

12 A. All my life.

13 Q. You never moved out?

14 A. Never moved out.

15 Q. Okay. What about Henry's family, did you, did you
16 know about his family?

17 A. I met some of them.

18 Q. Okay. Who did you meet?

19 A. His Aunt Lisa, Cindy, his grand-mom, his grandad, his
20 two sisters, nephews, cousins.

21 Q. Cousins. Okay. And, in terms of meeting them, you
22 been to Henry's house where he lived at?

23 A. Yes, sir.

24 Q. Okay. And how many times had you been there
25 previously?

1 A. Too many to recount, sir.

2 Q. A lot?

3 A. Yes.

4 Q. Okay. Did Henry have any children?

5 A. No, sir.

6 Q. You ever met any of his ex-girlfriends or anything?

7 A. No, sir.

8 Q. Okay. Now, in terms of family, you know, at your
9 house with family, did you have a car?

10 A. Yes sir, I did.

11 Q. What type of car?

12 A. A 2000 Ford Escort.

13 Q. A Ford Escort. At the time of the incident, was it
14 paid for?

15 A. Yes sir, it was.

16 MR. SCOTT: Objection, Your Honor.

17 THE COURT: All right.

18 MR. MOSLEY: I'm just asking one question and I'm
19 going to, okay.

20 THE COURT: All right. I'll sustain as to relevancy.

21 MR. MOSLEY: Yeah. Okay.

22 Q. And did Henry have a car?

23 A. At the time, yes sir.

24 Q. Okay. What type of car did he have?

25 A. Impala.

- 1 Q. Impala. When you first met Henry did he have a car?
- 2 A. No, sir.
- 3 Q. So, over time he got to get a car?
- 4 A. Yes, sir.
- 5 Q. Did you help him get the car?
- 6 A. Yes, sir.
- 7 Q. How so?
- 8 A. I helped give him payments for the car.
- 9 Q. Where were you working at, at the time of the
- 10 incident?
- 11 A. U-Save Car and Truck Rental.
- 12 Q. And what was your job there?
- 13 A. I was a rental agent.
- 14 Q. Rental agent. Where is that located in proximity to
- 15 your house?
- 16 A. It's about ten minutes away.
- 17 Q. Ten minutes. Not that far.
- 18 A. No.
- 19 Q. So now, what were your hours of employment?
- 20 A. From 8:00 to 5:00.
- 21 Q. 8:00 to 5:00?
- 22 A. Yes, sir.
- 23 Q. And your two boys, were they enrolled in nursery or
- 24 anything like that?
- 25 A. No, sir.

1 Q. Okay. So, routinely in the morning, you would have
2 no reason to get them ready for daycare or anything like
3 that?

4 A. No, sir.

5 Q. Okay. In terms of education, you knew that Henry
6 only had a eighth grade education?

7 A. No sir, I did not.

8 Q. How far did you think he went in school?

9 A. I was advised he graduated high school.

10 Q. Right. Okay. Did y'all ever talk about education?

11 A. Yes sir, we did.

12 Q. And tell us what y'all talked about?

13 A. He wanted to continue his education by going back to
14 school to get a degree.

15 Q. By going back, you know, to get a college degree?

16 A. Yes, sir.

17 Q. Okay. Where did Henry work at?

18 A. At that time he was working at Faurecia.

19 Q. What type of place is Faurecia?

20 A. I do not know, sir.

21 Q. Where was it located?

22 A. Fountain Inn.

23 Q. Where?

24 A. Fountain Inn.

25 Q. Fountain Inn?

1 A. Yes.

2 Q. Okay. So, you said that you and Henry, y'all met
3 online?

4 A. Yes, sir.

5 Q. The internet?

6 A. Yes, sir.

7 Q. Okay. Do you have a computer and internet at the
8 house that you use?

9 A. I don't have internet access at my house, but I do
10 have a laptop at my house.

11 Q. Yeah. And do you, do you have the internet on your
12 cell phone also?

13 A. Yes sir, I do.

14 Q. Okay. And, did Henry have an internet and know how
15 to use the computer also?

16 A. Yes, sir.

17 Q. What was he using when y'all met online?

18 A. I have no idea, sir.

19 Q. Okay. How did y'all meet online?

20 A. We met on a site. We messaged one another.

21 Q. Did you have any pictures of yourself posted on the
22 site?

23 A. Yes sir, I did.

24 Q. Okay. And, how would you describe yourself in those
25 pictures?

1 A. I was fully clothed.

2 Q. You ever posted online a picture of yourself in some
3 type of suit?

4 MR. SCOTT: Your Honor, I think we're getting probably
5 into 412 type of testimony regarding these questions.
6 Again, relevancy is a, they both are a 403 and a 412
7 objection.

8 THE COURT: All right. Help me understand how this is
9 relevant.

10 MR. MOSLEY: I think the first word that came out of
11 one of my colleagues opening statement was, obsession.
12 Obsession. I think the, it has to be relevant in terms of
13 motive or credibility the, the victim said she met a
14 gentleman online. And now is saying that she's fully
15 clothed. I think that, that I may present some rebuttal
16 testimony concerning possibly other photographs that are
17 on that internet.

18 THE COURT: All right. I'll allow this one question.
19 But I think that we're getting far afield.

20 MR. MOSLEY: Okay.

21 Q. So what was the, let me ask this right here, what
22 church do you go to?

23 A. What church I go to now?

24 Q. Or was going to at the time--

25 THE COURT: All right.

1 MR. SCOTT: Objection again, Your Honor.

2 THE COURT: That is irrelevant. Unless, is there,
3 under the rules--

4 MR. MOSLEY: It's not for purpose of religion, it's
5 for the purpose of credibility and how these parties
6 actually met.

7 THE COURT: Ask her if they went to the same church.

8 Q. Okay. Well, let me ask you this. Isn't it a fact
9 that you and Henry attended the same church?

10 A. Yes, sir.

11 Q. For about six years?

12 A. Yes, sir.

13 Q. Okay. So, you knew Henry prior to meeting him
14 online? You knew him from attending church with him,
15 correct?

16 A. No sir, I was advised later that we actually attended
17 church during the relationship.

18 Q. Beg your pardon?

19 A. He advised me that we went to the same church, during
20 the relationship.

21 Q. Well, what do you say?

22 A. I didn't recall knowing he was at my church.

23 Q. What church is it?

24 A. Little River.

25 Q. Did you go there?

1 A. Yes sir, I did.

2 Q. For how long?

3 A. All my life.

4 Q. Do you go there now?

5 A. No, sir.

6 Q. Why?

7 A. Because I wouldn't feel--

8 MR. SCOTT: Objection, Your Honor. He couches his
9 questions and credibility every time. But that's highly
10 prejudicial.

11 THE COURT: Sustained. Sustained. Whether she
12 attends church or not at this point in time is not
13 relevant.

14 MR. MOSLEY: Well, it just, and I don't mean to argue
15 the point. I know the Court has ruled. But my intent is
16 not to defame this lady in terms of morality and
17 churchgoing. Only to clarify the point, that there's
18 possibly a time before the internet exchange that she met
19 the young man. And she's already said she did the same
20 church. I'll stop right there.

21 THE COURT: Very good. Thank you.

22 Q. You say that Henry was suffocating you?

23 A. Yes, sir.

24 Q. You met him ten months prior to December 2012?

25 A. Yes, sir.

1 Q. Okay. So that would be possibly around this time of
2 the year. Around Valentines Day of 2012 is when y'all
3 first met?

4 A. Yes, sir.

5 Q. Okay. And once y'all met, did you have a period of
6 dating, like courtship so to speak?

7 A. Yes, sir.

8 Q. Could you describe what y'all, what types of
9 courtship y'all had?

10 A. We--

11 MR. SCOTT: Objection, Your Honor.

12 THE COURT: That relates to, that's in response to the
13 nature of the relationship which was addressed in direct,
14 so I'll allow the question. You may continue, please.

15 A. We went to the movies.

16 Q. Went to the movies. How many times?

17 A. Too many to recount, sir.

18 Q. Did y'all ever go to his parent's house?

19 A. To the home that he stays in?

20 Q. Yeah.

21 A. Yes, sir.

22 Q. His grandparents. Now, his grandparents, they're in
23 their 80's, correct?

24 A. I do not know their age.

25 Q. But they're elderly?

1 A. Yes, sir.

2 Q. Did you ever hear Henry express anything about his
3 mother? You ever meet his mother?

4 A. Yes, he informed me that she had passed.

5 Q. Okay. And that was around the same time of the video
6 that he sent you with the head to his gun, correct?

7 A. Yes, sir.

8 Q. Around that same timeframe. So, did you ever, I
9 mean, did he express that he was depressed because of his
10 mother's passing?

11 A. No, sir. They didn't have a relationship, sir.

12 Q. Okay. And were you concerned about that?

13 A. Yes, sir.

14 Q. Why?

15 A. He was asking me whether or not he should attend his
16 mother's funeral and I felt like he should attend his
17 mother's funeral.

18 Q. Okay. And subsequently, you found out that his
19 mother didn't pass?

20 A. Yes, sir.

21 Q. Okay. You ever met his father?

22 A. Maybe on one occasion.

23 Q. Henry's mother, she a Caucasian woman?

24 A. I have no idea, sir.

25 Q. You never heard Henry's family call him by the

1 nickname, white boy?

2 MR. SCOTT: I can't imagine why that's relevant, Your
3 Honor.

4 THE COURT: I'll allow him some latitude to see where
5 he's going with this. Go ahead, please.

6 A. His sister may have called him white boy.

7 Q. You heard her say that?

8 A. Yes.

9 Q. So, and Henry was raised by his grandparents and his
10 aunts and uncles, correct?

11 A. As far as I know, yes sir.

12 Q. How, how serious were you with regard to your
13 relationship with Henry?

14 A. What do you mean, sir?

15 Q. Well, did you have sexual intercourse a number of
16 times?

17 A. Yes, sir.

18 Q. Well, what was the intent of that?

19 A. It was just fun.

20 Q. Just fun?

21 A. Yes, sir.

22 Q. Okay. And you didn't use a condom?

23 A. No, sir.

24 Q. Protection. Okay. And you knew that the
25 consequences of that, that you possibly would get

1 pregnant, correct?

2 A. Yes, sir.

3 Q. So once you got pregnant, did you tell Henry?

4 A. Yes, sir.

5 Q. And when did you get pregnant, approximate?

6 A. If I have to estimate, I guess it'd be November,
7 October.

8 Q. November, October of what year?

9 A. It would be 2012.

10 Q. 2012. I noted that in your, in your recollection of
11 the events from the text messages, I noticed that there
12 was a delay of, from January 25th to January 20th, there
13 was a delay, wasn't it?

14 A. Yes, sir.

15 Q. So in other words, January 21st, 22nd, there were a
16 lot of text messages back and forth, correct?

17 A. Yes, sir.

18 Q. Okay. And then there, and do you know why the text
19 messages with the phone calls back and forth stopped?

20 A. I do not, sir.

21 Q. Okay. During the time, when there were all these
22 texts going back and forth, did you actually ever talk to
23 Henry on the phone?

24 A. No, sir.

25 Q. So, at no point during that period of time did you

1 talk to him verbally. In other words, y'all was actually
2 having a conversation?

3 A. Not that I can recall, sir.

4 Q. Since you and Henry were living with family, and you
5 say that you had sexual intercourse numbers of times, you
6 would have sex in his car sometimes?

7 A. Yes, sir.

8 Q. And you would have sex in your car sometimes?

9 A. Yes, sir.

10 Q. And you had sex in your mother's home?

11 A. Yes, sir.

12 Q. Okay. And when you had sex in your mother's home,
13 you would sneak into the back window?

14 A. No, sir.

15 Q. Was there anybody home?

16 A. Yes, sir.

17 Q. Okay. And you were having sex in your bedroom?

18 A. Yes, sir.

19 Q. Okay. Did you ever have sex at Henry's home?

20 A. No, sir.

21 Q. Did you ever have sex in a deer stand at Henry's
22 home?

23 A. Yes, sir.

24 Q. Okay. And you felt comfortable?

25 A. Not really.

1 Q. And during all these times, you knew that he wasn't
2 using a condom?

3 A. Yes, sir.

4 Q. Okay. Did y'all have oral sex with each other?

5 MR. SCOTT: I object to that, Your Honor.

6 THE COURT: All right. How is that relevant?

7 MR. MOSLEY: Well, on the date of the incident, y'all
8 had sex. I'm sorry, Your Honor. I believe they had sex
9 on the outside of a car in the winter months.

10 THE COURT: I understand. The last question didn't
11 necessary go to that though.

12 MR. MOSLEY: Well, but it's, it will relate about, and
13 then I'll ask my next question.

14 THE COURT: All right. I'll give you some leeway.

15 Q. In the discovery I received a lot of pictures of the
16 hood of Henry's car, right? You don't know?

17 A. I don't know what you received, sir.

18 Q. You don't know what I received. Okay. All right.
19 Well, January 30th of 2013, you remember that day vividly?

20 A. Yes sir, I do.

21 Q. And you cried?

22 A. Yes, sir.

23 Q. Okay. You knew Henry was coming to your house that
24 morning?

25 A. I did not, sir.

1 Q. Okay. Well, did you come out there to warm your car
2 up?

3 A. No, I came out there to give him the coat after he
4 text me that morning stating he was outside.

5 Q. Okay. But my question is, did you come outside to
6 warm your car up?

7 A. No, sir.

8 Q. May it please the Court? Now you sure you didn't
9 tell, you didn't sign a statement saying that you came out
10 there to warm your car?

11 A. I can't recall, sir.

12 MR. MOSLEY: Your Honor, I want to submit to the Court
13 a, her statement and have it marked as the--

14 THE COURT: Why don't you show it to her, see if it
15 refreshes her recollection and we can take it from there.

16 Q. This is your signed statement signed at 11:40 a.m. on
17 January the 30th, signed by Tywanda [REDACTED] And take your
18 time and just read whole, whole thing if you would. The
19 part as I'm focusing on is the, in the first couple of
20 lines.

21 A (Witness reads statement.)

22 Q Did you read the entire statement?

23 A. Yes sir, I did.

24 Q. The statement is not written in your handwriting, is
25 it?

1 A. Yes sir, it is.

2 Q. The actual statement, you print like that?

3 A. Yes sir, I do.

4 Q. That's your statement. Okay. Now do you recall the
5 section you state that you went outside to warm your car?

6 A. Yes, sir.

7 Q. Okay. Did you go outside to warm your car?

8 A. Yes and no, sir.

9 Q. Well, which one would you want to choose, if you had
10 to make a choice. In terms of the truth, which one would
11 you choose?

12 A. Yes.

13 Q. You did?

14 A. Yes.

15 Q. Go out there and warm your car? And, so the
16 statement is correct?

17 A. Yes.

18 Q. And your prior testimony was incorrect?

19 A. No.

20 THE COURT: If you'd care to explain, feel free to
21 ma'am.

22 A. Thank you. When I went to go outside to give him the
23 jacket, I was going to warm my car up as well.

24 Q. Okay. Smart answer. Let me go on, approximately
25 what time did you go outside?

1 A. I don't remember exactly what time, but if I had to
2 estimate, it would be after 6:30.

3 Q. Okay. When you went outside to meet him, you were
4 fearful of him but you went out anyway?

5 A. Yes, sir.

6 Q. And you were fearful of him because he had put a gun
7 to his head on a video?

8 A. Yes, sir.

9 Q. At that particular point, not subsequently, you had
10 sent a text to Henry by via text message saying, don't
11 pull the trigger, correct?

12 A. Yes, sir.

13 Q. And you did that for purposes of caring about him and
14 his wellbeing, correct?

15 A. Yes, sir.

16 Q. You didn't want Henry to kill himself over you,
17 correct?

18 A. Didn't want him to kill himself at all, sir.

19 Q. Yeah, but the reason had something to do with his
20 mother or with you or a combination?

21 A. I don't know why he wanted to kill himself, sir.

22 Q. That's what he expressed?

23 A. Yes.

24 Q. He didn't express in the video, any harm towards you?

25 A. No sir, he didn't.

1 Q. Now, you were dressed in your night clothes when you
2 came out of the house, correct?

3 A. Yes, sir.

4 Q. No belly button was showing?

5 A. No, sir.

6 Q. Well, how were you dressed?

7 A. I had on a nightgown that was towards my knees with
8 some pants under it.

9 Q. Okay. So, you had on a nightgown?

10 A. Yes.

11 Q. And the nightgown was towards your knees?

12 A. Yes, sir.

13 Q. And you had on some pants?

14 A. Yes, sir.

15 Q. What type of pants?

16 A. Jogging pants.

17 Q. Jogging pants?

18 A. Yes.

19 Q. Okay. And what type of clothing did Henry have on?

20 A. It was dark. I can't recall. I remember the
21 Newberry College hoody is all I remember.

22 Q. It was dark. Your, your mother's house, the picture
23 that is in evidence. Your mother's house is not facing
24 the roadway, is it?

25 A. No, sir.

1 Q. The house is facing, I mean, the roadway and the
2 driveway is adjacent to the house. Whereby, if you step
3 out the front door, if you look out the front door of the
4 house you have to turn to the left to see the cars parked
5 along the roadway, correct?

6 A. Yes, sir.

7 Q. And if you are parked close towards the driveway of
8 the house, you can't even see the car out the front door,
9 can you?

10 A. No, sir.

11 Q. Okay. Now Henry was already out there?

12 A. Yes, sir.

13 Q. Okay. And he was parked behind your car?

14 A. Yes, sir.

15 Q. And, tell the ladies and gentlemen of the jury,
16 whether or not could you see him before you come out the
17 house?

18 A. No, I could not.

19 Q. You could not. Okay. So, but after you got out and
20 walked towards your car you saw Henry, right?

21 A. Yes, sir.

22 Q. Okay. He was inside his vehicle or outside his
23 vehicle?

24 A. Outside his vehicle.

25 Q. Okay. And what was he doing?

1 A. Just standing there waiting to get his coat, sir.

2 Q. Okay. Was he leaned up against his car?

3 A. Can't recall if he was leaned up against his car or
4 not, sir.

5 Q. Okay. Now you were not forced to come out of the
6 house, were you?

7 A. Not forced to come out of the house, no sir.

8 Q. Okay. And the first time you gave Henry a hug. Now
9 you gave him a hug, right?

10 A. Not at first, sir.

11 Q. You did give him a hug?

12 A. Yes, sir.

13 Q. Okay. Did he force you to give him a hug?

14 A. No, sir.

15 Q. Okay. You were standing with your back to the house
16 facing him?

17 A. Yes, sir.

18 Q. And you walked up to him?

19 A. Yes sir, to hand him the coat.

20 Q. Okay. What type of coat?

21 A. The brown coat.

22 Q. Brown coat. Okay. The coat was in your car or was
23 it in the house?

24 A. In my car.

25 Q. Okay. So that means that you had to, you walked to,

1 Henry was there?

2 A. Yes.

3 Q. And that means that you walked past Henry, y'all were
4 talking, you walked to your car first?

5 A. I did not walk past him at first, sir.

6 Q. But you walked to your car to get the coat, right?

7 A. Yes, sir.

8 Q. And you gave him the coat?

9 A. Yes, sir.

10 Q. Okay. And he's standing there?

11 A. Yes, sir.

12 Q. What is he doing?

13 A. He gets the coat and starts to talk, sir.

14 Q. Well, did he walk towards you while you was going to
15 your car?

16 A. Yes, sir.

17 Q. So in other words, you walked to your car?

18 A. Yes, sir.

19 Q. Okay. And it was already running?

20 A. No sir, because I haven't warmed up the car yet, sir.

21 Q. Okay. You haven't warmed it up?

22 A. No, sir.

23 Q. Okay. And you live ten minutes away?

24 A. Yes.

25 Q. So, your intent was to do two things, warm your car,

1 you say, I'll warm my car up and--

2 A. Give him the coat.

3 Q. Give him the coat. Was the car locked?

4 A. Yes, sir.

5 Q. So, when the car is locked, do you have a push button
6 to open?

7 A. No sir, I do not.

8 Q. Okay. So you had to walk behind your car or did you
9 have to go to the driver's side to unlock the door?

10 A. No, sir. You can use the passenger door.

11 Q. Can use the passenger with the key?

12 A. Yes, sir.

13 Q. And where was the coat located?

14 A. Backseat.

15 Q. In the backseat. Did you have any other items that
16 belonged to Henry that were in the car?

17 A. Not that I know of, sir.

18 Q. So the coat should be in evidence? You don't know.

19 A. I don't know what happened with the coat, sir.

20 Q. You don't know what happened to the coat. It was a
21 brown coat, was it a athletic type of coat, a jacket, or
22 was it a dress coat?

23 A. It was like a union top shirt coat that zips up in
24 the front.

25 Q. Zips up in the front.

- 1 A. With a hoodie on it.
- 2 Q. With a hoodie on it. Okay. During that period of
3 time, whatever items Henry had of yours, did he have them
4 in his possession, you know, to exchange?
- 5 A. He had already dropped them off at my job, sir.
- 6 Q. He had already dropped them off at your job when?
- 7 A. Prior that week.
- 8 Q. Prior to that week?
- 9 A. Yes.
- 10 Q. And he had dropped off what items?
- 11 A. A class ring and a CD book.
- 12 Q. CD book. What, who owes somebody some money? I was
13 sort of, did you owe him money or he owed you money?
- 14 A. It depends on the way you look at it, sir.
- 15 Q. So y'all owed each other money?
- 16 A. Technically, yes sir.
- 17 Q. Okay. What about your brother, did he, did your
18 brother owe him some money?
- 19 A. Yes, sir.
- 20 Q. So your brother owed Henry some money?
- 21 A. Yes, sir.
- 22 Q. So, at no point when you were getting your coat out
23 of your car, did Henry, he didn't pull a gun on you at
24 that point and time, did he?
- 25 A. No sir, at no point, I was getting his coat out of my

1 car, he not pull the gun on me.

2 Q. Okay. Now, you seem to be unsure earlier as to how
3 the gun looked that particular night. It was dark?

4 A. It was morning. Yes sir, all I know it was a black
5 gun.

6 Q. Okay. You couldn't see what it looked like?

7 A. I couldn't see the make and model, no sir.

8 Q. Now, you had previously been hunting with Henry?

9 A. Yes, sir.

10 Q. And y'all would hunt with guns that belonged over at
11 his house?

12 A. He would hunt, I would just be there, but yes sir.

13 Q. So during, so you had been hunting with Henry five
14 times, ten times?

15 A. I want to say less than five.

16 Q. Yeah. And hunting season would've of been, what type
17 of weather would it had been when y'all were hunting?

18 A. Cold.

19 Q. Cold. Okay. And where would y'all go hunting at?

20 A. In a field not too far from his home.

21 Q. Okay. Did y'all ever shoot anything?

22 A. I didn't shoot anything. He did, sir.

23 Q. He did. Okay. Did you ever have a gun in your, in
24 your hand while y'all were hunting?

25 A. Yes, I held it for him.

1 Q. You held it. Okay. And what type of gun was that?

2 A. It was a rifle I'm assuming. A hunting rifle.

3 Q. Hunting rifle. Okay. Now, did you ever take your
4 little boys to Henry's house?

5 A. I did.

6 Q. Okay. And, in fact, your little boys went inside the
7 bedroom Henry slept, correct?

8 A. Yes, sir.

9 Q. Okay. And, it was at that point where you knew that
10 the gun was up underneath the mattress at the house,
11 correct?

12 A. I did not know he had a gun underneath the mattress
13 at his house, sir.

14 Q. Okay. So there was never a time when your boys were
15 in the bedroom whereby someone had knowledge of the gun.
16 Therefore you say to your kids not to bother the gun.
17 That never occurred?

18 A. Yes sir, but it was never mentioned that a gun was
19 under the mattress, sir.

20 Q. So, yes what? Yes, what occurred?

21 A. Yes, someone acknowledged that it was a gun in the
22 room, but never acknowledged that it was under the
23 mattress, sir.

24 Q. Right. And during that period of time you actually
25 saw the gun?

1 A. I saw the hunting rifle that he had behind the door.

2 Q. Okay. He had them behind the door in his room?

3 A. Yes, sir.

4 Q. They weren't locked some place else?

5 A. No, sir.

6 Q. But you knew that there were guns in the house and
7 during all times you had previously been with Henry, you
8 were never fearful of him nor the guns, were you?

9 A. No, sir.

10 Q. Now, on the day of the incident, you met with
11 Investigator Epps and Investigator Lominack, correct?
12 This gentleman right there, you met with him?

13 A. I don't recall seeing him.

14 Q. But you remember a lady by Epps? Investigator Epps?

15 A. Yes sir, I do.

16 Q. And you met with her approximately, let's say, what,
17 8:00 or 9:00 o'clock on the morning of the incident?

18 A. She was there when I got to the hospital and I don't
19 know what time that was, sir.

20 Q. Okay. How did you go to the hospital?

21 A. I rode in the car with Epps.

22 Q. You rode in the car with Epps?

23 A. Not the lady Epps, the male Epps.

24 Q. Male Epps. Okay. So there's two Epps. Okay. So,
25 but anyway, you rode in the car with a gentleman by the

1 name of Epps?

2 A. Yes, sir.

3 Q. And, he took you to the hospital from your house?

4 A. Yes, sir.

5 Q. How were you dressed?

6 A. Still had on the clothes.

7 Q. Okay. Did the police examine your clothes? Did they
8 take them into evidence?

9 A. Yes sir, he did.

10 Q. Now, after the incident occurred, the first person
11 you called was your sister?

12 A. Yes.

13 Q. And, what's the sister's name you called?

14 A. Sue, Sue Brown.

15 Q. Sue Brown. And, she doesn't reside in the home with
16 you?

17 A. No, sir.

18 Q. Your mother was home, correct?

19 A. Yes.

20 Q. And your other sister was home?

21 A. Yes.

22 Q. And your kids?

23 A. Yes.

24 Q. Did you inform them what happened?

25 A. I informed my sister what happened, the other sister

1 that was in the home.

2 Q. Yeah. So you did inform them?

3 A. Yes, but the first person I informed was my sister
4 that did not reside in the home.

5 Q. So, how long after the incident did you call your
6 sister up? The one that resided in the home.

7 A. Actually, I never called her. My sister that I spoke
8 with on the phone called her. And she was getting up when
9 I was walking towards her room to inform her.

10 Q. Okay. You didn't call 911?

11 A. No sir, my sister did.

12 Q. Your sister called 911?

13 A. Yes, sir.

14 Q. And I believe that the first description that I see
15 noted in the paperwork, is that there was a civil
16 disturbance, correct?

17 A. I don't know, sir.

18 Q. You don't know. Now, you've told the police, what,
19 that you had been raped? What was your language to the
20 police?

21 A. Yes, sir.

22 Q. You used the word, raped?

23 A. Yes, sir.

24 Q. You used that word?

25 A. I'm assuming I did.

1 Q. Okay. And, you told them that the gentleman had a
2 gun?

3 A. Yes sir, I'm assuming I did.

4 Q. You assume?

5 A. I can't recall my actual words to the officer at this
6 time.

7 Q. Now, by 11:40 that morning you had printed out this
8 statement, correct?

9 A. I had wrote that statement, yes sir.

10 Q. Wrote this statement. So the time 11:40 a.m., is
11 that your handwriting, is that somebody else's
12 handwriting?

13 A. I need to see the paper again, sir. That's not my
14 handwriting, sir.

15 Q. Okay. Did you make some errors in what you was
16 writing? Did you make some errors?

17 A. I made some spelling or grammatical errors that I
18 corrected.

19 Q. So, you don't know at this particular point, based
20 upon your statement, you don't know where the gun came
21 from, do you?

22 A. No sir, I don't know where.

23 Q. Okay. When you gave Henry a hug, okay, the first
24 time.

25 A. The only time, sir.

1 Q. The only time. Okay. When you gave him the hug,
2 there was no gun?

3 A. I did not see one at that time, no sir.

4 Q. Okay. And then y'all were standing where? In front
5 of your car, off to the side, where exactly were y'all
6 standing?

7 A. On the cement of my yard.

8 Q. On the sidewalk?

9 A. I guess you can call it a sidewalk, yes sir.

10 Q. So, it's my understanding that Henry's right-handed
11 or left-handed?

12 A. I don't know what hand did he use, sir.

13 Q. Right. But all of a sudden though, out of nowhere,
14 here comes a gun?

15 A. Yes, sir.

16 Q. Okay. So, the gun had to of been, the gun was, he
17 didn't go back to the car and get a gun, did he?

18 A. No, sir.

19 Q. So the gun had to have been on his body?

20 A. Yes, sir.

21 Q. Okay. Now when Henry steps back, you're standing
22 right in front of him?

23 A. He was on the side of me, sir.

24 Q. He's standing on the side of you?

25 A. Yes, sir.

1 Q. Okay. So he's standing on the side of you. Which
2 side of you?

3 A. Right.

4 Q. He was standing to your right?

5 A. Yes.

6 Q. And y'all are standing facing the cars or facing the
7 house?

8 A. He's facing me and I'm facing the cars.

9 Q. Okay. So you're facing the car, and this is the car,
10 you're facing the car?

11 A. Yes, sir.

12 Q. And he's facing you?

13 A. Yes, sir.

14 Q. So he's off to the side?

15 A. Yes.

16 Q. Over to the right side?

17 A. Yes.

18 Q. Okay. And over to the right side is where, I mean,
19 are you standing near your car or his car?

20 A. We're not standing near any car, sir. We're on the
21 sidewalk.

22 Q. Yeah, but the cars are in front of you?

23 A. Yes.

24 Q. How far in front of you?

25 A. If I have to estimate, maybe two, three feet maybe.

1 Q. Two or three feet?

2 A. Maybe.

3 Q. About this, this.

4 A. No sir, that's maybe one foot. It's more like where
5 the Judge is, Your Honor, I mean, sir.

6 Q. So you was standing, the car is that table, you were
7 this far away from the car?

8 A. Yes, sir.

9 Q. Okay. You and him?

10 A. Yes, sir.

11 Q. And you had actually walked over there to get the
12 coat, and he had the coat?

13 A. No, sir.

14 Q. He didn't have the coat?

15 A. He had the coat after I had already given him and
16 started backing up towards the house.

17 Q. Right. But what did he do with the coat?

18 A. I don't remember what he did with the coat, sir.

19 Q. Was it in his hands?

20 A. I don't remember seeing his hands, sir. I remember
21 seeing the gun in his hand. I don't remember seeing his
22 other hand.

23 Q. Okay. So, did he throw the gun, the coat down on the
24 ground?

25 A. I don't recall what he did with the coat, sir.

1 Q. Okay. All right. So you're standing as far as I am
2 to the cars and you're facing the cars, and Henry's
3 standing to your right?

4 A. Yes.

5 Q. Okay. And, if that's Henry's car, your car is in
6 front of Henry?

7 A. No, that would be my car, Henry's car would be where
8 the jury is sitting at.

9 Q. Okay. So, in other words, Henry's car is back there?

10 A. And my car is this table.

11 Q. And your car is the table.

12 A. Yes.

13 Q. Okay. So now, and you're, are you halfway in between
14 the two cars?

15 A. No sir, we're on the sidewalk.

16 Q. Yeah, but I'm talking about, but you're parallel to
17 the, the cars are parked parallel to where you're
18 standing, aren't they?

19 A. Yeah. So I'll be facing my car, like you are right
20 there.

21 Q. Right. Facing the car. Okay. So, you go get the
22 coat and Henry's standing where?

23 A. At the time when I got the coat, he was actually at
24 his car. The coat was exchanged before the gun was into
25 play.

1 Q. Right. Okay. So, in other words, Henry's at his
2 car. And Henry comes over there with you and he, he has
3 to have the gun, right?

4 A. Obviously, yes sir.

5 Q. You don't know though?

6 A. I do not know. I don't see the gun at the time, I
7 guess I should say.

8 Q. Okay. You don't see the gun?

9 A. No.

10 Q. Okay. So, now, do you notice, notice anything
11 unusual about his pants?

12 A. I didn't look at his pants, sir.

13 Q. Okay. When you hugged Henry, you did feel a gun in
14 his pocket?

15 A. I wasn't trying to give him a actual hug, it was more
16 of a church hug, sir.

17 Q. What's a church hug?

18 A. A hug where you hug someone that you don't want to
19 get too close bodily. So you hug them and pat them on the
20 back with a bunch of space in between the two persons.

21 Q. Had you ever given Henry a church hug before?

22 A. No, sir.

23 Q. So, Henry expected a real hug, didn't he?

24 A. I don't know what he expected, sir.

25 Q. And you know that Henry's Johnson is going to get

1 hard if you give him a hug, don't you?

2 MR. SCOTT: Aw man. Judge, I--

3 THE COURT: All right. Calls for speculation.
4 Sustained.

5 Q. Well, let me ask you this, what made Henry get
6 aroused?

7 A. I don't know, sir. That's a question you'll have to
8 ask him.

9 Q. Well, let me ask you. You familiar with how Henry
10 gets aroused, aren't you?

11 A. No, sir. He can get aroused about many of things, I
12 do now know.

13 Q. Okay. But what was your experience with dating him?
14 What would make him get aroused when he saw you?

15 A. I don't know, sir.

16 Q. Okay. Would you be close to him when he got aroused?

17 A. No sir, I don't have to be necessary close to him for
18 him to get aroused.

19 Q. How do you know that?

20 A. Because it has happened before. That's why I said I
21 don't know makes him get aroused.

22 Q. So you don't know where the gun come from? You
23 didn't see him the gun out of his pocket, did you?

24 A. No sir, I did not see him pull the gun out.

25 Q. Okay. And, so you can't describe the gun?

1 A. All I know, it was black, sir.

2 Q. It was black. Now, and you told the police that
3 morning about the video?

4 A. No.

5 Q. Right? You told the police about the video that
6 morning, right?

7 A. When I reported to the police the incident
8 beforehand, I told them about the video.

9 Q. Yeah. You know, you told them about the video?

10 A. Yes.

11 Q. Okay. And, you told the police about the gun, on the
12 night of the occurrence?

13 A. The morning, yes sir.

14 Q. Yeah. You told them about that. So, during the
15 entire time of the incident, when y'all was having sex,
16 where was the gun?

17 A. I don't know where was the gun, sir, because I was
18 not facing him, I was turned around.

19 Q. Where was the gun when y'all were riding along side
20 the road to the location?

21 A. In his lap.

22 Q. In his lap?

23 A. Yes.

24 Q. Okay. Now, so, you actually saw the gun in his lap?

25 A. Yes sir, I glanced over and saw it.

1 Q. Where was the gun when y'all was having sex?

2 A. I just advised you, sir, I do not know because I was
3 not facing him.

4 Q. Okay. So, you're not telling the ladies and
5 gentlemen of the jury that y'all had sex with him having a
6 gun in his hand, right? You're not saying that, are you?

7 A. I'm saying that I don't know where the gun was
8 placed.

9 Q. You mean you don't know where the gun was located?

10 A. Yes, sir. I don't know where the gun was located.
11 It could have been in his hand, it could not of been. I
12 do not know.

13 Q. Did you try to run?

14 A. No, sir.

15 Q. Okay. Now, was this the first time y'all had sex in
16 the cold on the hood of a car?

17 A. No, sir.

18 Q. It's not the first time?

19 A. No, sir.

20 Q. Henry, I mean, you had it in his car and on the
21 outside of his car?

22 A. Yes, sir.

23 Q. Did Henry get satisfied?

24 A. As far as I know.

25 Q. He stopped?

1 A. Yes, sir.

2 Q. And then what did he do?

3 A. Got dressed and got in the car.

4 Q. Got dressed?

5 A. Yes, sir. He clothed his self back up.

6 Q. Okay. By that you mean, basically, he pulled his
7 pants up?

8 A. Yes, sir.

9 Q. And you likewise?

10 A. Yes, sir.

11 Q. Was it cold?

12 A. Yeah. A little.

13 Q. So, Henry told you that he wouldn't hurt you, right?

14 A. Yes, sir.

15 Q. Then after a second of silence after he told you he
16 wouldn't hurt you, after a second of silence, he then told
17 you to get out of the car?

18 A. Yes, sir.

19 Q. And once out of the car, he grabbed you?

20 A. Yes, sir.

21 Q. So you got out of the car voluntarily?

22 A. No, sir.

23 Q. Well, why did you get out of the car?

24 A. He came over, opened my door and instructed me to,
25 sir.

1 Q. He told you to get out. Okay. Where was the gun at
2 then?

3 A. I don't recall seeing it, sir.

4 Q. So, you saw it in his lap?

5 A. Yes.

6 Q. And, he told you to get out, you got out, and then
7 you didn't see the gun anymore?

8 A. I don't recall seeing the gun.

9 Q. Well, when you walked towards the front of the car,
10 you don't see no gun, do you?

11 A. He was behind me, sir. I can't see behind me.

12 Q. He was behind you?

13 A. Yes. Leading me to the front of the car, sir. I can
14 not see what he has in his hands or on his person at that
15 time.

16 Q. So, when he got out of the car, right, the cell tower
17 at night, when you park there at night, the parking area
18 over at the cell tower, that's lit up, isn't it?

19 A. No sir, it was the morning time and it was not lit
20 up.

21 Q. It was morning?

22 A. Yes, this happened at morning.

23 Q. But at nighttime, before it gets morning, it is lit
24 up?

25 A. I don't be at the cell phone tower at night, sir. I

1 don't know if it's lit up or not.

2 Q. Yeah. But you live there and you could look across
3 there and whether or not it's lit up or not, right?

4 A. Not from inside the home, I cannot tell if it's lit
5 up or not.

6 Q. But if you're riding down the road you can see it
7 from the road, can't you?

8 A. Yes, if I'm riding outside I could.

9 Q. Did, did later on, did your family, anybody thought
10 that it was unusual that you had got in the car and left
11 and went somewhere with Henry?

12 A. My family did not know I had got into a car and left
13 somewhere with Henry.

14 Q. Okay. You can hear the car, in other words, if
15 somebody is in the house, your mama and sister and them,
16 they are in the house?

17 A. Yes, sir.

18 Q. They would know that you done drove off, wouldn't
19 they?

20 A. Well, not if they are asleep, sir. They had no
21 reason to be up that time of morning.

22 Q. What day of the week was it? It was a work day?

23 A. Yes sir, it was a Wednesday to be exact.

24 Q. And your chaps asleep too?

25 A. Well, my kids are asleep, sir.

1 Q. Children, they asleep too?

2 A. Yes, sir.

3 Q. Okay. And your mom is asleep and everybody in the
4 house is asleep?

5 A. Yes, sir.

6 Q. And all this is going on outside?

7 A. Yes, sir.

8 Q. And, nobody thinks to wonder why you are leaving the
9 house?

10 A. Well, if they are asleep, they don't know that I'm
11 leaving the house.

12 Q. Where are their bedrooms at?

13 A. Down the hall.

14 Q. This is, this is your, this is the house, this is the
15 house you stay in, correct?

16 A. Yes, sir.

17 Q. That's the front porch?

18 A. Yes.

19 Q. To the left of the picture, is where the road is,
20 right?

21 A. Yes, sir.

22 Q. Okay. So, whose bedroom is where that air
23 conditioner is?

24 A. That's the living room.

25 Q. That's the living room. Okay. Is there a bedroom

1 towards the road?

2 A. Yes, sir.

3 Q. Whose bedroom is towards the road?

4 A. My mother's.

5 Q. She don't get up and see after you?

6 A. Sir, I'm twenty four. She has no reason to get up to
7 see that I go to work on time.

8 MR. SCOTT: Can he identify which exhibit he was
9 referring to?

10 THE COURT: Just for the record, which exhibit is
11 that?

12 MR. MOSLEY: Excuse me. Number 16.

13 THE COURT: 16. Thank you.

14 (Whereupon, State's Exhibit 16 was marked for
15 identification only.)

16 Q. Okay. So, all this went on, your mama, your sisters,
17 your children, nobody knew what was going on but you?

18 A. Yes, sir.

19 Q. Ain't no television on?

20 A. Television was on.

21 Q. It was on?

22 A. Yes.

23 Q. In whose room?

24 A. In the living room.

25 Q. Why the television doing on?

1 A. My step dad was asleep on the chair.

2 Q. So, he's sitting there on the chair when you walked
3 out the front door and go outside and get raped. He's
4 sitting right there by that air conditioning unit?

5 A. No, he's not, there's not a chair right there. He
6 was sitting the chair adjacent from that window and he was
7 sleeping at the time.

8 Q. So, he's sleeping, and you go outside the door and
9 when you come back in the house is he sitting there?

10 A. He's still sleeping, yes sir.

11 Q. You didn't wake him up?

12 A. No, I did not, sir.

13 Q. Why not?

14 A. I went to my room.

15 Q. In silence?

16 A. Yes.

17 Q. This block application on your cell phone, you know,
18 the one you say you could block people out?

19 A. Yes, sir.

20 Q. Okay. Is there anything, there's something special
21 you have to do to download that type of application on
22 your phone, correct?

23 A. You can go to your play store that's on your phone
24 that comes preloaded, type in block number or the Mr. App
25 number if you know it by name. Download it to your phone

1 and then you are able to use the application.

2 Q. Yeah. That's what I'm saying, in other words, you
3 have to, it's not something that normally when you buy a
4 phone, it is automatically there?

5 A. No, sir.

6 Q. Okay. So, you, you had learned about this through
7 your technical skills with the phone, you had learned
8 about his application?

9 A. I was advised, yes sir.

10 Q. Advised by who?

11 A. I was advised to get the application. I found the
12 application playing on my play store, but I was advised
13 that I should.

14 Q. Advised by who?

15 A. The officers that came to my home when I reported the
16 incident. When he came with the gun, they advised that I
17 block his number. And they said there are apps to do so.
18 So, then by me searching for the app, I found the app,
19 researched it and I realized it would be a a good app.

20 Q. Okay. So, you had done this prior to any of the
21 January incidences. Now, let me ask you this, there's a
22 period of time there in January where there's no
23 communication between you and Henry. Like between what,
24 January 26th, 25th, were y'all communicating, do you
25 recall?

1 A. I can't recall.

2 Q. But there was a couple days that there was total
3 silence, you agree to that?

4 A. Yes, sir.

5 Q. Okay. By chance, you didn't get with Henry again and
6 have sex in between the time, did you?

7 A. Oh, no sir.

8 Q. You sure about that?

9 A. Yes, sir.

10 Q. Did you, did you seek medical treatment when you had
11 a miscarriage?

12 A. I went to the doctor, yes sir, and they informed me
13 that I had a miscarriage.

14 Q. Okay. So, in other words, on the day you had the
15 miscarriage, as a female, you knew that you had had a
16 miscarriage?

17 A. No sir, I did not. I thought I could be possibly
18 spotting.

19 Q. Spotting. What's that?

20 A. That's when you're bleeding intermittently while
21 you're still pregnant, sir.

22 Q. Okay. Henry, he wanted to maintain the relationship?

23 A. Yes, sir.

24 Q. He wanted to get married?

25 A. He may have mentioned getting married, sir.

- 1 Q. And you didn't want to get married to him?
- 2 A. I'm not the person that wants to get married, sir.
- 3 Q. Say that again now.
- 4 A. I don't want to be married, sir.
- 5 Q. Did you love Henry?
- 6 A. Yes sir, I did.
- 7 Q. Did you tell him that?
- 8 A. Yes, sir.
- 9 Q. So that's not unusual for him to want to get married,
- 10 is it?
- 11 A. I don't know, sir. A lot of people can say I love
- 12 you and not mean it. That's just a way of expressing
- 13 yourself.
- 14 Q. And you told Henry you didn't want to get married,
- 15 didn't you?
- 16 A. Yes, I advised him that I don't want to get married.
- 17 Q. Did you tell him that you didn't want to have his
- 18 baby?
- 19 A. At first, yes sir, I did.
- 20 Q. So, getting pregnant was a mistake?
- 21 A. No, sir.
- 22 Q. So, you wanted to get pregnant then?
- 23 A. Yes, sir.
- 24 Q. Why?
- 25 A. Because at that time, we have agreed that we would

1 like to have a child together.

2 Q. And that would've been within two or three months of
3 the relationship?

4 A. No, sir.

5 Q. When did that occur?

6 A. It's hard to put a estimate on that, sir, in the
7 timeline.

8 Q. Well, why is it so definitive that y'all broke up on
9 December 29th, is that the date?

10 A. Yes, sir.

11 Q. Why is that the definitive date?

12 A. I remember it was after Christmas, and I was watching
13 Batman Dark Knight Arises that had just been released.

14 Q. So, you analogize things in your mind by placing
15 certain events along with an occurrence. And that's your
16 bench mark and say, I remember that because I was watching
17 this particular program, Dark, something?

18 A. The Dark Knight Arises.

19 Q. The Dark Knight Arises. Okay. And, were y'all
20 watching the movie together, or you were alone?

21 A. I was at the home with my two nephews and my brother
22 and my kids. He was at his home because we broke up via
23 telephone, sir.

24 Q. Okay. Via telephone. Was that a long conversation?

25 A. No sir, I remember hanging up on him, and not

1 answering his calls.

2 Q. Okay. You don't think Henry would of dated just one
3 of your sisters, do you?

4 A. I don't think he would of, no sir.

5 Q. Do you think she would of dated him?

6 A. No, sir.

7 Q. Would it surprise you to know that?

8 A. It would.

9 Q. It would?

10 A. Yes sir, it would.

11 Q. Would it make you angry?

12 A. Yes sir, it would.

13 Q. Would Henry and your sister had an opportunity to
14 date each other?

15 A. No, sir.

16 Q. He never, he never gave her a ride home by herself?

17 A. Which sister is he talking about? I have six of
18 them.

19 Q. Well, let me ask him. How about Trena?

20 A. He never took her home alone, sir.

21 Q. Okay. He never did?

22 A. Never alone, no sir.

23 Q. Who would've been with him?

24 A. I would've been with him.

25 Q. So, they never would, so, but he has taken her home?

1 A. With me in the car, yes sir.

2 Q. Okay. So, around Christmas time of that year, he
3 wasn't by the house and he didn't give her a ride home?

4 A. No, sir.

5 Q. Okay. Was she married then?

6 A. No, sir.

7 Q. She's married now?

8 A. Yes, sir.

9 Q. Okay. And she got kids?

10 A. Yes, sir.

11 Q. Okay. Is that the sister that you called?

12 A. No, sir.

13 Q. So, y'all met online?

14 A. Yes, sir.

15 Q. Not in church?

16 A. No, sir.

17 Q. What church did he go to?

18 MR. SCOTT: This has already been asked and answered a
19 number of times, Your Honor.

20 MR. MOSLEY: I'm asking--

21 THE COURT: Go ahead.

22 Q. I'm asking her, what church did he go to?

23 A. I was advised that he goes to Little River, sir.

24 Q. Did you ever see him?

25 A. I do not recall seeing him there, sir.

1 Q. You don't recall, but you may have?

2 A. It's possible I could have saw him in passing.

3 Q. Okay. Were you dating anybody when you first met
4 Henry?

5 A. No, sir.

6 Q. Where did y'all meet?

7 A. When we first actually met in person, or do you mean
8 online?

9 Q. Well, when did y'all first meet online?

10 A. It was a couple years ago.

11 Q. A couple years ago?

12 A. Yes, sir.

13 Q. So, that would be like 2011 or 2012?

14 A. No, sir. Maybe a little further back. I can't give
15 you the date of our meeting.

16 Q. Okay. So y'all met online a couple years ago?

17 A. Yes, sir.

18 Q. Okay. What website or application is that on?

19 A. I honestly can not remember the name of that website,
20 sir.

21 Q. Do you have to describe yourself and put pictures of
22 yourself on there, on the internet?

23 A. It's all optional, sir.

24 Q. But I'm asking you, did you?

25 A. Yes sir, I did.

1 Q. There were pictures of yourself online?

2 A. Yes sir, fully clothed.

3 Q. Okay. What about Henry, did he have his self posted
4 online too?

5 A. Yes, sir.

6 Q. And what attracted y'all to each other? What
7 attracted you to him, I'll say that?

8 A. Don't recall. I may just been answering a message
9 that I received.

10 Q. Approximate, when did y'all decide to get, finally
11 get together?

12 A. It was after some time, after talking on the phone
13 and we decided to meet up in person.

14 Q. So, you're familiar, in other words, there was one
15 text message that had Henry with a hunting rifle, like one
16 text message that had a picture of Henry?

17 A. No sir, that was his picture I had saved in my phone
18 as his contact photo.

19 Q. Okay. So you saved a picture of Henry with a gun?

20 A. Yes, he sent me a picture of him killing a deer.

21 Q. Right.

22 A. And I saved it as his profile picture in my phone.

23 Q. Right. Right. And you showed the police that
24 picture?

25 A. I did not show them that picture, they may have saw

1 it when they had my phone, sir.

2 Q. Okay. So they saw it. Okay. But prior to this
3 incident, in seeing Henry with a contact photo with a gun,
4 that didn't make you fearful of him, did it?

5 A. No sir, it was a picture of him with a gun with a
6 deer, sir.

7 Q. Right. Throughout this particular process, have you
8 been depressed?

9 A. Of what process, sir?

10 Q. Having to go to court and then the accusation of
11 rape, have you been depressed?

12 A. Yes sir, I was a little depressed.

13 Q. Did you seek counseling?

14 A. I did seek counseling, sir.

15 Q. Did you take some medication?

16 A. No, sir.

17 Q. Who did you seek counseling from?

18 A. The counseling that was provided to me, I can't
19 remember the person's name.

20 Q. It's through the prosecutor's office?

21 A. I'm assuming.

22 Q. Okay. But prior to January 30th, were you depressed?

23 A. No, sir.

24 Q. You didn't get depressed as a result of having a
25 miscarriage?

1 A. A little, but that would of been in November, sir.

2 Q. Yeah. But, so you were a little depressed in
3 November?

4 A. Yes, it was around his birthday, I might of been a
5 little in November, maybe going into December, but not in
6 January.

7 Q. Not in January. So by January, everything was over
8 with as far as you're concerned?

9 A. Yes, sir.

10 Q. Okay. Excuse me one second, Your Honor.

11 THE COURT: Yes, sir.

12 Q. So, that's Henry's phone that's in evidence?

13 A. Well, the phone they showed me is my phone. I don't
14 know where Henry's phone is located, sir.

15 Q. Okay. Do you recall what Henry's phone number is?

16 A. [REDACTED], is it 1810 or 1018?

17 Q. What about [REDACTED]-2917?

18 A. That was also a phone number he had prior to getting
19 the new phone number he had.

20 THE COURT: Is someone not doing well over there?

21 Okay. I can't see her. Are you okay, ma'am? Do you need
22 a break?

23 JUROR: I can't breathe.

24 THE COURT: Can't catch your breath? All right.

25 We're going to take a brief break at this point in time.

1 Ladies and gentlemen, from her, y'all go back to the jury
2 room, don't discuss the case yet. And let's see, can we
3 have somebody check the juror? We are off the record.

4 (Whereupon, a juror became sick and exits the
5 courtroom.)

6 (Whereupon, a break was taken.)

7 THE COURT: Okay. If we may, we'll go back on the
8 record. The record should reflect that the defendant is
9 present with counsel. The record should also reflect that
10 one of the jurors, during that break, the reason for that
11 break was Ms. Brenda Werts, W-E-R-T-S, juror 151 suffered
12 some dizziness. EMS has come and taken her to the
13 hospital. It appears that Ms. Werts is having issues with
14 her blood pressure from what the EMS folks said. Top
15 number was 160 so, but it's not a stroke and it's not a
16 heart attack fortunately. So, I think that what we'll
17 need to do is appoint the next, the first alternate that
18 we picked yesterday was Mr. Jones, Felix Jones, juror
19 number 80. So I'll be making him a full juror at this
20 point in time. And that will leave Christopher Koon as
21 our alternate, juror number 85, if there's no objection.
22 So, at this time, let's have the jury back in, please.

23 MR. MOSLEY: Judge, may I?

24 THE COURT: Yes, sir.

25 MR. MOSLEY: One issue first?

1 THE COURT: Hold up. Hold on one second. Yes sir,
2 Mr. Mosley.

3 MR. MOSLEY: Judge, you know, we have abided by the
4 Court's discussions regarding sequestration. I noticed,
5 maybe some of the prosecuting witnesses, Ms. Epps walking
6 in and out. And I just want to bring that to the Court's
7 attention, in terms of sequestration. I have instructed
8 these family members are not going to be witnesses.
9 Judge, I had an issue that I wanted to bring to the
10 Court's attention prior to getting, outside the presence
11 of the jury. I want to to get with my colleagues, and
12 show them a, if we may approach the bench for a second.

13 THE COURT: Sure.

14 MR. MOSLEY: And show them a, a photograph on the
15 victim's Facebook for impeachment purposes. Could we ask
16 certain questions whether or not she was clothed on
17 Facebook. And we now have some, some impeachment
18 questions to ask her about what she's posted on Facebook.

19 THE COURT: All right. Why don't you come on up, and
20 I'll take a look at what you have to show me.

21 (Whereupon, a bench conference was held.)

22 THE COURT: We'll be on the record. The record should
23 reflect that Mr. Mosley is showing me a photo on his
24 Iphone of Ms. [REDACTED] She's apparently wearing a, I would
25 characterize it as a bathing suit. The top piece extends

1 all the way to the bottom piece, it's not a bikini. I
2 don't know what you would call that kind of a bathing suit
3 and what appears to be a palm tree. It looks like a
4 vacation photo and smiling at the camera. But it appears
5 to be either a one piece bathing suit or a two piece suit
6 that looks like a one piece. I assume that is accurate.

7 MR. MOSLEY: Yes. Yes, Your Honor.

8 THE COURT: That reflects what you're showing me.

9 MR. MOSLEY: The point we were making, Judge, that in
10 cross-examination, we asked the victim specifically
11 whether or not she posted some type of, I guess, pictures
12 on Facebook that showed her body. She denied it, saying
13 no, no, I'm always fully clothed, I never do that. And
14 there's some other photographs on here, not to this
15 particular extent, but this is her Facebook page. Also,
16 Judge, I have been informed by my client, that in terms of
17 credibility issues, that some of the questions that the
18 victim has answered in the affirmative or the negative,
19 are representative on his cell phone which is in evidence,
20 that we may have to take a look at in terms of his phone
21 number and on his SIM card. Things that she's denied, and
22 there's, you know, in his cell phone, we can take a look
23 at them at a break for purposes of, you know, continuing
24 cross-examination. We would agree with regard to the
25 issue of relevance to the case. But the credibility a

1 person is always subject to some scrutiny, in terms of a
2 person's credibility. The only way we can do that is, we
3 have to be able to find something to impeach credibility and
4 we happen to have the information. We by no means intend
5 to, you know, embarrass the victim or do anything in
6 contradiction to the Rape Shield law. And we understand
7 the Court's ruling on that and respect that. However, I
8 think that for impeachment purposes, she's impeachable.

9 THE COURT: My recollection, and well let me, Mr.
10 Scott, you were at the bench and it wasn't on the record a
11 moment ago when you made your statement. So, if you care
12 to repeat those or give me the State's position concerning
13 Mr. Mosley's use of the photograph he has shown to us.

14 MR. SCOTT: Yes, sir. Cross-examination was in
15 regards to a dating website and whether she held herself
16 out on the dating website to be, where there was
17 photographs of her in a bathing suit. He's going to have
18 issues authenticating the photo, when it was taken, when
19 it was posted. That by his own admission from Facebook
20 failed. Judge, again, to really see how it's offered.
21 Everything is credibility, apparently. That's how he
22 couches all these things, is credibility. It's a picture
23 of her in a bathing suit. Is the insinuation that she
24 brought it on herself because she had a bathing suit on in
25 the photo. It's irrelevant. I can't see how it relates

1 to the allegations of this case.

2 THE COURT: Mr. Mosley, if memory serves me, the
3 question that you asked Ms. [REDACTED] was whether she had
4 placed any provocative features online or in Facebook or
5 any nude photos. That clearly is not a photo of her in
6 the nude. It would appear to be a vacation shot that I
7 presume that she took at some point in time. If you look
8 at the back of the photo, it looks like there are towels,
9 it like it's a condominium type complex and there are
10 towels hanging over the balconies. The landscaping around
11 there clearly looks like it's a resort type of an area.
12 If you want to proffer that and perhaps get further
13 clarification from Ms. [REDACTED] while the jury is out, I'm
14 more than happy to have her come back up here and answer
15 some questions concerning that.

16 MR. MOSLEY: Judge, to help the Court, the timeframe
17 is July 23rd, 2013.

18 THE COURT: Okay. Well, that would post date this
19 incident. How would that be relevant?

20 MR. MOSLEY: Sir?

21 THE COURT: That would be, if the photo was taken July
22 2013, how would that be relevant to the incident that is
23 on trial today which took place allegedly on January the
24 30th, 2013?

25 MR. MOSLEY: That's a good point. I mean, I, Judge,

1 I'm just doing my job, Judge. Maybe I'll revisit this at
2 some other time. In the alternative Judge, at this
3 particular point, my client tells me that there's
4 something distinctive on his phone, [REDACTED]-2918, which is
5 the phone that's in evidence. I would like to have,
6 sometime prior to the jury, to review what my client is
7 telling me to ask her questions about things that are on
8 that phone.

9 THE COURT: All right. If you want to take a quick
10 look.

11 MR. MOSLEY: In regard to some of the questions that's
12 been in a video saying that she would love to get married
13 to him. AT&T, [REDACTED]-2917.

14 THE COURT: All right. Solicitor, one of those
15 phone's belongs the defendant?

16 MR. SCOTT: Both of them do, Your Honor.

17 THE COURT: Both of them do.

18 MR. SCOTT: We just ask that the investigative officer
19 kind of sit with them as they review it.

20 THE COURT: That'll be fine.

21 MR. MOSLEY: Is the battery charged up and ready to
22 go?

23 THE COURT: He can't be around while they are talking
24 or anything because that would be attorney/client.

25 MR. SCOTT: Yes, sir. Yes, sir.

1 THE COURT: Mr. Scott, you had an issue?

2 MR. SCOTT: Yes, sir. The name, Trena Brown, came up.
3 We've called her here, we intend to call her as basically
4 rebuttal type witness.

5 THE COURT: All right.

6 MR. SCOTT: She's not on our witness list, but this is
7 the first we have heard of this allegation so we do intend
8 to call her.

9 THE COURT: All right. While y'all look at that or
10 try to find the video, we'll be at ease. Okay. So just
11 let me know, Mr. Mosley, when you're ready to proceed.

12 MR. MOSLEY: Yes, sir.

13 (Whereupon, a short break was taken.)

14 THE COURT: Mr. Mosley, you've had a chance to review
15 that?

16 MR. MOSLEY: Yeah. Judge, you know, the specific
17 point into the issue, to the issue, well the question
18 rather to the victim was whether or not if she wanted to
19 get married to Mr. Anderson or something to that regard.
20 I think she denied it. My client, taking notes, says that
21 that was a, "a lie." Checked my phone out, his phone, and
22 that particular number, we have reviewed that particular,
23 a video that does have the video from the victim to the
24 defendant stating, hey baby, you know, I love you and I
25 will always be there for you. That type of thing. For

1 purposes of due diligence, what I would do is just maybe
2 ask the victim one or two questions on that issue, see
3 what she has to say. If it appears to contradict the
4 video, maybe we'll show it. But other than that, I think
5 I've done my job in scrutinizing that particular issue for
6 what we have available.

7 THE COURT: Fair enough. We are still on cross so you
8 can ask Ms. [REDACTED] whatever it is that you feel like you
9 need to ask her.

10 MR. MOSLEY: Right.

11 THE COURT: I'll entertain any objection.

12 MR. MOSLEY: Yeah. We can show it to the Court the, I
13 mean, the video and, you know, I'm thankful that Mr.
14 Lominack with respect, he stepped back. But the videos of
15 the victim that are on the defendant's, videos of the
16 victim taken by her are so pornographic, I mean, they are
17 ashamed. But I'll leave that at that. I don't know
18 whether or not that's relevant or not, it's a bunch of
19 them on there.

20 MR. SCOTT: Your Honor, I just object to him
21 continuing to demonize my victim. Has nothing to do with
22 this case. Absolutely nothing.

23 MR. MOSLEY: Well, if I can be heard, Judge. It's not
24 my job to demonize anybody. Matter of fact, the opposite
25 occurs with regard to what the, the characterization of

1 the defendant. But, you know, the truth see, and I was
2 taught this by one of my children. The truth, hallelujah,
3 the truth, neither right nor wrong. It just hurts. I am
4 out for the truth.

5 THE COURT: Here's where I am on this.

6 MR. MOSLEY: So, talking about demonizing somebody.

7 THE COURT: I'm happy to introduce or allow the
8 introduction of any evidence that is relevant. We are
9 getting, I feel Mr. Mosley, into some matters that are at
10 best collateral or perhaps cumulative to other testimony
11 that has been offered. Ms. [REDACTED] is still technically on
12 the stand. You can ask her whatever questions you feel
13 like are necessary or relevant. I am now hearing you
14 intend to introduce any other videos other than the one of
15 her saying that she is in love with him and wants to be
16 there forever with him. I am just saying that that is
17 obviously different from saying that she wanted to get
18 married to him which would be direct impeachment.

19 MR. MOSLEY: Right.

20 THE COURT: But if you want to ask her questions you
21 can ask her questions.

22 MR. MOSLEY: Judge. Judge, that's why once I, thank
23 you, Your Honor. Once I saw the video, and I saw the
24 language which was contrary to the direct impeachment of
25 the statement, and that's why I sort of like, well, it

1 doesn't say what my client thought it said. But at least
2 we are doing a thorough job in hashing these things out.
3 Thank you, Your Honor, for your kindness.

4 THE COURT: Not a problem at all Mr. Mosley. I
5 appreciate your advocacy. Let's have the jury back in,
6 please.

7 (Whereupon, the jury came into open court at
8 approximately 12:05 p.m.)

9 THE COURT: Ladies and gentlemen of the jury, I
10 apologize for the delay. I promise you this time it was
11 totally unavoidable. Ms. Werts is fine. I was concerned,
12 a lot of folks were concerned maybe she was having a
13 stroke or a heart attack. It wasn't, she suffers from
14 high blood pressure and EMS came and we were able to
15 convince her that perhaps going to the hospital to be
16 checked out would be the best thing to do. So, she
17 already has been taken to the hospital, but she's alert
18 and she's, I'm quite certain, going to be fine. They did
19 take her blood pressure and it was elevated and we just
20 felt the best thing to do is to go ahead and get her to a
21 doctor out of an abundance of caution. Of course, I have
22 relieved her from further service on the jury. That means
23 Mr. Jones, Felix Jones, where are you? All right. You
24 were an alternate, now you are a full juror. Okay. Mr.
25 Koon, you're still an alternate wherever you are. There

1 you are, sir.

2 We're still in the cross-examination of Ms. [REDACTED] At
3 this point, Mr. Mosley, if you'd care to continue please.

4 CONTAINÉ CROSS-EXAMINATION

5 By Mr. Mosley:

6 Q. Yeah. You know, just one final question. Ms. [REDACTED]
7 I'm still concerned about one issue and that is the
8 question of, did you tell anybody, any of the law officers
9 that came to the scene, Epps or Lominack, you did talk to
10 a Deputy by the name of Steven Bradley Epps, right?

11 A. I just remember the name saying Epps.

12 Q. Huh?

13 A. The tag. I just remember the tag saying Epps. I
14 don't remember his first name.

15 Q. A male by the name of Epps, right?

16 A. Yeah. Male Epps.

17 Q. And, do you remember telling him that you had went
18 outside to warm your car up and was walking back inside
19 when Mr. Anderson came up?

20 A. I don't remember telling him I was walking back
21 inside but I remember saying warming up my car.

22 Q. Warming up your car. The approximate time that you
23 called the police was about 7:00 a.m. that morning?

24 A. I don't know exactly what time, my sister called.

25 Q. It would have been about 7:00 a.m.?

1 A. I don't know the exact time, sir.

2 Q. Okay. Well, what time do you recall going outside,
3 approximately?

4 A. It would be in between 6:00 a.m. to 6:30ish.

5 Q. And the entire event with Mr. Anderson took about how
6 long in total?

7 A. To me it seemed like forever. I can't give you an
8 exact timeframe, sir.

9 Q. Thirty minutes?

10 A. I do not know, sir.

11 Q. What, if anything, happened around January 22nd? Did
12 Mr. Anderson come to your house before the 30th?

13 A. Yes, sir.

14 Q. Okay. But you wasn't there though?

15 A. No, sir.

16 Q. Who was there?

17 A. My mom, my kids.

18 Q. Okay. Did, did your mother know that he was coming?

19 A. As far as I know, no sir.

20 Q. What did your mother tell you happened?

21 A. She told me that he had came to the home and that he,
22 she say that he had a gun and then he left the home.

23 Q. Okay. What happened next?

24 A. That's what she told me. And I said I'm at work, so
25 I am working. And I believe that it may have been the

1 same day I received the message, the video, but I do not
2 know for sure.

3 Q. Did you let your grandmother know about the video?

4 A. My grandmother is deceased.

5 Q. No, excuse me, I mean your mother. Did you let your
6 mother know about the video?

7 A. Yes sir, I did.

8 Q. Okay. And that was earlier that day?

9 A. No sir, because I was at work. I did not advise her
10 about the video while I was at work, sir.

11 Q. When did you advise your mother about the video?

12 A. When I got off.

13 Q. Okay. And, so, when did your grandmother call the
14 police?

15 A. My mother?

16 Q. Yeah, excuse me, your mother. I'm sorry.

17 A. My mother did not call the police that I know of. I
18 actually went to the police station to file a report.

19 Q. Okay. So, you went to the police station to file a
20 report and told the police that your grandmother said that
21 she saw him with a gun?

22 A. I told them that to my mother.

23 Q. Yeah, I mean your mother. I'm sorry.

24 A. Yeah.

25 Q. Your mother. Okay. So your mother never told the

1 police that she saw the defendant with a gun?

2 A. When they came to my house--

3 Q. Wait. Wait. Hold on. Answer that question, yes or
4 know.

5 A. Yes, she did.

6 Q. Beg your pardon?

7 A. She did tell the police that she saw him with a gun.

8 Q. She said that?

9 A. She told them, yes sir.

10 Q. Okay. So that means that she told them independent
11 of you telling the police?

12 A. Yes, she said it separately.

13 Q. Separately. So, and that was, she told them before
14 you told them?

15 A. No.

16 Q. Afterwards?

17 A. Yes.

18 Q. So, in other words, you told the police that your
19 grandmother said that, excuse me, that your mother said
20 that she saw a gun, right?

21 A. Yes.

22 Q. Okay. And subsequent to that the police corroborated
23 that by asking your mother was that true?

24 A. Yes, sir.

25 Q. Okay. You and your mother were at the police station

1 at the time?

2 A. No, sir.

3 Q. Where were y'all located?

4 A. At the home.

5 Q. Okay. So, you called the police to come to your
6 home?

7 A. Yes sir, I did.

8 Q. At what time do you know that the defendant had been
9 to the house that particular day?

10 A. I don't know what time he was at the house, sir. It
11 was in the hours of 8:00 and 5:00.

12 Q. 8:00 to 5:00.

13 A. In between those hours, yes sir.

14 Q. Okay. So that means that between 8:00 a.m. on
15 January 21st through January 22nd, at some particular
16 point in time, Mr. Anderson appeared at the resident, at
17 your home and he knocked on the door, correct?

18 A. I don't know if he knocked on the door or not, I was
19 at work.

20 Q. Okay. He in fact had came by the house when you were
21 at work to get his belongings, correct?

22 A. I don't know that, but I was told.

23 Q. That's what you were told?

24 A. Yes.

25 Q. By him?

1 A. He said he was on his way. He sent me a text saying
2 he was on his way. And my mother said he came looking for
3 his belongings. So, I was told by both parties.

4 Q. Okay. And you were advised to get a trespassing
5 order, correct?

6 A. Yes, sir.

7 Q. And did you do so?

8 A. Yes, sir.

9 Q. So you got a trespassing order on January 21st or
10 22nd?

11 A. One of them dates, yes sir.

12 Q. What did you do to get that?

13 A. We had filed the report and I went and got the
14 paperwork. You go to the office, get the paperwork, fill
15 that out and mail it to Mr. Anderson.

16 Q. And did you do that?

17 A. Yes sir, I did.

18 Q. Okay. Did a Judge ever sign a trespassing order?

19 A. I don't know if a Judge signed it or not, sir.

20 Q. Did you press any charges against Mr. Anderson?

21 A. I was advised that I could not, sir.

22 Q. Would you disagree with this statement, the
23 complainant, you, did not want to press charges but was
24 concerned for the escalating circumstance. You didn't
25 tell the police you didn't want to press any charges?

1 A. I was advised that I could not.

2 Q. You was advised by who?

3 A. Okay. When I was at the office I was advised that it
4 has to be two incidents before you can get a restraining
5 order. But I can for a no trespassing.

6 Q. And you told law enforcement that you were
7 considering blocking the subjects number?

8 A. Yes, sir.

9 Q. Off your text messages, and you did do that?

10 A. Yes sir, I did.

11 Q. And even in spite of blocking numbers, you still
12 would review the blocked message. My understanding from
13 your previous testimony was that even though you could
14 block a number, it's still a recording, and you can still
15 view blocked, blocked message, you can still see it,
16 correct?

17 A. I could still see them if I went to the app.

18 Q. Yeah. And you did go to the app and see it?

19 A. Not all at the same time, no sir.

20 Q. But you did see them?

21 A. Yes, sir.

22 Q. Okay. No further questions.

23 THE COURT: Redirect.

24 REDIRECT EXAMINATION

25 BY MR. SCOTT:

1 Q. All right. Ms. [REDACTED] you were asked about your
2 knowledge of Henry Anderson's education. You aware he had
3 a GED?

4 A. Yes, sir.

5 Q. Where did he graduate high school? Do you know?

6 A. I do not know.

7 Q. He was asking you about this prior incident on the
8 21st. What was that all about?

9 A. From what I was advised, he came to the home where my
10 mother was with a gun.

11 Q. Okay. And you went and filed a trespass notice. Is
12 that correct?

13 A. Yes, sir.

14 Q. Okay. And he asked you, said you were concerned
15 about escalating nature of the communications. Is that
16 correct?

17 A. Yes, sir.

18 Q. And that was on January 21st?

19 A. I don't know which exact date it was.

20 Q. Some point, do you remember when the video, was that
21 before or after him coming to your mother's house with a
22 gun?

23 A. That was after.

24 Q. Okay. Leading up to that, defense counsel asked you
25 about his mother passing away?

1 A. Yeah.

2 Q. What was that all about? He told you his mother
3 passed away?

4 A. Yes, sir.

5 Q. But then she really hadn't passed away?

6 A. Yes, sir.

7 Q. Do you know why he would've told you that?

8 A. He said that he was informed that she had passed
9 away, but then come to find out that he was actually
10 misinformed that she has not passed away.

11 Q. Okay. Okay. This is all occurring around the same
12 time as the video?

13 A. That may have been before the video. I can't
14 remember if that was before or after the video, of his
15 mother's passing.

16 Q. The defense counsel asked you about talking with
17 Henry Anderson on the phone. Him calling and y'all
18 talking, instead of texting, I guess traditionally talking
19 on the phone. You said you had not. Why hadn't you been
20 talking with him on the phone during this period of time?

21 A. Because I had advised him that I didn't want to talk
22 or text or see him. So, why would I call him?

23 Q. Well, why not? Why didn't you want to talk or text
24 with him?

25 A. Because I want it just to be over, I wasn't going to

1 feel comfortable with him.

2 Q. Did you make that clear to him that you didn't want
3 to talk with him?

4 A. Yes sir, it was in the text.

5 Q. He continued to text and try to communicate with you?

6 A. Yes, sir.

7 Q. Even after you told him not to?

8 A. Yes, sir.

9 Q. Tell me about this coat, I mean, how many times did
10 he mention the coat to you?

11 A. Countless of times, sir.

12 Q. Did you offer to get it to him in some way?

13 A. Yes, sir.

14 Q. How did you propose getting him the coat?

15 A. He either meet in the Walmart parking lot or I could
16 mail him the coat.

17 Q. Did he think that was a good idea?

18 A. No, sir.

19 Q. All right. So he wanted the coat, but he didn't like
20 the way you were trying to get it to him?

21 A. Yes, sir.

22 Q. Okay. So on January 21st, he shows up to your
23 mother's house with a gun looking for the coat?

24 A. Yes sir, that's what I was advised.

25 Q. And that's after you said you could mail it to him?

1 A. Yes, sir.

2 Q. You mentioned something on cross-examination about
3 him showing up to your job. What was that about?

4 A. He came to the job to get the coat and he also
5 delivered my things as well.

6 Q. Okay. What happened while he was there?

7 A. He came, at first he gave me my ring, asked me for
8 the coat. I told him I did not have the coat but when I
9 find it, I can mail it. He then got in his car and turned
10 out in the parking lot. And then he came back, gave me my
11 CD book, turned out in the parking lot once again. Then
12 he came back asking about the coat. I advised him that I
13 do not have it, but when I find it I will give him the
14 coat. He turned out again.

15 Q. What is turned out?

16 A. Turned out.

17 Q. What does that mean?

18 A. Burned out I guess you could say.

19 Q. I gotcha. Like catching a wheel I guess?

20 A. Yes.

21 Q. I guess make like a screeching noise?

22 A. Yes, sir.

23 Q. Is this before or after you told him you didn't want
24 to meet with him in person or talk with him again?

25 A. It's after.

1 Q. Now, again, in cross he talked about the hug a lot on
2 January 30th?

3 A. Yes, sir.

4 Q. Early morning hours when you walk outside and he's
5 out there. Walk us through again, you're waking up,
6 you're getting ready for work. At what point do you
7 realize he had texted you saying he was outside?

8 A. When my alarm went off, and the alert came at the
9 same time. While I'm checking my alarm I see the
10 notification that he texted me. So, I checked it and saw
11 that he was outside. So I am thinking this is going to be
12 over, let me go give him his coat.

13 Q. Oh, so the blocked application sends you an alert if
14 you receive a blocked text?

15 A. Yes, it says blocked text from blocked number. Which
16 he was the only number blocked so I knew it was him.

17 Q. Okay. And again, it was deputies who advised you
18 that you should block his number?

19 A. Yes.

20 Q. And that was after he had shown up and you got the
21 trespass notice?

22 A. Yes.

23 Q. Now the hug, whose idea was the hug?

24 A. It was his idea.

25 Q. And at the time, you said he was wearing a red

1 sweatshirt?

2 A. No, it was a black sweatshirt with red block letters
3 on it that says Newberry.

4 Q. Okay. Did you notice the gun at first?

5 A. No sir, I did not.

6 Q. If you're comfortable doing it, would you mind
7 stepping and demonstrating the hug? How it happened.

8 A. Yes, sir.

9 Q. Do you feel comfortable doing that?

10 A. Yes, sir.

11 Q. Okay.

12 MR. SCOTT: Your Honor, may I ask permission.

13 THE COURT: Certainly. Ma'am you can step down.

14 Q. All right. I want this highlighter to be the gun, I
15 want you be Henry Anderson. I want you to show me how the
16 hug happens. I am you.

17 A. Okay. Well, I don't see the gun. I don't know where
18 the gun is.

19 Q. All right. Where is his hands when you first
20 encounter him?

21 A. He had right, because his coat was zipped up, so it
22 was like this.

23 Q. All right. Make sure you speak up too so the court
24 reporter can hear you.

25 A. Okay. His hands were inside the part of the hoodie

1 like this.

2 Q. Okay. And had you already gone to your car and got
3 his coat for him?

4 A. Yes, sir.

5 Q. Okay. And so you're holding the coat, what does he
6 do?

7 A. He steps over, wants to talk and then it is like we
8 have nothing to talk about. And he says well, can I at
9 least get one hug? So we go into a hug.

10 Q. Why'd you decide to give him a hug then?

11 A. Why did I decide to give him a hug?

12 Q. Yes.

13 A. It was just one last hug to get it over with.

14 Q. Trying to get him out of your yard?

15 A. Yes, sir.

16 Q. All right. Well show me how it happens. What does
17 he do?

18 A. Okay. We step in, we go into a hug, and then I see
19 the gun. It was like this, and he's like telling me to
20 get into the car.

21 Q. Okay. And so he pulls you into him. At that point,
22 he reaches his pocket presumably and pulls the gun out,
23 and it's at your head?

24 A. Yes, sir.

25 Q. Are you able to see the gun at that point?

1 A. Did not get a good look at it, no sir.

2 Q. Are you able to see Henry Anderson?

3 A. No, he's on the side. I can see the gun, I can see
4 the, where he would be, but not him personally.

5 Q. You can step back up to the stand, if you don't mind.

6 A. Yes.

7 Q. Now, explain this, what do you mean you didn't see
8 him personally? Did you know it was Henry Anderson or who
9 was it out there hugging you?

10 A. Yes sir, I knew it was him but I mean I couldn't see
11 the face because he's over me. But I could still see the
12 body of him right there.

13 Q. Well wait a minute, how do we know it wasn't me out
14 there?

15 A. Because you wasn't out there in the beginning of the
16 situation.

17 Q. Okay. Are you sure it was Henry Anderson out there?

18 A. Yes, sir.

19 Q. Did you see his face?

20 A. Yes, sir.

21 Q. Did you get in his car?

22 A. Yes, sir.

23 Q. You see Henry Anderson today?

24 A. Yes, I do.

25 Q. Where is he?

1 A. Right there.

2 THE COURT: The record will reflect that the witness
3 has identified the defendant.

4 Q. You saw the gun, correct?

5 A. Yes, sir.

6 Q. The defense attorney was asking you about a rifle,
7 that's a gun, right?

8 A. Yes, sir.

9 Q. Was this a long gun?

10 A. No, sir.

11 Q. It was a handgun?

12 A. I'm assuming, yes sir.

13 Q. Don't assume.

14 A. Well, it's a handgun, it's a gun.

15 MR. MOSLEY: Objection. Objection. Objection. You
16 can't tell her what to do.

17 THE COURT: All right. Overruled. We need
18 clarification at this point, so go ahead, Mr. Scott.

19 A. It was gun that could be held with one hand.

20 Q. Okay. What color was it?

21 A. Black.

22 Q. Held it to your head?

23 A. Yes, sir.

24 Q. You told law enforcement about that when you met with
25 them, is that right?

1 A. Yes, sir.

2 Q. And you gave a statement, is that right?

3 A. Yes, sir.

4 Q. I'm going to show you State's 33. Is that what
5 defendant's, is that what defendant's counsel was showing
6 you a bit ago during his cross?

7 A. It was a copy form, but yes sir.

8 Q. Now, what is that?

9 A. This is the original.

10 Q. Okay. Tell the jury, what is that?

11 A. It is my statement that I gave at the hospital.

12 Q. On January 30th?

13 A. Yes, sir.

14 Q. The same day of this incident?

15 A. Yes, sir.

16 Q. And at the time did you tell law enforcement about
17 this hug you just demonstrated?

18 A. Yes sir, I did.

19 Q. You told them about the gun?

20 A. Yes, sir.

21 Q. You told them about the rape?

22 A. Yes, sir.

23 Q. What did he say to you while you were in the car at
24 the cell phone tower before he made you get out?

25 A. Okay. He wanted to talk about this. I said it's

1 nothing to talk about. And there was a moment of silence
2 and we got out of the car.

3 Q. Now how did you get out of the car? I think the
4 defense asked you that. Did he pull you out?

5 A. He did not pull me out. He got out first, walked
6 around, opened the door for me to get out.

7 Q. Tell the jury why you didn't just run away or scream
8 and fight back.

9 A. Well, he has already presented a gun, so I already
10 knew a gun was present. I didn't want to make matters
11 worse than they already were.

12 Q. Were you in fear?

13 A. Yes, sir.

14 Q. Do you feel like you could leave at any time?

15 A. I did not.

16 Q. Now when the rape occurred did you see the gun?

17 A. I did not.

18 Q. But did you know he had it?

19 A. Yes, sir.

20 Q. You had had consensual sex with him in the past,
21 right?

22 A. Yes, sir.

23 Q. You're not hiding that, are you?

24 A. No, sir.

25 Q. Was this consensual sex at this point?

1 A. No, sir.

2 Q. And this came after all those texts he had sent you
3 about wanting to meet up and be friends?

4 A. Yes, sir.

5 Q. And this came after you told him you don't want to
6 talk with him any more?

7 A. Yes, sir.

8 Q. And this was a result of him showing up unexpectedly
9 at your house January 30th?

10 A. Yes, sir.

11 Q. And this was after he sent you a video with a gun to
12 his head?

13 A. Yes, sir.

14 Q. And this was after he showed up at your house with a
15 pistol and your mom was home?

16 A. Yes, sir.

17 Q. With your children?

18 A. Yes, sir.

19 Q. Tell the jury what he told you after, after
20 everything was done.

21 A. That we're going to be friends and I, if I told
22 anyone he would come back and kill anyone in the home.

23 Q. Thank you.

24 THE COURT: Anything on re-cross briefly?

25 MR. MOSLEY: Did the statement come into evidence?

1 THE COURT: No, he did not move 33 in.

2 MR. MOSLEY: He hadn't moved it. Okay.

3 RE CROSS EXAMINATION

4 BY MR. MOSLEY:

5 Q. When you signed your signature sign, you sign it
6 XOXO?

7 A. I guess sometimes it depends on what I'm signing.

8 Q. I'm going to show you what is a composition notebook,
9 and this is your handwriting or that's the way you print?

10 A. Yes, sir.

11 Q. Okay. Do you see that over there. Okay. So, you've
12 had sex with Henry Anderson in the past before the
13 incident?

14 A. Yes, sir.

15 Q. And on this day you were threatened?

16 A. Yes, sir.

17 Q. And on this day he threatened that he was going to
18 kill your family?

19 A. Yes, sir.

20 Q. And on this day he had a gun?

21 A. Yes, sir.

22 Q. Okay. And a couple days before he had a gun?

23 A. Yes, sir.

24 Q. And you told all this to the police?

25 A. Yes, sir.

1 Q. Okay. And you didn't want to have sex?

2 A. No, sir.

3 Q. Okay. But when he first came to the door, you came
4 out the door voluntarily, correct?

5 A. Well, he never came to my door.

6 Q. He never came to your door?

7 A. No.

8 Q. Okay. But you came out of the house not knowing he
9 was out there?

10 A. I knew he was out there because he sent the text
11 saying he was outside the home.

12 Q. Okay. And you had been alerted by the kick
13 application, the text message and your alarm that he was
14 out there?

15 A. Yes.

16 Q. Okay. So, even after you were alerted that he was
17 out there, you were afraid, you came out there anyhow?

18 A. Yes, sir.

19 Q. Okay. And when you came out there, you weren't
20 threatened immediately?

21 A. Not immediately, no sir.

22 Q. Okay. And when you came out there he, you know, as
23 counsel demonstrated to you but you didn't do before. You
24 then, you gave him a hug and then the gun comes out of his
25 pocket?

1 A. I'm assuming it's out of his pocket, yes sir.

2 Q. You're assuming? So something you assume, because
3 you really don't know and some things you know happened.

4 A. Yes, sir. Like I don't know where the gun came from,
5 but he asked me where was his hands prior of the hug.

6 Q. Right.

7 A. Yes.

8 Q. And you remembered his hands were--

9 A. Inside the hoodie.

10 Q. Inside the hoodie?

11 A. Yes.

12 Q. Okay. So if the gun didn't come from anywhere else,
13 why not say it came out of his pocket? Why not say that?

14 A. I just said I did, I'm assuming it came out of the
15 pocket.

16 Q. You are still assuming that.

17 A. Yes.

18 Q. When are you going to be unequivocally one thousand
19 percent sure?

20 A. I'm not because I didn't actually see him, I didn't
21 step back and say, are you pulling out your gun now?

22 Where is it coming from? No sir, I did not.

23 Q. You didn't actually see him?

24 A. I did not actually see him pull the gun out. I did
25 not sit and watch and see where he pulled the gun out.

1 What location he pulled it off of.

2 Q. Okay. Now you gave him a hug.

3 A. Church hug.

4 Q. Church hug.

5 A. Yes.

6 Q. When you were over on the other side, you didn't
7 know, when you were actually having sex, you didn't know
8 where the gun was at at that time?

9 A. No sir, I did not see the gun at that time.

10 Q. And you got out of the car because he asked you to
11 get out of car?

12 A. Yes, sir.

13 Q. Okay. He didn't pull the gun on you at the time you
14 were getting out of the car?

15 A. No, sir.

16 Q. Okay. The gun was in his lap?

17 A. When we was sitting in the car I remember seeing the
18 car in his lap, the gun in his lap.

19 Q. But when he got out of the car, he didn't have any
20 gun.

21 A. I did not see it on him, that does not mean he didn't
22 have it on him. That means I did not see it.

23 Q. You didn't see it?

24 A. Yes.

25 Q. And as you were having sexual intercourse with him to

1 the rear you didn't see the gun?

2 A. No, sir. All I saw was the car.

3 Q. You saw the car because your face was down?

4 A. Yes, sir.

5 Q. Okay. And did you, did you see his hands?

6 A. No sir, I did not.

7 Q. Okay. What did he do with his hands?

8 A. He had one on me and I don't remember where the other
9 hand was currently placed.

10 Q. Okay. So he had one hand on you?

11 A. Yes.

12 Q. And what was he doing with that hand?

13 A. Holding me down.

14 Q. Holding you down?

15 A. Yes.

16 Q. Okay. So you pulled down your own pants?

17 A. No, sir.

18 Q. Well, tell us what happened.

19 A. Well, I said that he pulled down my pants.

20 Q. He pulled down his pants, your pants?

21 A. Yes.

22 Q. Okay. And how did he do that?

23 A. With his hands.

24 Q. With his hands. So in other words, and you had on
25 underwear, panties?

1 A. Yes.

2 Q. And you had on a gown?

3 A. Yes.

4 Q. Okay. Where was his other hand?

5 A. I was not looking, sir. I was still faced towards
6 the car when this was happening.

7 Q. Okay. So, at what point did he pull his penis out?

8 A. Well, sir, I'm facing the car. I wasn't facing him.
9 I don't know at what timeframe he did do that.

10 Q. Okay. So, did he actually penetrate you?

11 A. Yes, sir.

12 Q. Okay. And, so, how tall are you?

13 A. I'm 5'2".

14 Q. How tall is him?

15 A. He's about maybe 5'6", maybe. If I had to guess.

16 Q. Okay. All right. So, and you got wet?

17 A. Yes, sir

18 Q. Okay. And he had a gun in his hand?

19 A. Like I told you sir, I did not see the gun.

20 Q. Y'all didn't have no foreplay?

21 A. No, sir.

22 Q. No further questions.

23 THE COURT: All right. Thank you ma'am, you can step
24 down. Solicitor, do you have a witness that'll take about
25 twenty minutes?

1 MR. SCOTT: Yes sir, I do.

2 THE COURT: Call that witness please.

3 MR. SCOTT: The State calls Trena Brown.

4 CATRENA BROWN, being
5 first duly sworn, testified as follows:

6 DIRECT EXAMINATION

7 BY MR. SCOTT:

8 A. My name is Catrena Brown.

9 Q. Catrena?

10 A. Yes.

11 Q. You go by Trena?

12 A. Yes.

13 Q. And Trena, who is your, who is Tywanda [REDACTED]?

14 A. That's my sister.

15 Q. Okay. You know who Henry Anderson is?

16 A. Yes.

17 Q. And you see him here today?

18 A. Yes.

19 Q. How do you know him?

20 A. That was my sister's boyfriend.

21 Q. Okay. How old are you?

22 A. I am 28.

23 Q. All right. Tywanda's your younger sister?

24 A. Yes.

25 Q. I'm just going to go ahead and ask you, have you ever

1 had sex with Henry Anderson?

2 A. No sir, I have not.

3 Q. You ever had any kind of romantic relationship with
4 him?

5 A. No sir, I have not.

6 Q. Okay. Has he ever asked you to have a romantic
7 relationship with him?

8 A. No, he has not.

9 Q. Have you ever asked him if you could be involved with
10 a romantic relationship?

11 A. No sir, I have not.

12 Q. Thank you.

13 THE COURT: Cross?

14 CROSS-EXAMINATION

15 BY MR. MOSLEY:

16 Q. Do you know why, ma'am, you are being called to be a
17 witness for your sister, right?

18 A. Yes, sir.

19 Q. And who brought you over here?

20 A. One of my co-workers brought me over here.

21 Q. Right. Okay. Did you know what it was about?

22 A. No, I did not.

23 Q. Okay. And you don't, in other words, you're not a
24 witness to, you know about what's going on, right?

25 A. Yes, sir.

1 Q. Okay. But you're not a witness to anything?

2 A. No, sir.

3 Q. Okay. And you're married now, right?

4 A. Yes, sir.

5 Q. Okay.

6 A. I've been married the whole time they've been
7 together.

8 Q. The whole time. When did you get married?

9 A. I got married April 20th.

10 Q. Of?

11 A. Of last year. No, the year before last.

12 Q. Year before last.

13 A. That's 2012.

14 Q. You know Henry Anderson?

15 A. Yes.

16 Q. How do you know Henry Anderson?

17 A. Because that's my sister's, was my sister's
18 boyfriend.

19 Q. Okay. And, and so, do you know why you're being
20 called to be a witness?

21 A. Obviously, I'm being accused of having sex with this
22 fool.

23 Q. Right. Right. Yeah. But now, you're being called
24 by the State to testify that you didn't?

25 A. No, I did not.

1 Q. Okay. What I meant to say, I mean you're being
2 called as a witness to say that you didn't?

3 A. Right.

4 Q. Tywanda's your younger sister?

5 A. Yes.

6 Q. Okay. And you recall when she was dating Henry?

7 A. Yes.

8 Q. You knew that she had a miscarriage?

9 A. No.

10 Q. When did you find out about that?

11 A. I've never heard, this is the first of me hearing
12 about a miscarriage.

13 Q. Okay. So you don't know nothing about that?

14 A. No.

15 Q. And you don't know nothing about the time period, you
16 ever been with Henry? I mean, not sexually, but you ever
17 been in his presence?

18 A. Yeah, around everybody else in the whole family.

19 Q. Right. Where do you live at?

20 A. I live in Joanna.

21 Q. Joanna. And you live on a route that's similar to a
22 route that you can go from where your sister to his place
23 in Mountville, correct?

24 A. Yes.

25 Q. In the same direction?

1 A. Yes.

2 Q. All right. And I'm not saying that you, I'm not
3 accusing you of anything. But if by chance Henry is going
4 home at some point--

5 A. Henry has never took me anywhere.

6 Q. Yeah, but I didn't say that he did. That's not my
7 question. My question is, if by chance Henry lived in the
8 direction where you lived at, would Henry have to go in
9 that same direction to get to his house?

10 A. It's different, many different routes Henry can go.
11 He don't have to go by my house.

12 Q. Yeah, but it's in that vicinity?

13 A. Yes.

14 Q. In other words, he wouldn't go to Columbia to get to
15 your house. If you're in that direction and Henry's in
16 that direction, Henry can go in that direction and take a
17 turn or two and get to your house?

18 A. Yes.

19 Q. Okay. Let me ask you one more question, ma'am. Did
20 Henry know where you lived at?

21 A. Henry knew where I--

22 Q. Yes or no first, ma'am. Did Henry know--

23 A. After them two getting together?

24 Q. Let me ask you this question again.

25 THE COURT: Y'all are talking over each other. Ask

1 the question again, Mr. Mosley.

2 Q. Ma'am, when I ask for the question, if you can, say
3 yes or no and then you can explain.

4 A. Okay.

5 Q. My question is, did Henry know where you lived at?

6 A. Yes.

7 Q. Okay. And Henry knew where you lived before January
8 of 2013?

9 A. Yes.

10 Q. Okay. Henry knew where you worked at?

11 A. Yes, being he dated my sister, yes, he knew where I
12 worked at.

13 Q. Okay. No further questions.

14 MR. SCOTT: Nothing from the State.

15 THE COURT: Thank you very much Ms. Brown. You can
16 step down.

17 THE COURT: Do you have another witness we can get to
18 before lunch?

19 MS. SCOTT: Sharonda Brown, Your Honor.

20 THE COURT: Someone ask Sharonda Brown to step in
21 please.

22 MR. SCOTT: I'm going to ask for Trena to be excused
23 as well.

24 THE COURT: All right. No objection to excusing
25 Catrena.

1 SHARONDA BROWN, being
2 first duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. DANIEL:

5 Q. Good morning, Ms. Brown. Are you related to Tywanda
6 [REDACTED]?

7 A. Yes.

8 Q. How are you related to Tywanda [REDACTED]?

9 A. She's my baby sister.

10 Q. She's your baby sister. And how old are you?

11 A. 31.

12 Q. And about how old is Tywanda?

13 A. 24.

14 Q. Okay. So you got six years ahead of her. Where do
15 you currently reside?

16 A. [REDACTED], Newberry, South Carolina.

17 Q. Does your sister Tywanda live there too?

18 A. Yes.

19 Q. Were you both living at that address in January 30th
20 of 2013?

21 A. Yes.

22 Q. Okay. Do you know Henry Anderson?

23 A. Yes.

24 Q. Is Henry Anderson present in the courtroom today?

25 A. Yes.

1 Q. Or do you see him here?

2 A. Yes.

3 THE COURT: The record shall reflect that she's
4 identified the defendant.

5 Q. How do you know Henry Anderson?

6 A. Through my sister.

7 Q. What was Henry Anderson's relationship to your
8 sister, Tywanda?

9 A. They were a couple.

10 Q. Okay. Are they still a couple?

11 A. No.

12 Q. Do you know why they broke up?

13 A. No.

14 Q. All right. I want to go back to January 30th of
15 2013, do you recall the events of that day?

16 A. I got a phone call from my sister, Sue, telling me to
17 get up and check on Tywanda. Then as I got up, she was
18 knocking at my bedroom door, she's crying, her nose is
19 running. I asked her what happened, where was he and she
20 said he left and I called 911.

21 Q. Okay. So you, is your bedroom next door to Tywanda's
22 bedroom or do y'all share a room?

23 A. It's next door.

24 Q. Okay. So you get a phone call from your sister, Sue?

25 A. Correct.

1 Q. And does your sister Sue, I'm assuming she does not
2 live with you?

3 A. She does not.

4 Q. Okay. So as soon as you get that call, you said then
5 Tywanda knocks on your bedroom door?

6 A. Yes, sir.

7 Q. And, tell us again what you observed, what Tywanda
8 said?

9 A. She's crying. I said where is he, she said he left.
10 I grab her in my arms, I call 911.

11 Q. And who is he again?

12 A. Henry Anderson.

13 Q. And did you, did you see Henry Anderson personally?

14 A. No, I did not.

15 Q. And why do you, knowing Henry Anderson, knowing that
16 they were boyfriend and girlfriend, why do you think Henry
17 Anderson was involved with Tywanda being upset? Why do
18 you think he left, I guess?

19 A. When Sue called and I answered the phone, she told me
20 that Tywanda told her that he was there and he had a gun.

21 MR. MOSLEY: Objection, Your Honor. That's hearsay.

22 THE COURT: Sustained as to hearsay.

23 Q. What did Tywanda tell you?

24 A. Asked her where was he, and she said gone. She
25 didn't tell me what happened until the police officer

1 arrived on the scene.

2 Q. But Tywanda was, you said she was crying?

3 A. Yes, sir.

4 Q. So she looked distraught?

5 A. Yes, sir.

6 MR. MOSLEY: Leading question, Your Honor. That's a
7 leading question.

8 THE COURT: Overruled.

9 MR. DANIEL: No further questions.

10 THE COURT: Cross.

11 CROSS-EXAMINATION

12 BY MR. MOSLEY:

13 Q. Ma'am, on January 30th, where do you work at?

14 A. Mig's of Newberry.

15 Q. Beg your pardon?

16 A. Mig's of Newberry.

17 Q. Okay. You were sleeping that morning?

18 A. Yes, I was.

19 Q. Okay. Who else lives in the house?

20 A. At the time, my mother, my two nephews and my
21 deceased step-father.

22 Q. Where was your step-father that morning or evening?
23 Where was he at?

24 A. Asleep on the chair.

25 Q. Asleep on the chair. Where was your mother?

- 1 A. Asleep in her bedroom.
- 2 Q. Asleep in her bedroom. And where were the children?
- 3 A. Asleep.
- 4 Q. Where at?
- 5 A. DJ sleeps with my mother and Tyshon sleeps with
- 6 Tywanda.
- 7 Q. Tywanda. So now, what time you got to be to work?
- 8 A. 11:00 o'clock.
- 9 Q. 11:00 o'clock? So you work the midday shift?
- 10 A. Yes, sir.
- 11 Q. Where is your bedroom inside the house?
- 12 A. Beside Tywanda's.
- 13 Q. Do you hear an alarm go off that morning?
- 14 A. No, sir.
- 15 Q. You didn't hear no alarm?
- 16 A. No, sir.
- 17 Q. Have you heard her alarm go off previous mornings?
- 18 A. No, sir.
- 19 Q. So you're sound asleep?
- 20 A. Yes.
- 21 Q. You hear a car outside?
- 22 A. No, sir.
- 23 Q. Running?
- 24 A. No, sir.
- 25 Q. Henry ever been to the house before?

1 A. Yes.

2 Q. And have you ever heard a motor outside the house
3 early in the morning?

4 A. No, sir.

5 Q. If somebody's driving up, can you hear a motor?

6 A. If you have your music playing loud I can hear your
7 music. Just hearing a car running, no sir, I do not.

8 Q. So, you don't know anything. You are not a
9 eyewitness to anything?

10 A. No, I never said that I witnessed the act.

11 Q. No, I'm not saying that you did, I'm just repeating
12 it, well you don't, you didn't see anything.

13 A. No, I did not.

14 Q. All you saw was your sister come in the room crying?

15 A. Correct.

16 Q. And you don't know what happened, other than what she
17 told you?

18 A. Correct.

19 Q. And you have been around Henry before, haven't you?

20 A. Yes.

21 Q. And you knew that him and your sister went hunting,
22 didn't you?

23 A. No.

24 Q. You didn't know that?

25 A. No.

1 Q. Okay. Did you know that supposedly, that Henry had
2 been to the house with a gun earlier? Did you know about
3 that?

4 A. Yes sir, I did.

5 Q. You did?

6 A. Yes.

7 Q. When did you know about that?

8 A. The officers came to my home while I was there.

9 Q. Right. Okay. So you knew about that?

10 A. Yes.

11 Q. Did it, I mean, did Henry and your sister, they dated
12 each other for about ten months or so?

13 A. I don't know the timeline.

14 Q. You knew that your sister had gotten pregnant by him
15 and had a miscarriage?

16 A. Yes.

17 Q. You did?

18 A. Yes.

19 Q. Okay. Was your sister showing, so to speak?

20 A. No, sir.

21 Q. Did she seek prenatal care that you know of?

22 A. That I don't know.

23 Q. Did she express to you that she wanted to get, have a
24 baby?

25 A. No, she didn't.

1 Q. Did she express to you that she didn't want to have a
2 baby?

3 A. No, she didn't.

4 Q. Expressed, did she express to you that she loved
5 Henry?

6 A. Yes.

7 Q. Did she express to you that she wanted to marry
8 Henry?

9 A. No.

10 Q. You ever seen Henry with a gun?

11 A. No.

12 Q. What did your mother tell you about the gun?

13 A. Just that it was in his waistband.

14 Q. Waistband. When?

15 A. When he came to the house.

16 Q. Did he come up on the porch?

17 A. I wasn't there. I don't know.

18 Q. You wasn't there. How many children you got?

19 A. One.

20 Q. One. And where does your child live?

21 A. He's deceased.

22 Q. I'm sorry to hear that. God bless you. Okay. Thank
23 you, no questions.

24 MR. DANIEL: No redirect, Your Honor.

25 THE COURT: Thank you, ma'am. You can step down. All

1 right. Ladies and gentlemen, we're going to go ahead and
2 take our lunch break at this point in time. I'm going to
3 ask that you be back in the jury room, if you could, at
4 2:15. We'll resume with the trial at that point in time.
5 Of course, don't talk about the case with anyone. If you
6 happen to go to lunch with one of your fellow jurors,
7 don't discuss the case. If you happen to go home and have
8 lunch with a member, don't talk about the case. Don't
9 talk about anything. And there's plenty of weather to
10 talk about. Y'all take care, I'll see you back at 2:15.
11 Thank you.

12 (Whereupon, the jury is excused from open court for a
13 lunch break.)

14 THE COURT: We will be at ease.

15 (Whereupon, a lunch break was taken.)

16 THE COURT: All right. We'll go back on the record in
17 State versus Anderson. The defendant is present with
18 counsel. I'm told the jury is here. Let's have them in
19 please.

20 (Whereupon, the jury came into open court at
21 approximately 2:18 p.m.)

22 THE COURT: All right. The record should reflect that
23 the jury is back and seated. Ladies and gentlemen, we're
24 still are in the State's case-in-chief. I'll let you know
25 that the County Administrator has basically made the

1 decision that we will be closing shop at 3:00 o'clock
2 today. So, we are going to take as much testimony as we
3 can and then we will adjourn for the day. I anticipate,
4 well, I actually know that the Chief Justice has issued an
5 order directing that all courtroom proceedings tomorrow be
6 canceled. We will wait and see what approaches with
7 regarding Thursday, but at least as far as tomorrow is
8 concerned we know that we will not be holding court and
9 hopefully we will be in a position to resume sometime on
10 Thursday, and if not then, on Friday. But we are going to
11 keep going with this case. So Solicitor, please call your
12 next witness.

13 MR. SCOTT: Yes, sir. The State calls Susieann Brown.

14 SUSIEANN BROWN, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. SCOTT:

18 Q State your name, please.

19 A. My name is Susieann Brown.

20 Q. Did you say Suzanne or--

21 A. Susieanne Brown, one word.

22 Q. Okay. Ms. Brown, you are Tywanda [REDACTED]'s sister?

23 A. Yes.

24 Q. Older sister?

25 A. One of her older sisters.

1 Q. Okay. You are older than Sharonda or younger than
2 Sharonda?

3 A. Older than Sharonda. Older than Trena.

4 Q. Okay. So it's you, Sharonda, Trena and then Tywanda?

5 A. As far as the ones you've met, yes sir.

6 Q. Order and age though, I mean?

7 A. Yes, sir.

8 Q. Okay. So she would be the younger sister?

9 A. Yes.

10 Q. Do you live at the home at [REDACTED]?

11 A. No, I don't.

12 Q. You live elsewhere?

13 A. Yes, I do.

14 Q. All right. Do you remember January 30th, 2012?

15 A. Yes, I do.

16 Q. I'm sorry. January 30th, 2013, you remember that day?

17 A. Yes, I do.

18 Q. All right. That morning, did you have an occasion to
19 call Tywanda?

20 A. I had text Tywanda about 6:45 that morning about
21 going to be working out when we got out. When she got off
22 work, we were going to meet up to go to the gym. So I had
23 sent her a text to remind her to grab her workout clothes,
24 so we didn't have to go back to the house.

25 Q. Okay. Did she ever respond to you?

1 A. Yes. By the time I got to my work, she had, was
2 calling me, I was like, you didn't have to call me back, I
3 was just telling you about your workout clothes.

4 Q. All right. But she wasn't calling you about working
5 out, was she?

6 A. No sir, she wasn't.

7 Q. Tell me how she sounded when you picked up the phone.

8 A. She was really excited, like she was upset, worked
9 up. I could tell something was wrong with her and I was
10 like, what is wrong, what's wrong, what's wrong with you?

11 Q. Well, describe what she was doing.

12 A. It's like she was like hyperventilating, very upset,
13 you know.

14 Q. All right. Did she indicate why she was acting that
15 way?

16 A. After I asked her what was wrong, and she sounded
17 like she, like I say, out of breathe, like she needed her
18 asthma pump. And she said when she went outside to warm
19 up her car that morning that Henry was out there, and he
20 had held a gun to her head.

21 Q. Who's Henry?

22 A. Fellow over there.

23 Q. Where?

24 A. The plaintiff or whoever.

25 Q. Oh okay. You talking about Henry Anderson with the

1 vest and white shirt?

2 A. Yes, sir.

3 Q. You knew him?

4 A. Yes, they had been boyfriend, girlfriend, but she had
5 cut it off with him. She no longer wanted to be with him.

6 Q. Okay. You knew about that?

7 A. Yes.

8 Q. Did you know of him at your mother's house with a gun
9 prior to January 30th?

10 A. Yes. We are a close nit family, so we tell
11 everything. My kids go up there, was going up there at
12 the time. So my kids was there when it happened. So,
13 when I called to check on my mom throughout the day she
14 tole me that he had came there.

15 MR. MOSLEY: Objection. Hearsay.

16 THE COURT: You claim an exception or--

17 MR. SCOTT: No, sir. I'll move on.

18 THE COURT: Sustained.

19 Q. You stated you knew about that incident though?

20 A. Yeah.

21 Q. January 30th, after she calls you and she's
22 hyperventilating she's excited and everything, what do you
23 do as a result?

24 A. I call my other sister who stayed in the home,
25 Sharonda, and I told her, get up, go check on Tywanda.

1 You know, and they were to call the police. You know. So
2 I delegated it, because like I said, I was heading to
3 work. We had issues at work, so I was kind of torn,
4 should I go to work, I go see what was going on, you know,
5 should I just go and see. So, I call, I kept calling
6 throughout the day to see what was going on. So I let
7 Sharonda handle everything.

8 Q. Okay. Thank you. Please answer any questions Mr.
9 Mosley has you.

10 THE COURT: Mr. Mosley.

11 MR. MOSLEY: No questions.

12 THE COURT: Thank you, ma'am. You can step down.
13 Call your witness please.

14 MR. DANIEL: The State calls Ernest Brown, Your Honor.

15 ERNEST BROWN, being
16 first duly sworn, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. DANIEL:

19 Q State your name for the record, please.

20 A. Ernest Brown.

21 Q. Ms. Brown, you're Tywanda [REDACTED]'s mother, is that
22 correct?

23 A. I am.

24 Q. Do you know Henry Anderson?

25 A. I do.

1 Q. And how do you know Henry Anderson?

2 A. He was dating my daughter.

3 Q. He was dating your daughter?

4 A. Yes.

5 Q. And, so they are ex-boyfriend and girlfriend now?

6 A. Yes.

7 Q. And you're talking about Tywanda [REDACTED], the
8 ex-girlfriend of Henry Anderson?

9 A. Right.

10 Q. On January 21st of 2013, did you come into contact
11 with Henry Anderson?

12 A. He came to my house.

13 Q. Was your daughter Tywanda home then?

14 A. No, she was at work.

15 Q. And do you live on [REDACTED]?

16 A. I do.

17 Q. And Tywanda lives there with you?

18 A. Yes.

19 Q. So Henry Anderson came to your home that day?

20 A. Yes.

21 Q. About what time did he come?

22 A. It's around about 10:00 or 11:00.

23 Q. When he came in the home, what did you observe or
24 what was he there for, first of all.

25 A. He had borrowed some games from my son and he was

1 returning them.

2 Q. Henry Anderson borrowed some games from your son?

3 A. From my son, and he returned them.

4 Q. Video games?

5 A. Yes.

6 Q. Okay. And, what did you see when Henry Anderson came
7 to your home?

8 A. He had a gun stuck down in his pants.

9 Q. It was stuck in the waistband of the pants?

10 A. In the waist of his pants.

11 Q. Did he make any statements to you?

12 A. No.

13 Q. How did you know he was there for the games?

14 A. He knocked on the door and we said come on in and he
15 came in, said I brought Ricardo's game. So we said okay
16 and I asked, what he doing with a gun and he said for a
17 purpose.

18 Q. So you saw the gun?

19 A. I saw the gun.

20 Q. And you asked him what he was doing with a gun?

21 A. I did.

22 Q. And Henry Anderson's reply was it's for a purpose?

23 A. For a purpose.

24 Q. Okay. And what portion of the gun could you see
25 sticking out his waistband?

1 A. The handle part.

2 Q. That's all you saw?

3 A. That's all I saw.

4 Q. I'm going to show you what's been marked for ID
5 purposes, it's State's number 21. You recognize that?

6 A. Yes.

7 Q. How do you recognize that?

8 A. From this part right here.

9 Q. And you're pointing towards the handle of the gun?

10 A. Yes.

11 Q. Is the handle of this gun that you just pointed to,
12 consistent to the handle that you saw sticking out of
13 Henry Anderson's waistband on January 21st?

14 A. Yeah.

15 Q. Did he get the games from your, did Henry Anderson
16 get the games from your son?

17 A. I guess he got them from him because he brought them
18 back to my house.

19 Q. After that did he, how long did Henry Anderson stay
20 at your home?

21 A. He left. After he brought the games in he left.

22 Q. Later that day did the Sheriff's Office come to your
23 home on the 21st?

24 A. Yes.

25 Q. And why did the Sheriff's Office have to come to your

1 home on January 21st?

2 A. Because we was getting a restraining order on him.

3 Q. Who was getting a restraining order on who?

4 A. Tywanda was getting a restraining order on him about
5 bringing the gun to my house. We didn't want him back at
6 my house.

7 Q. And you're speaking of Henry Anderson?

8 A. Henry Anderson, yeah.

9 Q. And did you report to officers about seeing the gun
10 on Henry Anderson at this time?

11 A. Yes, I told them I saw the gun.

12 MR. DANIEL: No further questions, Your Honor.

13 THE COURT: Cross.

14 CROSS-EXAMINATION

15 BY MR. MOSLEY:

16 Q. How you doing, ma'am?

17 A. Fine, and yourself?

18 Q. Good. Good. Good. He came there about 11:00 o'clock
19 in the morning?

20 A. It's around 10:00 or 11:00 o'clock.

21 Q. In the morning?

22 A. Yes.

23 Q. What were you doing?

24 A. Sitting on my couch.

25 Q. Doing what?

- 1 A. Nothing to do but sit on my couch.
- 2 Q. Were you watching TV?
- 3 A. It was on.
- 4 Q. Were you watching it?
- 5 A. I'm not going to say I was watching it, but it was
- 6 on.
- 7 Q. Do you resent me asking you questions?
- 8 A. No, I don't.
- 9 Q. Okay. I didn't think you had no reason. You telling
- 10 the truth, ain't you?
- 11 A. I am. I don't have no reason to lie.
- 12 Q. Tywanda's your daughter?
- 13 A. Yes, she is.
- 14 Q. You had known Henry for about ten months?
- 15 A. Yeah.
- 16 Q. You never saw him with a gun before, had you?
- 17 A. Never until that time.
- 18 Q. Until that day. One time.
- 19 A. Right.
- 20 Q. You never heard of a reason prior to that particular
- 21 day for him to have no gun, had you?
- 22 A. No.
- 23 Q. Henry used to come in and out of your house?
- 24 A. He did.
- 25 Q. Did you know that him and your daughter went hunting?

1 A. I heard her say they had went hunting one time.

2 Q. So, Henry, according to you, Henry said that he came
3 there with a gun for a purpose?

4 A. That's what he told me.

5 Q. Did you ask him why he had a gun?

6 A. I asked him, and he said, his answer was he had it
7 for a purpose.

8 Q. Now, Henry was inside your house?

9 A. Yes.

10 Q. Okay. Let's say this is your front door, and you are
11 in the living room, right?

12 A. Yes.

13 Q. And this is the front door and I'm facing the house.
14 The living room is to the right where the air conditioner
15 is where your deceased husband used to sit.

16 A. That's where we all sit.

17 Q. Okay. All right. So, Henry knocked on the door?

18 A. Yes.

19 Q. And who answered the door? You did?

20 A. I did.

21 Q. Okay. Did you holler like, who is it, first?

22 A. No, I didn't. I just said, come in.

23 Q. You just said come in and he came in?

24 A. Yes.

25 Q. Okay. How far did he walk inside the room?

1 A. He didn't walk that far.

2 Q. Two steps, three steps?

3 A. Maybe three.

4 Q. So now, do you remember what he was dressed like?

5 A. No.

6 Q. So, when Henry came in, when he first came in the
7 door, he walked in the door, you was looking at him?

8 A. Yes.

9 Q. And when he first came in, the first thing that you
10 saw was the gun?

11 A. Yeah, I saw the gun.

12 Q. Yeah. So the first thing you said was, what you
13 doing with that gun, boy, didn't you?

14 A. No, I didn't say it like that.

15 Q. You knew that he was having problems with your
16 daughter, right?

17 A. I know they had broke up.

18 Q. Did he have on a coat?

19 A. I don't recall.

20 Q. Okay. Let's assume that he didn't have on a coat.

21 Tell, look at the jury now. You tell the ladies and the
22 gentlemen of the jury that I'm going to walk in your door,
23 I am going to walk in your house and I am going to walk in
24 the front door, looking at me, and you ain't going to say,
25 what you doing with that gun? You didn't say that?

- 1 A. I asked him what he was doing with that gun.
- 2 Q. The first thing you said?
- 3 A. No, that wasn't the first thing I said.
- 4 Q. So, what was he giving to you? He was bringing
- 5 something to you?
- 6 A. He was leaving something there he had borrowed.
- 7 Q. Okay. What happened to that?
- 8 A. He left it there.
- 9 Q. Okay. Tell us what happened.
- 10 A. And then I asked him--
- 11 Q. Hold on a second. Tell us what happened about what
- 12 he had brought to the house first. Did he have it in his
- 13 hands?
- 14 A. He had the games in his hand.
- 15 Q. Okay.
- 16 A. He didn't have the gun in his hand.
- 17 Q. Okay. Okay. He didn't, so how many games was it?
- 18 A. I don't know.
- 19 Q. Well, was it this big?
- 20 A. Might of been or a little bigger.
- 21 Q. Okay. And he handed it to you?
- 22 A. No, he didn't hand it to me, he laid it on--
- 23 Q. What did he do with it?
- 24 A. He laid it on my counter.
- 25 Q. The counter. Where is the counter at?

- 1 A. Behind my couch.
- 2 Q. So, he walked way over there?
- 3 A. He didn't have to walk that far.
- 4 Q. Okay. Well, tell me how many feet he walked. He
- 5 walk this many feet?
- 6 A. I told you maybe three like you asked.
- 7 Q. Three. So, when he come in your door, and I'm
- 8 walking in your front door, I'm Henry, would I turn to the
- 9 right or the left to get to the counter?
- 10 A. He walked straight to the counter.
- 11 Q. So I'm walking straight ahead.
- 12 A. Yes.
- 13 Q. And you standing right in front of him.
- 14 A. I was sitting.
- 15 Q. Now you're sitting. Where was you sitting at?
- 16 A. On my couch.
- 17 Q. Okay. Now, how far away are you sitting from where
- 18 he was standing?
- 19 A. About from here to right there.
- 20 Q. From where I'm at though. I'm Henry. Now where was
- 21 you at in proximity of where Henry was at? I'm Henry, and
- 22 I got a gun in my waistband that you see and I'm going to
- 23 walk by you with a gun to take something down there, and
- 24 you don't say nothing about the gun then?
- 25 A. No, I didn't. When he first came in, I did not, but

1 I did ask him what he was doing with a gun.

2 Q. You wasn't scared, was you?

3 A. No, I was not.

4 Q. You had never, you not scared of somebody walking in
5 your house with a gun in their waistband, arguing with
6 your daughter, to bring back something to your son, you
7 not scared?

8 A. No. I didn't know him and my daughter was arguing at
9 the time.

10 Q. No further questions.

11 THE COURT: Nothing on redirect?

12 MR. DANIEL: No sir, Your Honor.

13 THE COURT: Thank you, ma'am. You can step down.
14 Call your next witness, please.

15 MR. SCOTT: Ren Henderson, Your Honor.

16 REN HENDERSON, being
17 first duly sworn, testified as follows:

18 DIRECT EXAMINATION

19 BY MR. SCOTT:

20 Q State your name, please.

21 A. My name is James W. Henderson. Newberry County
22 Sheriff's Office.

23 Q. Okay. Deputy Henderson, were you with the Sheriff's
24 Department January 21st of last year?

25 A. That is correct.

1 Q. Okay. I'm am going to ask that again. January 21st
2 of last year, were you on duty with the Sheriff's
3 Department?

4 A. Yes sir, I was.

5 Q. Did you have an occasion to respond to [REDACTED]
6 [REDACTED] in Newberry?

7 A. I did.

8 Q. And what was that in regards to?

9 A. The original call came out through 911 of Newberry
10 County Dispatch in reference to threats. I responded on
11 that information alone.

12 Q. All right. Who did you speak with when you arrived
13 at the [REDACTED] address?

14 A. When I arrived Ms. [REDACTED] was actually in the
15 residence with other family members. I went to the rear
16 door of the house, knocked on it and spoke with them about
17 some issues she was having with the, with the subject in
18 the courtroom here, he was Mr. Anderson.

19 Q. All right. We've got a lot of [REDACTED] out here. What
20 [REDACTED] are you talking to?

21 A. I'm sorry. It was a Tywanda Monique [REDACTED], the
22 complainant.

23 Q. So what were the allegations you were there to
24 investigate?

25 A. I spoke with her. She was having some concerns. The

1 subject who is in the courtroom here today had been
2 contacting her. She no longer wanted him to contact, she
3 had some questions and concerns about her safety as well
4 as this situation which was spiraling. What I felt as
5 though was spiraling out of her--

6 MR. MOSLEY: Objection, Your Honor. That's
7 speculation on his about spiraling out of--

8 THE COURT: Sustained as to speculation. Jury is
9 instructed to disregard it.

10 A. I apologize, Your Honor.

11 THE COURT: That's all right.

12 A. She advised me she was distraught that the situation
13 in her words was out of control. She was especially
14 concerned about a video that was on her cell phone. She
15 wanted to show me a video, which I did view. The subject
16 sitting in the courtroom today had a firearm in the video,
17 put it to his head making some statements on the video.
18 She was concerned about her safety, in her own words. Her
19 mother was there as well. There had been an incident
20 earlier in the day which was also being reported at that
21 time. I kind of had a couple different things going on at
22 one time. The subject sitting in the courtroom over
23 there, according to her, to Tywanda Monique [REDACTED]'s
24 mother, had come over earlier I think in reference to some
25 video games or the recovery of a jacket or video games, I

1 can't recall. And at that time she alleged that he had a
2 firearm stuck in his pants.

3 Q. I'm going to show you State's number 22.

4 MR. MOSLEY: Your Honor, I'm going to object. He said
5 he seen the video, there's no need to play it again.

6 THE COURT: All right.

7 MR. MOSLEY: Already asked and answered.

8 THE COURT: I'm going to allow the Solicitor to ask
9 the questions he wants to ask. I'm assuming that he's
10 going somewhere with it. Overruled.

11 MR. MOSLEY: Apparently, he's not asking a question,
12 he's just showing a video. I'm going to object, Your
13 Honor.

14 THE COURT: All right. Your objection is noted and
15 overruled. Thank you.

16 Q. Let me show you State's number 22. Ask you, do you
17 know what this is?

18 A. Yes, sir.

19 MR. SCOTT: Your Honor, I'm am going to play this
20 again, if Mr. Mosley will step aside, I think he is
21 blocking the jurors.

22 MR. MOSLEY: No, I'm not blocking the jury.

23 THE COURT: Just step over this way a little bit, if
24 you would.

25 (Whereupon, a video was played for the jury.)

1 Q. State's number 22, what is that?

2 A. That is--

3 MR. MOSLEY: Objection, Your Honor. It speaks for
4 itself. Asked and answered, that's repetitive.

5 THE COURT: Overruled.

6 A. Thank you, Your Honor. That's the video that I
7 witnessed at the home of Tywanda Monique [REDACTED] and also
8 the subject sitting the room today was the individual on
9 the video.

10 Q. After reviewing State's number 22, after reviewing
11 that video and what did you, what did you review it on?

12 A. I reviewed it on the original complainant's cell
13 phone.

14 Q. Okay. This is State's number 32, you recognize this?

15 A. I'll be honest with you, it was so long ago, I
16 couldn't identify the cell phone.

17 Q. Okay.

18 A. I apologize.

19 Q. But at the time, you're saying that Ms. Tywanda [REDACTED]
20 had given her cell phone, and that's where you watched the
21 video?

22 A. She played the video for me. After we spoke about
23 some concerns, that she was concerned with her safety, she
24 voluntarily showed me the video at her home.

25 Q. Okay. What did she show it to you on? That's what

1 I'm asking, I guess.

2 A. Her cell phone device, she showed me the video on.

3 Q. After reviewing that, the video, and after hearing
4 about the person with the gun did you advise her of
5 anything?

6 A. I did. We spoke of some options that she had through
7 Newberry County Sheriff's Office and what we could do for
8 her and some things she could do for herself. I advised
9 her that maybe a no trespass order would be a good start
10 just to be a little more proactive on the situation in
11 case he tried to come over the house or cause her harm or
12 anything like that. We went to the patrol vehicle and got
13 a no trespass order packet for her which she stated she
14 was going to fill out with some family and possibly turn
15 in the next day or the next few days.

16 Q. What, if anything, did you advise her regarding these
17 text messages she was receiving?

18 A. I just advised her that, you know, don't respond to
19 the text messages. Due to the increasing threat level of
20 the text that she was perceiving--

21 MR. MOSLEY: The increasing what now? I didn't
22 understand.

23 THE COURT: Hold on a second. Just speak a little bit
24 louder if you could, please.

25 A. Yes, sir. I'm sorry. She felt like the threat level

1 was increasing in her own words. We felt like our normal
2 policy is to initially start with a no trespass order,
3 just to make sure that he wouldn't return to the property.
4 Due to the incident earlier where he had a gun in his
5 waistband allegedly, that alone was, constituted at least
6 a no trespass to us. Also advised her to possibly try to
7 get a restraining order based on the information that I
8 had seen and the severity of the video that everybody in
9 the courtroom has seen today.

10 Q. Did you advise her of anything--

11 MR. MOSLEY: Objection, Your Honor. You know, he's
12 saying that everybody in the courtroom has seen today.
13 That's sort of ad libbing. There may be some people like
14 that gentleman over there that may not see it.

15 A. The jury.

16 THE COURT: All right.

17 MR. MOSLEY: You talk, are you speaking to the jury?

18 THE COURT: Don't talk to the witness at this point.

19 MR. MOSLEY: Objection, Your Honor. I object to him
20 speaking to the jury, Your Honor. I object to that.

21 THE COURT: He gets to testify.

22 MR. MOSLEY: Yeah, but not direct his comments
23 directly to the jury.

24 THE COURT: All right. He gets to testify. As far as
25 the objection regarding the video, it's been played. I

1 assume it has been seen. So, overruled. Let's just move
2 along. Go ahead please, Solicitor.

3 A. Thank you, Your Honor. And that was basically it.
4 We recommended a restraining order, a no trespass order.
5 The complainant said she was going to consider it with her
6 family, with her mother and proceed as what she felt was
7 necessary in the next day or two.

8 Q. All right. I may not have articulated that question
9 very well. What, if anything, did you advise her as far
10 as these text messages she was receiving? She ultimately
11 blocked them. Did you advise her to do that?

12 A. Yes, I did.

13 MR. MOSLEY: Objection. Objection. He's leading the
14 witness. He's telling, she ultimately blocked, that's a
15 leading question.

16 MR. SCOTT: I'm trying to be, let me ask again. I'm
17 sorry.

18 THE COURT: Rephrase.

19 Q. What, if anything, she was receiving text messages.
20 Did you view them?

21 A. That is correct. I viewed the text messages as well
22 as the video.

23 Q. All right. Did you advise her anything in regards to
24 the text messages?

25 A. I did advise her. On top of the restraining order,

1 on top of no trespass, do not respond and block his number
2 from her phone, to discontinue contact with the subject.

3 Q. But that was something you advised her to do?

4 A. That is correct.

5 Q. Thank you. Please answer any questions Mr. Mosley
6 has for you.

7 CROSS-EXAMINATION

8 BY MR. MOSLEY:

9 Q. And the complainant, reading from your statement.

10 A. Yes, sir.

11 Q. Your incident, and the complainant did not want to
12 press charges, correct?

13 A. That is correct, sir.

14 Q. And she didn't call the circumstances threatening.
15 The complainant called the circumstances escalating,
16 correct?

17 A. Actually, I was there on the scene, she said--

18 Q. I will show you a report now.

19 A. A report is a guideline of an incident that occurs in
20 our county.

21 Q. Yeah.

22 A. They're not normally taken word for word. Although
23 this is a guideline and exactly what she said. We can't
24 recall, for example, how many steps I took to get in the
25 door or her level of intimidation or her mental state or

1 every detail of the scene is not available at the time.

2 Q. Can I ask you a personal question?

3 A. Negative.

4 MR. SCOTT: No. I don't think he can ask him a
5 personal question.

6 MR. MOSLEY: Well---

7 THE COURT: Personal questions are probably off
8 limits.

9 MR. MOSLEY: Yeah. But I'm looking at, why you
10 shaking so?

11 A. I'm not shaking.

12 Q. Your hands not shaking?

13 THE COURT: All right. You are testifying now.

14 MR. MOSLEY: Okay.

15 THE COURT: Let's stick to the facts. Come on, Mr.
16 Mosley.

17 MR. MOSLEY: I will move on to something else, Your
18 Honor.

19 Q. So sir, let me ask you this. Wouldn't it be more
20 truthful, in terms of the seriousness of what you are
21 saying today?

22 A. Yes, sir.

23 Q. Wouldn't it be more serious, in terms of edification
24 in an official report to use the word, threatening
25 circumstances versus escalating?

1 A. I think we can sit here and play word play all day as
2 far as details of one word in a report.

3 Q. No. Answer the question. I'm not playing, this is
4 not word play for me.

5 A. This is an answer, sir.

6 Q. If you don't want to answer the question say so, but
7 I am not playing no game.

8 THE COURT: Let him answer the question. Go ahead,
9 please.

10 A. We can sit her and debate details of one word in a
11 report all day long. I don't think it changes the
12 incident or the circumstances or the feeling of the victim
13 in this case. I wrote the report to the best of my
14 knowledge. I felt like Newberry County has done their job
15 as far as this report goes, as far as myself. I have over
16 three years on Newberry County Sheriff's Department. Some
17 of you guys know me from the community. I'm a straight
18 shooting guy.

19 MR. MOSLEY: Objection, Your Honor. Objection.
20 Objection. Objection.

21 THE COURT: Sustained.

22 MR. MOSLEY: You know, you answer the question.

23 A. I'm sorry you can't understand my answer.

24 Q. I understand your answer. You represent the interest
25 of the State of South Carolina. Correct, sir?

1 A. Yes sir, that is correct.

2 Q. Okay. And the State?

3 A. As well as Newberry County.

4 Q. And the State, and the State of South Carolina. The
5 caption to this case says the State of South Carolina
6 verses Henry Anderson. It don't say Newberry, does it?

7 A. Actually, I took an oath for--

8 Q. I'm asking you--

9 A. --for the State.

10 Q. I'm asking you, sir.

11 THE COURT: Y'all are arguing over each other. Here's
12 what I would like. Her is what I would like. Ask him a
13 question, give him a chance to respond, ask another
14 question, give him a chance to respond and that way we
15 have a transcript that's clean when all this is done.

16 Q. Let me, let me, Mr. Henderson.

17 A. Yes, sir.

18 Q. Deputy Henderson. You been on the force for three
19 years?

20 A. That is correct.

21 Q. What, if anything, does that have to do with this
22 case?

23 A. I believe that some experience for a law enforcement
24 officer teaches you certain essential skills when
25 responding to a case as far as severity of the case, how

1 to possibly handle a case, investigative skills, interview
2 skills, all the way to basic road patrol. I feel like I'm
3 well versed in all those departments and fully capable of
4 writing a complete report which started this investigation
5 as well.

6 Q. Thank you. Okay. Based on your experience and your
7 knowledge of the criminal laws of the State of South
8 Carolina, had Mr. Anderson, on the date in question, had
9 he in fact committed a crime?

10 A. A crime that is unseen is still a crime.

11 Q. Yes or no first. Yes or no first, then explain.

12 A. I don't feel as though this is a yes or no answer
13 question. An unseen crime is still a crime that someone's
14 responsible for.

15 Q. A unseen crime?

16 A. That is correct. Let's say someone is robbed in a
17 convenient store parking lot with no witnesses. The crime
18 still occurred. We only respond to crimes during the
19 process of a crime or after the crime.

20 Q. Okay. Now, based upon your investigation that day,
21 you did investigate the situation, didn't you, sir?

22 A. That is correct.

23 Q. Okay. And your investigation consisted of what?

24 Viewing the video that you have testified to, looking at a
25 lot of text messages, correct?

1 A. That is correct.

2 Q. And all of that information, as of January 22nd, had
3 actually been told to your supervisor, Mr. Lominack, this
4 investigator here, he knew about all this, didn't he?

5 A. Multiple individuals were aware of the situation.

6 Q. As of January 21st?

7 A. That is correct. All of our reports are shared
8 throughout our office.

9 Q. Okay.

10 A. So, multiple supervisory people within the office,
11 such as my Lieutenant and Sergeant reviewed the, not only
12 the report but we also speak of the report and the
13 activities contained therein.

14 Q. Okay. So now, was the threatening behavior of Mr.
15 Anderson sufficient enough as of January 21st to go talk
16 to Mr. Anderson and investigate him without there being a
17 complaint?

18 A. Ask me that question one more time. I'm sorry.

19 Q. Was the threats and the seriousness of the video and
20 all of these other things, text messages. Was it serious
21 enough as of January 21st, 22nd, to go talk to Mr.

22 Anderson?

23 A. I feel as though the subject sitting in the courtroom
24 over here today, holding a firearm to his head while text
25 messaging and videoing himself, sending it to someone else

1 was threatening enough to constitute further investigation
2 into activities that we found to be inappropriate. An
3 investigation is not just saying, okay that happened, now
4 the investigation begins. We have to gather more evidence
5 than just one person's view. And I have a feeling this is
6 kind of what you are hitting at. It's more than one
7 person's opinion, or one person's view. You actually have
8 to have evidence such as a video. You know, the
9 statements such as I got from the complainant. Extra
10 witnesses such as the complainant's mother. It did start
11 the ball rolling for an investigation into the incident.

12 Q. Okay. So, from that day forward, January 22nd up
13 until January the 30th or 31st in January, y'all were
14 actively investigating this situation?

15 A. I'm not an investigator. This was turned over to my
16 supervisor. They make decisions on what cases continue
17 investigations and what cases doesn't in regards to that.
18 So, once this case was done and I discussed it with my
19 supervisor, it pretty much goes up the chain in command.
20 Although involved in the investigation, I'm not the
21 critical cornerstone of the investigation by any means.

22 Q. So, it didn't. You know, to say the least the
23 threats and the circumstances was so escalating that you
24 did not speak with anybody else. This did peak your
25 interest?

1 A. I think it had due to evidence to show that threats
2 were being made. Any time a firearm is involved in any
3 kind of video we do look into that. Due to the fact with
4 their past relationship I felt like it was worth further
5 investigation, yes sir.

6 Q. But now, the threat that you speak of--

7 A. Yes, sir.

8 Q. -- was the threat of Mr. Anderson to himself,
9 correct, in the video?

10 A. I can't speak of his mental state at the time. I'm
11 sorry.

12 Q. No. I'm saying in the video though. What did he say
13 in the video?

14 A. As far as his mental state at the time, I can't tell
15 you what he said.

16 Q. Yeah. But I'm not asking you about his mental state,
17 I'm asking about who was he threatening in the video that
18 you saw?

19 A. If I hold a gun in the air, is that threatening? If
20 I point a gun at you, it is.

21 MR. MOSLEY: Your Honor, ask the witness to answer
22 the question, not pose a question.

23 THE COURT: Why don't you ask him this, did he feel
24 that Mr. Anderson pointing a gun at his own head, I mean,
25 you're on cross, constitutes a threat to Mr. Anderson.

1 MR. MOSLEY: That's basically what, yeah, Judge--

2 THE COURT: Just ask him that question.

3 Q. You see Mr. Anderson pointing a gun to his own head?

4 A. That is correct.

5 Q. Who do you think he's pointing it at? Tywanda, he
6 wasn't pointing it at Tywanda [REDACTED], was he?

7 A. I'll answer that question. I think he, actually I--

8 Q. I'm not talking about what he was thinking. Who was
9 he pointing the gun at?

10 A. He was pointing the firearm at his self.

11 Q. If you see somebody in a video pointing a gun to
12 themselves and they are saying the words that everybody in
13 the courtroom has heard, as you put it, does anybody care
14 to go to Mr. Anderson and maybe think about stopping him
15 from committing suicide?

16 A. We did attempt to contact Mr. Anderson.

17 Q. You did. Okay. Hallelujah. When did you do that?

18 A. There are multiple people in this investigation and
19 him being today--

20 Q. I'm asking you. When did you do that? I'm asking
21 you, when did you do that?

22 A. That is not my responsibility in an investigation.
23 We all play roles in performing a duty in an
24 investigation.

25 Q. So, the answer--

1 A. The fact that he's here today proves that someone
2 contacted him during the investigation.

3 Q. Let me ask it to you like this. Did you personally,
4 as a representative of the citizens of Newberry and the
5 State of South Carolina see it upon yourself as a law
6 enforcement officer paid by the tax payers, did you think
7 well enough of this man to contact him yourself? Yes or
8 no?

9 A. Yes.

10 Q. You did?

11 A. Yes.

12 Q. When did you contact him?

13 A. That day.

14 Q. That day you did?

15 A. I work with another deputy as well.

16 Q. Okay. So, let's talk about that. Okay. Where was
17 he at when you made contact with him?

18 A. I never made contact with him. I attempted to make
19 contact with him.

20 Q. You attempted. By way of what? Phone call?

21 A. Yes, sir.

22 Q. So you called him. Okay. Do you got any official
23 report of your findings after you made contact with him
24 after you called him?

25 A. No sir, I do not.

1 Q. Did you try to call him again?

2 A. No, sir.

3 Q. You called him one time?

4 A. I called him twice, yes sir.

5 Q. Twice?

6 A. Yes, sir. I attempted to call him twice. I didn't
7 speak with him.

8 Q. You wrote this report on January 22nd, 2013, correct?

9 A. That's actually an autocad error from our office.

10 This report incident date was 1-21-2013. I work night
11 shift. The audocad at the time obviously had an issue of
12 some sort and could have been my own personal issue which
13 made it be the 22nd as the date. Because I probably wrote
14 the report that on the, actually keyed it into the
15 computer.

16 Q. And the offense date and time is 08:00 hours?

17 A. That is correct. That is something that we felt as
18 though was the beginning point for the events of the day.
19 We weren't exactly sure of the time of when the events
20 actually happened minute to minute. So that's common that
21 we put in 08:00 hours to show that the event had been
22 occurring throughout the day.

23 Q. Down at the bottom, did you have it checked? Subject
24 identified, yes. Subject located, yes. And then you have
25 down whether or not this was an active, administrative.

1 You had down there that this case was unfounded.

2 A. That is correct.

3 Q. Unfounded. And then in the narrative portion you say
4 that all units cleared. No further. Does that mean that
5 nothing else is going to happen?

6 A. Negative. No further is part of our procedure for
7 showing that that incident had ended at that time as far
8 as our regard for the incident. As far as the unfounded,
9 a case can only be marked active, let's say for an arrest
10 closes the actual case. This will be marked active to
11 close the, with an arrest. The unfounded does not mean
12 the case is completely done.

13 Q. A gun? You seen this gun?

14 A. I don't know what the serial number is or where it is
15 from, sir.

16 Q. You don't know nothing about that gun?

17 A. That is a Ruger 22, probably marked, pistol made in
18 the late '80's. They are fairly common. Four inch
19 barrel.

20 Q. So, that mama, when you went to the house, she told
21 you she saw the man with the gun down there in his pants
22 like that?

23 A. That's correct.

24 Q. The complaint that the mama and the family had was
25 about this gun, right?

1 A. A firearm.

2 Q. A firearm?

3 A. Yes, sir.

4 Q. You don't know whether or not it's this one or not?

5 A. That is correct. I'm not familiar with the serial
6 number on that pistol. Wasn't allowed to view it.

7 Q. But you would agree with me that the bottom of your
8 statement, a Lieutenant Daniel Floyd, and it has follow-up
9 investigation officer and nothing is checked.

10 A. Okay.

11 Q. Unit number 75. That's you?

12 A. No sir, I'm unit 210.

13 Q. You unit 210. So unit number 75 is Lieutenant Daniel
14 Floyd?

15 A. That is correct.

16 Q. And unequivocally, in terms of, I guess this is admin
17 over this right here?

18 A. Yes sir, it is.

19 Q. You got priority up here, right? And there was no
20 property involved. But that admin, wouldn't you think
21 that normally means that subject got identified, Henry.
22 He was located, but then it says active administratively
23 closed, which you have checked. I'm assuming you checked
24 that, that the case is actually unfounded. That's on the
25 report, right?

1 A. That is correct.

2 Q. Okay. Then you have arrested under 18, arrested over
3 18, nothing is checked there. And this is a, this is an
4 official incident report for Newberry County Sheriff's
5 Department, correct?

6 A. That is correct.

7 Q. And the case number is 130795, correct?

8 A. Yes, sir.

9 Q. Okay. And the event happened at [REDACTED],
10 Newberry, South Carolina?

11 A. That is what is on the report.

12 Q. The complaining person is Tywanda Monique [REDACTED],
13 correct?

14 A. That is what is on the report.

15 Q. That's correct too though, isn't it?

16 A. That is as written on the report.

17 Q. And the subject is Henry Anderson, correct?

18 A. As written on the report.

19 Q. And Henry Anderson's address is [REDACTED] as
20 written on the report, correct?

21 A. That is the address available to us, yes sir.
22 Multiple people--

23 Q. Okay. Sir?

24 A. People frequently move. This was the address that we
25 had for him at that time currently as given through

1 witness statements, information available, information
2 from other places.

3 Q. What other places would it be other than--

4 A. We have what's called NCIC.

5 Q. He's on NCIC?

6 THE COURT: All right. Hold on a second. I don't
7 think we need to go there at this point in time.

8 Q. God bless you. Okay. Now, you have on here any
9 alcohol, or whether or there was any alcohol. You checked
10 unknown, correct?

11 A. That is correct.

12 Q. Okay. That's what's check on the report?

13 A. That is correct.

14 Q. Yeah. You don't know whether or not there was any
15 alcohol involved by Mr. Henry Anderson or not, do you?

16 A. That is what unknown is on the statement.

17 Q. Yeah, but you don't know whether or not he had
18 alcohol when he went over there though, do you?

19 A. That is correct. Thus unknown.

20 Q. Yeah. Thus unknown.

21 A. Correct.

22 Q. Right. Because nobody told you about no alcohol?

23 A. I was unaware of whether he was intoxicated or not,
24 that's why I put unknown.

25 Q. If somebody had told you that he had alcohol on him,

1 what would you have checked?

2 A. Unknown.

3 Q. Well, somebody told you that he had a gun.

4 A. Yes.

5 MR. SCOTT: Judge, I think--

6 Q. Then that means you don't know whether or not he had
7 one or not.

8 MR. SCOTT: Objection.

9 THE COURT: Hold on one second, Mr. Mosley. There's
10 an objection.

11 MR. MOSLEY: No further questions.

12 MR. SCOTT: Okay. Thank you.

13 THE COURT: Anything on redirect?

14 MR. SCOTT: I have nothing, Your Honor.

15 THE COURT: Thank you, sir. Deputy you can step down.

16 A. Thank you. I appreciate it, Your Honor.

17 THE COURT: All right. Now ladies and gentlemen,
18 we're going to break because I'm told that everything's
19 shutting down around here. So, we're going to break until
20 hopefully on Thursday. Courts are closed tomorrow, I know
21 that much for sure. Again, my marching orders are to
22 follow whatever the local administrator says. I'll tell
23 you that the weather in Greenwood is worse than it is
24 here. I have every intention of trying to be here but I'm
25 not going to, with due respect, I love this job, but I

1 don't love it so much to die for it especially at this
2 point in time in my career. So, if a problem arises and I
3 can't get out of the driveway I'm going to call the Clerk
4 and she will call you folks. Okay. Otherwise, follow
5 whatever the local announcements are. You can get those I
6 think on the County website, newberrycounty.net. And yes
7 ma'am, you had a question?

8 JUROR: So, if there's not a closure for Thursday, we
9 should be here at 9:30?

10 THE COURT: Well, I'm anticipating that there's going
11 to be a closure for Thursday morning, in all honesty. If
12 by some miracle all this is not as bad as it seems and
13 this office is open I will make every effort to be here
14 Thursday morning. Okay. It's if I contact the Clerk and
15 ask her to call y'all, that some problem has developed.
16 I'll wait until it burns off a little bit and then maybe
17 try and make it up here a little bit later on Thursday
18 morning. But let's just play it by ear. At the very
19 least, we know that tomorrow you guys should be staying at
20 home and staying warm. And if you got a generator make
21 sure you get a couple of gallons of gas on the way home to
22 run it. Over the course of the next couple of days don't
23 talk about the case with anyone. I will be seeing you
24 again. And with that I'm going to let y'all get out of
25 here but be careful, be warm and be safe. Y'all take care

1 and I'll see you hopefully Thursday.

2 (Whereupon, the jury is excused from open court for
3 the day.)

4 (Whereupon, due to weather conditions court did not
5 commence for the next two days. The trial resumed on
6 February 14, 2014.)

7 THE COURT: The record should reflect that Mr.
8 Anderson is along with counsel. The State is present of
9 course. The record should also reflect that the last two
10 days we did not hold court due to the weather. The
11 snowstorm that we had, so we are here, Newberry was
12 closed. So, we are resuming today. Anything before we
13 bring the jury back out, gentlemen. The record also will
14 reflect that I emailed the proposed instructions and form
15 to the attorneys last night. I don't think it's time to
16 talk about those instructions, but I did want everyone to
17 have a chance to review those and comment on those at the
18 appropriate time. So hopefully everybody's received
19 those. Let's have the jury please.

20 (Whereupon, the jury came into open court at
21 approximately 10:47 a.m.)

22 THE COURT: All right. Well it's good to see thirteen
23 faces did not freeze to death over the last two days, so
24 welcome ladies and gentlemen. I appreciate you being back
25 here today. We are still in the State's case-in-chief in

1 the State vs. Mr. Anderson. So, we will be proceeding
2 with the trial today. It's my belief and intention to get
3 this case resolved today or at least have the testimony in
4 today, but we're going to push through as hard as we can.
5 And I've asked the Clerk to look at ordering lunch for
6 y'all. It's nothing fancy, it's pizza from Little
7 Caesars, but that way we can keep working and just take a
8 minimal lunch break, then keep going. So, that will be my
9 intention. At this, Solicitor, you may call your next
10 witness sir.

11 (Whereupon, State's Exhibit 34 was marked for
12 identification only.)

13 MR. DANIEL: The State calls Brad Epps.

14 BRAD EPPS, being
15 first duly sworn, testified as follows:

16 DIRECT EXAMINATION

17 BY MR. DANIEL:

18 Q State your name, please.

19 A. Stephen Epps.

20 Q. Mr. Epps, you go by Brad?

21 A. Yes.

22 Q. And you're a law enforcement officer with the
23 Newberry County Sheriff's Office?

24 A. Yes.

25 Q. And what's your current rank?

1 A. I am a Sergeant with the investigations.

2 Q. How long have you been employed with the Sheriff's
3 Office?

4 A. Almost four years.

5 Q. Were you working in that same capacity January 30th
6 of last year, 2013?

7 A. Yes, I was on the road.

8 Q. I want to go back to that date. Did you have an
9 occasion to respond to [REDACTED]?

10 A. Yes, I did.

11 Q. Okay. Is that in Newberry County?

12 A. Yes, sir.

13 Q. Is that just outside the city limits area?

14 A. Just outside.

15 Q. Do you recall what time of day you were dispatched
16 out to [REDACTED]?

17 A. It was approximately 6:30 in the morning.

18 Q. Okay. And what was this call in reference to?

19 A. A domestic disturbance.

20 Q. Okay. So you go out there at [REDACTED]. Who
21 did you meet with and what did you observe?

22 A. I met with the victim, Ms. Tywanda [REDACTED], in
23 reference to an assault, or excuse me, a rape.

24 Q. So it was in reference to a rape and assault, that's
25 why you were dispatched out there?

1 A. And a pointing and presenting a firearm matter and a
2 kidnap.

3 Q. Okay. So you spoke with the victim, Tywanda [REDACTED],
4 when you arrived on the scene?

5 A. Yes.

6 Q. Were you able to identify a suspect at that point?

7 A. Yes sir, she gave me his name, description and a
8 vehicle tag.

9 Q. And the suspect who she gave, what name?

10 A. Last name was, first name was Henry Anderson.

11 Q. And what kind of vehicle did, what report did you get
12 on the vehicle?

13 A. Let me look back at my report. Just give me a second
14 to find it. It was a silver or gray Chevy Impala. Tag
15 number, IDC369.

16 Q. Okay. So, did you put out a BOLO or be on the look
17 out for this suspect and vehicle?

18 A. Yes sir, I did.

19 Q. Okay. What was Tywanda's [REDACTED]'s demeanor or
20 appearance when you arrived on the scene?

21 A. She was very quiet. It was kind of eerie quiet like,
22 she was afraid.

23 MR. MOSLEY: Objection, Your Honor. That was
24 speculation on his part.

25 THE COURT: Sustained. He can testify though as to

1 how she behaved.

2 Q. How did, describe her behavior..

3 A. It's just very quiet. She didn't say anything unless
4 I ask her.

5 Q. Okay. Did the, now you mentioned the sexual assault?

6 A. Yes.

7 Q. All right. Did that take place at [REDACTED] or
8 at another location?

9 A. It took place--

10 MR. MOSLEY: Objection, Your Honor. That's a leading
11 question.

12 A. --across the road at the cell phone tower.

13 THE COURT: All right. Hold on one second, sir. Hold
14 on. Can you rephrase.

15 Q. Did the sexual assault take place at [REDACTED]
16 [REDACTED]?

17 A. No, sir.

18 Q. Where did that take place?

19 MR. MOSLEY: Objection, Your Honor. He's also
20 assuming that was a sexual assault.

21 THE COURT: All right. He can testify as to where it
22 was reported to him, that it took place. Go ahead.

23 Q. Where was the sexual assault reported to have taken
24 place?

25 MR. MOSLEY: Objection, Your Honor. He's still asking

1 a question as though there was a sexual assault.

2 THE COURT: All right.

3 MR. MOSLEY: And that's a legal conclusion that the
4 jury has to come to.

5 THE COURT: Sir, where is it alleged that the assault
6 took place?

7 A. Across the road at the cell phone tower.

8 Q. And where is this cell phone tower located exact, or
9 street?

10 A. I want to say it's Stoney Battery.

11 Q. And is the cell phone tower on Stoney Battery, is
12 that Newberry County as well?

13 A. Yes.

14 Q. Do you know what carrier owns this cell phone tower?

15 MR. MOSLEY: Object to relevance.

16 THE COURT: Overruled.

17 MR. DANIEL: I'll move on.

18 THE COURT: All right. Go ahead. Move on.

19 Q. Where you able to obtain a home address for Henry
20 Anderson at the time?

21 A. I don't think I was given an address, but I was told
22 that he headed back towards Laurens County where he, where
23 he resided.

24 Q. Was Ms. Tywanda [REDACTED], was she still wearing the same
25 clothes that she had on during the encounter with Mr.

1 Anderson?

2 A. Yes sir, she was.

3 Q. Did you gather any of these clothes for evidentiary
4 reasons?

5 A. Yes sir, I did.

6 Q. I want to ask, the Sheriff's Office or law
7 enforcement in general, do they have a policy when sexual
8 assaults are ordered, do they follow a particular protocol
9 or procedures?

10 A. Yes sir, you collect the clothing if possible.

11 Q. So that's one of your standard procedures?

12 A. Yes, sir.

13 Q. When sexual assaults are reported. Are there
14 anything else that you do in a sexual assault case?

15 A. Yes, sir. The victims advocate will be called and
16 they would go to the hospital with the victim and a rape
17 kit would be administered.

18 Q. A rape kit. Could you describe to the jury what
19 exactly a rape kit is, what that entails to your
20 knowledge.

21 A. I'm not really sure.

22 Q. At that point, did you transport, did you take
23 Tywanda to the police station, did you continue the
24 interview there or what did you do next?

25 A. After getting as much information as possible from

1 the victim and for the, Mr. Anderson, I took Ms. [REDACTED] to
2 the hospital.

3 Q. The hospital here in Newberry County?

4 A. Yes, sir. Newberry County Memorial Hospital.

5 Q. The emergency room?

6 A. Yes.

7 Q. And would the rape kit had been administered there?

8 A. Yes sir, it would have.

9 Q. And that's, you were just following procedure to do
10 that?

11 A. Yes, sir.

12 Q. Even though Tywanda [REDACTED], she reported that she knew
13 the suspect?

14 A. Yes sir, she did.

15 Q. You still have the rape kit done?

16 A. Yes, sir.

17 Q. Okay. Were any other officers or deputies at the
18 hospital, or was it just you?

19 A. Investigator Kaye Epps is there. She met me at the
20 hospital to collect the clothing and to speak with the
21 victim further.

22 Q. Okay. I'm going to show you some photographs that
23 have been admitted into evidence. You recognize this?

24 A. Yes sir, it's Ms. [REDACTED]'s resident.

25 Q. Okay. And that's State's number 16. I want to show

1 you what's been admitted as State's number 18, do you
2 recognize this?

3 A. Yes sir, that's the cell phone tower across the road
4 from Ms. [REDACTED]'s residence.

5 Q. Okay. Now, about how close would you say the cell
6 phone tower is to Ms. [REDACTED]'s residence?

7 A. Maybe two, three hundred yards from the house. If
8 you, if you take the road that the cell phone tower is on.

9 Q. So, it's pretty close?

10 A. Yes, sir.

11 Q. Did you drive out to that cell phone tower?

12 A. Not that I can recall.

13 Q. No further questions.

14 THE COURT: Cross?

15 CROSS-EXAMINATION

16 BY MR. MOSLEY:

17 Q. Good day Officer Epps, how are you?

18 A. I'm all right. How you doing?

19 Q. Good. You say that you were dispatched to a civil
20 disturbance?

21 A. Domestic disturbance.

22 Q. Domestic. That would be in the nature of family
23 members or like arguing, fussing and fighting?

24 A. Yes, sir.

25 Q. So, in fact, the call that you got did not indicate

1 anything about a rape, did it?

2 A. That's just how it was given out over the radio.

3 Q. How what's given out?

4 A. The call.

5 Q. A rape or a civil disturbance?

6 A. The domestic disturbance.

7 Q. Domestic disturbance. So, when my colleague asked
8 you about going to the scene, you in fact was not going to
9 a rape call nor a kidnapping nor a pointing and
10 presenting, were you?

11 A. No sir, that came out after I got there.

12 Q. That came out afterwards?

13 A. Yes, sir.

14 Q. Okay.

15 A. From talking with the victim.

16 Q. From talking with the victim, right?

17 A. Yes.

18 Q. But the nature of the call initially was a civil
19 disturbance?

20 A. Domestic disturbance, yes sir.

21 Q. Excuse me. Yeah. Yeah. Domestic disturbance. Now,
22 you say the victim was quiet?

23 A. Yes, sir.

24 Q. Okay. Tell the ladies and gentlemen of the jury
25 specifically, let me ask it to you like this, she didn't

1 have on a nightgown, did she?

2 A. Sir, I don't recall what she had on that night.

3 Q. Had she had, prior to you getting there, when you got
4 there, where was she located?

5 A. I don't remember whether we were outside or inside.
6 I'm not one-hundred percent sure.

7 Q. Okay. Do you recall any vehicles being at her house?

8 A. Yes sir, I believe there were two vehicles parked on
9 the road.

10 Q. Two vehicles parked on the road?

11 A. The best I can remember, yes sir.

12 Q. Okay. Now, you didn't take any photographs, did you?

13 A. I did not.

14 Q. Is that normal procedure for you to take photographs?

15 A. For me?

16 Q. Yeah.

17 A. Yes, sir.

18 Q. So you don't know where these photographs, you don't
19 know when they were taken or anything?

20 A. I have no idea.

21 Q. Okay. But it was in the early morning hours, so it
22 would have been dark?

23 A. Yes sir, given the timeframe. Yes sir, it would
24 have.

25 Q. Okay.

1 THE COURT: Can you repeat that last answer?

2 A. Give the timeframe. Yes, it would of been dark.

3 Q. Okay. Now, the story goes that he forced her into
4 the car, you were told that?

5 A. Yes, sir.

6 Q. And so, but now, there's no indication that she was
7 forced to come out of the house, is there?

8 A. Not to my knowledge, no sir.

9 Q. Okay.

10 A. She was going to start her vehicle from my
11 understanding.

12 Q. She was going, okay. When you got there, was any
13 vehicle still running?

14 A. Not that I can recall.

15 Q. Okay. Did you place your hand on either one of the
16 two vehicles to see whether or not that they were warm?

17 A. No sir, I didn't.

18 Q. Who did those two vehicles belong to?

19 A. I have no clue.

20 Q. No clue. Okay. But one of them had to of been
21 belonged to the victim?

22 A. Possibly. I don't know.

23 Q. Well, I thought you said she had come out the house
24 to warm up her car.

25 A. It doesn't have to be her car. I mean, I don't know

1 who the car is registered to if that's what you're asking
2 me.

3 Q. Okay. Now, did you go, excuse me juror, excuse me.
4 You are not supposed to be talking.

5 MR. MOSLEY: Your Honor, I, you know, the jurors are
6 talking. I don't know what that's about. I don't, and I
7 didn't mean to incur anything to Your Honor.

8 THE COURT: All right.

9 MR. MOSLEY: I mean, I am standing right here.

10 THE COURT: If y'all could just use this time not to
11 discuss anything but just pay attention to the witnesses
12 if you would, please. All right.

13 JUROR: I'm sorry, Your Honor.

14 THE COURT: That's all right.

15 MR. MOSLEY: You know, God bless you.

16 THE COURT: If you can't, and if you can't hear the
17 testimony just put your hand up and I'll ask the people to
18 speak up. I understand this courtroom is difficult to
19 hear. Don't feel like you need to check with another
20 juror, I'll have them repeat questions if we have to, if
21 you can't hear.

22 MR. MOSLEY: Yeah, and I apologize for that.

23 THE COURT: No, that's all right. I appreciate you
24 bringing that to my attention. I didn't hear it.

25 Q. Okay. Where was I at? Sorry. How long were you

1 there talking to the victim?

2 A. I can't recall. I mean, just giving the timeframe on
3 the report. I don't know what time I got to the hospital,
4 so I don't know. From the time I got there to the time I
5 took her to the hospital, I don't know.

6 Q. But doesn't your report say a dispatch time?

7 A. Yes, sir.

8 Q. And doesn't it have some type of ending time?

9 A. Like I said, I don't know how long I stayed at her
10 house and talked to her. Because I stayed at her house a
11 period of time, I stayed at the hospital a period of time.
12 But just given the report, it was almost three hours from
13 the time I got there to the time I left the hospital.

14 Q. Three hours.

15 A. Close to it.

16 Q. Okay. Now, when you say you collected, so you were
17 at the house and then the other deputy came to the house?

18 A. What other deputy?

19 Q. Ms. Epps?

20 A. She met me at the hospital.

21 Q. Okay. So there, was there a waiting period for the
22 victim to change clothes?

23 A. I don't know what you mean by waiting period.

24 Q. In other words, when you got there, I'm assuming that
25 the event had just occurred.

1 A. To the best of my knowledge, yes sir.

2 Q. Yeah. Okay. And so you don't recall whether or not
3 she was on the outside of the house or on the inside of
4 the house?

5 A. I don't.

6 Q. Okay. Do you recall whether or not she changed
7 clothes prior to going to the hospital?

8 A. Yes sir, I collected her clothes before we left the
9 house.

10 Q. Okay. So you collected her clothes?

11 A. Yes sir, I did.

12 Q. And specifically what clothing did you collect?

13 A. Whatever she had on. I don't recall what it was.

14 Q. It would have been, would it have been a pair of
15 underwear?

16 A. If she was wearing some, yes sir, it would have been
17 collected as well.

18 Q. Okay.

19 A. But I don't remember what was collected, if that's
20 what you are asking me.

21 Q. Yeah. Did you have the items in your hand?

22 A. No sir, I didn't. I put on gloves like I was
23 supposed to when dealing with evidence. And I put it in a
24 paper bag.

25 Q. Okay. In a paper bag. Okay. So you don't know

1 whether or not you collected a nightgown, you don't know
2 that?

3 A. I can't recall, sir.

4 Q. You don't know whether or not you collected, I mean,
5 did you look into the bag?

6 A. Sir, this was a year ago, I don't remember right off
7 the top my head what was collected. I just collected the
8 clothing that she had on. What it was, I don't remember.

9 Q. Where did you collect the clothing at?

10 A. In the house.

11 Q. In the house. So you did go into the house?

12 A. Yes, sir.

13 Q. Okay. Who else was in the house when you went in?

14 A. I do remember her, there was a male sleeping on the
15 couch in the living room when I walked in. And I want to
16 say there was another female there, but I don't know who
17 she was.

18 Q. Okay. Were there any children in the house?

19 A. Not that I can remember.

20 Q. Okay. All right. So you say that the victim was
21 silent?

22 A. Yes sir, she was very quiet.

23 Q. So, she was not crying?

24 A. Not that I can remember. I just know that she was
25 very quiet.

- 1 Q. So then you took her to the hospital?
- 2 A. Yes sir, I did.
- 3 Q. In your vehicle?
- 4 A. Yes sir, I did.
- 5 Q. Did she ride in a, it was a marked police car?
- 6 A. Yes sir, she was.
- 7 Q. Now at the time, I believe at the beginning when you
- 8 were saying, you are an investigator now?
- 9 A. Yes, sir.
- 10 Q. But at the time I believe you said you were on--
- 11 A. I was a road deputy. I was still working on the
- 12 road.
- 13 Q. You was a road deputy?
- 14 A. Yes, sir.
- 15 Q. So, in fact, you hadn't been trained to be an
- 16 investigator at that time?
- 17 A. No, sir.
- 18 Q. So you were just a road deputy. Now, during the time
- 19 when you were at the scene.
- 20 A. Yes, sir.
- 21 Q. The victim told the story about what had happened to
- 22 her as noted on the report.
- 23 A. Yes, sir.
- 24 Q. She told the story inside the house?
- 25 A. Yes sir, she did.

1 Q. And the victim told you that, well, let me ask you
2 this, she was real quiet the whole time, right?

3 A. Yes sir, she was.

4 Q. So I believe you said that you had to like pull the
5 information out of her, correct?

6 A. Yes, sir.

7 Q. This was on January 30th?

8 A. Yes sir, January 30th of 2013.

9 Q. Okay. Now, had you had any prior knowledge, through
10 your other deputies with the Newberry County Sheriff's
11 Department, did you have any prior knowledge that there
12 was a problem going on at this particular residence like
13 earlier in the month, in January?

14 A. Not that I can recall.

15 Q. But you're not going to say that you didn't have no
16 prior knowledge?

17 A. I don't remember.

18 Q. You just don't remember. You know, but you may have
19 heard that there had been another disturbance or report
20 about this house, correct?

21 A. I don't remember.

22 Q. So, what did the victim tell you about what had
23 occurred?

24 A. You want me to read the report verbatim?

25 Q. Yeah, read the report. Now this is your report,

1 right?

2 A. Yes sir, it is.

3 Q. Okay. Yeah, read the report.

4 A. All right. There's a few spelling errors in here, so
5 you will have to bear with me. Reporting deputy responded
6 to the above location which was [REDACTED], which is
7 in Newberry County, in reference to a domestic
8 disturbance. Reporting deputy arrived on the scene and
9 spoke with the complainant. The complainant stated that
10 yesterday that the subject, the complainant's ex-boyfriend
11 texted her and told her he was coming to get his jacket
12 that the complainant had, which is Ms. [REDACTED]. The
13 complainant stated that she texted the subject back and
14 told him she would mail the, mail him the jacket. The
15 complainant stated that the subject sent a message
16 yesterday which was, which would have been January 29th,
17 2013 and didn't think the subject would come to her house.
18 The complainant stated, the complainant stated today,
19 which was January 30th, 2013, complainant stated that she
20 told the subject that she didn't feel comfortable
21 talking--

22 Q. Are you leaving out something in there. Now, it
23 seems like you are--

24 A. Hang on. I must have missed a spot. Where did I
25 leave off.

1 Q. I believe you left off on January 29th.

2 A. Okay.

3 Q. And didn't think the subject--

4 A. And didn't think the subject would come to her house.
5 The complainant stated that today she went outside to
6 start her car and was headed back in the house. Then the
7 subject showed up which would have been Mr. Anderson. The
8 complainant stated that she told the subject that she
9 didn't feel comfortable talking to the subject which would
10 have been Mr. Anderson. The complainant stated that she
11 was about to walk off, the subject pulled a gun and put it
12 to her head. The complainant stated that the subject put
13 the gun to her head and stated, you are not going
14 anywhere. If I can't have you, nobody will. The
15 complainant stated that the subject walked to her, walked
16 her to the passenger side of the car at gunpoint and told
17 her to get in the car.

18 Q. Okay. Now, stop right there.

19 A. Yes, sir.

20 Q. Let me ask you this one question right here now. You
21 wrote this report sometime after the event?

22 A. Yes, sir.

23 Q. Right. Now, but, so when you say the complainant is
24 telling all this stuff--

25 A. Yes sir, that's Ms. [REDACTED].

1 Q. Ms. [REDACTED]. In fact, she didn't just tell you all
2 this stuff based upon what you said previously. In other
3 words, she was quiet and you were prodding her or asking
4 her the questions?

5 A. Asking her questions, yes sir.

6 Q. Okay. So, in other words, you're asking, for
7 example, when you say the complainant stated the subject
8 walked to the passenger side of his car at gunpoint. That
9 means that the subject--

10 A. Which would have been Mr. Anderson.

11 Q. Mr. Anderson had the gun to her head and was walking
12 her around the car.

13 A. Yes sir, that's what I got in my report.

14 Q. That's what you got in your report.

15 A. Yes, sir.

16 Q. Okay. Now, but she didn't volunteer that to you.

17 A. After talking with her, I asked her just basic
18 questions on what happened. And she was giving me the
19 information as I was asking it.

20 Q. Yeah. But at a point she would be silent and before
21 she made the next comment during a normal conversation.

22 A. Yes, sir.

23 Q. You would say, I mean, you would say he had the gun
24 to her, you know, to your head?

25 A. I would ask her something to the effect of what

1 happened next. After he held a gun to your head, what
2 happened next.

3 Q. Yeah.

4 A. He walked me to the car at gunpoint.

5 Q. Right.

6 A. What happened after that?

7 Q. Yeah, but initially when you were talking to her, she
8 didn't say nothing about no gun, she was just sitting
9 there quiet.

10 A. When I first got there.

11 Q. Yeah, when you first got there. Then you got into
12 a--

13 A. --yes sir, asking her what happened.

14 Q. Asking her what happened and, and then you start to
15 put it together in your own mind, correct?

16 A. No sir, I got everything straight from the victim.
17 If it was from my head it wouldn't be true.

18 Q. Sir?

19 A. If it was from my head it wouldn't be coming from the
20 victim.

21 Q. Right. Well we understand that the story came from
22 the victim.

23 A. Yes, sir.

24 Q. What I'm trying to get together is the, you know, the
25 process, there's a process that you go through.

1 A. Yes, sir.

2 Q. You know. Okay. Go ahead, you can keep reading.

3 A. The complainant stated that the subject drove to a
4 cell phone tower on Stoney Battery. The complainant
5 stated that while sitting in the car, the subject told the
6 complainant that she had a lot of explaining to do. The
7 complainant stated that the subject stated that he didn't
8 know why she, why they couldn't just be friends. The
9 complainant stated that she told the subject that she felt
10 uncomfortable talking to him because he put a gun to her
11 head.

12 Q. Now, wait, hold on one second now. She felt
13 uncomfortable because she put a gun to her head or his
14 head?

15 A. All right. I said there was a few spelling errors in
16 here. The complainant stated that she told the subject
17 that she felt uncomfortable talking to him because he put
18 a gun to her head.

19 Q. Okay. Now, okay stop right there. Do you, you now
20 know through your investigation that there was a video,
21 correct?

22 A. Yes sir, I do.

23 Q. And that the video showed what?

24 A. As best as I can remember, it was Mr. Anderson, Mr.
25 Anderson sent the victim a video via cell phone with him

1 holding a gun possibly to his head. I don't remember what
2 was on the video exactly.

3 Q. Right. So that right there may in fact be an error
4 when you say that she felt uncomfortable talking to him
5 because he put a gun to her head.

6 A. Her head.

7 Q. Or his head. Which one would it be?

8 A. It says right here at the end, her head.

9 Q. Yeah, but is--

10 A. He put a gun to her head.

11 Q. --is that a typo on your part though?

12 A. No sir, it's not. The complainant stated that he,
13 the complainant stated that she told the subject, which is
14 Mr. Anderson, that she felt uncomfortable talking to him
15 because he put a gun to her head.

16 Q. Okay. So uncomfortable talking to him that day or at
17 a previous time?

18 A. I have no clue, sir.

19 Q. Okay. Go ahead. Keep going.

20 A. The complainant stated that after several minutes of
21 talking to the subject, talking, the complainant stated
22 that after several minutes of talking the subject got out
23 of the car and walked around to the passenger side of the
24 car where she was sitting. The complainant stated that
25 the subject opened the door and told her to get out with

1 the pistol to her head. The complainant stated that the
2 subject walked her around to the front of the car with her
3 back to him, still at gunpoint. The complainant stated
4 that the subject then pulled her pants down and underwear
5 down. The complainant stated that the subject penetrated
6 her vagina from behind. The complainant stated that the
7 subject started to cry. The complainant stated that she
8 started to cry. Reporting deputy asked the complainant if
9 she consented to the sex with the subject. The
10 complainant stated no.

11 Q. Okay. Let's stop right there. So, in other words,
12 the issue of consent. Right, the issue of consent, she
13 didn't tell you, I mean, she didn't use the word that I
14 didn't consent, did she? She never used that word.

15 A. That's what I asked her, if she consented to it.

16 Q. Right. You asked her if she consented?

17 A. Yes.

18 Q. And she said no?

19 A. Yes, sir.

20 Q. Continue. It's about five or six lines down.

21 A. All right.

22 Q. No, and then you start with the complainant stated
23 while the subject was having sex with her.

24 A. The reporting deputy asked the complainant if she
25 consented to sex with the subject. The complainant stated

1 no. The complainant stated while the subject was having
2 sex with her, the subject stated several times to the
3 complainant she was going to have his baby. Reporting
4 deputy asked the complainant if she knew if the subject
5 wore a condom or not. The complainant stated no, the
6 subject did not wear a condom. The complainant stated
7 that when the subject was done having sex with her they
8 both got back into the car. The complainant stated that
9 when the subject pulled back into the above location,
10 which would have been Ms. [REDACTED]'s home, the subject told
11 the complainant that if she told anyone that he would kill
12 her, her family and her kids. The complainant stated that
13 she got out of the car and the subject left. Reporting
14 deputy ask the complainant if she wanted to press charges.
15 She stated yes.

16 Q. Stop. You asked her?

17 A. Yes.

18 Q. If she wanted to press charges. Why did you ask her
19 that question?

20 A. That's just a standard question I ask anybody with,
21 whether it is an assault or any type of crime against a
22 person. If they want to press charges.

23 Q. Did you feel, in other words, wasn't it obvious to
24 you at that time she wanted to press charges?

25 A. I don't know what she was thinking. I asked the

1 question, did she want to press charges. And she gave me
2 an answer, yes.

3 Q. Yeah. But did you get the impression though that she
4 kind of, sort of like didn't really want to press charges?

5 A. I don't know, sir.

6 Q. You don't know.

7 A. I just ask the question on whether she wanted to
8 press charges or not. And she told me yes.

9 Q. Okay. All right. Now, did she tell you, she was
10 talking to you, all this information here that you got
11 from the victim, all this information was gathered
12 sometime between the three hour span that you was with
13 her, correct?

14 A. Yes sir, almost three house.

15 Q. Yeah. So, we don't know whether or not, and I know
16 you are testifying based upon your recollection, whether
17 or not this conversation would have occurred prior to
18 going to the hospital or at the hospital?

19 A. You mean my report?

20 Q. Yeah. I mean the conversation that you dictated
21 here.

22 A. This happened at her house, which was [REDACTED]--

23 Q. This conversation that you are talking about now
24 happened at her house?

25 A. Yes.

1 Q. Okay. Good. All right. Go ahead. Tell me, I'm
2 sorry. Now, if you're having a hard time reading yours,
3 it appears that your font is a little bit different. Do
4 you want mine because this is larger?

5 A. Nah. This is, this is fine.

6 Q. Okay.

7 A. I just keep losing my place, but I appreciate it.

8 Q. Okay.

9 A. The complainant stated that she got out of the car
10 and the subject left. Reporting deputy asked the
11 complainant if she would press charges. She stated yes.
12 Reporting deputy asked the complainant what was the
13 subject wearing, which would be Mr. Anderson. The
14 complainant stated basketball shorts and a black Newberry
15 College hoodie with red and white lettering. The
16 complainant stated the subject was driving a silver or
17 gray Chevy Impala and tag information, indigo, delta,
18 charlie, IDC369. The complainant stated that the subject
19 was possibly headed back towards Laurens County. A BOLO
20 was entered in ICIC for the subject and the vehicle. The
21 complainant changed clothing, the complainant changed
22 clothing, changed clothes. The reporting deputy collected
23 the clothing as evidence. Reporting deputy transported
24 the complainant to the ER without incident to have a rape
25 kit administered. Investigator Kaye Epps was also at the

1 hospital with the complainant. While at the ER the
2 complainant, while at the ER reporting deputy spoke with
3 the complainant about text messages from the subject. The
4 reporting deputy told the complainant that reporting
5 deputy needed the text messages from her phone for
6 evidence. And the reporting deputy asked the complainant
7 if she would be willing to sign a consent to search form
8 for reporting deputy to do so. The complainant stated
9 that she would allow reporting deputy to get the text
10 messages. The reporting deputy had the complainant to
11 sign a consent to search form and got the complainant's
12 black LG cell phone. Investigator Kaye Epps also had the
13 complainant to sign a written statement while at the ER.
14 The hospital staff also needed the complainant's clothing.
15 Reporting deputy gave the staff, gave the staff the
16 complainant's clothing. The reporting deputy completed a
17 victim's form for criminal sexual conduct, kidnapping,
18 pointing and presenting a firearm. The complainant still
19 at the hospital, Investigator Kaye Epps collected the
20 clothing, the remaining evidence from the hospital. The
21 reporting deputy had nothing further.

22 Q. Thank you. No further questions.

23 THE COURT: Redirect.

24 REDIRECT EXAMINATION

25 BY MR. DANIEL:

1 Q. Deputy Epps, you were the first officer on the scene
2 at [REDACTED]?

3 A. Yes sir, I was.

4 Q. You took the initial report from the victim, Tywanda
5 [REDACTED]

6 A. Yes sir, I did.

7 Q. Once you did that, you then transported her to the
8 hospital, Newberry ER?

9 A. Yes sir, I did.

10 Q. Was that the extent of your involvement in this
11 investigation?

12 A. Yes sir, for the most part. I mean, I took the
13 initial report. Had the BOLO entered and took her to the
14 hospital and collected her clothing.

15 Q. So, you authored this incident report that you were
16 just reading for Mr. Mosley? You generated that incident
17 report?

18 A. Yes sir, I did.

19 MR. MOSLEY: Your Honor. You know, we're going to
20 object to that going into evidence. We're going to
21 object.

22 THE COURT: All right. Is this the incident report he
23 just read from?

24 MR. DANIEL: Yes, Your Honor.

25 THE COURT: All right.

1 MR. DANIEL: It's under rule of completeness, under
2 rule 106. We would offer it.

3 THE COURT: Well, I understand under State law though
4 incident reports aren't introducible as evidence. If you
5 want to point out other parts of that incident, he went
6 into the incident report in detail. So if you want to ask
7 him some questions about it, I think the doors have been
8 flung open. If there are other portions that you feel
9 have not been gone into.

10 MR. DANIEL: Beg the Court's indulgence.

11 THE COURT: Unless there's something that's
12 objectionable of what's been discussed here.

13 MR. DANIEL: Your Honor, we were just going to, based
14 on the fact that he essentially published it to the jury,
15 we were going to introduce it.

16 THE COURT: Objection sustained. You care to mark it
17 as a State's exhibit or as a Court's exhibit. State's
18 exhibit, not in evidence, by the way.

19 Q. Deputy Epps, I know Mr. Mosley mentioned or
20 questioned you about the gun, whether it was pointed to
21 Tywanda's head or Henry Anderson's head?

22 A. Yes.

23 Q. Was your understanding, when Tywanda gave you this
24 report, who was the gun directed at?

25 A. At her head.

1 Q. Nothing further.

2 MR. MOSLEY: No further questions, Your Honor.

3 THE COURT: Thank you, sir. You can step down. Call
4 your next Solicitor.

5 MR. DANIEL: Matt Veal. The State calls.

6 MATT VEAL, being
7 first duly sworn, testified as follows:

8 DIRECT EXAMINATION

9 BY MR. DANIEL:

10 Q State your name, please.

11 A. Matthew Veal. Laurens County Sheriff's Office.

12 Q. Mr. Veal, so you're a deputy, Laurens County
13 Sheriff's Office?

14 A. Yes, sir.

15 Q. What's your current ranking position with the
16 Sheriff's Office?

17 A. I am Sergeant of the narcotic's division at the
18 Sheriff's Office in Laurens.

19 Q. You also participate, I guess, in general criminal
20 investigations as well?

21 A. Yes sir, I do. I assist when, whenever they need me.

22 Q. Okay. Were you on duty January 30th of last year,
23 2013?

24 A. Yes sir, I was.

25 Q. Going on back to that date, did you have an occasion

1 to become involved in assisting the Newberry County
2 Sheriff's Office in locating one their suspect's?

3 A. Yes sir, I did. I was contacted by my Lieutenant,
4 and which SLED contacted him, the State Law Enforcement
5 Division. And he advised that Newberry was going to be
6 looking for Mr. Anderson down in the Mountville area of
7 Laurens County.

8 Q. So the suspect they were looking for was believed to
9 have been in Laurens County, that's why you were
10 assisting?

11 A. Yes, sir.

12 Q. What information did you have on the suspect,
13 identification, address?

14 A. They had a name and possible location off of Highway
15 560 just inside Laurens from Newberry. And that we would
16 be going to that location and attempt to locate him.

17 Q. And the name you had on the suspect was?

18 A. Henry Anderson.

19 Q. And the address that you had?

20 A. I believe it's [REDACTED] off of Highway 560. It's at
21 end of [REDACTED]. It's in that little intersection
22 there.

23 Q. And that's a community within Laurens County?

24 A. Yes, sir.

25 Q. Is that kind of between Laurens and Newberry?

1 A. Yeah, it's not too far from Newberry. It's actually
2 more around Cross Hill, between Cross Hill, Kinards. It's
3 a rural area.

4 Q. So Laurens Sheriff's Office kind of working in
5 conjunction with Newberry because Henry Anderson lived--

6 A. --was in our jurisdiction.

7 Q. Was in your jurisdiction. Okay. About what time of
8 day did you receive this information on Henry Anderson?

9 A. I received it first thing that morning and we began
10 to get everything together maybe between 9:00 and 10:00.
11 We probably got to Mr. Anderson's house around 11:00, a
12 little before lunch.

13 Q. Okay. About 11:00 a.m. you say?

14 A. Yes, sir.

15 Q. Tell us kind of how the events unfolded once you got
16 to that address.

17 A. Once we arrived on the scene, officers exited their
18 vehicle. We went to the house, knocked on the door. A
19 female come to the door and we had asked her if Mr.
20 Anderson was at home. She had stated that he had just
21 left. We asked could we come in and look just to make
22 sure Mr. Anderson wasn't in the residence. Officers did
23 so. Myself and one of the SLED agents began speaking with
24 her and she advised us that he had just left the house and
25 was going to a uncle's or a cousin's house just right up

1 the street. They asked her if she would make contact with
2 him. I believe they did and they advised that he would be
3 coming back to the residence. Due to my vehicle being the
4 last one to pull into the driveway, they asked me to go
5 make sure Mr. Anderson actually was coming back to the
6 residence due to the nature of the crime. As soon as I
7 left [REDACTED], I went back toward Highway 560 which is
8 less than a tenth of a mile. I took a right onto Highway
9 560 and I noticed Mr. Anderson walking up the road back
10 towards his residence and I got out with Mr. Anderson.
11 Advised him why I was getting out with him, that Newberry
12 needed to speak with him about some crime that allegedly
13 occurred down in their jurisdiction. And I detained him
14 and then I notified Mr. Lominack, due to him being in
15 Newberry County and he came to the scene and took control
16 of Mr. Anderson.

17 Q. So Henry Anderson was on foot when you detained him?

18 A. Yes sir, he was.

19 Q. Walking on Highway 560?

20 A. Highway 560 in the middle of the road coming back
21 towards his residence or where he was supposedly staying.

22 Q. And, so when you detained him, you told him the
23 grounds for his detention?

24 A. Yes. And Mr. Anderson started speaking. And I read
25 him his Miranda as he was speaking. And like I said, I

1 detained him until Mr. Lominack got on the scene and we
2 put handcuffs on him and put him in Mr. Lominack's
3 vehicle.

4 Q. So you advised him of his Miranda rights?

5 A. I did.

6 Q. And what do those consist of?

7 A. You have the right to remain silent. Anything you
8 say can be used against you in a court of law. You have
9 the right to speak with an attorney before and while
10 answering any questions. And I asked him if he understood
11 his rights. And during that transition, I don't remember
12 Mr. Anderson saying yes or no. But Mr. Lominack had
13 pulled up, and he was gave to him. I didn't ask him any
14 questions regarding the crime because I didn't know the
15 details of the crime other than Mr. Lominack and SLED
16 agents advising that it was possibly a criminal sexual
17 conduct case and a kidnapping case down in Newberry.

18 Q. Is Mr. Anderson present in the courtroom today?

19 A. Yes sir, he's sitting there with his lawyer.

20 THE COURT: The record shall reflect that the witness
21 has identified the Defendant.

22 Q. You said Investigator Lominack then showed up on the
23 scene?

24 A. Yes, sir.

25 Q. Then what did, what happened to Mr. Anderson at that

1 point?

2 A. Mr. Anderson was put in Mr. Lominack's vehicle and
3 was taken back to the residence. I followed him back. He
4 began speaking with him. I believe he advised him of his
5 Miranda again. He wanted to speak with him. I stepped
6 away from his vehicle while he was questioning. During
7 that time Mr. Lominack asked me to come back to his
8 vehicle, that I guess during that questioning, advised
9 that there was a gun involved. He asked me if I would go
10 back to the residence, he had gained consent from Mr.
11 Anderson. Also, we gained consent, a verbal consent from
12 of the residents of the home, to ask if we could go in and
13 retrieve this weapon. Mr. Lominack advised me that it was
14 under a bed, under the bed in his room. We went straight
15 to the bed and removed, and I removed the weapon from that
16 bedroom.

17 Q. You got consent to search from Henry Anderson?

18 A. I believe he got consent. I'm just going on what he
19 advised me.

20 Q. Okay.

21 A. But we also asked the homeowner if we could go in and
22 remove a, remove the gun from the house that Mr. Anderson
23 stated was there. And she said, come on in.

24 Q. And you located this gun where now?

25 A. Up under his, up under the bed in which Mr. Anderson

1 was staying.

2 Q. I'm going to hand you what's been marked for ID
3 purposes, it is State's number 21. You recognize that?

4 A. That appears to be the gun that we removed from the
5 residence.

6 Q. So that's the gun that was seized, did you say
7 underneath the mattress?

8 A. It was up under the mattress, yes sir.

9 Q. Okay.

10 A. Between the box springs and the mattress.

11 Q. Okay.

12 MR. DANIEL: Your Honor, the State would move for
13 State's number 21 to be admitted into evidence.

14 THE COURT: Any objection?

15 MR. MOSLEY: No objection.

16 THE COURT: No objection. State's 21 will be in
17 evidence. Ladies and Gentlemen of the jury, just so that
18 you're aware, that firearm has been inspected, it is
19 unloaded, it's been secured in such a way that it cannot
20 be loaded. So there's no concern about that firearm
21 actually being loaded. Okay. Go ahead Solicitor.

22 (Whereupon, State's Exhibit 21 was admitted into
23 evidence.)

24 Q. Did you notice any vehicles at Mr. Anderson's
25 residence?

1 A. I think there was a couple of vehicles there. I'm
2 not sure of their condition. I think there's maybe some
3 that had been broken down. There may have been on or two
4 there. I can't recall. The law enforcement was in
5 probably five or six vehicles, so I couldn't recall that.

6 Q. And then was Mr. Anderson then was in the custody of
7 the Sheriff's, Newberry County Sheriff's Office at that
8 point?

9 A. He was in, yes sir. I believe he was in Mr.
10 Lominack's, I think he drives an Avalanche.

11 Q. Was that the extent of your involvement in this case?

12 A. Yes, sir.

13 Q. No further questions.

14 THE COURT: Cross.

15 MR. MOSLEY: Thank you, Your Honor.

16 CROSS-EXAMINATION

17 BY MR. MOSLEY:

18 Q. Can you describe what type of gun this is?

19 A. That appears to be a .22 Caliber. Looks like a Ruger
20 semiautomatic pistol.

21 Q. A Ruger. You know anything about those type weapons?
22 How common they are?

23 A. They are very common.

24 Q. Very common?

25 A. Yes, sir.

1 Q. Okay. Is that for hunting purposes that you know?

2 A. I've never seen a .22 pistol used for hunting
3 purposes.

4 Q. Okay. So let me ask you this question right here, do
5 you know the age of that gun?

6 A. No sir, I don't.

7 Q. Yeah. When you got it, it was exactly like it is
8 today right, no clip?

9 A. I do not recall whether it had one in it or not. I
10 just remember removing the weapon and handing it to the
11 investigators there.

12 Q. Right.

13 A. From Newberry.

14 Q. So, it was underneath a mattress?

15 A. Yes, sir. Between mattress and box springs.

16 Q. Box springs.

17 A. Yes, sir.

18 Q. And the bed was actually a bunk bed. If you can
19 recall?

20 A. I don't recall. I know it was lower to the floor, so
21 it may have been a box springs.

22 Q. Lower to the floor.

23 A. I mean a bunk bed.

24 Q. Okay. Now, the person, when you went to the home, it
25 was about what, like 9:00 or 10:00 o'clock in the morning?

1 A. I would say we probably got to the residence between
2 10:00 and 11:00.

3 Q. About 10:00 or 11:00?

4 A. Yes, sir.

5 Q. Okay. And when you went into the home, you said a
6 female gave you permission?

7 A. Yes, sir. It was a female and I believe there was a
8 couple of male individuals actually still asleep inside
9 the residence.

10 Q. Still asleep?

11 A. Yes, sir.

12 Q. Okay.

13 A. I'm not sure if it was his aunt or his mother. I
14 can't recall.

15 Q. Right.

16 A. But she advised us that she was a resident of the
17 home, so she was able to give us consent.

18 Q. Right. Right. I mean, all you knew is that you were
19 dealing with some adult people that appeared to be owners
20 of the home or residents, correct?

21 A. Yes, sir.

22 Q. Okay. Now you don't know, in fact, now did you see
23 some elderly people there in their 80's?

24 A. There may have been. I can't recall that.

25 Q. Yeah.

1 A. I mean, I just knew there was several people inside
2 the residence.

3 Q. Right. You wouldn't dispute that Henry Anderson lived
4 there with his grandparents, would you?

5 A. I can't dispute that, no sir.

6 Q. Yeah. And that the home may have been their home?

7 A. It may have been their home.

8 Q. Right. Did you see, when you were searching the
9 house, did you search the house for Henry Anderson first,
10 correct?

11 A. Yeah. The initial search, we asked the female if Mr.
12 Anderson was there, Henry Anderson. And asked her could
13 we come in and look for persons, you know, anywhere a
14 person could hide just to make sure that Mr. Anderson
15 wasn't there.

16 Q. Right. And there was no problem.

17 A. There was no, there was no problem from none of the
18 family, no.

19 Q. None of the family. Okay. All right. And so, and
20 then Henry was down at a uncle's house with some other
21 relative?

22 A. I can't remember if it was a uncle or cousin. I'm
23 wanting to say a uncle.

24 Q. Right. So, you in fact did see other hunting weapons
25 within the home, didn't you?

1 A. I didn't find, we wasn't searching for any other
2 weapon other than the weapon that Mr. Lominack told us was
3 up under the bed. I guess what Mr. Anderson had advised
4 him. I was acting on, you know, good faith from Mr.
5 Lominack that that's the only weapon that he needed to
6 locate. I can't dispute there was other weapons in the
7 house.

8 Q. Right. So in fact Mr. Lominack, who's seated right
9 here, right? This is Lominack here, right?

10 A. That's Mr. Lominack. Yes, sir. Investigator
11 Lominack.

12 Q. And in fact, Lominack told you--

13 A. Yes, sir.

14 Q. --that Henry told him that the gun was underneath the
15 mattress, correct?

16 A. Yes, sir.

17 Q. No further questions.

18 THE COURT: Thank you, sir. You can step down.

19 MR. SCOTT: Your Honor, the State calls Garrett
20 Lominack.

21 GARRETT LOMINACK, being
22 first duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. SCOTT:

25 Q State your name for the record.

1 A. My name is Garrett Lominack.

2 Q. Now Mr. Lominack, you're an investigator with
3 Newberry County?

4 A. That is correct.

5 Q. Bradley Epps was testifying a minute ago. He talked
6 about being a road deputy?

7 A. Yes.

8 Q. What's the difference between a road deputy and a
9 investigator?

10 A. Title, perhaps rank. Road deputies will, you know,
11 are your first responders. Investigators are more your,
12 react, come in, followup. Road deputies are required to
13 do a form of investigating. They are just not called
14 investigators because they carry out many, many other
15 tasks and duties throughout their shift when they work.

16 Q. Is it fair to say, like a road deputy would take a
17 complaint and then call in the investigators who come in
18 and do followup investigative work?

19 MR. MOSLEY: Judge. Your Honor, I'm going to object
20 to leading the witness.

21 THE COURT: Sustained as to the leading. But if you
22 want to ask him about the various roles of those
23 individuals go ahead, Solicitor.

24 Q. All right. As far as duties, describe what a
25 investigator would do after a road deputy would take a

1 report.

2 MR. MOSLEY: Your Honor, I'm going to ask that my
3 colleague speak up louder cause he's mumbling.

4 THE COURT: All right.

5 MR. MOSLEY: I know the court reporter might can't
6 hear.

7 THE COURT: Very good. He asked what a investigator
8 would do after a road deputy initially took a report. So,
9 go ahead, sir.

10 A. Yes, sir. Well, it depends on the crime. If it's a
11 sexual assault, if it's some sort of assault and battery
12 in nature. It just depends on the kind of situation.
13 There's certain tools, experience and knowledge that an
14 investigator would have perhaps of a road deputy that
15 would have unlimited amount of time to conduct a certain
16 followup.

17 Q. All right. January 30th of last year, did you have
18 an occasion to respond to an incident that occurred at
19 [REDACTED]?

20 A. That is correct.

21 Q. What was the nature of the call?

22 A. The nature of the call, I don't remember per se, when
23 it first came out of the radio, which may have actually
24 occurred before my tour of duty started that morning.
25 However, of course normal time, 8:00 o'clock, when I come

1 in, I began monitoring the situation once I heard what was
2 going on with radio traffic and whatnot. And then just
3 initially responded to the residence, made phone calls to
4 those on the scene to see what more needed to be done,
5 could of been done and however my resources could be used
6 to assist in this investigation or this particular call
7 that came out that morning.

8 Q. All right. Who is the victim in the case?

9 A. Tywanda [REDACTED].

10 Q. Did you mention, what was the nature of the call, I
11 mean, what kind of crime are you investigating?

12 A. I'm not sure, like I said, exactly how it came out.
13 If it came out as a disturbance call, a domestic situation
14 or if it came out on the radio as a CSC, criminal sexual
15 conduct or sexual assault. I know that once I, once I
16 heard the talk about putting out a BOLO, be on the look
17 out for a vehicle, having the suspect involved. And
18 that's when I got involved and that's when I learned that
19 Deputy Brad Epps was on a scene along with another road
20 deputy following up on what was considered a sexual
21 assault.

22 Q. Okay. What other allegations besides a sexual
23 assault?

24 A. That basically kidnapping because there was a gun
25 involved according to what I understood, that Ms. [REDACTED]

1 was forcibly or was forced into a vehicle and taken to
2 another location. So essentially pointing, presenting,
3 kidnapping to go along with the sexual assault.

4 Q. All right. Did you develop a suspect?

5 A. She indicated that it was, from what I understand,
6 Deputy Epps said that it was an ex-boyfriend and his name
7 was Henry Delos Anderson. D-E-L-O-S, the middle name. If
8 I'm pronouncing that correctly.

9 Q. Did you have any information as to where he would be
10 located?

11 A. Once we first found out, of course, you look up the
12 name. We have our system what's called Lawtrak, L-A-W,
13 T-R-A-K, which is where we keep all our--

14 THE COURT: All right. Repeat that last, do you need
15 him to repeat that last response? Can you repeat the
16 question.

17 MR. SCOTT: Yes, sir.

18 Q. I just had it on the tip of my tongue.

19 A. Identifying the suspect.

20 Q. Okay. Were you able to develop a suspect that you
21 were looking for?

22 A. Yes. The victim in the, in the case, Ms. Tywanda
23 [REDACTED], indicated that it was an ex-boyfriend and with the
24 name of Henry Delos Anderson. So, we looked in our system
25 of where we do all reports, keep our master ID file of

1 people, it's called LAWTRAK, is the name of the system. I
2 looked in there myself and I did find a name of Henry
3 Delos Anderson because there was a previous report on file
4 that had his information in there.

5 Q. All right. And where did you begin looking for him?

6 A. Nowhere at the time. I still wanted to gain facts
7 and information on the case. And so, I pulled that
8 previous report to start looking at the background
9 situation to see what was previously reported, if it was
10 anything, you know, felonious or anything, any type of
11 crime. And that's when I found a previous information
12 type report, domestic disturbance report.

13 Q. Okay. The question I'm asking, is where did you go
14 to look for Henry Anderson?

15 A. Essentially, we went to Laurens County's address. We
16 pulled up his address which I think is [REDACTED] in
17 Mountville which is inside Laurens County. Anytime that
18 we cross over the county line, of course, we are going to
19 contact that agency. And we also utilize the resources of
20 SLED, the State Law Enforcement Division for man power,
21 resources, anything else that they can provide. So, we
22 contacted SLED to come in and help because going to cross
23 to another county which in turn they notify Laurens County
24 for us as well. So essentially we went to the Mountville
25 area in Laurens County to look for Mr. Anderson.

1 Q. All right. Where was he when you first made contact
2 with him?

3 A. Investigator Matt Veal with the Laurens County
4 Sheriff's Office along with other deputies, after we got
5 to the residence, we learned from a family member that he
6 was close by at another family member's residence. And
7 they called and said he's on the way back. And of course,
8 he went out to see if he was coming back and it was
9 radioed to me as I was still at the house that they
10 located him walking on Highway 560.

11 Q. All right. And then did you respond to that
12 location?

13 A. I did.

14 Q. Did you take custody of Mr. Anderson?

15 A. Yes, sir. When I got out to the roadway I went ahead
16 and just placed him in the front of my vehicle. And being
17 out in the middle of the road we wanted to get out of
18 there so we just drove him back to the house on [REDACTED]

19 Q. Okay. Did you ask him any questions at this time?

20 A. I introduced myself, told him who I am, what I do,
21 why I'm there. And once, you know, I didn't ask any
22 immediate questions until I got to the residence, got
23 pulled off, got parked, and Mirandized him. I read him
24 his Miranda warnings.

25 Q. Okay. And you read them to him?

1 A. I read it to him verbatim off a card that I have.

2 Q. Is that something you always carry around with you?

3 A. I carry it in my wallet.

4 Q. You got it with you today?

5 A. Of course.

6 Q. Would you read from the rights that you would have
7 read to Mr. Anderson?

8 A. This is the Miranda warnings, which are required for
9 custodial interrogation that says you have the right to
10 remain silent. Anything that you say can be used against
11 you in court. You have the right to an attorney and have
12 that attorney present during questioning. If you cannot
13 afford an attorney, an attorney will be provided at no
14 cost. You can decide at any time to exercise these rights
15 and not to answer any questions or make any statements.
16 And after that, I asked him do you understand each of
17 these rights that I've explained to you. Mr. Anderson
18 indicated that he did. And I asked him, having these
19 rights in mind do you wish to talk to us now. And he
20 indicated that he did.

21 Q. Okay. What did he tell you?

22 A. I explained to him that I was here on a situation
23 because of a incident that was alleged to of occurred
24 earlier in the morning with Ms. Tywanda [REDACTED]. He
25 indicated that morning that he had went over there. He

1 needed to pick up some personal belongings. So he had
2 texted her and said I'm outside the house, I want to get a
3 coat, I think was one of the items that he wished to get.
4 He stated that he got it after a few minutes. Once he
5 obtained his personal items he pulled out of the driveway
6 and he specifically told me the route that he took going
7 back home. Which when he pulled out on [REDACTED], he
8 crossed over Highway 121/34 onto Stoney Battery Road,
9 drove it all the way out to where he had to take a left on
10 Belfast Road. Traveled Belfast all the way to Highway 560
11 inside Laurens County, take a left on 560 until he gets to
12 [REDACTED] which is where he indicated he was living at the
13 time.

14 Q. All right. Did you indicate to him what the
15 allegations were against him?

16 A. I did. I told him that according to his
17 ex-girlfriend, the victim Ms. Tywanda [REDACTED], that
18 basically said you came over there, you put a gun to her
19 head or forced her at gunpoint to leave the house to go
20 across the road to a site of a cell phone tower and that
21 you engaged in sex that was not consensual.

22 Q. What did he say about the sex?

23 A. He just indicated he, that he didn't have any sex
24 with her. That he went there to pick up his personal
25 items and then left and went back home.

1 Q. What did he say about the gun?

2 A. Said he did not, he was not in possession of a gun.

3 Q. At this point, did you know about the video he had
4 sent Tywanda [REDACTED]?

5 A. I had been made aware of it, yes. Because Deputy
6 Epps and the other deputy on the scene, including
7 Investigator Kaye Epps had already gotten permission from
8 Ms. [REDACTED] to look at her text messages, to photograph them
9 and also, she showed us the video.

10 Q. What did he say about the gun that was in that video?

11 A. When we were in, still in the driveway talking I
12 asked him about the video and the gun, where did he get
13 the gun. If he didn't have a gun, where was the gun at in
14 the video. And he indicated that it was inside the house,
15 in the bedroom where he sleeps under the mattress. I
16 asked permission if we could collect that gun, he said no
17 problem. We did a consent form for us to obtain that
18 property. And that's when I made contact, of course, Mr.
19 Matt Veal was already present. I asked Matt if he and
20 another officer would go inside with his family so they
21 would see that that's all we're collecting. And he signed
22 a form indicating that we could get that item.

23 Q. And you seized the gun?

24 A. That is correct.

25 Q. Where did you take Mr. Anderson from there?

1 A. We went back to the Newberry County Sheriff's Office.

2 Q. Okay. And at this point, he's in custody?

3 A. Yes.

4 Q. What happened with him once you got back to the
5 Sheriff's Department?

6 A. We went back to Lieutenant Richey Moore's office
7 which is just a little bit bigger office than what I have
8 got. Better desk and sitting area than what I have got so
9 we utilized another investigator's office and Investigator
10 Kaye Epps met me there as well. When we got back there, I
11 read him his Miranda warnings one more time and I did it
12 on a form. And after collecting all the information, his
13 personal information, name, date of birth, social, and all
14 that and read him his Miranda warnings one more time.
15 There is a portion on that form for him to sign saying
16 that I have read my rights and I understand what my rights
17 are. He signed that and then there's another place under
18 that that says I am willing to talk, I do not want a
19 lawyer, I know my rights, I'm not being pressured or
20 coerced and no promises or threats have been made to me.
21 And he signed that as well.

22 Q. Let me show you State's number 24. You recognize
23 that?

24 A. That's the rights form that I filled out.

25 Q. That's the one you were just describing?

1 A. That's the one I was just describing that we filled
2 out once we got back to the Sheriff's Office that has Mr.
3 Anderson's signature, my signature, Investigator Kaye
4 Epps' signature along with the date.

5 MR. SCOTT: The State would offer number 24 for
6 admission into evidence.

7 THE COURT: Any objection to 24?

8 MR. MOSLEY: No objection, Your Honor.

9 THE COURT: No objection. State's 24 is in evidence.
10 (Whereupon, State's Exhibit 24 was admitted into
11 evidence.)

12 Q. All right. So this would have been the second time
13 you Mirandized him?

14 A. The second time that I Mirandized him, correct.

15 Q. Who would of filled out that top portion of
16 informational section?

17 A. That is my handwriting.

18 Q. And how would you of obtained that information?

19 A. I asked Mr. Anderson.

20 Q. Okay. And he provided that information to you and
21 you transcribed it on the form?

22 A. That is correct.

23 Q. Okay. I guess the middle section, those are the
24 Miranda rights that you would have read to him?

25 A. That is correct.

1 Q. And whose signature is that under that?

2 A. That is Mr. Anderson's signature below that bottom
3 line. It says I have read the statement of my rights. I
4 understand what my rights are.

5 Q. Okay. So now it was after this that he gives a
6 written statement. Is that what you said?

7 A. You talking about this form?

8 Q. Well, after this form, and after you read his Miranda
9 rights, after you filled this form out. You stated that
10 he gave you another statement?

11 A. Yes, he did give me a written statement.

12 Q. Okay. And who was in the room with you when he gave
13 that statement?

14 A. Investigator Kaye Epps.

15 Q. Let me show you State's number 25.

16 A. That is the first statement that he did.

17 Q. Okay. And that would have been on the hills of him
18 receiving this rights form?

19 A. Shortly after that, yes sir.

20 Q. Okay.

21 MR. SCOTT: Your Honor, the State would offer number
22 25 for admission into evidence.

23 THE COURT: No objection.

24 MR. MOSLEY: No objection.

25 THE COURT: All right. State's 25 is in evidence.

1 (Whereupon, State's Exhibit 25 was admitted into
2 evidence.)

3 Q. All right. Whose handwriting is that on State's 25?

4 A. At the top that is my handwriting. Again, with his
5 name and his personal information. And the middle portion
6 which is the narrative, that is Mr. Anderson's signature.

7 Q. Okay. And that's his handwriting as well?

8 A. That is correct.

9 Q. Okay. Now this is a written statement that would
10 have come after he gave you the oral statement at his
11 house?

12 A. Yes.

13 Q. Okay. Again, what, if any, difference was there
14 between this statement and the previous oral statement?

15 A. Nothing. That's basically summarized what he already
16 told me.

17 Q. Okay. After he finished writing, what is the HDA at
18 the bottom?

19 A. Once the narrative is complete we cross it out at the
20 bottom and have him initial in each of those, what I would
21 call four quadrants. That way that's his initials and
22 therefore nothing else could be added. That way we can't
23 be, nobody could suggest that we would write anything else
24 in that narrative that would, you know, go against Mr.
25 Anderson. So we X it out ending the written statement.

1 Q. Okay. In the written statement, what does he say
2 about sex?

3 A. Says that he did not engage in sexual activity with
4 Ms. [REDACTED] that morning.

5 Q. Okay. Was this the final statement from Henry
6 Anderson on that day?

7 A. No. After this was over, of course, him denying and
8 after reviewing the evidence that I had seen earlier
9 before we made contact with Mr. Anderson, the text
10 messages, the video, continued to talk to him. And Ms.
11 Epps spoke with him and then essentially he, you know,
12 after a little bit of time, a short time later, he then
13 indicated that he did engage in sexual activity with Ms.
14 [REDACTED] that morning when he went to her house.

15 Q. Let me show you State's number 26.

16 A. That's the second statement.

17 Q. Okay.

18 MR. SCOTT: Your Honor, the State would offer number
19 26 for admission.

20 THE COURT: No objection.

21 MR. MOSLEY: No objection.

22 THE COURT: Without objection, State's 26 is in
23 evidence.

24 (Whereupon, State's Exhibit 26 was admitted into
25 evidence.)

1 Q. All right. Just to summarize your testimony, at the
2 scene or at his house he denied sex?

3 A. That is correct.

4 Q. And then his first written statement he denied sex?

5 A. That is also correct.

6 Q. And then finally in this third statement, the second
7 written statement, what does he say about sex?

8 A. He indicated that he engaged in sexual activity with
9 Ms. [REDACTED] that morning.

10 Q. Okay. But he characterizes as consensual sex, is
11 that what your understanding of his statement?

12 A. Yes, he indicated that he did not have forced sexual
13 intercourse with Ms. [REDACTED].

14 Q. Okay. Now, the text messages, were you able to
15 review the text messages on Ms. [REDACTED]'s phone?

16 A. I did. I did that before we had gone to Laurens to
17 look for Mr. Anderson.

18 Q. All right. You've reviewed all the text messages
19 that were on her phone that were from Henry Anderson?

20 A. Yes, sir.

21 Q. And you've also reviewed the ones that she sent back
22 in response to his texts?

23 A. I did.

24 Q. Where you able to access the phone app that she had
25 where blocked text messages were sent?

1 A. I didn't technically, you know, do the access of it,
2 but I viewed the text.

3 Q. Okay. And that you have, State's 35. Have you
4 reviewed that?

5 A. Yes, I have.

6 Q. And is that consistent with both the content of those
7 text messages and then the chronological order that those
8 text messages were generated?

9 A. Yes, it is.

10 MR. SCOTT: Your Honor, the State would offer State's
11 35 for admission into evidence.

12 MR. MOSLEY: Objection, Your Honor. There's a lot of
13 things missing and he didn't prepare the document, the
14 synopsis, and it's not accurate to the tee.

15 THE COURT: All right. Is this the document that we
16 are discussing?

17 MR. MOSLEY: Yes, sir. I'm gonna object to that.
18 Cause it's a synopsis and a lot of things are missing.

19 THE COURT: All right. Ladies and Gentlemen of the
20 jury, I need to take up an issue of law with the
21 attorneys. If you would, this is probably a good time for
22 you to take a restroom break anyway. We'll be at ease for
23 about five or ten minutes. If you would adjourn, and
24 don't talk about the case. I'll let you know when you
25 can.

1 (Whereupon, the jury was excused from open court for
2 a break.)

3 THE COURT: Now, Mr. Mosley, you said that there was a
4 lot of stuff missing from this timeline.

5 MR. MOSLEY: Yes, sir. You know Judge, without being
6 too technical with the Court. I think that the, you know,
7 the cell phones themselves have been introduced into
8 evidence. There's a laundry list of the text messages
9 that we received that's already been shown on the screen.
10 So I think that under the best evidence rule, it's best to
11 allow the messages themselves which has already been
12 presented to the jury, just introduce the copies of the
13 text messages themselves. And they can determine that.
14 But to have a synopsis that appears to be specifically
15 skewed towards a conclusion I think would be a, you know,
16 an error of law on behalf of the Court to allow that into
17 testimony. He didn't prepare it. I believe the synopsis
18 was prepared by the State and under the best evidence rule
19 or the best way that this jury can be fair about their
20 determination is to see all of the text messages on the,
21 they have the cell phones here. And they even have a
22 video that can be introduced into evidence that I've seen,
23 I have got a copy of the CD and they can, that could be
24 the evidence. But this synopsis is specifically skewed
25 towards the legal conclusion that this jury has to make.

1 THE COURT: Mr. Mosley, one second. Your initial
2 objection was that the, my understanding of the objection
3 was that the synopsis prepared, the text message timeline
4 that was prepared omitted certain texts. Maybe I
5 misunderstood your objection. Is your objection under the
6 best evidence rule? Is that what you're objecting to?

7 MR. MOSLEY: Well, really both, Your Honor. Because
8 it's a synopsis. In other words, the text messages have
9 been shown to the jury. I assume that they are in
10 evidence. But this synopsis is, it is my objection it is
11 under the best evidence rule because we already have that
12 and it's prepared by the State.

13 THE COURT: But are you alleging that messages are
14 missing that should have been included in the synopsis?

15 MR. MOSLEY: Yes.

16 THE COURT: All right. What messages are missing that
17 you have?

18 MR. MOSLEY: I mean, I don't know, it's just so many
19 of them, Judge. We'd have to go through them one by one.
20 But we'll have to take the time out to do that. But I
21 think the State would admit that there's some message
22 that's not included.

23 MR. SCOTT: I would not admit that.

24 THE COURT: All right. Let me hear from you then,
25 Solicitor, on that. Why are you seeking introduction of

1 this? I understand we have the original messages and
2 perhaps this would be merely cumulative as, cumulative to
3 what we have already introduced. But let me hear from
4 you.

5 MR. SCOTT: Judge, I don't think it would cumulative.
6 The reason that it would aid the jury is we do have the
7 text messages entered. But the chronological order is
8 such that a synopsis would probably be needed in order for
9 them to follow it chronologically and here is why. The
10 testimony was that a number of texts would go to her just
11 general text messaging app that comes with a phone.

12 THE COURT: Right.

13 MR. SCOTT: However on the 25th, I believe of January,
14 she began blocking the messages. So, they are going into
15 a different application. Meanwhile she's texting
16 intermittently to him, I found your coat, I am going to
17 put it in the mail. He's responding, but they are not
18 showing up in the general, I don't even know what to call
19 it, the general text messaging app.

20 THE COURT: It becomes disjointed if you were to look
21 at merely the exchange?

22 MR. SCOTT: Yes, sir.

23 THE COURT: And when they were received as opposed to
24 when they were sent, et cetera.

25 MR. SCOTT: Yes sir, let me find an example.

1 MR. MOSLEY: Judge--

2 THE COURT: One second. Let me finish hearing from
3 him, please, Mr. Mosley.

4 MR. SCOTT: And Your Honor has a copy, if you'll go to
5 January 25th 2013, that's about four pages from the last
6 page. Now these are blocked messages that would show up
7 in a different app. Second to the last entry, essentially
8 the one, two, three, four, the first four are from
9 Anderson to [REDACTED]. They are blocked. They are going to
10 show up Mr. Phone app or whatever the application was.
11 8:31 a.m. on the 29th [REDACTED] text him back. I found your
12 coat, you can meet me in the Walmart parking lot and get
13 it. Now that's going to show up in the other general text
14 messaging app. He responds, no, you can bring it to my
15 house, I brought your stuff to you. On the warrant, it
16 says for me not to come to your house or anything, you can
17 bring it today. So, if they only have the screen shots of
18 the phone, they are going to miss the [REDACTED] to Anderson
19 text, I found your coat, you can meet me in Walmart
20 parking lot. Likewise, they are going to miss the 8:39
21 [REDACTED] to Anderson, okay, so I'm going to mail it.
22 Essentially, all the text messages from the blocked app
23 are going to show up in just one sequential threat of
24 texts without her intersperse responses or not responses,
25 but her outgoing text to him.

1 THE COURT: But my understanding is that the blocked
2 text messages, those have been introduced, I forget the
3 Exhibit number.

4 MR. SCOTT: Yes, sir.

5 THE COURT: But we did introduce those, correct?

6 MR. SCOTT: Every one of these texts have been
7 admitted. I beg your pardon, Judge. I hope I'm
8 explaining this.

9 THE COURT: I understand completely what you are
10 saying. So in order for there to be context and in order
11 to understand the sequential nature of it, the Exhibits,
12 which have been previously introduced are not sufficient
13 to explain what the parties or the information the parties
14 were exchanging, and perhaps not receiving in a timely
15 fashion.

16 MR. SCOTT: Yes, sir.

17 THE COURT: Okay.

18 MR. SCOTT: That would be our argument. And just
19 under 1006, the voluminous records type provision, just
20 really to aid the finder of fact and understanding the
21 order these texts are received and sent.

22 THE COURT: All right. One other question for you,
23 Solicitor. Every text message that was exchanged between
24 these individuals it is included, you're representing to
25 me that it is included on this synopsis? The text message

1 timeline?

2 MR. SCOTT: Yes, sir.

3 THE COURT: Okay. All right. Mr. Mosley.

4 MR. MOSLEY: Judge, that's the whole point. In other
5 words, the Court itself, myself and my colleague as a
6 adversary, we're having to go through this interchange to
7 understand the sequences of events, what was blocked out,
8 so forth and so on. I think under the best evidence rule
9 the evidence should speak for itself. Certainly the Court
10 has some duty to monitor and have some form of judicial
11 economy. I don't think that voluminous records rule is
12 intended in this case to actually aid the Court to the
13 extent whereby it takes on a role of credibility and
14 weight. Which I think that this is an intentional ploy,
15 not that they're doing anything wrong, but to set things
16 up in an explainable way that favors them. Whereby that's
17 a determination that is left up to the jury. It goes
18 beyond the role of the Court in presenting the testimony
19 to the jury, you know, I think it's unnecessary and the
20 jury needs to be explained, as it has been, about the
21 difference between an unblocked messages. And they can
22 determine during their discourse how these things went.
23 But, you know, for us to like run it down their throat,
24 this says this because this is the conclusion that we. I
25 think that is totally out of the notion of justice and

1 fairness. And they can make that determination. And my
2 colleague can, during closing argument, can explain. But
3 to just take the bird dog and point him right down the
4 road, I think that's not the intent of our rules of
5 evidence and procedure.

6 THE COURT: Well, I appreciate your position, Mr.
7 Mosley. I am going to permit the text message timeline to
8 come in subject to your objection and here is why. The
9 Solicitor's point is well taken. The Exhibits that
10 actually show the screen shots of the text messages, there
11 are numerous exhibits. And until this trial began, I was
12 not even aware that it was possible to block a text
13 message in the manner that the, that Ms. [REDACTED] testified
14 to. And, so, it may very well not be a matter of common
15 experience to the jury. The sequence of messages being
16 exchanged is a very relevant issue in this case. And I am
17 confronted frequently with situations where a jury has
18 difficulty understanding evidence or wants evidence
19 further clarified and you'll get a question on a factual
20 issue while the jury is deliberating. And the Court is
21 unable, at that point in time to assist them with that.
22 The text message timeline lays out the different times
23 that the messages were exchanged. It will assist them, in
24 my opinion, greatly with their understanding of that
25 sequence since that sequence is not as easily understood

1 just by looking at the exhibits that are already in
2 evidence. So, I do believe that it would assist the
3 finders of fact. Additionally, the timeline would be
4 cumulative to the other evidence. This witness has
5 testified that it's an accurate statement of the text
6 messages that he reviewed, that he saw. So, I think that
7 there has been sufficient authentication. The best
8 evidence, you're correct, is of course the text messages
9 themselves. But this is more in the way of a
10 demonstrative exhibit that will assist the jury in
11 understanding what took place. Obviously, if you have any
12 issues with the content of it you can certainly
13 cross-examine this witness on it or address any concerns
14 that you may have along those lines.

15 MR. MOSLEY: Judge, may I make one suggestion to the
16 Court?

17 THE COURT: Certainly.

18 MR. MOSLEY: My suggestion would be, if we are going
19 to give a timeline sequence of those text messages and it
20 may take some doing on behalf of my colleague, I think
21 it's only fair to have a timeline, the same type of
22 synopsis done for the blocked messages. And then we have
23 balance. In other words, the same thing that's done with
24 regard to the favorable information can be done with
25 regard to text messages, the blocked ones. So therefore,

1 you would have a total picture.

2 THE COURT: The blocked ones are included in this
3 timeline.

4 MR. MOSLEY: In the timeline?

5 THE COURT: Yes, sir. If you look at the last four.

6 MR. MOSLEY: Judge, let me see someone's copy.

7 THE COURT: If you look at the last four pages, that's
8 about the timeframe where Ms. [REDACTED] stopped, started
9 blocking the messages.

10 MR. MOSLEY: The last four pages? Excuse me.

11 THE COURT: Yes, sir. And the timeline reflects the
12 messages which are blocked.

13 MR. MOSLEY: Judge, could we assist the Court by
14 taking the exhibit and use it as State's exhibit number 35
15 and do an alphabetical listing for reference later on.
16 Because on cross-examine, say 35a, b, c, the pages. Then
17 I think that would be, give some more clarity.

18 THE COURT: Why don't we do this, just number the
19 pages at the bottom. And that way it will be 35 and you
20 can reference Exhibit 35, pages 1, 2, 3.

21 MR. SCOTT: Yes, sir.

22 THE COURT: We don't need to break it down in separate
23 exhibits.

24 MR. SCOTT: Bottom right hand corner.

25 MR. MOSLEY: Yeah. Exactly. That's what I was

1 saying. Thank you. That clarifies, Judge.

2 THE COURT: Very good. All right. We'll take five
3 minutes for ourselves.

4 MR. SCOTT: Are we still on the record.

5 THE COURT: We can be. Go ahead.

6 MR. SCOTT: State's number 35, I've listed in
7 numerical order pages 1 through 9 at the bottom right hand
8 corner.

9 THE COURT: All right. Very good. Thank you very
10 much. It is in evidence. Well, I don't know that there's
11 necessarily an objection at this particular point in time
12 based on our discussion. But if there is, he can renew it
13 at the time. I introduce it into evidence in front of the
14 jury. We'll be at ease for five minutes. Don't talk
15 about any of your testimony with anyone while we're on
16 break. We're at ease.

17 (Whereupon, a short break was taken.)

18 (Whereupon, the jury came into open court at
19 approximately 12:25 p.m.)

20 THE COURT: Okay. The record should reflect that the
21 jury is back and seated at this point. Solicitor, you
22 moved State's 35 in evidence, is that correct?

23 MR. SCOTT: Yes, sir.

24 THE COURT: All right. State's 35 will be in
25 evidence.

1 (Whereupon, State's Exhibit 35 was admitted into
2 evidence.)

3 CONTINUE DIRECT EXAMINATION

4 By Mr. Scott:

5 Q. All right. So, Investigator Lominack, did you -- you
6 reviewed the text messages that were sent from Mr.
7 Anderson to Ms. [REDACTED]?

8 A. Yes, I did.

9 Q. When you made contact with Mr. Henry Anderson, did
10 you notice any physical injuries to him?

11 A. No, sir.

12 Q. Did you guys ever find the car that he was supposed
13 to be driving in?

14 A. Yes, sir. The tag number that Deputy Epps had been
15 advised of earlier, that vehicle was located on the
16 property on [REDACTED] in Mountville.

17 Q. Here's State's number 36. Do you recognize that?

18 A. Yes.

19 Q. And what is that?

20 A. That is a silver or gray in color Chevrolet Impala
21 with the tag number IDC 369.

22 Q. Okay. The State would offer 36 for admission, Your
23 Honor.

24 MR. MOSLEY: No objection.

25 THE COURT: Without objection, State's 36 is in

1 evidence.

2 (Whereupon, State's Exhibit 36 was admitted into
3 evidence.)

4 Q. Did that Impala appear to have any body damage to it?
5 Did it appear to of been in a wreck or anything?

6 A. No, it had not.

7 Q. Okay. All right. So, based on your investigation,
8 based on the text messages, did you get to watch a video
9 that was sent from Mr. Anderson?

10 A. I did.

11 Q. Based on the video, based on the three statements he
12 had given, did you charge Mr. Anderson with anything?

13 A. I did. I charged him with criminal sexual conduct
14 first degree, kidnapping, pointing and presenting a
15 firearm.

16 Q. Please answer any questions Mr. Mosley has for you.

17 THE COURT: Mr. Mosley.

18 CROSS-EXAMINATION

19 BY MR. MOSLEY:

20 Q. Who took the photographs of the car?

21 A. I did.

22 Q. You took about ten, fifteen photographs of the car?

23 A. It could of been a little bit more. Went all the way
24 around.

25 Q. Isn't this one of the photographs that you took of

1 the car?

2 A. If it's one of the photographs that I, that you
3 received. Then yes sir, I did take that.

4 MR. MOSLEY: I'd like to have this marked as an
5 exhibit, Your Honor. Defendant's exhibit number 1.

6 THE COURT: Have you seen the exhibit?

7 MR. MOSLEY: He gave it to me.

8 THE COURT: All right. I just want to make sure.

9 THE COURT: No objection to it coming in?

10 MR. SCOTT: No objection, Your Honor.

11 THE COURT: Defendant's 1 will be in evidence without
12 objection.

13 (Whereupon, Defendant's Exhibit 1 was admitted into
14 evidence.)

15 Q. This is one of the photographs that you took?

16 A. If it's one of the photographs that you received from
17 us. Then yes sir, it would be one that I have taken.

18 Q. And, doesn't there appear to be a dent on the right
19 side of the car at the front?

20 A. There is some sort of blemish on that front left
21 panel, yes sir.

22 Q. It did have a dent though?

23 A. I can't tell looking at this photograph. If I had
24 the original I might be able to tell you.

25 Q. But it's damaged, right?

1 A. It's some sort of blemish. It is something there,
2 yes sir. I can't tell you from this photograph if it's a
3 dent, if it's just the paint is scratched or what.

4 Q. Okay. And you knew through the phone records that
5 Mr. Anderson, in one of them, said he just had a wreck,
6 right?

7 A. According to what I saw on the text messages, that is
8 correct.

9 Q. Okay. And if he had a wreck, do you think the
10 highway patrol, somebody would have come there to the
11 wreck?

12 A. If he would of called 911.

13 Q. Yeah, but I'm saying normally they would come to a
14 wreck scene, correct?

15 A. Depending on the jurisdiction, if it's in the County,
16 then the highway patrol would take a accident report or if
17 it's within the City jurisdiction somewhere then City
18 police department would handle that.

19 Q. Okay. What day did you, his car was not, on the date
20 of the incident, January 30th, Henry Anderson's car was
21 not at his house, was it?

22 A. It was there that morning when we got there.

23 Q. It was there that morning?

24 A. That is correct.

25 Q. You sure?

1 A. Yeah, because we towed it from his house.

2 Q. Okay. All right. You towed it from his house.

3 A. Yes, sir.

4 Q. But now you wouldn't disagree that this is evidence
5 that the vehicle was--

6 A. --if it was the original colored copy, I might be
7 able to tell you more if it's a dent or not. But just
8 looking at that, I could tell you there is a blemish
9 there.

10 Q. Okay. Would you get the original color photo so we
11 can make sure?

12 A. Do you have it with you? The copies that we gave?

13 Q. I don't know, this is the copy I got.

14 A. I don't have it with me.

15 Q. So you don't have the original?

16 A. That is correct.

17 THE COURT: Hold on one second.

18 Q. Where is the original?

19 A. It's not here in the courtroom right now.

20 Q. Could you go get the original picture?

21 THE COURT: Hold on one second. Do you have it with
22 you?

23 MR. SCOTT: I think I might have it on the disk, Your
24 Honor.

25 THE COURT: On disk?

1 MR. SCOTT: I'll have it printed off.

2 THE COURT: We'll see if we can find that when we're
3 on break.

4 MR. MOSLEY: Okay. I'll move on.

5 Q. Now, you took pictures. Now, it was your
6 understanding that the parties had sex on the hood of the
7 car, correct, on the hood of the car?

8 A. That is correct.

9 Q. And you took photographs of the hood of the car,
10 correct?

11 A. That is correct.

12 Q. And do you see an area whereby it was possibly dusted
13 for prints on the hood of the car?

14 A. I did dust the hood of the vehicle.

15 MR. MOSLEY: We introduce this into evidence, Your
16 Honor.

17 THE COURT: Defendant's 2 I believe. No objection?

18 MR. SCOTT: No objection, Your Honor.

19 THE COURT: Defendant's 2 will be in evidence without
20 objection.

21 (Whereupon, Defendant's Exhibit 2 was admitted into
22 evidence.)

23 Q. You have had access to Henry Anderson and the
24 victim's phone since the date of the incident, correct?

25 A. I had Mr. Anderson's phone, yes sir.

1 Q. Now, December, excuse me, January 26th, are there any
2 phone records for January 26th?

3 A. On this piece of evidence that I'm holding, I don't
4 see any activity for January 26th on this.

5 Q. What about the 27th of January?

6 A. Yes.

7 Q. What about the 28th?

8 A. No, sir.

9 Q. What about the 29th?

10 A. Yes.

11 Q. Now, did you have Henry Anderson's car, and how long
12 did you have his car impounded?

13 A. I think according to my report on February the 1st we
14 released it back to the towing company that towed it to
15 our property at the Sheriff's Office.

16 Q. Okay. So, for a period of time the car was with a
17 towing company?

18 A. It was with us. It was towed to our facility on
19 January the 30th. And we processed the vehicle, which
20 photographed, dusted the hood. And we released it back to
21 the towing company the next day. So essentially, we had
22 it at our department on the 30th and the tow company got
23 it back on February 1st.

24 Q. Now, did you, did you see any phone, you've had both
25 phones the entire time since the incident occurred. Now,

1 did you check the phones to see whether or not there were
2 actually any conversations or any evidence of these
3 parties talking to each other on the days when there
4 weren't any text messages?

5 A. No, I didn't look at that.

6 Q. You didn't look at that?

7 A. No.

8 Q. But there's a great possibility that on the days
9 other than the ones that are representative of the text
10 messages in the block, isn't there a great possibility
11 that these two parties could have had conversations by way
12 of telephone?

13 A. There could be. I don't have any information
14 suggesting that they did talk during those days.

15 Q. Okay. Did you check to see though?

16 A. He's got a password on his phone, which you know we
17 did look, first but I don't remember seeing any.

18 Q. Okay. So, but you wouldn't, if Mr. Anderson would of
19 testified or if the victim was to testify that they talked
20 intermittently on the days absent from the record that's
21 been established, you wouldn't know anything about that?

22 A. I don't know anything about it right now. No, sir.

23 Q. But they, there's a distinct possibility that they
24 could of talked?

25 A. You would have to ask both of those individuals.

1 Q. I'm asking you though.

2 A. I don't know. You would have to ask them.

3 Q. You don't know?

4 A. I don't know.

5 Q. You don't know?

6 A. That is correct.

7 Q. Do you want to know? Is that, do you want to know
8 whether or not they had a conversation with each other on
9 the days that there's no text messages? Do you want to
10 know about that? I'm asking you. Do you want to know?

11 A. Do you want me to know?

12 Q. I'm not a party to this action. You are. I mean,
13 that should be a question that I'm asking you. But now if
14 you want to turn the question around on me, sure, I want
15 to know.

16 A. Not trying to do that, Mr. Mosley.

17 Q. Well, now that's what you just did.

18 A. I'm just saying is that information that I need to
19 know, then present it and we will go from there.

20 Q. That wouldn't peak your interest?

21 A. It depends on what the conversation is about.

22 Q. Let's answer this question right here.

23 A. Okay. Do you have information? We'll ask that. How
24 about.

25 MR. MOSLEY: Your Honor, I'm gonna object to the even

1 allowing this.

2 THE COURT: Ask him a question and let's quit arguing
3 over this. Just ask him a question, if you would.

4 MR. MOSLEY: I did, Your Honor, but, you know, he
5 needs to be admonished.

6 THE COURT: Repeat the question if you would for the
7 gentleman, please.

8 Q. All right. Let me ask you this, the victim's
9 clothes, what clothing did the State take into evidence
10 from the victim?

11 A. I didn't view the clothing because it was bagged in a
12 brown paper bag. I did not view the clothing.

13 Q. So, you don't know?

14 A. No, sir. SLED would have those, would have that.

15 Q. I am going to ask you one more time. Do you know
16 what clothing the victim had on, on the date of the
17 incident?

18 A. Just other than what we've already heard. I did not
19 view the clothing, Mr. Mosley. I did not, did not look at
20 them.

21 Q. That's not my question.

22 A. I don't know.

23 Q. My question is--

24 A. I don't know what she's wearing, I didn't look at the
25 clothing because they were already bagged.

1 Q. My question is, do you know what type of clothing the
2 victim had on at the date and time of the incident itself?

3 A. No, sir..

4 Q. Okay. What type of clothing, you talked to her,
5 right?

6 A. I didn't talk to Ms. [REDACTED].

7 Q. Were you ever present when she was being talked to?

8 A. No, I was not.

9 Q. Did you ever hear anybody say what type of clothing
10 she had on?

11 MR. SCOTT: Judge, I think this question has been
12 asked and answered at least two or three times.

13 THE COURT: This is a different question he's asking.
14 I mean, he is asking whether somebody has told him what
15 clothing was worn. I'll allow the question. Unless there
16 is some other objection.

17 MR. SCOTT: Or hearsay, Your Honor, comes to mind.

18 THE COURT: Well, I imagine that the answer is going
19 to be cumulative to what we have already heard. So I will
20 go ahead and allow the question.

21 A. Nobody told me what she was wearing that morning.

22 Q. You asked Mr. Anderson whether or not he gave several
23 statements. And you asked him whether or not they had
24 sex. And his version of the story, he did tell you that
25 he had sex, correct?

1 A. Yes sir, he did.

2 Q. And could you describe the sex that Mr. Anderson, the
3 Defendant, told you he had with the victim? What did he
4 tell you?

5 A. He didn't go into detail of the, of how it was, how
6 it went about. He didn't go into that.

7 Q. Did you ask him any details?

8 A. No, I did not.

9 Q. Why not?

10 A. He said that he had sex, and that's, we left it at
11 that.

12 Q. Okay. What did the victim or what did you understand
13 the victim said about having sex?

14 A. That she was turned around. That she was not facing
15 Mr. Anderson.

16 Q. And, once you had interviewed the, you know, the
17 victim, this was over a period of hours?

18 A. Ms. Kaye Epps is the one who talked with Ms. [REDACTED].

19 Q. And Mr. Anderson gave his statement, the second
20 statement whereby he admitted to having sex. He gave that
21 statement after having been interviewed by Ms. Kaye Epps?

22 A. We both talked to him.

23 Q. Yeah, but I'm saying the first time was just with
24 you, but once Ms. Epps got involved--

25 A. The first time we were both involved. The second

1 time there was a period where he did talk with Ms. Kaye
2 Epps. And then he gave a second statement sometime after
3 that.

4 Q. Right. And there was a period of time when he talked
5 with Ms. Epps alone without you being in the room,
6 correct?

7 A. That is correct.

8 Q. And that's when the story changed, when he talked to
9 her by herself?

10 A. I don't remember exactly when I came back in the room
11 at what point of when he turned around and said that he
12 did have sex. It could of been while I was away or when I
13 came back. But I was present when he said it, and when he
14 shook his head. And it was asked, did you have sex with
15 Ms. [REDACTED]. And he shook his head yes, and then said yes,
16 I did.

17 Q. And, he denied having a gun?

18 A. Yes. He didn't, he said he didn't have a gun.

19 Q. Right. And his statement doesn't say anything about
20 a gun?

21 A. That is correct.

22 Q. Now, you've been to the scene?

23 A. Briefly.

24 Q. When did you go to the scene?

25 A. That morning.

1 Q. That morning?

2 A. Yes, sir.

3 Q. What time that morning?

4 A. Just kind of going by recollection, it was after
5 8:00, so 8:30ish. You know, I'm just trying to, I can't
6 tell you exactly.

7 Q. State's Exhibit number 16, will you take a look at
8 that?

9 A. Sure.

10 Q. Okay. Now, would you tell, looking at this, we don't
11 have a photograph of the roadway. But the house itself is
12 not facing the road, is that correct?

13 A. I think it's, I don't know what word you would
14 describe it. But, no sir, it's not directly, it's not
15 directly facing the road.

16 Q. In other words, looking at picture, State's Exhibit
17 number 16, you have to come out the front door and make a
18 left turn and the side of this trailer is actually facing
19 the road, correct?

20 A. That could be right. Yes, sir.

21 Q. Okay. And would you say that the, you can see from
22 the front door, my question to you is, from the front
23 door, if there was a car parked on the side of the trailer
24 or the home where the driveway is, you could not see that
25 vehicle parked there out the front door, could you?

1 A. I'd have to be there looking at it to be able to
2 answer that correctly because I don't know.

3 Q. Yeah. But looking at State's Exhibit number 16. If
4 there is a car parked.

5 A. Yeah, if it's directly on the side, I would imagine
6 it would be difficult to see a vehicle.

7 Q. Okay. Well, the notes on here, but I want to show
8 you a phone log from January 25th. And I want to see if
9 you can recall January 25th at 8:00 a.m., January 25th, a
10 Friday, at 2:59 a.m. If you look at these, maybe may have
11 to look at something else, wouldn't you agree that these
12 are two times when she actually received phone calls that
13 weren't blocked from Mr. Anderson?

14 A. I'm not able to tell through this photograph, Mr.
15 Mosley.

16 Q. What?

17 A. I'm not able to tell through this photograph. It
18 shows, you know, it has the date 1/25 which is a Friday,
19 8:01 p.m., excuse me, 8:01 a.m. I don't know to who or
20 from.

21 Q. Okay. And then it has Friday morning at 2:59 a.m.
22 Now, that's not a picture of the same thing that you've
23 given me in evidence? That's not the same document?

24 A. Yeah, it should be the same document. 1/25 Friday,
25 2:59 a.m.

1 Q. Yeah, but I'm just saying though that you wouldn't
2 deny that there was some communication between these
3 parties on Friday January 25th of 2013, both at 8:01 a.m.
4 and at 2:59 a.m.?

5 A. Yeah. According to this, you can determine that
6 there was some sort of activity.

7 Q. Okay.

8 A. At those two times on that same date.

9 Q. Okay. Now, it wouldn't surprise you, would it, if
10 these parties didn't go somewhere and have sex with each
11 other on January 25th, would it? That wouldn't surprise
12 you, would it?

13 MR. SCOTT: That calls for speculation, Your Honor.

14 THE COURT: All right. I would have to sustain that
15 objection.

16 Q. But if they, but there is some record of some
17 activity on January 25th?

18 A. Yeah, on that phone, there's something there. I
19 don't know if it's to or from, which phone.

20 Q. Right.

21 A. I'm not able to decide. But, yes sir, there is
22 activity. Whether it's a missed call, phone call, text
23 message. There's something there, yes sir.

24 Q. Did you, during your investigation because I got this
25 information from the State. Did you investigate what

1 happened in the intervening days when there wasn't any
2 activity?

3 A. As far as trying to--

4 Q. Did you investigate anything going on between these
5 parties?

6 A. No, sir.

7 Q. Okay. Now, but as of the 21st of January, you
8 supposedly knew that there was a problem with these people
9 in terms of what the mother testified to, you knew that,
10 right?

11 A. Not until this incident date on the 30th when I began
12 researching. That's when I came across that report that
13 occurred on the 21st.

14 Q. And you used the terminology earlier that based upon
15 the nature of the calls, that you surmised that there was
16 a kidnapping, forcible rape and a pointing and presenting
17 of a fire arm, correct?

18 A. Ask that again, please.

19 Q. Based upon the nature of the case, nature of the call
20 rather, that there had been a kidnapping, a forcible rape
21 and a pointing and presenting of a fire arm?

22 A. Yes, sir.

23 Q. Right from the beginning?

24 A. No, sir.

25 Q. When?

1 A. Throughout the investigation.

2 Q. So, throughout, meaning that if you go throughout
3 something, and this is throughout, where does throughout
4 begin and where does throughout end?

5 A. I'm not sure exactly what you're asking. I mean,
6 throughout is in the middle, I guess.

7 Q. In the middle?

8 A. Right.

9 Q. I mean, I'm just looking at my notes from your direct
10 examination.

11 A. In the process maybe. Would that help answer it
12 better?

13 Q. Beg your pardon?

14 A. In the process of the investigation.

15 Q. In the process?

16 A. In the process. Would that help answer that better?

17 Q. As of on the date of the incident itself. I believe
18 your testimony was that you had reviewed the video and all
19 the text messages even before you talked to Mr. Anderson,
20 correct?

21 A. That is correct.

22 Q. So from the text messages and from the video,
23 wouldn't it be more likely that the nature of the incident
24 itself at that particular point in time of the
25 investigation, all on the same date and time, you had made

1 your decision that this involved a kidnapping, forcible
2 rape, correct?

3 A. Take everything into accountability.

4 Q. Sir?

5 A. You include everything. You take in the prior, the
6 prior call, the prior text, talking with the victim,
7 talking with the subject. And you come up with that and
8 that's when I, of course, determined that we had
9 sufficient basis to obtain the arrest warrants.

10 Q. Okay. Now, sufficient basis, in other words, meaning
11 probable cause?

12 A. Yes, sir.

13 Q. So none of the, you are not suggesting to the jury
14 that none of this accumulates into guilt, are you?

15 A. No sir, I'm not suggesting that at all.

16 Q. All right. You're just doing your job?

17 A. Like to think so, yes sir.

18 Q. No further questions.

19 THE COURT: Anything in re-direct?

20 MR. SCOTT: Just briefly.

21 THE COURT: Yes, sir.

22 REDIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q. Where's that picture that Defense attorney was
25 showing you?

1 A. Of the text?

2 Q. Yes, sir.

3 A. I think he's got it with him.

4 Q. Okay. He asked you about that picture there.

5 Appears to be a screen shot of Tywanda [REDACTED]'s phone?

6 A. Yes, sir.

7 Q. I think he asked you if it indicated there was some
8 activity on the 25th?

9 A. Something shows up on the phone. It may be a
10 unanswered call, missed call and there are two things,
11 whatever you want to describe it, on January the 25th.

12 Q. But I don't see a, I don't see a phone number even
13 associated with these.

14 A. Yeah, there's something on here. Like I said, I'm
15 not exactly sure. Something occurred at 2:59 a.m. and
16 then something occurred a few hours later at 8:01 a.m.

17 MR. SCOTT: Judge, I think this needs to be marked.

18 THE COURT: May I see the item, please?

19 MR. MOSLEY: You know, Judge, I would, since my client
20 has made notes on there, I would ask out of fairness that
21 it, that they get a clear copy because they have the
22 original documents.

23 THE COURT: Do you have this, Solicitor?

24 MR. SCOTT: Let me see if I have it.

25 THE COURT: And since your client has written stuff on

1 this, Mr. Mosley, I'm just going to hand this right back
2 to you. Okay.

3 MR. MOSLEY: Yeah. And Judge, just for the help, I do
4 have a, which the Solicitor gave me, I do have a list of
5 all the missed calls from her telephone right here. And
6 that was page 60 of the information I got, but my client
7 is now showing me the actual missed call.

8 THE COURT: Let's take these one at a time. Do you
9 have that, Solicitor?

10 MR. SCOTT: I think this is the, yes sir. I have got,
11 I am going to let him review it and make sure that is the
12 one.

13 THE COURT: All right. Hold on one second. That's
14 gonna be State's what, Joy?

15 MR. MOSLEY: Well, that would be the Defendant's
16 exhibit.

17 THE COURT: I don't care whose it is. You want to
18 introduce it. We are going to mark it as a State's. Any
19 objection to that particular document coming in, Mr.
20 Mosley?

21 MR. MOSLEY: No, I don't object. I want it to come
22 in. Matter of fact, I want this one to come in too. You
23 know we can save a lot of time.

24 THE COURT: Hold on. All right. Hold on. We're
25 dealing with them in turn. State's 37 in evidence without

1 objection. Since we're going to have to deal with this in
2 a moment when he goes on re-cross. Why don't you take a
3 look at what he's showing you.

4 (Whereupon, State's Exhibit 37 was admitted into
5 evidence.)

6 MR. SCOTT: It looks like another one with notes on
7 it.

8 THE COURT: You want to proceed with questioning him
9 on 37. Go ahead, Solicitor.

10 MR. SCOTT: Thank you, Your Honor.

11 Q. Let me show you State's number 37, and it has been
12 admitted into evidence. Is that the same screen shot that
13 the Defense attorney was just showing you?

14 A. Yes, it is. A little clearer.

15 Q. All right. It does show activities on the 21st of
16 January, the 25th of January and the 30th of January?

17 A. That is correct.

18 Q. But this Exhibit he shows you, can you tell if it's
19 incoming or outgoing phone calls from the [REDACTED]-1810 number?

20 A. I don't know. I'm not sure.

21 Q. Okay. Well the, Ms. [REDACTED] indicated that he
22 continued trying to call her, correct?

23 MR. MOSLEY: Objection, Your Honor. Hearsay on his
24 part.

25 THE COURT: What's the nature of your objection, sir?

1 MR. MOSLEY: You know, I withdrew it.

2 THE COURT: All right. Go ahead, Solicitor.

3 Q. You knew that he had been attempting to call her,
4 correct?

5 A. Yes.

6 Q. During this time period?

7 A. That is correct.

8 Q. And text her?

9 A. Yes.

10 Q. That's why she got the numbers blocked, right?

11 A. The phone app.

12 MR. MOSLEY: Objection, Your Honor. That's a leading
13 question.

14 THE COURT: Overruled.

15 MR. SCOTT: Your Honor, that's all I have.

16 THE COURT: Recross?

17 MR. MOSLEY: Yes, sir.

18 RECROSS-EXAMINATION

19 BY MR. MOSLEY:

20 Q. You know, thank you, my colleague for leaving this up
21 here. So now, this arrow, you're familiar with how cell
22 phones work, right?

23 A. I'm familiar with the two cell phones that I have,
24 how they work.

25 Q. The two cell phones that's, that we're dealing within

1 this case or the two that you have?

2 A. No, sir. I'm familiar with my personal cell phone.
3 My personal and my work cell phone. I'm not sure about
4 this other cell phone. I don't know what those icons
5 indicate.

6 Q. So, if this, if this arrow right here at 2, no, let
7 me see. That time right there, 7:59 a.m. If that arrow
8 is pointing towards that phone, does that mean incoming or
9 that mean going out if it's pointing towards the phone?

10 A. I can only assume of what it is. I don't know. I
11 don't want to, this isn't my cell phone, so I don't know.
12 I would say either incoming, in and or answered call.

13 Q. Incoming or an answered.

14 A. Right. I don't know. I'm telling, I don't know
15 because it's not my phone.

16 Q. Well, if this is not your phone then why are you so
17 adamant to talk about all the other technical things of
18 the phone, blocked calls, and all like that? What's the
19 difference between this question that I'm asking you and
20 other questions you been answering all along? What's the
21 difference?

22 A. I just don't know what that indicates, if it's
23 incoming, outgoing, answered or not answered. I just
24 don't know.

25 Q. Is that important to you?

1 A. It could be, but I just, I don't know how to answer
2 that question, Mr. Mosley. I don't know the answer to it.
3 I'm sorry.

4 Q. But is it important?

5 A. A lot of stuff is important. I just don't know how
6 to answer that question because I don't know what that
7 indicates.

8 MR. MOSLEY: Did y'all find the other one? We ought
9 to have this marked, defense exhibit.

10 THE COURT: Any objection to Defendant's 3 coming in?

11 MR. SCOTT: No, sir.

12 THE COURT: Go ahead and put it in evidence.

13 (Whereupon, Defendant's Exhibit 3 was admitted into
14 evidence.)

15 Q. You know, correct me if I'm wrong Investigator
16 Lominack, the victim at 6:30 or so on January 30th says
17 that she didn't know that he was coming over there to the
18 house?

19 A. That's correct.

20 Q. That's correct. Do you know, and you may not recall,
21 [REDACTED]-1810, whose phone number is that?

22 A. I'd have to look on the, either the report or the
23 notes if that would be Mr. Anderson's phone. I know he
24 did give us a contact phone number. I don't remember
25 exactly without looking at the previous--

1 Q. And this is, I think there's a phone number up there.

2 A. Yes sir, it's the one you just mentioned.

3 Q. Right. And that's his phone number.

4 A. Okay.

5 Q. So, I want you to take a look at Defendant's Exhibit
6 number 3 and look at January 30th, Wednesday, at 6:30
7 a.m., and see whether or not you agree that that was a
8 incoming phone call from Mr. Anderson. I got it here in
9 my hand, sir.

10 A. Okay. Same as the one that's up there, right?

11 Q. Yeah. No, this is a different one than that one.

12 A. Okay.

13 Q. Yeah. We've moved onto another one.

14 A. Okay.

15 Q. Okay. And would you agree that that's a phone call
16 that she received around 6:30 in the morning of the
17 incident January the 30th?

18 A. Okay. Can you walk over here for a minute please?
19 Is it the bottom one you're referring to? January 30th,
20 Wednesday, 6:31 a.m.?

21 Q. Okay. There's four of them at the bottom?

22 A. Yes, sir.

23 Q. Okay. And as you can see, the bottom one is, the
24 phone is laying down with an arrow pointing up and that's
25 at 6:31 a.m.?

1 A. Yes, sir.

2 Q. Okay. Would you agree to that?

3 A. Yes, sir.

4 Q. And the one above it is at 6:33 a.m.

5 A. With a arrow pointing in the middle.

6 Q. Pointing in the middle of it.

7 A. Right.

8 Q. Okay. And then there's another one above that and
9 it's in declining order, in other words, the other one
10 later on in the day at 8:01, correct?

11 A. Yes, sir.

12 Q. Okay. But undoubtedly, there's two seconds in
13 between the bottom one, 6:31 a.m. correct, and 6:33 a.m.?

14 A. I believe that would indicate two minutes apart.

15 Q. Two minutes, excuse me. Two minutes. A long time.

16 A hundred and twenty seconds, right?

17 A. Yes, sir.

18 Q. Okay.

19 MR. MOSLEY: We'd like to publish this to the jury.

20 THE COURT: Go ahead.

21 MR. MOSLEY: No further questions.

22 MR. SCOTT: Nothing, Your Honor.

23 THE COURT: You can step down. Thank you, sir. All
24 right. Now Ladies and Gentlemen, the Clerk has informed
25 me that the pizzas are here. So we are going to break for

1 lunch for about thirty minutes. Go ahead and grab a bite.
2 If any of you need to step outside for a cigarette, just
3 let the bailiff know, they'll let y'all go outside and
4 take care of that. Don't talk about the case yet. I'll
5 let you know when we can. So, go ahead and enjoy your
6 lunch and we'll get back here very shortly. Thank you
7 very much.

8 (Whereupon, the jury was excused from open court for
9 a lunch break.)

10 (Whereupon, a lunch break was taken.)

11 THE COURT: Okay. We'll go ahead and go back on the
12 record if we're ready to proceed. I'm told the jury is
13 finished eating. If we could, let's have them in please.

14 (Whereupon, the jury came into open court at
15 approximately 1:30 p.m.)

16 THE COURT: All right. The record will reflect that
17 the jury is back and seated. Solicitor, call your next
18 witness please.

19 MR. SCOTT: Your Honor, the State calls Kaye Epps.

20 KAYE EPPS, being
21 first duly sworn, testified as follows:

22 DIRECT EXAMINATION

23 BY MR. SCOTT:

24 Q State your name for the record.

25 A. Kaye Epps Williams.

1 Q. Ms. Williams, were you working with the Sheriff's
2 Department last year on January 30th?

3 A. Yes, sir.

4 Q. Did you have an occasion to --

5 THE COURT: If you could, scoot that just a little.
6 Yeah. Is that all right?

7 Q. Did you have an occasion to become involved with a
8 alleged rape, kidnapping, that occurred out on [REDACTED]

9 [REDACTED]?

10 A. Yes, sir.

11 Q. How'd you first become involved in that case?

12 A. I was notified by my supervisor to meet the victim at
13 Newberry County Hospital.

14 Q. Okay. Who was the victim?

15 A. Tywanda [REDACTED]. I think that's her name. Tywanda

16 [REDACTED].

17 Q. Did you respond to Newberry Memorial?

18 A. Yes sir, I did.

19 Q. Did you speak with her?

20 A. Yes, sir.

21 Q. Why was she there?

22 A. Allegation of a rape.

23 Q. Okay.

24 THE COURT: I think some of the jurors are having
25 difficulty hearing her. If you could, maybe rotate about

1 ninety degrees to your, to your left. Yeah. And try and
2 face the jury as best you can with that microphone in
3 front of you. I know it's not conducive. All right.

4 Q. All right. Kaye, did you have a opportunity to speak
5 with Ms. [REDACTED]?

6 A. Yes sir, I did.

7 Q. And that was at the hospital?

8 A. Yes, sir.

9 Q. Did you get a statement from her?

10 A. Yes sir, she did provide a statement.

11 Q. Let me show you State's number 33. Do you recognize
12 that?

13 A. Yes, sir.

14 Q. And what is it?

15 A. It's a statement from the victim.

16 Q. All right. That her handwriting on there?

17 A. Yes, sir.

18 Q. And she wrote that down at the hospital?

19 A. Yes, sir.

20 MR. SCOTT: Your Honor, the State would offer State's
21 33 for admission into evidence.

22 THE COURT: Any objection?

23 MR. MOSLEY: No.

24 THE COURT: Okay. Without objection State's 33 will
25 be in evidence.

1 (Whereupon, State's Exhibit 33 was admitted into
2 evidence.)

3 Q. All right. Ms. Williams, what did she tell you
4 happened?

5 A. After I talked with her, I advised, I asked her if
6 she could give me the incident, what happened at the
7 incident location. She told me that she came out of her
8 house that morning to start her car so she could go to
9 work. Said when she got to her car the Defendant, Mr.
10 Anderson, was standing outside with a weapon and told her
11 she needed to get in the vehicle, he wanted to talk to
12 her. And she said, she told me that she didn't want to
13 talk to him. And she asked him again why he wanted to
14 talk to her, he said he wanted a jacket. She said she
15 told him that she would mail him that jacket and he didn't
16 want her to mail it, so he came there to try to get the
17 jacket and wanted to talk to her.

18 Q. Okay. And what happened when she met him outside of
19 her house?

20 A. Once they, once they got through talking, she said he
21 had a weapon, advised her to get in the car. She said she
22 got into the car and they drove to some location. I think
23 it was Stoney Battery to some tower and from there that's
24 when he tried, when he wanted to have sex with her. And
25 she said she said no, but he wanted to have it, have sex

1 anyway.

2 Q. Is it your understanding that he did have sex with
3 her?

4 A. Yes, sir.

5 Q. What time of day would you say that you took that
6 statement from Ms. [REDACTED]?

7 A. This is saying 11:40 a.m.

8 Q. All right.

9 A. On January the 30th.

10 Q. Okay. Did you have occasion to meet with Henry
11 Anderson on January 30th?

12 A. Yes sir, I did.

13 Q. Hod did that come to be?

14 A. I met with him with my supervisor, Officer Lominack,
15 at the Sheriff's Office.

16 Q. Okay. This was after Anderson was picked up in
17 Laurens County?

18 A. Yes, sir.

19 Q. Okay. He was brought back to the Sheriff's
20 Department?

21 A. Yes, sir.

22 Q. How many statements did he give while he was at the
23 Sheriff's Department with you and Lominack?

24 A. Two.

25 Q. Let me show you, let me put it up here. This is

1 State's number 25. All right. State's 25, do you
2 recognize what that is?

3 A. Yes, sir.

4 Q. What is it?

5 A. It's a statement from Mr. Anderson.

6 Q. Okay. You said there was two given?

7 A. There was two given.

8 Q. Which one is that?

9 A. This will be statement number one, which he gave to
10 Officer Lominack before I even arrived in the office.

11 Q. Okay. Well, now you were there when he gave this
12 statement at some point, weren't you?

13 A. I came in after he wrote the statement to witness
14 what he said. Which I asked him, we both asked him was
15 this what happened that day. And he said, yes. So he
16 signed it, my supervisor Lominack signed it and I signed
17 it as a witness.

18 Q. Okay. That bottom portion, that is what you are
19 talking about when you witnessed it?

20 A. Yes, sir.

21 Q. At the time you were Kaye Epps but you have been
22 married since then, now you are Kaye Epps Williams?

23 A. Yes, sir.

24 Q. But that's your signature down there as a witnessing
25 party?

1 A. Yes, sir.

2 Q. Okay. Now, explain a little bit more what you were
3 talking about where, after he completes the statement you
4 read it back to him?

5 A. After he completes the statement we'll ask him is
6 this exactly what happened. He told us, yes. And if this
7 is what he said he will sign the statement. Once he
8 signs, my supervisor signs and then I'll sign as a
9 witness.

10 Q. Okay. And did he sign that?

11 A. Yes sir, he did.

12 Q. Let's see. Is that his signature right there?

13 A. Yes, sir.

14 Q. Okay. All right. And when was this statement
15 completed?

16 A. This one was completed, it says 3:44 p.m. on January
17 30th.

18 Q. Okay. And your statement from the victim was 11:00
19 that morning?

20 A. Yes, sir. 11:40 a.m.

21 Q. Okay. So it was almost exactly four hours later that
22 you were able to interview Mr. Anderson?

23 A. Yes, sir.

24 Q. Okay. All right. So in his first statement, what is
25 his story to you all?

1 A. From my supervisor, it was a little, he wasn't sure
2 that he was telling the correct details of the incident.
3 So after Officer Lominack walked out then I talked with
4 him, you know, just to see if he is going to give me the
5 same story. But he kind of changed it a little bit.

6 Q. Did he?

7 A. Yes, sir.

8 Q. What, was he under Miranda?

9 A. Yes sir, he was.

10 Q. He had been read his rights?

11 A. Yes, sir.

12 Q. All right. So after he gave the first statement what
13 did you do? Did you threaten him or something?

14 A. No sir, I didn't.

15 Q. Did you trick him?

16 A. No, sir.

17 Q. What, if anything, did you tell him?

18 A. I just asked him what happened. And he told me that
19 he did go by the house. And I said, well let me ask you
20 this. Did you have sex. And he said, yes, I did. I
21 said, Mr. Anderson, you can't do that because you've
22 already told us that y'all had broken up. He said yes,
23 but we did have sex. I said, but you can't do that.

24 Q. Okay. So in the first one he doesn't talk about the
25 sex. Then in the second one he comes clean and says, well

1 okay yeah, we did have sex?

2 A. Yes, sir.

3 Q. This is State's 26. Is that the second statement
4 there?

5 A. Yes, sir.

6 Q. Let me ask you, how can you tell that's the second
7 statement?

8 A. This is going to have, it should have a two on the
9 top like that one has number two. So that would be the
10 second statement that was given to me.

11 Q. Okay. So, State's 25, that's a one?

12 A. Yes, sir.

13 Q. Indicating that's the first statement?

14 A. Yes, sir.

15 Q. And that's a two?

16 A. Yes, sir.

17 Q. On 26.

18 A. Yes, sir.

19 Q. Which is indicating that's a second statement?

20 A. Yes, sir.

21 Q. Okay. Why, I mean, did he tell you why he decided to
22 come clean and admit that it was, there was sex involved
23 on the second statement?

24 MR. MOSLEY: Objection, Your Honor. That calls for
25 speculation on her part as to why he changed his

1 statement.

2 THE COURT: All right. You can ask her if he gave an
3 explanation as to the different statements. But it's
4 improper for her to speculate why. So if she knows,
5 affirmatively knows or if he explained to her why he
6 changed the statement, then that's fine.

7 Q. Did you understand my question?

8 A. Yes, sir.

9 Q. Okay.

10 A. He advised me that he thought it was okay because
11 they used to date and they had just broken up, I don't
12 know how many months ago. But he thought it was okay.
13 because they used to date.

14 Q. All right. My question though is, did he indicate
15 why he didn't admit to the sex in statement one?

16 A. No sir, he didn't tell me why he didn't admit on the
17 first one.

18 Q. Okay. Did you advise Henry Anderson that Tywanda
19 [REDACTED] was at the hospital?

20 A. No. No sir, I didn't. I can't recall that.

21 Q. Okay. Ms. Williams, please answer any questions Mr.
22 Mosley has for you.

23 A. Yes, sir.

24 THE COURT: Mr. Mosley.

25 MR. MOSLEY: Thank you, Your Honor.

CROSS-EXAMINATION

1
2 BY MR. MOSLEY:

3 Q. Good day, ma'am. How are you?

4 A. Fine. How are you?

5 Q. Good. You having a good day?

6 A. So far.

7 Q. Good. Good. Just a few questions.

8 A. Yes, sir.

9 Q. What evidence, what clothing did you gather from the
10 victim as evidence in this case?

11 A. I can't tell you what clothing because it was a nurse
12 at the hospital that put all the clothes in the bag. And
13 it might be, I think it was a pair of black pants, I'm not
14 sure. It was a shirt. I couldn't tell you what color,
15 but everything was placed in a bag.

16 Q. Right.

17 A. And it's still sealed up.

18 Q. Right.

19 A. And it was wrote on the bag.

20 Q. Right. Have you seen it today?

21 A. It's, far as I know, it's still sealed in the bag.
22 It's in a white bag.

23 Q. Have you seen it today though?

24 A. No sir, I have not.

25 Q. Okay. Now when you say some pants, would there be a

1 shirt, pants is as distinguishable from panties, you know,
2 underwear.

3 A. Pants. Pants like regular pants.

4 Q. Right.

5 A. It was pants, I know it was a shirt.

6 Q. And underwear?

7 A. It should have been underwear.

8 Q. Underwear?

9 A. Yes.

10 Q. The purpose of gathering evidence from the victim is
11 to sort of like check her story out, correct?

12 A. Yes, sir.

13 Q. Okay. And you knew that the victim said that they
14 had had sexual intercourse? You knew that, correct?

15 A. Correct.

16 Q. I mean the victim said she had sex?

17 A. No, she said he wanted sex, she didn't.

18 Q. The victim told you though that they had sex?

19 A. The victim said he wanted sex.

20 Q. Okay. Did the victim have sex?

21 A. She said she did not have sex.

22 Q. Okay. So the victim told you that she did not have
23 sex?

24 A. That's right.

25 Q. Now, if the victim didn't have sex, then under the

1 law can she be charged with having, can the defendant be
2 charged with having sexual intercourse?

3 A. If it wasn't consensual, yes he can be charged.

4 Q. Let me ask you again. Did the victim tell you she
5 had sex with Mr. Anderson?

6 A. She told me he--

7 Q. Wait. Wait. Hold on. Answer that question first.
8 Yes or no, then explain.

9 A. No.

10 Q. She said she did not have sex?

11 A. That's right.

12 Q. Okay. So she told you or you did ask, did you ask
13 her what happened?

14 A. Yes sir, I did.

15 Q. Okay. And what did you ask her?

16 A. I asked her what happened and she advised me that he
17 was, he came by the house at gun point, picked her up,
18 took her to Stoney Battery and advised her that he was
19 going to have sex and she told him no.

20 Q. Okay. But eventually did the two parties, whether or
21 not it was consensual or not, did they in fact have sex as
22 far as you understood?

23 A. As far as I understood, yes.

24 Q. So let me ask you this question one more time. Did
25 the victim tell you that she had sex, not whether or not

1 it was consensual or forced, did she tell you that she had
2 sex with Mr. Anderson? Yes or no?

3 A. Yeah.

4 Q. Hallelujah. Now when the victim got to the hospital
5 what type of clothes did she have on?

6 A. I can't recall because I, like I said, everything was
7 put in a bag. A white bag.

8 Q. It was put in a white bag at the hospital?

9 A. Yes, sir.

10 Q. We can assume she rode to the hospital with who?

11 A. One of the officers.

12 Q. An Officer rode her there?

13 A. Yes, sir.

14 Q. So we can assume that whatever clothes she had on
15 during the incident are the same clothes that she had on
16 at the hospital?

17 A. Yes, sir.

18 MR. SCOTT: Judge, just the nature of the question is,
19 he's soliciting speculation. He's asking her to assume.

20 MR. MOSLEY: No.

21 THE COURT: Well rephrase the question. I know what
22 you're getting at Mr. Mosley. It just wasn't artfully
23 stated.

24 MR. MOSLEY: I'll try to do better, Your Honor.

25 THE COURT: No, you're doing fine. Go ahead.

1 Q. Ma'am, Lieutenant Lominack, he's your supervisor?

2 A. Yes, sir.

3 Q. Now, you just here to tell the truth, right?

4 A. Yes, sir.

5 Q. You know that, you call it a rape kit, right?

6 A. Yes, sir.

7 Q. Rape kit. Beg the Courts indulgence.

8 THE COURT: Yes, sir.

9 Q. Do you know what the rape kit consents of? You
10 familiar with that?

11 A. Yes, sir.

12 Q. What does that consist of?

13 A. Consist of bags they put your belongings in. You
14 have to have bags to put like stuff from underneath your
15 fingernails, combing your hair, bags for all of that.

16 Q. In this case, this information is sent to SLED?

17 A. Yes, sir.

18 Q. So in the rape kit, they would be looking for, it
19 says sexual assault evidence collected kit from Tywanda
20 [REDACTED]. One thing you can agree or disagree, they will be
21 dealing with vaginal smears, correct?

22 A. Yes, sir.

23 Q. Vaginal swabs, correct?

24 A. Yes, sir.

25 Q. Oral swabs, correct?

1 A. Yes, sir.

2 Q. Pubic hair combings, correct?

3 A. Yes, sir.

4 Q. Victim buccal swabs, correct?

5 A. Yes, sir.

6 Q. Suspected body fluid swabs, correct?

7 A. Yes, sir.

8 Q. Debris collection, correct?

9 A. Yes, sir.

10 Q. Cuttings from underwear?

11 A. Yes, sir.

12 Q. And debris from the underwear?

13 A. Yes, sir.

14 Q. Now, I am going to show you what's been given to me
15 in pre-trial discovery as the SLED report on the rape kit
16 from Tywanda [REDACTED] Take a look at that. You finished?

17 A. Yes.

18 Q. Okay. Now I want you to take a look at this and up
19 at the top is evidence processing and I want you to read
20 to the ladies and gentleman of the jury exactly what this
21 says right there. And read me the date.

22 MR. SCOTT: Your Honor, I'm not sure what, what piece
23 of evidence that is that he's asking her to read to the
24 jury.

25 THE COURT: Let's go ahead and have it marked.

1 MR. MOSLEY: No problem.

2 THE COURT: Show it if you would to Mr. Scott, please.

3 MR. SCOTT: No objection.

4 THE COURT: All right.

5 Q. Okay. And I would like this one also. You can, the
6 first one that I showed to you, let me get them marked
7 first.

8 THE COURT: Yes, please. Thank you.

9 MR. MOSLEY: Excuse me.

10 THE COURT: Are you going to be moving these into
11 evidence?

12 MR. MOSLEY: I am.

13 THE COURT: All right.

14 MR. MOSLEY: And there are three of them.

15 THE COURT: All right. They will be in evidence.

16 (Whereupon, Defendant's Exhibits 4, 5 and 6 were
17 admitted into evidence.)

18 Q. Okay. Now, without any objection, ma'am, these are
19 marked exhibit number 4, and that's dated April 23rd of
20 2013. That says toxicology department. You see it up at
21 the top?

22 A. Yes.

23 Q. That's number 4, correct?

24 A. Yes, sir.

25 Q. Okay. And number 5 is dated May 27th of 2013,

1 correct?

2 A. Yes, sir.

3 Q. Okay. And the last report from SLED was December
4 20th of 2013, correct?

5 A. Yes, sir.

6 Q. Okay. Now, on page two of exhibit number 6 at the
7 top, I believe it says cuttings from underwear. And what
8 did the SLED analysis of the forensic serologist, what did
9 it say?

10 A. Cutting from underwear. Semen indicated.

11 THE COURT: Speak up just a little bit please.

12 A. Cutting from underwear. Semen indicated. Item
13 forward to DNA section.

14 Q. Okay. So there was semen, I guess allegedly from Mr.
15 Anderson?

16 A. Yes, sir.

17 Q. In her underwear?

18 A. Yes, sir.

19 Q. And that was from a cutting from her underwear?

20 A. Yes, sir.

21 Q. Now, in this report right here, and this is just
22 recently December, so in other words, now this is
23 addressed to who? Who is that addressed to?

24 A. Garrett Lominack.

25 Q. Lominack. Your supervisor?

1 A. Yes, sir.

2 Q. Right. And so he's been on this case for a year,
3 right?

4 A. Yes, sir.

5 Q. And he only received the SLED analysis as of December
6 20th 2013, correct?

7 A. Yes, sir.

8 Q. Okay. Now, the fact that it says that there was
9 semen in her underwear, that corroborates the fact that
10 they did have sex, correct?

11 A. Possible.

12 Q. Possibly?

13 A. Yes.

14 Q. Okay. It doesn't mean that the sex was forced, does
15 it? Yes or no?

16 A. No.

17 Q. No. It is evidence that they had sex, correct?

18 A. Yes, sir.

19 Q. Okay. And that was only determined scientifically
20 within the last two months. December of 2013. Isn't that
21 the date on there?

22 A. Yes, sir.

23 Q. Okay. Now, the information was sent to SLED, okay,
24 in May for example. Item 3.1, cuttings from crotch. What
25 was the result of that analysis? You can read that to the

1 jury. Right there the result of that analysis. That was
2 in May of this year.

3 THE COURT: Last year.

4 MR. MOSLEY: Last year, excuse me.

5 A. Tested for acid, was positive. The presence of acid
6 indicated of semen. However, the chemical may also be
7 present, other body fluids. Item forwarded to DNA section
8 to determine the presence of the, presence or absence of
9 semen.

10 Q. Okay. Good. Now, you said that you thought that one
11 of the pieces of evidence that you collected in addition
12 to the underwear were some pants?

13 A. Yes, sir.

14 Q. Could you describe them to the ladies and gentlemen
15 of the jury?

16 A. No sir, I can't.

17 Q. Okay. Now, was there any evidence as you saw the
18 underwear or the clothing, was there any evidence that the
19 clothing was torn or, you know, the material was torn or
20 anything like, there was no evidence?

21 A. I don't recall anything being torn.

22 Q. Okay. So, now you have admitted on direct
23 examination that you and your supervisor, Mr. Lominack,
24 had an opportunity to question Mr. Anderson while he was
25 in custody at the Newberry County Sheriff's Department,

1 correct?

2 A. Yes, sir.

3 Q. And that would of been not in the jail, not at the
4 courthouse, but in the Sheriff's Department?

5 A. Yes, sir.

6 Q. That's where he was taken?

7 A. Yes, sir.

8 Q. Okay. And there was a period of time where y'all
9 were talking to him, he had given one statement and then
10 he gave another statement?

11 A. Yes, sir.

12 Q. And there was a period of time when you were talking
13 to Mr. Anderson outside the presence of Mr. Lominack being
14 in the room, correct?

15 A. Yes, sir.

16 Q. Okay. And then that's when you reminded Mr. Anderson
17 that you can't do that, Son. She don't want to have sex.

18 A. Yes, sir.

19 Q. When you have it that means you, you told him that,
20 correct?

21 A. Yes, sir.

22 Q. And then that's when he said well, okay, I had sex?

23 A. Yes, sir.

24 Q. Okay. Now, threat. You didn't threaten him, did
25 you?

1 A. No, sir.

2 Q. You wouldn't threaten him?

3 A. No, sir.

4 Q. Okay. Would you persuade him to tell the truth?

5 A. No, sir.

6 Q. Is there a difference between persuading somebody and
7 threatening somebody?

8 A. Yes, sir.

9 Q. What's the difference?

10 A. Persuading to me is probably to say it, you do this,
11 maybe I'll help you out. As threatening say, if you don't
12 tell me, then you gonna probably do something different.

13 Q. And, periodically you would go outside the room and
14 huddle with Lominack, y'all would talk about what was
15 going on, correct?

16 A. Only time I left is when we finished talking and then
17 that's when I asked Officer Lominack to come back in.

18 Q. Right. Now, but prior to even talking to Mr.
19 Anderson at all, did you have an opportunity to review all
20 of the facts? Like the videos, the location, and all like
21 that, right? In other words, you basically knew the story
22 before you talked to him?

23 A. Yes, sir.

24 Q. Correct? And you knew the location?

25 A. Yes, sir.

1 Q. Right. And you also knew that he had been there the
2 day before with a gun under his waistband correct?

3 A. No sir, I did not.

4 Q. Did not know that?

5 A. No, sir.

6 Q. Okay. You knew the location?

7 A. Location of?

8 Q. Where the incident occurred?

9 A. Yes, sir.

10 Q. Are you familiar with that location?

11 A. Somewhat.

12 Q. Somewhat?

13 A. Yes, sir.

14 Q. And somewhat meaning that if somebody was to be on
15 that road, at that particular house, you're familiar with
16 the location of the trailer. The house?

17 A. Yes, sir.

18 Q. The residence adjacent to the road?

19 A. Yes, sir.

20 Q. And you're familiar that when you look out the front
21 door of the house, right?

22 A. Yes, sir.

23 Q. The cars are parked and you can't see them, correct?

24 A. From where that trailer sits here, when you come in,
25 her door was facing the road, [REDACTED].

1 Q. Whose door?

2 A. The victim's door.

3 Q. The victim's door to the house?

4 A. To the trailer.

5 Q. You sure now? Now, number 17 is just ID'd, it's not
6 in evidence. Number 16 is in evidence. Take a look at
7 both of these. This is number 17. That's marked as an ID
8 but it's not in evidence.

9 (Whereupon, State's Exhibit 17 was marked for
10 identification only.)

11 THE COURT: Hold on. Neither 16 or 17 apparently have
12 been moved in yet. But, I mean, you can look at them and
13 we can deal with motions to introduce later.

14 MR. MOSLEY: Okay. All right. Okay.

15 Q. So, you're familiar with that?

16 A. I'm not familiar with the front part of it.

17 Q. Are you familiar with this view?

18 A. Yes, sir. This is still the front. Both of these
19 are the front.

20 Q. Where's the road?

21 A. The road from this, from her trailer, this is going
22 to be the front. The road is going to go down. The

23 [REDACTED], where she lives, [REDACTED] goes down beside
24 this. This is going to be the front part.

25 Q. Okay. When you look out the front door, can you see

1 the road?

2 A. You see the road from the front.

3 Q. You sure?

4 A. You should because the, it's just like a little bush
5 or something, little trees. But you can see the road from
6 the front. But far as going in the side where I came in,
7 [REDACTED] runs down the side of this trailer, not the
8 front of it.

9 Q. So did you ever, did you tell Mr. Anderson and I
10 don't know because I wasn't there. Did you tell Mr.
11 Anderson something to the effect that well, we got a
12 witness, the mama in the house seen you out there that
13 day?

14 A. No sir, I didn't.

15 Q. You didn't do that?

16 A. No, sir.

17 Q. No further questions.

18 THE COURT: Redirect.

19 REDIRECT EXAMINATION

20 BY MR. SCOTT:

21 Q. Ms. Williams, I just want to clarify, there was an
22 exchange between you and the defense attorney over here.
23 And he was asking you if Ms. [REDACTED] indicated that she and
24 Henry Anderson had sex. And you said no but then you said
25 yeah.

1 A. Yes, sir.

2 Q. What was the allegation? What occurred at the cell
3 phone tower to your understanding?

4 A. She advised me that once he got her to the phone
5 tower, she had told him no, she did not want to have sex.
6 But he told her they were going to have sex because they
7 used to talk and they don't talk anymore. And he thought
8 it was okay to go ahead and have sex anyway.

9 Q. And then what did they do?

10 A. And she advised me that he made her lean over, I
11 think it was the front of the car, and he got behind her
12 and had sex.

13 Q. Okay. So were you differentiating consensual sex and
14 rape?

15 A. Yes, sir.

16 Q. Okay. And what she indicated was that he forcibly
17 raped her?

18 A. Yes, sir.

19 MR. MOSLEY: Judge, Your Honor, that's a leading
20 question.

21 THE COURT: All right. Sustained.

22 Q. How did she categorize the sexual intercourse?

23 A. When you say categorize, what do you mean?

24 Q. Well Ms. Williams, we are talking about consensual
25 sex here?

1 A. That's not, she said it was not consensual.

2 MR. MOSLEY: Objection, Your Honor.

3 A. This was not--

4 THE COURT: Overruled. You can answer.

5 A. She said it was not consensual because she told him
6 no. Anytime you tell somebody no, no means no.

7 Q. All right.

8 A. So it's not consensual.

9 Q. What were the allegations involving the weapon?

10 A. She advised me that he, when he came by the house he
11 had a weapon. It was some sort of gun and he had it at
12 her head or something like that and told her to get in the
13 vehicle, drive them, get in the vehicle and drive to a
14 certain location.

15 Q. Okay. And this would of all been documented in her
16 statement as well?

17 A. Yes, sir.

18 Q. Okay. Thank you.

19 RECROSS EXAMINATION

20 BY MR. MOSLEY:

21 Q. So she told you that when he got out of the car, he
22 approached the house he had the gun in his hand or
23 possession at that point, right?

24 A. She said he had a weapon.

25 Q. Yeah.

1 A. Yes, sir.

2 Q. But she said she immediately knew he had a weapon.

3 A. No, I didn't say that. She said he had a weapon.

4 She didn't say he immediately, she immediately knew. She
5 said he had one. She didn't tell me if he got in the car
6 with it or when he got out of the car, but she said he had
7 one.

8 Q. Where did the weapon come from?

9 A. I have no idea.

10 Q. All right. Thank you. No further questions.

11 THE COURT: Thank you, ma'am. You can step down.

12 THE COURT: Solicitor, if you will call your next
13 witness.

14 MR. SCOTT: Your Honor, the State rest.

15 THE COURT: Ladies and gentlemen, I need to take up a
16 few issues of law with the attorneys involved in this
17 case. This shouldn't take more than five or ten minutes.
18 Adjourn for just a few moments and don't talk about the
19 case yet. Thank you very much.

20 (Whereupon, the jury was excused from open court.)

21 THE COURT: The jury is out. At this point, Mr.
22 Mosley, motions on behalf of the defendant.

23 MR. MOSLEY: Judge, I make a motion for a directed
24 verdict on all three counts. They haven't proven their
25 case.

1 THE COURT: Using the light most favorable to the
2 non-moving party and that is the standard, I would find
3 that the State has produced evidence from which the jury
4 may fairly and logically conclude the defendant is guilty.
5 So I will deny your motion.

6 MR. MOSLEY: I am ready to start back with my first
7 witness.

8 THE COURT: Before we do that may I ask, Ms. Mosley,
9 do you intend to or does your client intend to testify?

10 MR. MOSLEY: We have been talking about it and if you
11 want to get that hearing over right now let's do it.

12 THE COURT: That is what I was thinking about.
13 Solicitor, does Mr. Anderson have any prior convictions
14 that the State would seek to impeach him on?

15 MR. SCOTT: No, sir.

16 THE COURT: Mr. Anderson, if you could, you can stay
17 seated, but if you would just raise your right hand
18 because I have got to ask you some questions and you have
19 to be under oath.

20 HENRY ANDERSON, being
21 first duly sworn, testified as follows:

22 THE COURT: You are Henry Anderson, is that right?

23 MR. ANDERSON: Yes, sir.

24 THE COURT: Mr. Anderson, we have come to point in
25 the trial where I need to explain to you certain rights

1 that you have and if you don't understand something I am
2 telling you I want you to stop me and I will try to
3 explain it better or I will let you talk to Mr. Mosley
4 about it. Okay, sir.

5 MR. ANDERSON: Yes, sir.

6 THE COURT: Now, Mr. Anderson, we have reached the
7 point in the trial where you can present a defense in this
8 case and you understand that you have the right to claim
9 the protections given to you by the Fifth Amendment of the
10 U.S. Constitution and the same Amendment of the South
11 Carolina Constitution. The Fifth Amendment basically
12 states that no person can be compelled in any criminal
13 case to be a witness against himself. Now, what this
14 means is that you cannot be required to testify in this
15 case. I cannot force you to testify, certainly the
16 Solicitor cannot force you to testify, not even your
17 attorney can force you to testify. Do you understand, Mr.
18 Anderson?

19 MR. ANDERSON: Yes, sir.

20 THE COURT: That is because the Fifth Amendment right
21 is a personal right, it belongs to you and only you can
22 waive it. Now, Mr. Anderson, if you decide to testify you
23 understand that you will be subject to the same rules of
24 cross-examination as any other witness. That means the
25 State can question you on any issue that is relevant in

1 this particular case and you will have to answer their
2 questions. Do you understand?

3 MR. ANDERSON: Yes, sir.

4 THE COURT: So, if you decide to testify, this
5 decision about testifying must be made freely, voluntarily
6 and with full understanding of the protections given to
7 you under our law. If you decide not to testify I will
8 instruct the jurors that they cannot give the fact that
9 you didn't testify any consideration. They can't even
10 discuss it and there is to be no prejudice to you when
11 they deliberate. Do you understand that?

12 MR. ANDERSON: Yes, sir.

13 THE COURT: Now, Mr. Anderson, it is left entirely up
14 to you on whether or not you want to testify. You can
15 talk to your attorney and I would encourage you to talk to
16 Mr. Mosley about this but you can also discuss this with
17 your family or members or your friends or anyone else.
18 But the final decision on whether or not you testify has
19 got to be yours. Do you understand, sir?

20 MR. ANDERSON: Yes, sir.

21 THE COURT: Have you understood everything that I
22 have said to you?

23 MR. ANDERSON: Yes, sir.

24 THE COURT: And do you have any questions about
25 anything that I have talked to you about, about this Fifth

1 Amendment right?

2 MR. ANDERSON: No, sir.

3 THE COURT: Now, yes sir.

4 MR. MOSLEY: Judge, can I make sure I am protecting
5 myself about this decision by going through basically the
6 same questions that you just asked him, this is coming
7 from me. Because I think sometimes that helps.

8 THE COURT: Sure, if you feel that that is necessary
9 go right ahead.

10 MR. MOSLEY: This is serious and I want to make sure.

11 THE COURT: Sure.

12 MR. MOSLEY: Mr. Anderson, what the Judge is telling
13 you is at the end of the trial, right, I made a motion for
14 a directed verdict, the Judge has denied that and the case
15 goes forward. Now, you don't have to testify. At the
16 end, what the Judge is going to do is read those jury
17 instructions that we have been going over. And one of
18 those jury instructions would include the fact that, the
19 Judge would explain to the jury that they take you like a
20 sheet of paper, they can't hold the fact that you don't
21 want to say anything against you. Do you understand what
22 I am saying?

23 MR. ANDERSON: Yes, sir.

24 THE COURT: In other words, you are presumed innocent
25 until proven guilty by law. But when you take the witness

1 stand then that means you are subjecting yourself where
2 the jury can determine your credibility, everything is
3 wide open then. So taking that into consideration, I
4 would ask the Court if he could just have a brief moment
5 because he has family sitting right here, Judge, two
6 uncles and an aunt, the other aunts are witnesses.

7 MR. MOSLEY: I don't want to talk to the witnesses.
8 But I think that these three rights here will be important
9 for them to maybe lobby over there in the corner for just
10 a second if that is okay.

11 THE COURT: Sure, not a problem. Mr. Anderson, would
12 that be helpful to you, to be helpful to you to be able to
13 speak to these people about that decision?

14 MR. ANDERSON: Yes, sir.

15 THE COURT: And I assume you and your attorney have
16 talked about this?

17 MR. ANDERSON: Yes.

18 MR. MOSLEY: Yes, several times.

19 THE COURT: All right. You wanted to say something.

20 MR. SCOTT: Judge, just during the break, they have
21 got a Cindy Anderson and a Lisa Anderson as proposed
22 witnesses. If we can get information, just run a rap
23 sheet on them during this break.

24 MR. MOSLEY: Judge, no problem. As a matter of fact,
25 Judge, my client, not my client, but the family was very

1 concerned earlier that they saw law enforcement with a
2 camera, like they were taking their pictures. And they
3 want me to raise san about that. I said just be cool,
4 they are probably running your rap sheets. This is fine.

5 THE COURT: It is a public place, legally anybody can
6 take antibody's picture except in here, they have got to
7 get my permission for in here.

8 MR. MOSLEY: They was doing it right here in the
9 courtroom, they was sitting there. Why are you taking our
10 pictures, that is nonsense.

11 THE COURT: No harm, by foul. We will take a brief
12 break. Mr. Anderson, you can talk to your uncles and your
13 aunt for five or ten minutes and then we will resume.

14 MR. MOSLEY: Thank you, Your Honor.

15 THE COURT: Mr. Anderson, the way I leave this, okay,
16 if you decide, the way I have always done this is if Mr.
17 Mosley calls you as a witness I will assume that you are
18 waiving your Fifth Amendment right against self
19 incrimination. If he doesn't call you as a witness I
20 assume that you are asserting your Fifth Amendment right
21 in staying silent. Is that fair enough?

22 MR. ANDERSON: Yes, sir.

23 THE COURT: Do you understand that?

24 MR. ANDERSON: Yes, sir.

25 THE COURT: And you trust him to call you if you want

1 to testify or not call you if you choose not to testify,
2 is that right?

3 MR. ANDERSON: Yes, sir.

4 THE COURT: Talk to your folks and we will be right
5 back.

6 (Whereupon, a short break was taken.)

7 THE COURT: Let the record reflect that the defendant
8 is present with counsel. Mr. Anderson, I assume you have
9 had a chance to talk to your uncles and your aunt, is that
10 right?

11 MR. ANDERSON: Yes, sir.

12 THE COURT: You are comfortable with whatever
13 decision it is that you have made?

14 MR. ANDERSON: Yes, sir.

15 THE COURT: Do you understand the rules, Mr. Mosley,
16 if you call him as a witness I will assume he is
17 automatically waiving his Fifth Amendment rights?

18 MR. MOSLEY: Yes, sir.

19 THE COURT: And the contrary is true as well.

20 MR. SCOTT: One quick issue, two witnesses, Cindy
21 Anderson and Lisa Anderson, it is my understanding they
22 are refusing to give out certain information in order to
23 run a rap sheet for law enforcement.

24 MR. MOSLEY: I didn't know that.

25 THE COURT: Mr. Mosley, if you would ask them to

1 provide the information or if you get it from them. We
2 will remain at ease until we get that.

3 (Whereupon, a short break was taken.)

4 THE COURT: All right, let's bring the jury in.

5 (Whereupon, the jury came into open court at
6 approximately 2:43 p.m.)

7 THE COURT: Mr. Mosley, you may call your first
8 witness.

9 MR. MOSLEY: Your Honor, I would call Cindy Anderson.

10 CINDY ANDERSON, being
11 first duly sworn, testified as follows:

12 DIRECT EXAMINATION

13 By Mr. Mosley:

14 Q State your name for the record.

15 A Cindy Anderson.

16 Q Who are these three people right here?

17 A My brothers and sister-n-law.

18 Q This is your brother?

19 A Yes.

20 Q What is his name?

21 A Bobby.

22 Q Bobby what?

23 A Anderson.

24 Q Who is this gentleman right here?

25 A My brother.

- 1 Q What is his name?
- 2 A Randy Anderson.
- 3 Q Who is this young lady right here?
- 4 A Rosalyn.
- 5 Q Who?
- 6 A Griffin Anderson.
- 7 Q His wife?
- 8 A That is his wife.
- 9 Q So y'all are the family of Henry Anderson?
- 10 A Correct.
- 11 Q Now, how long have you known Henry Anderson?
- 12 A Since he was a baby.
- 13 Q Since he was a baby?
- 14 A Yes.
- 15 Q And do you understand what it means to tell the
- 16 truth, nothing but the truth so help you God?
- 17 A I do.
- 18 Q What does that mean?
- 19 A To tell the truth.
- 20 Q Or you can go to jail, you understand that?
- 21 A Correct.
- 22 Q Now, as far as January 30th, you don't have no first
- 23 hand knowledge to that day, do you?
- 24 A No.
- 25 Q You wasn't there?

1 A No.

2 Q Now, where do you live?

3 A [REDACTED], South Carolina.

4 Q And that is in what county?

5 A Laurens County.

6 Q And that is where Henry lived?

7 A Correct.

8 Q Who else lived in that house?

9 A My mother, my father, my sister, my kids and his
10 uncle.

11 Q Who owns that house?

12 A My sister and my brother.

13 Q Now, how old are your parents?

14 A My mama is 76, my daddy is 88.

15 Q Your daddy is 88 years old?

16 A Correct.

17 Q Okay. Now, your daddy or your brother, do they do
18 any hunting?

19 A They do.

20 Q Growing up did they do a lot of hunting?

21 A They did.

22 Q So, were you aware that there was guns in the house?

23 A Yes.

24 Q Where were the guns located?

25 A Before they were in a locked cabinet.

1 Q Before what?

2 A When they was younger we had a locked cabinet but now
3 they are in a closet.

4 Q In a closet?

5 A Yes.

6 Q Now, inside the house, basically describe how many
7 bedrooms y'all have in the house and who slept where.
8 Tell us about that.

9 A Four bedrooms.

10 Q Four bedrooms.

11 A My two young kids sleep in a bedroom. My sister and
12 I share a room. My oldest son and Henry share a room.
13 And my mother and father share a room. My brother sleeps
14 on the couch.

15 Q That means that your son and Henry stay in a room
16 together?

17 A Correct.

18 Q What type of bed is in that room?

19 A A bunk bed and a single bed.

20 Q A bunk bed. Now, what do you know about the gun that
21 is in evidence. Let me get the gun. Have you ever seen
22 this gun?

23 A Yes.

24 Q Exhibit number 21, you have seen that gun?

25 A Yes.

1 Q Where have you seen that gun?

2 A It belongs to my father.

3 Q It belongs to your father?

4 A Yes.

5 Q How long has it been at the house?

6 A Since we have been living there.

7 Q 20 years?

8 A Well, 34.

9 Q 34 years. Have you ever seen a cartridge inside that
10 gun?

11 A Yes.

12 Q How long ago?

13 A A couple of years ago.

14 Q A couple of years ago?

15 A Yes.

16 Q But not no time soon?

17 A No.

18 Q What church does Henry go to?

19 A Little River Zion.

20 Q And do you know the victim here, did she used to go
21 to church with him?

22 A Yes.

23 Q How many years?

24 A That I can't say, I don't know.

25 Q But she used to go to church with him, didn't she?

1 A Yes.

2 Q Now, so they knew each other, let's say for example,
3 four or five years ago at church?

4 A I assume.

5 Q Okay. How well do you know the defendant?

6 A All of my life.

7 Q You have known this young lady?

8 A No, no. I was thinking of Henry, I am sorry.

9 Q How long have you known her?

10 A She had been coming two years.

11 Q About two years?

12 A Yes.

13 Q When you saying coming around, coming where?

14 A To our house, [REDACTED].

15 Q So she has been in the house?

16 A Yes.

17 Q Was she in the house, did she have her boy with her?

18 A Yeah, they came.

19 Q They came?

20 A Yes.

21 Q Okay. Do you know the fact whether they ever been
22 inside any bedroom or not?

23 A Yes.

24 Q Tell us about that.

25 A Well that day they was in there they were playing

1 video games. She was sitting on a stool, they was sitting
2 on the bed that my son sleep on.

3 Q Where was the gun at?

4 A Don't know.

5 Q You don't know. Now, January of last year. Okay.

6 What if anything do you know about Henry having a car
7 wreck?

8 A He had it on January the 21st, that was the day on my
9 son's birthday.

10 Q He had a car wreck?

11 A Yes.

12 Q What, if anything, did you do with regard to the car
13 wreck, what did you do?

14 A Well, me and my son and their father was coming from,
15 where were we coming from, Frankie's Fun Park and I got a
16 phone call and he had said he had wrecked and he couldn't
17 get out of the car. He say he was going to call me back
18 but he didn't call me back. Me and the kids and their
19 father went on to the Chinese Restaurant in Clinton. And
20 he called me back after that and said that they was going
21 to take him to the emergency room. So after that me and
22 my kids went home. So after we got home he called me and
23 said he was at the emergency room, they was going to call
24 me, he was going to call me when they got finished. And
25 that is what he did and I went and picked him up.

1 Q What happened to his car?

2 A The tow truck picked it up.

3 Q And so therefore, did Henry have access to his car
4 for a couple of days thereafter?

5 A No.

6 Q What, if anything, happened with the car?

7 A Well, it stayed at the place where they took it to
8 until the 25th of January.

9 Q Where did they take it to?

10 A Laurens, I can't think of the name of the place.

11 Q Did he go and get the car back?

12 A Yes.

13 Q Who paid that?

14 A Henry.

15 Q Henry did. Did any law enforcement agency ever have
16 access to the car on that day?

17 A I don't know.

18 Q Now, you heard about what is going on in this case
19 today, right?

20 A Yes.

21 Q But as of January 22nd or 23rd you didn't know
22 nothing about those text messages or anything, did you?

23 A No.

24 Q You didn't know nothing?

25 A No.

1 Q Did you know anything about the video?

2 A No.

3 Q You didn't see the video?

4 A No.

5 Q Do you know anything about Henry's mama, where is she
6 at?

7 A Delaware or somewhere. She is not even in this
8 State.

9 Q Had anything happened with his mama that you know of?

10 A Well, they gave him a phone all saying that she had
11 died but she is not.

12 Q She is not dead?

13 A No.

14 Q And Henry's daddy is your--

15 A Brother.

16 Q Brother. Where is he at?

17 A Ware Shoals, probably at work today.

18 Q Ware Shoals. How old is he?

19 A Older than me, that is all I can say, I can't
20 remember.

21 Q So, Henry got any children?

22 A Yes.

23 Q How many children Henry got?

24 A Three.

25 Q Three that you know of?

1 A Yes.

2 Q How old is Henry?

3 A Henry?

4 Q Henry right there?

5 A No, he don't have any kids. When you say Henry, now
6 you just asked me about the dad. So the dad's name is
7 Henry too, so I am thinking you asking me how many kids
8 the dad has.

9 Q No, I am asking you about Henry right there, how many
10 kids he has got?

11 A None that I know of. They say but she has never been
12 to our house.

13 Q So there is a possibility that Henry, the defendant,
14 does have children?

15 A Maybe.

16 Q So, where were you at on January the 30th of 2013
17 when the police showed up, where were you at?

18 A In the front door getting ready to go outside.

19 Q What?

20 A In the front door getting ready to go outside.

21 Q Okay. What time do you normally get up in the
22 morning?

23 A It varies.

24 Q What, if anything, did you notice of Henry's
25 whereabouts of going and coming on the morning of January

1 30th of 2013?

2 A Well, when I woke up he was at home.

3 Q When did you wake up?

4 A That was at 7:00.

5 Q At 7:00?

6 A Yes.

7 Q When you say he was there at 7:00 o'clock, what did
8 you observe about--

9 MR. SCOTT: Your Honor, we may have a matter to take
10 up outside the presence of the jury.

11 THE COURT: Y'all approach real quick.

12 (Whereupon, a bench conference was held in the
13 presence of the jury but out of the hearing of the
14 jury.)

15 Q You are not trying to give Henry no alibi, are you?

16 A No.

17 Q You don't know what happened, right?

18 A Correct.

19 Q So, about 7:00 o'clock in the morning, was Henry just
20 getting up, I mean what did you notice about him?

21 A When I saw Henry at 7:00 he was fully dressed.

22 Q What did he have on?

23 A Some shorts, some shoes and a pullover.

24 Q I am going to show you this pair of shorts right here
25 and ask you if you recall Henry having on these red shorts