

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Charleston County

Honorable Thomas L. Hughston, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

KRAIG JERMAYNE ANDERSON,

APPELLANT

APPELLATE CASE NO 2018-000703

RECORD ON APPEAL

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INDEX

INDEX	i
TRANSCRIPT OF TRIAL HELD APRIL 9-11, 2018.....	1
TESTIMONY (IN CAMERA)	
CRISTEN WESLEY	
Direct Examination by Ms. Baldwin	17
Cross Examination by Ms. Proctor	31
MOTION TO EXCLUDE PICTURES.....	31
COURT'S RULING	34
TESTIMONY (IN CAMERA)	
CRISTEN WESLEY	
Direct Examination by Ms. Baldwin	36
Cross Examination by Ms. Seman.....	48
Redirect Examination by Ms. Baldwin.....	52
ALEXANDRIA DEAN	
Direct Examination by Ms. Shealy	53
Cross Examination by Ms. Seman.....	87
Redirect Examination by Ms. Shealy.....	93
LISA BLOODWORTH	
Direct Examination by Ms. Shealy	96
TANYA MALLETTE	
Direct Examination by Ms. Shealy	98
OPENING STATEMENT BY MS. BALDWIN	116
OPENING STATEMENT BY MS. SEMAN.....	119
TESTIMONY	
JOVANNA WILSON	
Direct Examination by Ms. Shealy	122
Cross Examination by Ms. Seman.....	126

CRISTEN WESLEY	
Direct Examination by Ms. Baldwin	128
Cross Examination by Ms. Seman	159
Redirect Examination by Ms. Baldwin	167
HEIDI MCGRATH	
Direct Examination by Ms. Baldwin	170
HAYDEN STEPHENS	
Direct Examination by Ms. Baldwin	172
DAVID PRITCHARD	
Direct Examination by Ms. Baldwin	181
SIDNEY LEWIS	
Direct Examination by Ms. Baldwin	184
ANGELA ELMER	
Direct Examination by Ms. Shealy	188
Cross Examination by Ms. Proctor	213
NANCY HALL	
Direct Examination by Ms. Shealy	222
Cross Examination by Ms. Seman	249
Redirect Examination by Ms. Shealy	254
SHANNON CROSBY	
Direct Examination by Ms. Baldwin	255
DAVID WAGNER	
Direct Examination by Ms. Baldwin	257
SCOTT WYANT	
Direct Examination by Ms. Baldwin	259
SHAWNTA MIDDLETON	
Direct Examination by Ms. Baldwin	261
DORIS YARBROUGH	
Direct Examination by Ms. Baldwin	265
CATHERINE LEISY	
Direct Examination by Ms. Baldwin	269
Cross Examination by Ms. Seman	280

KATHY GILL-HOPPLE	
Direct Examination by Ms. Baldwin	282
Voir Dire by Ms. Seman	289
Voir Dire by Ms. Baldwin	294
Direct Examination (continued).....	310
Cross Examination by Ms. Seman	313
MOTION FOR DIRECTED VERDICT	317
COURT'S RULING	318
THE STATE RESTS	319
THE DEFENSE RESTS	319
CLOSING ARGUMENT BY MS. BALDWIN	323
CLOSING ARGUMENT BY MS. PROCTOR.....	339
JURY CHARGE	346
VERDICT	355
SENTENCING	361
CERTIFICATE OF COUNSEL	368

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:
COURT'S EXHIBITS NOS. 1-5 (PHOTOGRAPHS)
COURT'S EXHIBIT NO. 6 (CD OF LINEUP)
STATE'S EXHIBITS NOS. 23-35 (PHOTOGRAPHS)
STATE'S EXHIBITS NOS. 32-33 (PHOTOGRAPHS)
STATE'S EXHIBITS NOS. 59-62 (LINEUP PHOTOGRAPHS AND CD)

1 STATE OF SOUTH CAROLINA)
2 COUNTY OF CHARLESTON) Court of General Sessions
3) Case No. 2016-GS-10-2429
4)
5 STATE OF SOUTH CAROLINA)
6 vs.) Transcript of Record
7 KRAIG JERMAYNE ANDERSON,)
8 Defendant.)
9)
10) DATE: April 9-11, 2018
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B E F O R E:

The Honorable Thomas L. Hughston

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INDEX**EXAMINATION****Witness Name****Page**

CRISTEN WESLEY (in-camera)

Direct By Ms. Baldwin 42

Cross By Ms. Proctor 48

Re-Direct By Ms. Baldwin 61

Re-Cross By Ms. Seman 72

Re-Direct By Ms. Baldwin 77

CRISTEN WESLEY

Direct By Ms. Baldwin 152

Cross By Ms. Seman 184

Re-Direct By Ms. Baldwin 192

DANIEL PRITCHARD (in-camera)

Direct By Ms. Baldwin 51

Cross By Ms. Proctor 55

ALEXANDRIA DEAN (in-camera)

Direct By Ms. Shealy 78

Cross By Ms. Seman 112

Re-Direct By Ms. Shealy 118

LISA BLOODWORTH (in-camera)

Direct By MS. SHEALY 121

TANYA MALLETTE (in-camera)

Direct By MS. SHEALY 123

Opening by Ms. Baldwin 141

Opening by Ms. Seman 144

EXAMINATION (continued)

Witness Name	Page
JOVANNA WILSON	
Direct By Ms. Shealy	147
Cross By Ms. Seman	151
HEIDI McGRATH	
Direct By Ms. Baldwin	195
HAYDEN STEVENS	
Direct By Ms. Baldwin	197
DAVID PRITCHARD	
Direct By Ms. Baldwin	205
SIDNEY LEWIS	
Direct By Ms. Baldwin	209
ANGELA ELMER	
Direct By Ms. Shealy	213
Cross By Ms. Proctor	237
NANCY HALL	
Direct By Ms. Shealy	247
Cross By Ms. Seman	273
Re-Direct By Ms. Shealy	279
SHANNON CROSBY	
Direct By Ms. Baldwin	280
DAVID WAGNER	
Direct By Ms. Baldwin	282

1	EXAMINATION (continued)	
2	Witness Name	Page
3	SCOTT WYANT	
4	Direct By Ms. Baldwin.....	284
5	SHAWNTA MIDDLETON	
6	Direct By Ms. Baldwin.....	286
7	DORIS YARBROUGH	
8	Direct By Ms. Baldwin.....	289
9	CATHERINE LEISY	
10	Direct By Ms. Baldwin.....	294
11	Cross By Ms. Seman.....	305
12	KATHY GILL-HOPPLE	
13	Direct By Ms. Baldwin.....	307
14	Voir Dire By Ms. Seman.....	314
15	Voir Dire By Ms. Baldwin	319
16	Cross By Ms. Seman.....	338
17	Closing by Ms. Baldwin.....	349
18	Closing by Ms. Proctor.....	365
19	Jury Charge.....	372
20	Sentencing.....	391
21		
22		
23		
24		
25		

EXHIBITS

Exhibit	Description	Identification	Evidence
Court's 1 - 5	Photographs	45	
Court's 6	CD of lineup	52	
Court's 7	Photograph	71	
Court's 8	Photograph	71	
Court's 9	Photograph of apartment	92	
Court's 10	Photograph of door	92	
Court's 11 - 15	Photographs	97	
Court's 16	Photograph	98	
Court's 17-22	Photographs	103	
Court's 23	Statement by Mr. Eckerd	120	
Court's 24	Department of Corrections classification and inmate records of Kraig Anderson	122	
Court's 25	Kraig Anderson's Release Record	125	
S-1	Aerial view of Wild Buffalo Saloon		156
S-2	Layout of Big Horns		157
S-3	Photograph of patio		161
S-4	Photograph		166
S-5	Photograph		149
S-6	Photograph		149
S-7	Aerial view of Ashley Phosphate and 26		165
S-8	Photograph		217

EXHIBITS (continued)			
Exhibit	Description	Identification	Evidence
S-9	Photograph		218
S-10	Photograph		222
S-11	Photograph		222
S-12	Photograph		222
S-13	Photograph of panties		227
S-14	Photograph		222
S-15	Photograph		255
S-16	Photograph		255
S-17	Photograph		255
S-18	Photograph		255
S-19	Photograph		255
S-20	Photograph		266
S-21	Photograph		266
S-23 - 37	Photographs		266
S-38	Video of Wild Buffalo Saloon		179
S-39	Video from Regents Bank		231
S-40	Video		177
S-41	SLED sexual assault kit		259
S-43	Buccal swabs of Kraig Anderson		299
S-59	Photograph lineup 7/14/14	175	174
S-60	Photograph lineup 7/20/14	175	174
S-61	CD of Identification	10	174

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

EXHIBITS (continued)

Exhibit	Description	Identification	Evidence
S-62	Photograph lineup 7/14/14	175	174
S-63	Diagram of the vascular structures of the neck and the trachea and the human body	327	

1 (Court's Exh. 1, Trial Brief and Motions for the
2 Defendant.)

3 (State's Exh. 61, CD, was marked for
4 identification.)

5 THE COURT: The clerk says one or more of y'all
6 wanted to talk. So I would rather have it out in the open
7 rather than do it in chambers. So who wants to say what?

8 MS. SHEALY: I've spoken to defense counsel. And
9 what we would ask is that we draw the jury this morning and
10 not swear them. And then we believe -- I have a bond
11 hearing on a murder with Judge Dennis at 2, that if we could
12 start back up at 2:30 and 2:45, the jury can be excused for
13 the rest of the day.

14 MS. PROCTOR: If we can pick them now.

15 THE COURT: I don't have any objection. You don't
16 have any objection. So sounds like -- I operate on the
17 premise where you can do pretty much anything by consent. I
18 think that's consent to have everybody. So that sounds
19 good.

20 MS. SHEALY: Thank you.

21 THE COURT: That was simple. Anything else?

22 MS. PROCTOR: For now --

23 MS. SHEALY: I think that's all we had before we
24 needed to draw the jury.

25 THE COURT: Are we going to try to deal with any of

1 these motions or anything before we do anything as far as
2 the jury is concerned or what?

3 MS. SHEALY: No, sir. That's what we were
4 anticipating doing this afternoon. We are all in agreement
5 regarding that.

6 THE COURT: So start motions and everything this
7 afternoon, pick the jury, don't swear them, do motions
8 and --

9 MS. SHEALY: Start fresh Tuesday morning with
10 testimony.

11 THE COURT: Sounds good. All right.

12 I'm looking at your voir dire. I would imagine
13 most everything is standard, so to speak, in here; hope so
14 anyway. But also -- where did your cohort go?

15 MS. SHEALY: She walked outside.

16 THE COURT: She knows I did this in a case I tried
17 with her a couple weeks ago and everything. I let each
18 side, I believe it was five questions to ask the jury if
19 they wanted to after I had done my questions of the jury and
20 voir dire and everything. So I will be glad to give you all
21 that opportunity if you would like to have that chance to
22 ask the jury --

23 MS. SHEALY: You mean we voir dire them ourselves?

24 THE COURT: Yes.

25 MS. SHEALY: Oh.

1 THE COURT: I'm just giving you that opportunity.

2 MS. SHEALY: Are you saying that in lieu of the
3 question you presented?

4 THE COURT: No, I do all I want to, but I will give
5 you all a chance to ask five questions if want to.

6 (Whereupon, Ms. Baldwin enters the courtroom.)

7 THE COURT: I just told your cohort and defense
8 attorneys that I will give you the same opportunity I did
9 you earlier in allowing you five questions to the jury. So
10 they were surprised.

11 MS. SHEALY: Still surprised.

12 MS. BALDWIN: The grand experiment continues, huh?

13 THE COURT: And we do pick the jury with a list.
14 That's another one of my innovations.

15 MS. SEMAN: I have not heard of this before,
16 Judge.

17 THE COURT: Live and learn.

18 (Whereupon, the venire arrives.)

19 THE COURT: Good morning. I believe we have all
20 the jury panel in now. First of all, let me introduce
21 myself. My name is Tommy Hughston. I work as a circuit
22 judge in the state of South Carolina. I've been assigned by
23 the chief justice of the Supreme Court of South Carolina to
24 preside over a term of general sessions or what we normally
25 think of as criminal court here in Charleston County.

1 We have a trial this case, the case of State of
2 South Carolina against Kraig, spelled with a K, K-r-a-i-g,
3 J. Anderson.

4 Mr. Anderson, if you would stand up, please, and
5 turn so the jury can see you. Stand up, please. Thank you.
6 You can be seated.

7 Mr. Anderson is the defendant in this case. He's
8 charged with having violated one of the laws of this state,
9 Section 16-3-62. That's just the number that's assigned to
10 a particular division of law, commonly called criminal
11 sexual conduct in the first degree.

12 The State claims that on or about June 19, 2014,
13 Mr. Anderson did commit what is called criminal sexual
14 conduct involving him and a young female by the name of
15 Cristen, C-r-i-s-t-e-n, Wesley.

16 Is she present?

17 MS. BALDWIN: She's not, Your Honor.

18 THE COURT: Anyway, that's the other person
19 involved in this on June 19, 2014. That's the claim made by
20 the State, that Mr. Anderson did engage in what is called
21 criminal sexual conduct in the first degree with Cristen
22 Wesley on June 19, 2014.

23 And, of course, Mr. Anderson has said I am not
24 guilty of that charge. And that, of course, places the
25 burden to prove him guilty on the State. A person who is

1 pretrial motions, because one of them is Lyle and I think
2 that might take awhile, but then I don't know what number --
3 if there's another number they would call in.

4 THE CLERK: They can call the jury line.

5 MS. PROCTOR: But they are not on the jury.

6 THE CLERK: We can tell them to call.

7 MS. PROCTOR: Will there be another number?

8 THE CLERK: There will be a separate message.

9 MS. PROCTOR: Got you. I think just to be on the
10 safe side --

11 THE COURT: What do we have to deal with, Lyle and
12 what else?

13 MS. BALDWIN: And a Biggers hearing that shouldn't
14 take very long.

15 THE COURT: What is that?

16 MS. BALDWIN: Regarding the victim identifying him
17 in a lineup.

18 MS. PROCTOR: She gave him three lineups.

19 THE COURT: Okay. I don't know how long that will
20 take.

21 MS. BALDWIN: Shouldn't take too long, Your Honor.
22 There's only one which she makes an identification.

23 MS. PROCTOR: I think the Lyle issue --

24 THE COURT: Just to be on the safe side, we will do
25 that. There will be a second --

1 THE CLERK: Tell them to call the jury information
2 line and listen for Hughston's jury.

3 THE COURT: Remind me to tell them that, Hughston's
4 jury. We will do it that way. Okay. All right. Bring the
5 jury in.

6 (Whereupon, the jury returns to open court at 12:24
7 p.m.)

8 THE COURT: Let's have a seat anywhere there and I
9 will tell you about the seat assignments. We have the jury
10 back with us. And Mr. Anderson is present, along with his
11 attorneys.

12 All right. We are not going to actually get
13 started with the trial of this case until tomorrow. The
14 lawyers and I have to deal with some pretrial matters that
15 will occupy us for the balance of the afternoon. So I am
16 not going to require that you sit back there in the jury
17 room twiddling your thumbs while we are out here working.
18 So I'm going to let you go and ask you -- actually, I'm not
19 sure whether we are going to be able to finish with these
20 pretrial matters today or whether we actually might need to
21 take some more time tomorrow with those before we actually
22 get started with the testimony in this case. So I'm going
23 to ask you to call in this evening after six o'clock.

24 Listen carefully. You got the number, I think.
25 Everybody got the number to call. So call that number after

1 six o'clock. It's going to be a message on there, which I
2 think will be -- let's call it message one, anyway, that
3 will be to the balance of the jury panel. It will probably
4 tell them don't come back, call in again later on or
5 whatever. There will be a message on there for -- let's
6 call it the Hughston jury. That's what my name is,
7 Hughston. You are now the Hughston jury. First time I ever
8 had a jury named after me, but you are now the Hughston
9 jury. So listen to the message for the Hughston jury. And
10 they will either tell you to come in tomorrow morning at
11 9:30, be in here tomorrow morning at 9:30, or some later
12 time, either tomorrow or tell you to call me back at another
13 time or whatever. It would be our best estimate when we
14 want you to come back. So call in this evening after six
15 o'clock. Listen for the message that's directed to the
16 Hughston jury and follow the directions in regard to that.

17 Of course, do not discuss -- let me tell you this.
18 This instruction goes throughout this trial. You've been
19 selected both by the State and by the defense in this case
20 as fair and impartial jurors. You will be sworn tomorrow
21 morning to take -- to try this case based on the oath that
22 you will be given at that time.

23 One of the things that applies throughout the trial
24 is, do not discuss the case with family, friends or anyone
25 else. They are not the 12 people that will be deciding this

1 case; you are. So don't talk about this case with anybody
2 from now on until it's over. Once it's over, you can talk
3 about it all you want to. But until it is over, you cannot
4 discuss the case with anyone. That would be improper. That
5 would be influencing you in some way by discussing it with
6 you. So don't talk about it.

7 If family, friends or anyone wants to know what you
8 are doing, you tell them you are involved in the trial of
9 the case. You are actually on the jury that will be trying
10 this case, deciding this case, and you would be violating
11 the law if you discussed it with anyone while you are
12 serving on the jury until it's over. So don't talk about
13 it. Blame me, if you want to. Tell them, the judge told me
14 I cannot discuss it with you. And that's what I'm telling
15 you. You will be subject to contempt of court if you do.
16 So don't do it from now on. Don't even discuss it amongst
17 yourself when you take a break, go back in the jury room,
18 whatever, don't discuss the case. Don't say, hey, what
19 about that witness? What do you think about that witness or
20 something. You can talk about the lawyers. Say, you know,
21 I didn't like that lawyer or whatever. No, don't do that
22 either. But don't talk about the facts of the case. That's
23 what you are going to have to decide, whether the State has
24 met its burden of proof with the facts on the witness stand.
25 That's what you will have to decide. So don't discuss the

1 facts of this case at all. Keep that in mind.

2 Call in this evening after six o'clock. Have a
3 nice evening.

4 (Whereupon, the jury leaves open court at 12:28
5 p.m.)

6 THE COURT: Oh, I forgot to tell them to elect a
7 foreman. Let me go back and tell them that. Okay?

8 MS. SEMAN: That's fine.

9 (Whereupon, recess transpired.)

10 THE COURT: All right. So I guess we got a motion
11 to suppress by the defense; is that right?

12 MS. PROCTOR: Yes, Your Honor. We would like to
13 suppress his identification and so we would like a --

14 THE COURT: I'm sorry? You would like to suppress
15 identification, an out-of-court identification?

16 MS. PROCTOR: Yes, sir.

17 THE COURT: So I guess you put up whoever you want
18 to put up.

19 MS. BALDWIN: Yes, sir. The State calls Cristen
20 Wesley.

21

22

23

24

25

1 CRISTEN WESLEY (in-camera),
2 having been duly sworn, testifies as follows:

3 THE CLERK: Please speak loud and clear into the
4 mic. You are going to state your full name and spell your
5 last name for the record.

6 THE WITNESS: Cristen Wesley, W-e-s-l-e-y.

7 DIRECT EXAMINATION

8 BY MS. BALDWIN:

9 Q. Cristen, are you a little nervous? Okay. Without
10 going into all of the details, just briefly tell us what
11 happened on the evening of June 18th, 2014, into the morning
12 hours of June 19th?

13 A. I gave the defendant a ride home after leaving a
14 bar. And then I was sexually assaulted in the woods.

15 Q. Okay. And about what time of day were you sexually
16 assaulted?

17 A. Around 3 a.m.

18 Q. Did you see the defendant any earlier in the day?

19 A. I had seen him at the bar previously.

20 Q. Okay. How well lit was that bar?

21 A. It was pretty well lit.

22 Q. How many opportunities did you have to see the
23 defendant's face?

24 A. Multiple times; at least three, I guess.

25 Q. How about while you were in the car?

1 A. I mean, I saw him in the car, yeah, the whole
2 time.

3 Q. Okay. What did he look like?

4 A. He is a black male, about somewhere between, like,
5 5' 10", six-foot, I guess. I don't know, light skin, not
6 much hair at all.

7 Q. How long approximately did you see him over the
8 course of that evening?

9 A. I spoke with him outside briefly, so maybe, like,
10 15 minutes. And then in the car, I mean, he was in my
11 vehicle for, I mean, well over an hour.

12 Q. What about during the assault? Were you
13 face-to-face with him? Was your back to him? What?

14 A. He was in front of me.

15 Q. About how close?

16 A. I mean, very close, within an arm's distance.

17 Q. Were you under the influence of any drug or alcohol
18 at the time?

19 A. I had been drinking earlier that night at the
20 bar.

21 Q. Was your vision impaired at all?

22 A. Not at all.

23 Q. Did you tell any police officer a description of
24 the defendant?

25 A. I did.

1 Q. And was that -- how was that description with what
2 you've just stated earlier as to the description?

3 A. The same.

4 Q. Did the police ever ask you to make a photo
5 identification of the defendant?

6 A. I did, yes.

7 Q. How many times did they ask you to make an
8 identification?

9 A. I believe on three different occasions.

10 Q. And how many times during those three different
11 occasions?

12 A. I think I looked at, I think, four total lineups.

13 THE COURT: I'm sorry. What was the question?

14 MS. BALDWIN: About how many different times did
15 they ask her to make an ID. It was 4.

16 THE COURT: I thought you said three times.

17 THE WITNESS: I think three different occasions,
18 but I think I looked at four different lineups.

19 THE COURT: Four photographs each time? Is that
20 what you are saying?

21 THE WITNESS: More than four photographs each time.
22 I looked at four different sets of photographs.

23 THE COURT: Oh, okay.

24 BY MS. BALDWIN:

25 Q. Do you remember how many photographs were in each

1 set?

2 A. I think six.

3 I'm going to have these marked as court's exhibits.

4 (Court's Exh. 1 through 5, Photographs, were
5 marked for identification.)

6 BY MS. BALDWIN:

7 Q. I'm going to show you what's been marked as Court's
8 Exhibits 2, 3, 4 and 5. Look through those and tell me what
9 those are.

10 A. These are the lineups that I looked at with the
11 officers.

12 Q. How many are there?

13 A. Four.

14 Q. And did you ever make an identification of the
15 person that assaulted you?

16 A. Yes.

17 Q. Which time?

18 A. On the last time before -- well, the meeting of the
19 fourth set.

20 Q. What was the date on that one?

21 A. I don't remember, but it's right here, 10/6 of
22 2015.

23 THE COURT: What was the date again?

24 THE WITNESS: 10/6 of 2015.

25 BY MS. BALDWIN:

1 Q. And that last time, how did that -- how did you get
2 called into the police station?

3 A. They called. I don't know. They called me and
4 asked if I could come in for another lineup.

5 Q. Who did the lineup with you?

6 A. I don't remember his name.

7 Q. It was a male?

8 A. I believe so.

9 Q. Okay. Who was the detective that you had been
10 working with on the case?

11 A. Detective Elmer.

12 Q. Is that a male or female?

13 A. Female.

14 Q. Is that the detective that you've been working on
15 the case with?

16 A. Yes.

17 Q. The person that did the lineup with you?

18 A. No.

19 Q. Did either Detective Elmer or the other detective
20 indicate to you who the suspect was?

21 A. No.

22 Q. Did they indicate to you that the defendant was in
23 the lineup on October 6th?

24 A. No.

25 Q. Is your signature on that lineup?

1 A. Yes.

2 Q. And do you remember what the procedure was when
3 they did that lineup in October?

4 A. I was sitting in a room, just the two of us. I
5 know we were being filmed. They showed me all the
6 photographs on the table. I identified the one who was the
7 defendant. And I signed, I believe, each photograph
8 individually to just to indicate they were part of the
9 lineup.

10 Q. Which photograph did you point to?

11 A. The fourth one.

12 Q. Which one?

13 A. The fourth photo.

14 Q. Okay. And how were you -- how sure were you that
15 that was the person that assaulted you?

16 A. Very certain.

17 Q. How quickly did you recognize him?

18 A. Immediately.

19 Q. Do you remember how long it was between the sexual
20 assault and when you made the identity?

21 A. It had been well over a year.

22 Q. After you indicated that that was the person who
23 sexually assaulted you, did the detective indicate to you
24 that that was the right person?

25 A. No.

1 Q. Did the detective say anything to you to indicate
2 that you made a correct choice?

3 A. No. I just didn't want to look at the photos
4 anymore.

5 MS. BALDWIN: Court's indulgence. I have no
6 further questions for you, Cristen. Answer any of the
7 defense's, please.

8 THE COURT: I assume that one she I.D.'d is the
9 defendant.

10 MS. BALDWIN: Yes, sir.

11 THE COURT: Do you agree with that, Ms. Proctor?

12 MS. PROCTOR: Yes, sir.

13 May I approach the witness, Your Honor.

14 THE COURT: Go right ahead.

15 MS. PROCTOR: I just want to to see what the
16 solicitor handed you.

17 MS. BALDWIN: My apologies, Laurel.

18 CROSS-EXAMINATION

19 BY MS. PROCTOR:

20 Q. Ms. Wesley, you say you were called in -- you did
21 four different lineups?

22 A. Yes.

23 Q. And isn't it true in one of the lineups you did
24 before the last one, you had seen somebody and said that you
25 were about 80 percent -- 85 percent sure that that was the

1 person, correct?

2 A. Yes.

3 Q. And then it was almost a year later when you saw
4 the last lineup?

5 A. Correct.

6 Q. Now, were all the pictures -- when they showed you
7 the other lineups, they were all -- if I can show you
8 State's Exhibit -- Court's Exh. 3, the lineups were all in a
9 row; is that correct?

10 A. Yes.

11 Q. And this last time when the officer came in, he
12 showed you the lineups one at a time, correct?

13 A. Correct.

14 Q. He handed them to you one at a time?

15 A. Correct.

16 Q. And also, isn't it true in one of the lineups you
17 did, I think it was the second lineup, that there was
18 somebody that you thought for a while might possibly be the
19 person, but you weren't sure?

20 A. Correct. I never identified anyone.

21 THE COURT: I couldn't understand what you said.

22 THE WITNESS: I did not identify anyone on the
23 previous lineups.

24 BY MS. PROCTOR:

25 Q. When they showed you this last lineup, did the

1 officer show you these one at a time or did he lay them all
2 out?

3 A. I think he was presenting them one by one by one.

4 Q. Okay. So you saw all of them?

5 A. Correct.

6 Q. And isn't it true that you picked out No. 4; is
7 that correct?

8 A. Correct.

9 Q. And he is basically the only one that's in the
10 lineup that is wearing a prison shirt, correct?

11 A. I had no idea.

12 MS. PROCTOR: Court's indulgence. I have no
13 further questions.

14 THE COURT: All right.

15 MS. BALDWIN: Just briefly, Your Honor.

16 THE COURT: You can step down. Oh, something else
17 you want to ask?

18 MS. BALDWIN: Actually, Your Honor, I think for the
19 Court's benefit, I would like to hand up the lineup so you
20 can review them..

21 THE COURT: Okay. All right. I've looked at 2, 3,
22 4 and 5.

23 MS. BALDWIN: Thank you, Your Honor. We don't have
24 any further questions.

25 THE COURT: All right.

1 MS. PROCTOR: We have no further questions.

2 THE COURT: Any other witnesses?

3 MS. BALDWIN: Yes, sir. The State calls Detective
4 Dan Pritchard.

5 DANIEL PRITCHARD,
6 having been duly sworn, testifies as follows:

7 THE CLERK: Please state your full name and spell
8 your last for the record.

9 THE WITNESS: Daniel Pritchard, P-r-i-t-c-h-a-r-d.

10 DIRECT EXAMINATION

11 BY MS. BALDWIN:

12 Q. Where do you work?

13 A. City of North Charleston Police Department.

14 Q. And what capacity were you working there in 2014?

15 A. As a detective.

16 Q. And what was your involvement in this case?

17 A. I showed a photo lineup for Detective Elmer.

18 Q. Did you know who the suspect was when you
19 administered the lineup?

20 A. No, ma'am.

21 Q. Who did you show the lineup to?

22 A. The victim in the case.

23 Q. Walk us through the process of how you administered
24 that lineup.

25 A. I read the photo lineup form to her. As I read it,

1 I asked her if she understood. And she had acknowledged by
2 initialing each line. And then the photo lineup was
3 administered.

4 (Court's Exh. 6, CD of Lineup, was marked for
5 identification.)

6 BY MS. BALDWIN:

7 Q. I will show you Court's Exh. 6. What's that?

8 A. Video.

9 -Q. Video of what?

10 A. Lineup.

11 MS. BALDWIN: Your Honor, at this time, I would
12 like to publish the lineup.

13 THE COURT: No objection, right?

14 MS. PROCTOR: No objection.

15 THE COURT: Good. I'm glad we got these things.
16 It's like that other one; I was glad we had the video in
17 that case too.

18 MS. PROCTOR: I am not objecting for this hearing.
19 Probably at the trial might be different, but for this
20 hearing, I am not objecting.

21 THE COURT: Okay.

22 MS. BALDWIN: Of course, Your Honor, I'm having
23 technical difficulties.

24 (Video playing.)

25 BY MS. BALDWIN:

1 Q. You saw it on the video, but I'm going to show you
2 what's been marked as Court's Exh. 5. What is that?

3 A. That's the report of the photographic lineup.

4 Q. And --

5 A. My signature at the bottom, and 5:39, the time that
6 it was on that date.

7 Q. That's the one that you did with the victim?

8 A. Yes, 'ma'am.

9 Q. Just briefly, I think we heard it on the video, but
10 it was a little hard to hear. What does it say on the form?

11 A. On the form it has the case number, the date, the
12 time you are administering it, the location they administer
13 it, the primary investigator, which was Elmer, the
14 identifying witness, which was the victim, and the rules
15 that the City of North Charleston attorneys have outlined.
16 This is what we read to the victim. Sometimes we have them
17 read it, depending on the situation.

18 It says: I'm going to show you a series of
19 photographs of individuals or an array of six photographs of
20 individuals. Circle the appropriate one.

21 The next one is: These photographs may or may not
22 be the person who committed the crime. It is just as
23 important to clear innocent people as it is to identify
24 possible suspects. Whether or not you identify someone, the
25 police will continue to investigate. After you are done, I

1 will not be able to you provide you with any feedback or
2 comment as a result of the process. Do not discuss the
3 identification procedure or the results with other witnesses
4 in the case. Focus on the event, the place, view, lighting,
5 your frame of mind, et cetera. Take as much time as you
6 need. People may not appear exactly as they did at the time
7 of the event because the features, such as clothing, style,
8 hair color, hairstyle, et cetera, may change even a short
9 period of time. As you look at the photographs, tell me if
10 you recognize the person in them. If you do, please tell me
11 how you know the person, and in your own words, how sure you
12 are of the identification.

13 Q. And did the victim indicate that she understood
14 those admonitions?

15 A. Yes, ma'am.

16 Q. How did she do that?

17 A. By initialing 1 through 7 as I read them.

18 Q. Number 1, you stated it says: I'm going to show
19 you a series of photographs of individuals or an array of
20 six photographs. Can it be done either way?

21 A. Uh-huh.

22 Q. And as we saw, was the victim able to make an ID in
23 this case?

24 A. She did make an ID in this case, yes, ma'am.

25 Q. Did you tell the victim that the guy who did it was

1 definitely in the lineup?

2 A. As a matter of fact, it says the suspect may not be
3 in the lineup, which is No. 2.

4 Q. And did you try to influence or suggest to the
5 victim that she should pick out the defendant?

6 A. No, ma'am.

7 Q. Either on camera or off?

8 A. No, ma'am.

9 Q. Did you or anyone indicate to the victim who the
10 suspect was?

11 A. Not to my knowledge.

12 Q. And how certain was the victim of the
13 identification?

14 A. Appeared to be fairly certain to me.

15 Q. And as we saw, how long did it take her to make the
16 identification?

17 A. Once I laid them out, she immediately picked out
18 one.

19 Q. And did she make any statements indicating why she
20 picked the photo that she picked?

21 A. She had said that it was the person that assaulted
22 her, if I could hear her correctly.

23 MS. BALDWIN: Court's indulgence. I have no
24 further questions for you.

25 CROSS-EXAMINATION

1 BY MS. PROCTOR:

2 Q. Officer, did you choose the pictures that were in
3 this lineup?

4 A. No, ma'am.

5 Q. Who gave these to you?

6 A. Detective Elmer.

7 Q. Did you notice that the only person that was in a
8 jumpsuit was No. 4?

9 A. I don't go through them at all. I don't even work
10 the same unit. Detective Elmer does. She had asked me to
11 show a photographic lineup that had been presented to me
12 like this. And I went in the room like this and went over
13 it with it victim.

14 MS. PROCTOR: We have no further questions.

15 THE COURT: All right. You may return to your
16 place outside or wherever.

17 MS. BALDWIN: And we have no further witnesses,
18 Your Honor.

19 THE COURT: All right. All right. Who wants to go
20 first, statement or position?

21 MS. PROCTOR: Your Honor, we have made a motion to
22 keep these pictures out under the *Neil v. Biggers*. I think
23 there's -- using the two-prong inquiry that you have to look
24 at to decide whether or not you are going to allow them in,
25 I think if you look at these pictures, she's had four

1 different lineups. Some were color. Some were not. She
2 had already said in one of the lineups that she was 85
3 percent sure that was the person, and that person wasn't it.

4 I think you have to look at the factors of
5 reliability in all of these, the opportunity of her to view
6 the criminal at the time of the crime. And I think you
7 heard her say she had been in a bar. She had quite a few
8 drinks at that time. Her degree of attention, she said she
9 talked to him very briefly. Also, her description of the
10 defendant, she said that he did not have a goatee, didn't
11 have any facial features. And the person she picked out did
12 have a short beard and a small mustache. And the length of
13 time between the crime and the confrontation, and this was
14 in -- this was almost a year later. So we would ask that
15 you keep out her identification.

16 THE COURT: All right. What would you like to say
17 in opposition to that?

18 MS. BALDWIN: Yes, Your Honor. As Ms. Proctor
19 stated, it is a two-prong test. The first prong is whether
20 or not the lineup was unduly suggestive. And only then, if
21 it is determined to have been unduly suggestive, do we go to
22 reliability factors that Ms. Proctor was articulating. The
23 State would argue that this process was not unduly
24 suggestive. You heard from the victim. She said no one
25 pointed out anything to her. She had done several lineups

1 before. So it would be our position this wasn't out of the
2 ordinary for her. She had done three previously, and hadn't
3 picked out anybody on the lineup. None of those other
4 lineups, they all say identification, no. I believe Your
5 Honor would have noticed that when you reviewed the lineups.

6 As far as him being in a jail jumpsuit, the victim
7 testified she didn't even notice that. She didn't know what
8 it was. Didn't stand out to her at all. So I don't think
9 it was suggestive for that exact reason. And, Your Honor,
10 I'm sure when you look through it, you can see it looks like
11 a striped shirt. It's not a full jumpsuit that he's in.

12 If we were to -- if Your Honor determines that it
13 is unduly suggestive, I would argue that it's still a
14 reliable identification. The victim testified that she had
15 a lengthy amount of opportunity to view the defendant. She
16 saw him at the bar/restaurant earlier in the evening in a
17 lighted area. He was next to her in her car. When he was
18 assaulting her, he was very close to her.

19 The description that she had was accurate, black
20 male, 6' 1", lighter skinned. I don't believe she testified
21 to the mustache aspect of it. And she was obviously very
22 sure as to who this person was when she made the
23 identification. Your Honor saw on the video, as soon as all
24 the pictures were laid out, said, that's him, and got
25 physically upset from making the identification. So I would

1 argue that the out-of-court identification is admissible.

2 Court's indulgence, Your Honor. So that's all I
3 have, Your Honor.

4 THE COURT: Anything you want to say?

5 MS. PROCTOR: No, Your Honor.

6 THE COURT: All right. I find that the
7 identification -- the method of getting the identification
8 was not unduly suggestive and, therefore, I would allow it.
9 And just looking at the totality of the circumstances, I
10 think it's trustworthy. And I would allow it into
11 evidence.

12 MS. BALDWIN: Thank you, Your Honor.

13 THE COURT: One thing, I'm looking at the
14 solicitor, I don't remember whether I asked you about this
15 when we did that other video, you know. I can't understand
16 everything that is being said on this. It's not very long.
17 I don't know whether you have the ability to get a
18 transcript of what was being said and done during the course
19 of that or not. But I think that might be beneficial to the
20 jury.

21 I've used an unofficial transcript in other cases,
22 one of which went up and was approved, or at least I wasn't
23 reversed for doing it or anything, telling the jury this is
24 not saying that this is verbatim what was said on the video
25 and all, but at least, you know, it's what we think -- what

1 a person thinks was said on there. It's up to them to
2 decide what was said exactly and so forth and all. But I
3 certainly didn't hear and understand, you know, probably
4 half of what was being said on that video. I give you that
5 for what it's worth.

6 MS. BALDWIN: Thank you, Your Honor.

7 MS. PROCTOR: Your Honor, I do agree. We had some
8 problems too with the sound. A lot of times her back is to
9 the video, so we wouldn't understand a lot either.

10 THE COURT: Anyway, I just throw that out there for
11 what it's worth. But anyway, based on what I've seen and
12 heard so far, I would not suppress it. I would allow it.

13 MS. BALDWIN: Thank you, Your Honor.

14 THE COURT: Anything else?

15 MS. PROCTOR: We can finish these up at the end.
16 Your Honor, we just have some short little motions that we
17 have given you, but --

18 MS. SHEALY: I would ask we take a short restroom
19 break before we start with the next witness.

20 THE COURT: All right.

21 (Whereupon, recess transpired.)

22 THE COURT: All right. What's next?

23 MS. BALDWIN: Your Honor, I believe next is going
24 to be the State's motion to admit prior bad acts.

25 THE COURT: All right. Go ahead.

1 MS. BALDWIN: As our first witness, we will call
2 Cristen Wesley.

3 CRISTEN WESLEY,
4 having been duly sworn, testifies as follows:

5 THE CLERK: State your first and last name and
6 spell your last name for the record.

7 THE WITNESS: Cristen Wesley, W-e-s-l-e-y.

8 DIRECT EXAMINATION

9 BY MS. BALDWIN:

10 Q. Just briefly, Cristen, how old are you now?

11 A. 27.

12 Q. How old were you back in 2014 then?

13 A. 23.

14 Q. And what's your height and weight?

15 A. 5' 2", 120 pounds.

16 Q. I want to bring you just to the night of June 18th,
17 2014. What were you doing that night?

18 A. I went to Wild Buffalo Saloon to visit my friend
19 Heidi who was bartending.

20 Q. Do you remember about what time you went?

21 A. Around ten o'clock.

22 Q. Okay. And what did you do when you got to Wild
23 Buffalo Saloon?

24 THE COURT: What's the name of the place?

25 MS. BALDWIN: Wild Buffalo Saloon.

1 THE COURT: Were you familiar with that place?

2 THE WITNESS: I was very familiar. I had
3 previously worked at Big Horns, which was the name of that
4 restaurant before it became Wild Buffalo Saloon.

5 Q. Where is that bar or restaurant located?

6 A. In North Charleston near the mall.

7 Q. Okay. Who did you talk to when you were there?

8 A. I visited with Heidi on and off throughout the
9 night, as well as my friends Dustin and Jason.

10 Q. Who else did you talk to?

11 A. The defendant.

12 Q. What did you talk about?

13 A. We spoke briefly just about small-talk, talked
14 about where I went to college, about finances, about the
15 Dave Ramsey plan. And just about how I had previously
16 worked at Big Horns. And then he also mentioned that he
17 knew this male bartender named John who previously worked
18 with me when I was employed at Big Horns.

19 Q. What did you think about that conversation?

20 A. I didn't think much about it at all, honestly. It
21 was just a brief conversation, small-talk with a stranger.

22 Q. You didn't know the defendant?

23 A. No.

24 Q. What was your impression of him when you spoke?

25 A. When I -- upon first meeting him, I just, you know,

1 thought he was nice, 'well-spoken.' I don't know. Just
2 didn't think much about him.

3 Q. Were you drinking that night?

4 A. Yes.

5 Q. About how much, do you know?

6 A. I'm not sure, but I was aware of, like, my
7 surroundings and what was going on. I didn't feel like I
8 was out of control or anything.

9 Q. Did you talk with anyone later on in the evening?

10 A. Around the time whenever I was leaving, I spoke
11 with this man who I now know his name is Ed. He's, like, a
12 regular at that bar.

13 Q. What did Ed do?

14 A. I think he bought me a drink or a shot. I don't
15 remember. And then he just like chatted with me for a
16 little bit. And he kept insisting that he walk me out to
17 the car. And I was like, no, thanks, I don't really need
18 you to walk me out to my car. But we ended up leaving
19 basically the same time. He's still walking. I don't know
20 if he was trying to walk me to my car or just we were both
21 in that same parking lot, so he was walking that general
22 direction as well.

23 THE COURT: Who are you talking about now?

24 THE WITNESS: This is the regular from the bar. I
25 now know his name to be Ed. At the time I didn't know his

1 name.

2 BY MS. BALDWIN:

3 Q. What did he look like?

4 A. He's an overweight, bald, older male.

5 Q. What race?

6 A. Caucasian.

7 Q. So what happened when you went to your car?

8 A. So as I'm getting to my car, Ed is still walking in
9 my vicinity. And then that's when the defendant approaches
10 where my vehicle is. And he says to Ed, like, oh, she's
11 fine, like, she's giving me a ride home.

12 And at this point, I thought that the defendant was
13 trying to help me out, like, to try to get this, you know,
14 stranger, this guy away from me, like he thought he was
15 bothering me. So at the time, I was, like, appreciative,
16 like, oh, great. I thought he was just making up a lie to
17 help me out. And so I thought that was nice.

18 My passenger side door was not locked. So he went
19 ahead and got in the vehicle. At this point, I still think
20 he was just playing out this story just to get Ed to, like,
21 leave from behind the car.

22 And then he said to me, he was, like, no, like, you
23 did say you were going to give me a ride home. And that's,
24 like, the first time I kind of felt uneasy about him. Like,
25 up until this point, I definitely didn't feel threatened by

1 him in any way. But at that point, I was kind of like,
2 hmmm. Because I knew for a fact I didn't tell him I was
3 giving him a ride home. So I thought it was strange that he
4 would just lie about that.

5 But we talked about how far he needs to go. He
6 said he lives off of Greenridge Road, which is nearby. So I
7 was like, well, that's close, like, whatever, I will just
8 give you a ride.

9 Q. And what happened on Greenridge Road?

10 A. We just keep driving and driving, because he didn't
11 actually live on Greenridge Road. So we were just driving.
12 And I'm like, all right, well, we should be getting close,
13 you know, asking him where do you live? And at some point
14 he tells me, like, oh, well, I don't live on Greenridge Road
15 now, I used to live on Greenridge Road.

16 And at that point, it was just, like, a series of
17 lies he tells me about where he's staying, if he actually
18 lives there or not.

19 Q. When you say a series of lies, did you know at the
20 time he was lying?

21 A. At the time I, honestly, just thought maybe he had
22 been drinking, you know, a lot and was just unclear, like,
23 where he was trying to go. I didn't know that he was,
24 like -- like, I didn't think he had any ill intentions. I
25 just thought he was confused.

1 Q. So what happened when you left Greenridge Road?

2 A. We drive around in the area near Ashley Phosphate
3 and Rivers. So in the area, like, near Big Horns, near
4 Greenridge Road. And there are a couple of hotels over
5 there. So we are driving. I keep trying to guess, like,
6 trying to figure out, like, talking to him, like, oh, is it
7 this hotel? And we would get to a hotel, and he's like, no,
8 it's not that one. And that happened a series of times. I
9 know I was turning around a lot, driving up and down, trying
10 to figure out where he was going.

11 Q. Okay. So then what happened? Did you guys
12 eventually end up somewhere?

13 A. So, eventually, we pull into this hotel that's near
14 the Regents Bank on Rivers. So we pull in there. And I'm
15 not sure if we just -- if he was like, oh, yeah, this is
16 definitely it or if I was, like, all right, this has got to
17 be it, right? Because at this point, I'm really agitated
18 because we've been driving. He just seems clueless where
19 he's trying to go. So we pull in there.

20 And I -- at this point, we had been driving for so
21 long, I really had to pee. So I thought I could just go
22 into the lobby. But he says, oh, there isn't a lobby. And
23 he tries to tell me to just pee outside, like in the wooded
24 area near where the hotel is. I was like, no, like, why
25 can't I just pee in the room. And he was like, no, just pee

1 outside, just pee outside. So at this point, I really have
2 to pee.

3 Q. Let me stop you. About what time of night or
4 morning was this?

5 A. Sometime between, like, 2 and 3, I guess, 2:30.

6 Q. Do you know exactly?

7 A. I'm not sure what time that would have been.

8 Q. But you said between 2 and 3 a.m.?

9 A. Yeah.

10 THE COURT: How long would you say you had been
11 riding around with him in the car at that time?

12 THE WITNESS: I'm not really sure how long we were
13 riding around. I know we never got out of the vehicle. I
14 know we kept driving in circles for quite some time. The
15 only time we even stopped at any point is when we stopped at
16 one hotel and I asked him, you know -- that was the first
17 hotel that we pulled into. That one I actually stopped for
18 a moment. We spoke. He said that wasn't the hotel, and
19 then I continued driving.

20 Q. So what happened next?

21 A. So I'm out of the vehicle at this point. And I
22 start walking towards, like, the wooded area to go use the
23 restroom. And he's following me as I walk out there. And
24 so I just remember, like, walking. Part of the time I was
25 walking backwards. And I'm seeing, like, how far away he is

1 from me. He's, like, maybe 12 feet away when he starts
2 following me into like the wooded area. And I keep saying,
3 like, no, stay back, stay back. Just saying, like, I don't
4 want him to be where he can see me. And he just, like,
5 continues, like, approaching.

6 I pee, like, near a tree in the wooded area. And
7 then he approaches me. Like, at first, he was 12 feet away.
8 As I use the restroom, he approaches me.

9 And he pushes me against the tree. And that's when
10 he started strangling me. And he was trying to get my legs
11 open. And I had my legs crossed so hard, like, kind of like
12 when you lock your knees out. So I had my legs crossed so
13 hard and I was just holding them together. And he was
14 choking me and choking me.

15 And I know he said that, like, if I would just,
16 like -- you know, that if I would just, like, let him, I
17 guess, then it would all be over, or something along those
18 lines.

19 And I know at one point -- I know at one point he
20 had been strangling me for so long that I kind of had to
21 decide, like, either I'm going to let this happen and I'm
22 going to live, or he's going to strangle me and I'm going to
23 die. So, at some point, like, I let go of my legs and
24 that's whenever he assaults me.

25 Q. And when you say he assaults you, what happened?

1 A. He penetrated me.

2 Q. With what?

3 A. With his penis.

4 Q. Okay. Did he ejaculate?

5 A. I don't recall anything being on me at all, so I'm
6 not sure, but I don't remember feeling anything on my
7 body.

8 Q. When he was strangling you, did you lose
9 consciousness at all?

10 A. I am not certain. I mean, I was definitely blacked
11 out at some points during the assault. Parts of it are
12 just, like, in and out. Like, my memory is just kind of in
13 and out.

14 Q. Was he strangling you with one hand or two hands?

15 A. With one hand.

16 Q. What was he doing with his other hand?

17 A. He was trying to get my legs apart.

18 Q. And were you standing up or on the ground or what?

19 A. At first, like, he pushed me against the tree. And
20 then later, I'm on the ground. So while he was choking me,
21 at some point I ended up on the ground.

22 Q. Was there any sort of kissing or hugging or
23 anything like that?

24 A. No.

25 Q. What happened next?

1 A. Afterwards, he says to me, that's why you don't
2 give rides to strangers.

3 THE COURT: I'm sorry. He said what?

4 THE WITNESS: He says, that's why you don't give
5 rides to strangers. And I take off towards my car to get
6 away from him.

7 He tries to get in my passenger side car -- my
8 passenger side door. And I said to him, I was, like, I will
9 run you over with my car. And I pulled out of the hotel
10 parking lot. I turned right on to Ashley Phosphate and I
11 turned right into Denny's parking lot.

12 BY MS. BALDWIN:

13 Q. Do you see the person that sexually assaulted you
14 in the courtroom today?

15 A. Yes.

16 Q. Where is he?

17 A. Right over there.

18 Q. What's he wearing?

19 A. White Polo, gray pants.

20 MS. BALDWIN: Court's indulgence.

21 BY MS. BALDWIN:

22 Q. Cristen, at the time you were in the car or at the
23 bar, did the defendant ever try to kiss you? Was there any
24 affection?

25 A. No, none whatsoever.

1 (Court's Exh. 7, Photograph, was marked for
2 identification.)

3 (Court's Exh. 8, Photograph, was marked for
4 identification.)

5 BY MS. BALDWIN:

6 Q. I'm going to show you for the purpose of this
7 hearing what's been marked as Court's Exhibit 7 and 8. What
8 are these?

9 A. Pictures of me after the incident.

10 Q. I will put them up.

11 THE COURT: I couldn't understand her answer. I'm
12 sorry. Take your time.

13 THE WITNESS: Those are photos of me after my exam.

14 BY MS. BALDWIN:

15 Q. When you say your exam, what are you referring to?

16 A. My sexual assault exam.

17 Q. Court's Exh. 7, does your face normally look that
18 red? What is all of that?

19 A. It's petechiae from when I was being strangled.

20 Q. And Court's Exh. 8, what are we looking at there?

21 A. That's my neck.

22 Q. What about your neck?

23 A. Those are, again, the petechiae marks from when I
24 was being strangled.

25 Q. Did you have any -- what injuries did you have; do

1 you remember?

2 A. My neck was really sore for several days after the
3 fact.

4 Q. Any other marks on you?

5 A. I was in a lot of pain from my neck, so I don't
6 really remember anything else, because I just know that's
7 what was mostly bothering me.

8 Q. Before -- while he was strangling you, were you
9 trying to fight back at all?

10 A. Yeah, I tried to fight back for a while.

11 Q. Court's indulgence. Cristen, I don't have any more
12 questions for you. Please answer any the defense may have.

13 CROSS-EXAMINATION

14 BY MS. SEMAN:

15 Q. As you said when you were speaking with Ms.
16 Baldwin, you had never met Mr. Anderson before that night,
17 correct?

18 A. Correct.

19 Q. You had no pre-existing relationship with him? You
20 are not his neighbor?

21 A. No.

22 Q. You are not an acquaintance of him?

23 A. While we were speaking at the bar, he indicated
24 that he knew John, the bartender who I had previously worked
25 with, as well.

- 1 Q. But not your acquaintance, right?
- 2 A. Correct.
- 3 Q. Had never been drinking together?
- 4 A. Never.
- 5 Q. Didn't know his name?
- 6 A. Correct.
- 7 Q. Even after, didn't know his name?
- 8 A. Correct.
- 9 Q. He was a stranger?
- 10 A. Correct.
- 11 Q. And you say this all handouts, right?
- 12 A. The assault happened outside, yes.
- 13 Q. Yes, ma'am. Near a hotel?
- 14 A. Correct.
- 15 Q. In a wooded area?
- 16 A. Correct.
- 17 Q. A place you had never been before?
- 18 A. Correct.
- 19 Q. None of this happened inside?
- 20 A. Correct.
- 21 Q. Not in a bedroom?
- 22 A. No.
- 23 Q. Not in a bathroom?
- 24 A. No.
- 25 Q. All outside?

1 A. Correct.

2 Q. And you say that the incident -- that this started
3 when you gave him a ride home, right?

4 A. Correct.

5 Q. After you had been drinking at a bar, right?

6 A. Yes.

7 Q. You had been speaking to him and smoked some
8 cigarettes together, right?

9 A. I for sure smoked one cigarette with him, yes.

10 Q. And then he asked you for a ride and got in your
11 car?

12 A. He insinuated that I already told him, I was giving
13 him a ride, and then got in my car.

14 Q. And you were wearing a dress that night, right?

15 A. Correct.

16 Q. An orange off-the-shoulder dress?

17 A. Coral, yes.

18 Q. And you were still wearing it when you were giving
19 him a ride, correct?

20 A. Yes.

21 Q. You were still wearing it when you were in this
22 wooded area with Mr. Anderson, correct?

23 A. Correct.

24 Q. So you were clothed, right?

25 A. I was not wearing my underwear when the assault

1 happened.

2 Q. But --

3 A. But I was wearing the dress.

4 Q. So you definitely weren't naked?

5 A. Correct.

6 Q. You say he did not perform any sort of oral sex on
7 you, right?

8 A. Correct.

9 Q. He did not force you to perform any type of oral
10 sex on him?

11 A. No.

12 Q. He did not penetrate you with his fingers?

13 A. Correct.

14 Q. Didn't kiss you?

15 A. Correct.

16 Q. It was just vaginal sex, right?

17 A. Penetration, yes.

18 Q. And this happened in June, 2014?

19 A. Correct.

20 Q. And you have spoken with Detective Elmer, that
21 detective you mentioned earlier, right?

22 A. Yes.

23 Q. And you talked with her and the solicitor, Ms.
24 Baldwin, right?

25 A. Correct.

1 Q. You talked about any developments in the case?

2 A. Yes.

3 Q. They would update you as the case progressed?

4 A. I've been given some updates over time.

5 Q. They would tell you about new evidence?

6 A. Sometimes.

7 Q. For example, in 2015, Detective Elmer told you that
8 there had been a development in your case, right?

9 A. I don't remember. I know I've learned small pieces
10 about the case over the past four years.

11 Q. But there was a DNA hit, though; you did learn that
12 at some point, right?

13 A. At some point, I did know that.

14 Q. And as you mentioned in the Biggers hearing, you
15 had an officer show you a lineup, right?

16 A. Correct.

17 Q. And you picked out the defendant in that lineup, as
18 you mentioned?

19 A. Correct, correct.

20 Q. And that was the same person that was the DNA hit,
21 right?

22 A. Correct.

23 Q. They also told you that later, after Mr. Anderson
24 was in custody, they took DNA swabs from him and they
25 confirmed that DNA hit, right?

1 A. At some point I became aware of that, yes.

2 Q. Because the first results were just preliminary,
3 right? They had to confirm that?

4 A. Correct.

5 Q. And they did confirm that, right, and he was still
6 a match?

7 A. Correct.

8 MS. SEMAN: Beg the Court's indulgence. No further
9 questions, Your Honor.

10 THE COURT: Anything on redirect?

11 MS. BALDWIN: Just very briefly, Your Honor.

12 REDIRECT EXAMINATION

13 BY MS. BALDWIN:

14 Q. Did anybody show you a picture of who the DNA
15 matched to before you did the lineup in October of 2015?

16 A. No.

17 Q. And you mentioned earlier that you went to the
18 woods to urinate. Where was he? What did he do?

19 A. He was following me the entire time I was headed
20 into the woods. And then he approached once I was using the
21 restroom.

22 MS. BALDWIN: I have no further questions.

23 THE COURT: Thank you very much. You can return to
24 your place in the courtroom. Do you have another witness?

25 MS. SHEALY: Alexandria Dean.

1 ALEXANDRIA DEAN (in-camera),
2 having been duly sworn, testifies as follows:

3 The CLERK: State your full name and spell your
4 last name for the record.

5 THE WITNESS: Alexandria Ruth Dean, D-e-a-n.

6 MS. SHEALY: Thank you, Your Honor.

7 DIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. Ms. Dean, can you tell where you lived in June
10 2012?

11 A. 2245 Greenwich Road, Apartment 816.

12 Q. What is the name of that apartment complex?

13 A. Jameson.

14 Q. Did you live alone or have a roommate?

15 A. I was alone.

16 Q. Did you have the occasion back in June of 2012 to
17 meet the defendant seated in the courtroom?

18 A. I did.

19 Q. And can you tell the jury, if you would, the
20 circumstances of meeting him?

21 A. Initially?

22 Q. Yes.

23 A. I was walking my dogs and he was walking a
24 Dachshund and Doberman.

25 Q. Where were you walking your dogs?

1 A. Outside around the lake that's near our apartment
2 complex.

3 Q. And while you were walking your pet, did a
4 conversation strike up?

5 A. About the dogs, yes.

6 Q. Who initiated the conversation?

7 A. I don't recall.

8 Q. And during that conversation, did you learn what
9 his name was?

10 A. I did.

11 Q. And what was that?

12 A. K.J.

13 THE COURT: I'm sorry?

14 MS. SHEALY: K.J.

15 THE COURT: K.J, like the initials?

16 MS. SHEALY: Yes, sir.

17 BY MS. SHEALY:

18 Q. Please describe his demeanor when you were talking.

19 A. Very pleasant, actually, respectful, well-spoken,
20 well-mannered.

21 Q. During that conversation, did he share with you
22 some details about himself?

23 A. That he had just moved here.

24 THE COURT: I'm sorry?

25 THE WITNESS: That he had just moved to Charleston.

1 BY MS. SHEALY:

2 Q. Probably what I need you to do, just to make sure
3 the judge can hear you too, seems like if you turn a little
4 bit, that microphone picks it up better.

5 That he had just moved to Charleston?

6 A. Yes.

7 Q. Is that right? Now, during your conversation, did
8 anything interrupt the conversation?

9 A. I did, I received a phone call.

10 Q. And what did you do as a result of receiving the
11 phone call?

12 A. I took the phone call and walked away.

13 Q. Did you see K.J. again?

14 A. I did, about a week later.

15 Q. And describe the circumstances of seeing him again.

16 A. I was in my garage going through things. And he
17 came up and started talking to me.

18 Q. Did you offer any explanation to him --

19 A. I did. I did apologize for running off. I didn't
20 want to be rude.

21 Q. You are referring to when you walked off?

22 A. When I walked off, yeah.

23 Q. When you were going through things, you said in a
24 garage area?

25 A. Yes.

1 Q. And that's at the apartment complex?

2 A. Uh-huh.

3 Q. Did K.J. offer you any assistance?

4 A. He did. He did offer to help me carry stuff up,
5 which I thought was really nice.

6 Q. And did he, in fact, enter your apartment?

7 A. Yes.

8 Q. Now, did you all have a conversation at that point?

9 A. Yes.

10 Q. Did you learn greater details about what he said
11 his background was?

12 A. That occurred at the garage.

13 Q. Tell us what he told you. Did he indicate to you
14 who he was living with at that time?

15 A. Oh, yeah. I'm sorry. He said that he had moved
16 here from overseas, that he had been in the military and he
17 got out.

18 Q. Did he indicate why he was staying in those
19 apartments?

20 A. Just that he had moved, just gotten out of the
21 military and moved down here.

22 Q. Did he have a relative or anything that lived --

23 A. It was a family member, a lady. I don't remember.
24 if it was a sister or aunt. I don't recall.

25 Q. Did anything, any conversation occur about what

1 your plans were for later that evening?

2 A. Oh, he asked earlier, like at the garage or, like,
3 on the way up to carry my stuff up to the apartment, like,
4 what there was to do around Charleston, that he was new.
5 And I explained to him that -- I already told him there are
6 a couple of places that are close by. And I said, I might
7 go watch the basketball game later that day.

8 Q. Do you recall whether or not you told him what
9 places were close by?

10 A. I told him about K.C. Mulligan's. I told him about
11 Big Horns. There was JGJ's, which is a pool hall.

12 Q. Where are those locations?

13 A. All on Rivers Avenue. And Wings Bar and Grill,
14 that was another place.

15 Q. What was that?

16 A. Wings Bar and Grill.

17 Q. I talk quickly and you talk quickly. So you need
18 to slow down just a little bit and make sure that you are
19 saying it loud so everybody can hear.

20 Now, when you mentioned Big Horns, for the benefit
21 of the Court, could you tell us where that is located?

22 A. On Rivers Avenue.

23 Q. Okay. And can you be a little bit more specific as
24 to where? What else is near it?.

25 A. Now there's a Gander Mountain, I think, there.

1 There's Noisy Oyster right behind it.

2 Q. Is it near a strip mall?

3 A. It is.

4 Q. And did Big Horns later become another
5 establishment?

6 A. It did.

7 Q. And what was the name of the new one?

8 A. WBS.

9 Q. Which stands for what?

10 A. I have no idea, it just had big letters that said
11 WBS.

12 THE COURT: W --

13 MS. BALDWIN: BS.

14 THE COURT: Second letter is what?

15 MS. SHEALY: B as in B, and S as in saloon.

16 THE COURT: Okay.

17 BY MS. SHEALY:

18 Q. So you told him that later you may go watch
19 basketball; is that correct?

20 A. That's correct.

21 Q. And was there an exchange of phone numbers at that
22 time?

23 A. There was.

24 Q. Did you take his phone number and put it into your
25 phone?

1 A. I don't recall.

2 Q. And you gave him your phone number?

3 A. We ended up with each other's phone numbers.

4 Q. You just can't remember the mechanics of it?

5 A. Correct.

6 Q. Was there any conversation with him later that day?

7 A. I did. Actually, I went to dinner with a friend.

8 And about halfway through dinner, I felt not good. So I
9 messaged him and told him that I wasn't going out.

10 Q. And did you later that day change your mind, that
11 evening?

12 A. Later, later, later that evening, probably about
13 ten o'clock, yes, I did change my mind. I was bored.

14 Q. So what did you do?

15 A. I went to Big Horns.

16 Q. And describe for us, if you would, what type of --
17 is it a bar and a restaurant?

18 A. It was a bar and a restaurant. They quit serving
19 food probably about ten o'clock. I may be mistaken, but
20 then it would stay open until 2.

21 Q. For some bars, was that a later time to close than
22 others?

23 A. Two o'clock, no.

24 Q. Now, could you tell us whether there are a lot of
25 regulars that go there?

1 A. Yes, ma'am, there were.

2 Q. Was this the first time that you had ever gone
3 there by yourself?

4 A. No.

5 Q. And is it unusual to see people come there by
6 themselves?

7 A. No.

8 Q. When you got there, at some point, who do you see?

9 A. I was going to go hang out with my friend John, but
10 I saw K.J. There.

11 Q. Do you recall whether he was there first or you
12 were there first?

13 A. He was there first.

14 Q. And John that you are referencing, where did he
15 live in relationship to you?

16 A. He was my next-door neighbor.

17 Q. And did he frequent Wild Horns (sic) or did he work
18 there or both?

19 A. He worked at Big Horns.

20 Q. And what did he do there?

21 A. He was a bartender.

22 Q. And y'all were friends as well neighbors?

23 A. Yes, yes.

24 Q. Did you have any interaction with K.J. while you
25 were there?

1 A. I did. He came up. He approached me. Of course,
2 I'm pleasant. I said hello. And I was invited to play
3 cornhole.

4 Q. And were you invited by K.J. or, do you remember?

5 A. I was invited. Actually, he was kind of like -- he
6 asked me, no, come on, come on.

7 Q. Encouraging you?

8 A. Encouraging me. I was like, nah. Then I was like,
9 all right, I will play one game.

10 THE COURT: Play what?

11 THE WITNESS: Cornhole.

12 BY MS. SHEALY:

13 Q. How was he acting at that point?

14 A. Still friendly.

15 Q. When y'all were playing cornhole, were there other
16 people playing with you?

17 A. There were two other guys, yes.

18 Q. Were you drinking while you were there?

19 A. I had a beer or two.

20 Q. Now, do you remember how many you had?

21 A. It wasn't many.

22 Q. And after playing cornhole, did you, in fact, go to
23 another location?

24 A. I did.

25 Q. And was there agreement made to go to another

1 location while you were at Wild Horns (sic)?

2 A. Big Horns? The two other guys I was playing with
3 suggested going to a strip club. And I told them that I
4 knew people that worked there, so I agreed to meet them
5 there.

6 Q. And how did you travel there?

7 A. In my vehicle.

8 Q. And how did the other two guys travel there?

9 A. In their vehicle.

10 Q. Did K.J. go there as well?

11 A. Yes.

12 Q. Do you know how he got there?

13 A. In the other person's vehicle.

14 Q. And y'all stayed there for a while?

15 A. We did.

16 Q. Do you remember how long you stayed there?

17 A. I don't. Maybe an hour, hour and a half.

18 Q. And you were drinking there?

19 A. I was not drinking there.

20 Q. Were the guys drinking, or do you remember?

21 A. They were.

22 Q. When it came time to leave there, could you tell
23 the Court whether or not you gave K.J. a ride?

24 A. I did give him a ride, because we lived in the same
25 place. And I didn't see the point in him taking a cab. He

1 had been nice and polite.

2 Q. You told us he was polite. Could you tell the
3 Court whether there was something flirtatious between you?

4 A. Absolutely not.

5 Q. Had there been any touching or anything like
6 that?

7 A. Absolutely not.

8 Q. When you gave him the ride home, when you initially
9 agreed to, were you concerned at all?

10 A. No.

11 Q. Had anything gone off to trigger you to be
12 concerned about him?

13 A. No.

14 Q. Tell us about the way home.

15 A. On the way home, I don't recall the entire
16 conversation. I do remember once we got back to the
17 apartment complex, or very close to it, he looked at me and
18 said, I made a decision, it's you -- it's me or your
19 boyfriend. And I was very, very thrown off by that.

20 Q. So I will ask you, you told us there was nothing
21 flirtatious at Big Horns. When you went to the strip club,
22 did things become flirtatious between you all?

23 A. No. The boys went to the stage. I went to the bar
24 to talk to my friend.

25 Q. On the ride home prior to K.J. saying that, had

1 there been anything flirtation in the car?

2 A. No.

3 Q. So what was your reaction to that comment?

4 A. Personally, I don't take kindly to ultimatums. And
5 that, to me, was an ultimatum.

6 THE COURT: You don't take kindly to?

7 THE WITNESS: Ultimatums.

8 THE COURT: Okay.

9 BY MS. SHEALY:

10 Q. Did you say anything to him?

11 A. I was like, I barely know you, but it was nice
12 knowing you and/or nice meeting you. And I went upstairs.

13 Q. So when you said that it was nice meeting you, that
14 was the last thing you said to him before you went upstairs?

15 A. That is correct.

16 Q. Then did you receive some correspondence from him
17 by phone after that?

18 A. I did.

19 Q. And if you could describe to the Court, was that in
20 the form of phone calls or of texts?

21 A. He ended up texting me.

22 THE COURT: Are you talking about that night or
23 some other time?

24 THE WITNESS: That same night.

25 THE COURT: That same night? Okay.

1 THE WITNESS: After I left him downstairs.

2 THE COURT: You said, it was nice meeting you, and
3 you went upstairs?

4 THE WITNESS: That's correct.

5 THE COURT: And then what happened?

6 THE WITNESS: He began texting me.

7 BY MS. SHEALY:

8 Q. And if you would describe the nature of the texts
9 to the judge.

10 A. They were unnerving, actually. There were some of
11 them that were, let me lick you, invite me to you, sorry I
12 let my feelings out to you so soon. I didn't know him.

13 Q. And so how did you react as he began texting you in
14 that fashion?

15 A. I did not respond to him.

16 Q. So you never texted back?

17 A. Never.

18 Q. What was the next thing -- when did the next thing
19 happen between you and K.J.?

20 A. I received text messages that Tuesday night, that
21 Wednesday night into Thursday morning. And then that
22 Thursday night, he showed up at my door.

23 Q. And are we talking about June 7th of 2012, being
24 that Thursday night, or are we talking into the morning?

25 A. Into the morning, into the morning.

1 Q. And tell us, you had gone where that night?

2 A. I had gone out to -- it's K.C. Mulligan's or JGJ's,
3 which was the pool hall. And then I had a drink or two when
4 I came home.

5 Q. When you got home, what did you do?

6 A. I had another beer. And I called my boyfriend, who
7 was in Boston for school. And I was getting ready for bed.

8 Q. What happened then?

9 A. I heard had a knock on the door.

10 Q. Who did you think it was?

11 A. John.

12 Q. Why did you think it would be John?

13 A. Because John and I hung out after he got off work
14 and before he got off work, because we worked the same
15 hours.

16 Q. And did you go to the door?

17 A. I did.

18 Q. What happened when you went to the door?

19 A. I opened it. And K.J. was standing there.

20 Q. And what did he say?

21 A. He wanted to talk to me. And I told him no, that I
22 had been drinking. And he was like, no, I need to talk
23 about the other night. And I said, no, we will talk about
24 it tomorrow.

25 Q. Did that end it?

1 A. It did not end it.

2 Q. What happened next?

3 A. He asked me to give him five minutes. And I said,
4 fine, let me grab a beer, put on shorts. And I closed the
5 door.

6 Q. Let me make sure I understand. Was he inside your
7 apartment during this conversation?

8 A. No, absolutely not. I left him standing outside.

9 Q. Let me show you --

10 MS. SHEALY: Your Honor, I believe without
11 objection, if I could have these two exhibits marked as
12 Court's exhibits.

13 THE COURT: Okay.

14 (Court's Exh. 9, Photograph of apartment
15 building, was marked for identification.)

16 (Court's Exh. 10, Photograph of apartment door,
17 was marked for identification.)

18 BY MS. SHEALY:

19 Q. Can you identify Court's Exh. 9?

20 A. That was my apartment building.

21 THE COURT: I'm sorry. I didn't understand.

22 THE WITNESS: My apartment building.

23 BY MS. SHEALY:

24 Q. Kind of direct your answers towards him when you
25 answer, if you would.

1 And then Court's Exhibit No. 10?

2 A. That's my front door.

3 MS. SHEALY: Judge, I will hand those up to you so
4 you can take a look.

5 BY MS. SHEALY:

6 Q. So did you, in fact, after you said, hold on, let
7 me get a beer, what did you do?

8 A. I shut the door and left him outside.

9 Q. Where did you go within your apartment?

10 A. I went to the refrigerator, opened it up to grab a
11 beer. And when I closed the door, he was standing inside my
12 house.

13 Q. Now, when you said that you were going to go grab a
14 beer, where did you intend for the conversation between you
15 and K.J. to occur?

16 A. I intended on him standing outside of my house.
17 And he was standing in the doorway.

18 Q. When you saw that he had entered your apartment,
19 could you tell the jury, did you say anything to him?

20 A. I told him -- asked him what he was doing and get
21 out. I told him I had a gun.

22 Q. Did you have a gun?

23 A. I did. It was in my bedroom.

24 Q. And what then happened?

25 A. His hands were around my throat. And I woke up in

1 the hallway.

2 Q. When you woke up in the hallway -- first of all,
3 when you say his hands were on your throat, did you remember
4 everything that happened between him putting his hands on
5 your throat and your being in the hallway?

6 A. No.

7 Q. What happened in the hallway?

8 A. I came back to on the ground with him on top of
9 me.

10 THE COURT: I'm sorry?

11 THE WITNESS: I came back to. I had lost
12 consciousness with him on top of me, still strangling me.

13 BY MS. SHEALY:

14 Q. And what happened at that point?

15 A. I begged him to stop choking me. And then I lost
16 consciousness again.

17 Q. When you regained consciousness, where were you?

18 A. I was still on my back with him on top of me. He
19 was undoing his pants. And I told him he could have sex
20 with me, just let me breathe.

21 Q. Now, that occurred where?

22 A. In the hallway. Before that he said, it wasn't
23 supposed to happen this way while he was undoing his
24 pants.

25 Q. As he was undoing his pants? Do you need a

1 moment?

2 THE COURT: Take a moment. Take as long as you'd
3 like. Tell me when you are ready to talk some more.

4 MS. SHEALY: Do you want us to take a little break?

5 THE WITNESS: No.

6 BY MS. SHEALY:

7 Q. Okay. So if you could describe to the Court, once
8 he initially put his hands on your neck, is it easy to
9 recount every step of what happened from that point on?

10 A. I'm sorry? What?

11 Q. Do you remember the details? Is it difficult to
12 remember the details of what all happens from the first time
13 he puts his hands around your throat?

14 A. I mean, I lost consciousness and I came back to.
15 And from when he finally let me breathe, I remember
16 everything, yes, but --

17 Q. Not during the time that he was putting his hands
18 around your neck? When you came to in the hall, what did
19 you have on when you went to the door? When he was at your
20 door, what did you have on clothing-wise?

21 A. I had a long T-shirt and my underwear.

22 Q. At some point, do you no longer have on your shirt
23 and your underwear?

24 A. That's correct.

25 Q. Do you know when that happened exactly?

1 A. After he let go of my throat.

2 Q. And did he take your clothing off?

3 A. He did.

4 Q. At some point, are y'all in your bedroom?

5 A. He does pick me up and put me on the bed, yes.

6 Q. And what happened once y'all were in the bedroom?

7 A. He asked me if he could go down on me and he
8 started performing oral sex.

9 Q. You are going to have -- I'm pretty sure the judge
10 probably couldn't hear that. I'm sorry to have to ask you
11 to say those things loudly, but if you could.

12 A. He asked me if he could perform oral sex. And
13 he -- I just stared at him. And he started that. And then
14 he popped back up or sat back up and he goes, I don't want
15 you to think I'm raping you. And at that point, I closed my
16 legs and I was like, I have to pee. And I ran to the
17 bathroom.

18 Q. So let me back up with you a little bit. At some
19 point, does he take his clothing off?

20 A. Yes.

21 Q. Do you know when it was that he took his clothing
22 off?

23 A. In the hallway.

24 Q. Did you see him take his clothing off?

25 A. I don't know if he took them off all the way. I

1 just know that the penetration happened in the hallway.

2 Q. And does he at some point lose all clothing?

3 A. Yes.

4 Q. So can you recount for us when that happened, or is
5 that a blur?

6 A. That's a blur.

7 THE COURT: I'm sorry. I didn't get that last
8 question and answer.

9 MS. SHEALY: I asked her if she could tell when he
10 took off all his clothing or if that was a blur. And she
11 said it was a blur.

12 THE COURT: Okay.

13 BY MS. SHEALY:

14 Q. Did you do anything physically towards him?

15 A. I did.

16 Q. What did you do?

17 A. In the hallway, when he was penetrating me, I
18 scratched him a lot on purpose.

19 MS. SHEALY: I would ask, without objection, to
20 have some photographs marked as Court's Exh. 11 through
21 15.

22 (Court's Exh. 11 through 15, Photographs, were
23 marked for identification.)

24 BY MS. SHEALY:

25 Q. Showing you Court's Exh. 11 through 15. Could you

1 tell the Court whether or not the scratch marks depicted on
2 these photographs are the ones that you made?

3 A. Yes. Yes.

4 Q. And when you scratched him, did he have a shirt on
5 at that time?

6 A. I don't think so, no.

7 Q. Now, the Budweiser that you had grabbed from the
8 refrigerator, what happened to it once he began choking you?

9 A. As far as I know, it was still in my hand when I
10 hit the laundry room or the hallway.

11 MS. SHEALY: Your Honor, without objection, I'm
12 going to mark as a Court's exhibit one photo.

13 (Court's Exh. 16, Photograph, was marked for
14 identification.)

15 BY MS. SHEALY:

16 Q. Does this reflect the Budweiser can that you had?

17 A. That's correct.

18 Q. And it was in your hand before K.J. choked you?

19 A. Yes.

20 Q. In this photograph, what is this area?

21 A. That's the washing machine.

22 Q. So this is the hallway near the laundry room?

23 A. Yes. Bathroom is over here.

24 Q. Did you have any injury to any other part of your
25 body from that fall?

1 A. I did injure the back of my hand.

2 Q. Now, when you were telling us earlier that he was
3 trying to penetrate you, did you initially and immediately
4 open your legs?

5 A. No.

6 Q. And what caused you to open them?

7 A. He wedged his legs, one of his legs, in between
8 mine.

9 Q. And was he continuing to choke you at that point?

10 A. Yes.

11 Q. Did his choking you have anything to do with
12 opening your legs?

13 A. Yes.

14 Q. And I think you've told us. Did you say something
15 to him?

16 A. I told him he could have sex with me, just let me
17 breathe.

18 Q. And that was because he was continuing to do
19 what?

20 A. Continuing to choke me. I couldn't breathe.

21 Q. So after that penetration and you are in the
22 bedroom, did you testify about his saying something about
23 oral sex?

24 A. He asked if he could go down on me. And I just
25 stared at him and he did that.

1 Q. He performed oral sex on you?

2 A. He did.

3 Q. And after that, what happened?

4 A. He sat up and he goes, I don't want you to think
5 I'm raping you.

6 THE COURT: I'm sorry?

7 BY MS. SHEALY:

8 Q. Slow down for us a little bit.

9 A. He sat up and he goes, I don't want you to think
10 I'm raping you. And then went back down on me. And I
11 closed my legs. I was like, I have to pee. And I ran to
12 the bathroom. He said me too. And I was like, me first.

13 Q. And did you, in fact, urinate in the bathroom?

14 A. I did. But while I was doing so, he made me
15 perform --

16 Q. Oral sex?

17 A. Yes.

18 Q. On --

19 A. Him.

20 Q. And you were seated at the toilet?

21 A. I was.

22 Q. And he made you do that?

23 A. Yes.

24 Q. Do you know whether he ejaculated in your mouth?

25 A. He did not.

1 Q. Did you complete urinating?

2 A. I did.

3 Q. And what happened at that point?

4 A. I stood up and held on to the bathroom door and
5 waited for him to start peeing. And told him I was going to
6 get something to drink. And I ran out of my house.

7 Q. Where did you run?

8 A. I ran to John's house and I started banging on the
9 door and screaming for him to open up.

10 Q. And prior to running out of the house, did you take
11 the time to put any clothes on?

12 A. No.

13 Q. Did John, in fact, open the door?

14 A. Eventually, yeah.

15 Q. What happened?

16 A. K.J. came outside, picked me up, and was taking me
17 back into my house. And John opened the door.

18 Q. What happened once John opened the door?

19 A. He dropped me.

20 Q. And did you see --

21 A. I ran into John's house.

22 Q. Did you see where K.J. went?

23 A. No.

24 Q. You want to take a minute? Are you okay right now,
25 or do you need another minute?

1 A. I'm okay.

2 Q. What did you say to John?

3 A. I came in, and I slammed the door behind me and
4 slid down. And just yelled, he raped me, he raped me, he
5 raped me.

6 Q. What did John then do?

7 A. John called 911.

8 Q. And did the police arrive?

9 A. They did.

10 Q. Where were you when they arrived?

11 A. I was in John's house.

12 Q. And when you went into John's house, did he give
13 you something to --

14 A. He wrapped me up in a blanket.

15 Q. When the police officers got there, did you tell
16 the police what happened?

17 A. I did. I just kept telling them, I scratched him,
18 I scratched him, I scratched him.

19 Q. And did they take you anywhere?

20 A. They took me to go put clothes on.

21 THE COURT: I'm sorry?

22 THE WITNESS: They took me to go put clothes on.

23 BY MS. SHEALY:

24 Q. That was back in your apartment?

25 A. Yes.

1 Q. And was K.J. still there?

2 A. No.

3 Q. And after you put clothes on, where did you go
4 then?

5 A. M.U.S.C.

6 Q. Did anyone go to be with you at M.U.S.C.?

7 A. John made sure that my dogs were okay and in the
8 house. And then he met me at the hospital.

9 Q. And when you went to the hospital, did you undergo
10 a sexual assault exam?

11 A. Yes, I did.

12 Q. And that would have included swabs and samples from
13 parts on your body; is that correct?

14 A. Yes.

15 Q. Tell us how tall you were when this happened?

16 A. 5' 1".

17 Q. How old were you when this happened?

18 A. 29.

19 Q. And how much did you weigh when this happened?

20 A. About 110 pounds, 100, 110.

21 (Court's Exh. 17-22, Photographs, were marked for
22 identification.)

23 BY MS. SHEALY:

24 Q. So, Ms. Dean -- I show you Court's Exh. 17. Is
25 this a picture of you? We can see that the photo is dated

1 June 8th, 2012. Is that a picture of you when you were at
2 M.U.S.C.?

3 A. Yes.

4 Q. Showing you State's Exhibit 18, the redness in your
5 cheeks and up your face and the markings here, that's how
6 you appeared that night when you went to M.U.S.C.; is that
7 correct?

8 A. That's correct.

9 Q. Showing you State's Exhibit 19, the redness here
10 and here and up your cheeks, had those been on you prior to
11 K.J. assaulting you?

12 A. No.

13 Q. Court's Exh. 20 --

14 MS. SHEALY: And, Judge, the photos are actually
15 more vivid than they appear here. And I can allow you to --
16 I can hand them up to you if you would like to look at them.
17 BY MS. SHEALY:

18 Q. Here are some red marks here. Did you have that on
19 your face prior to being choked that night?

20 A. No.

21 Q. Court's Exh. 21, measuring marks on your neck, did
22 you have those prior to being attacked that evening?

23 A. No.

24 Q. And Court's Exh. 22, the red marks here and here
25 and the redness there --

1 A. No.

2 Q. Now, were you aware that K.J. got arrested that
3 night?

4 A. I was.

5 Q. And when is the next time that you saw him? What
6 was going on?

7 A. It was a bond hearing, I think.

8 Q. And you saw the individual seated at counsel table
9 at the bond hearing?

10 A. I did.

11 Q. Were you able to stay through the whole bond
12 hearing?

13 A. I was not.

14 Q. Why was that?

15 A. I panicked.

16 Q. Now, when you say you panicked --

17 A. I got emotional. I couldn't be in the same room
18 with him at that point in time.

19 Q. Now, this occurred almost six years ago. Have you,
20 throughout those six years, been able to answer questions as
21 you have today about this?

22 A. Not always.

23 Q. And why was that?

24 A. I've been through a lot of therapy, which has put
25 me where I'm at today.

1 Q. So is it fair to say that even as recently as 2014,
2 you weren't as able to communicate all of this --

3 A. I was not.

4 Q. How about 2015?

5 A. I don't think 2015 I was still able to be here.

6 MS. SHEALY: Beg the Court's indulgence just a
7 moment.

8 BY MS. SHEALY:

9 Q. Was your hair coloring a little lighter back when
10 this happened than it is now?

11 A. No, ma'am. It was just pulled up. It's blonder
12 around the edges than it is in the back.

13 MS. SHEALY: Beg the Court's indulgence just a
14 moment.

15 BY MS. SHEALY:

16 Q. When you had that initial conversation with him
17 when you said that you were going to go get a beer and come
18 back, he then followed you into your apartment?

19 A. He let himself into -- I was in my refrigerator
20 when he was letting himself in. I didn't see him. I didn't
21 hear him. He was very quiet about it.

22 MS. SHEALY: Beg the Court's indulgence.

23 BY MS. SHEALY:

24 Q. Let me ask you this, Ms. Dean. Did you move from
25 those apartments?

1 A. I did move from those apartments.

2 Q. And did you move back to those apartments?

3 A. I did move back to those apartments to face my
4 fears.

5 Q. At that time, was it your understanding that the
6 defendant was in jail?

7 A. He was still in jail.

8 Q. Did something draw to your attention that he may
9 have gotten out of jail?

10 A. Yes, my maintenance man, Maurice.

11 Q. And what happened then?

12 A. Maurice came to me and told me that K.J. had been
13 back at the apartment complex.

14 Q. And do you have any idea when that was?

15 A. June 19th.

16 Q. And how is it that you remember that day?

17 A. I go to Myrtle Beach on Thursdays and I come back
18 on Mondays. And it was that Thursday after his sentence.

19 Q. After what?

20 A. It was on a Thursday, June 19th.

21 Q. Okay. Had you gotten any type of alert from the
22 jail system that he had been let out?

23 A. No.

24 Q. And what was your reaction to that?

25 A. When I found out that he was out, Maurice told me

1 that he had been there, I went to the police department to
2 find out is there anything I can do to protect myself.

3 THE COURT: You went to the police department?

4 THE WITNESS: I went to the police department to
5 find out if there was anything I could do to protect myself.
6 And then I came and I saw Amy, actually.

7 Q. Amy from our office, the victim witness person.

8 MS. SHEALY: Very good. Thank you. Please answer
9 any questions that the defense may have.

10 THE COURT: Hold it just a second. Who was it that
11 told you that he was out and had been back at the apartment?

12 THE WITNESS: Maurice, which was my maintenance --
13 the maintenance man at that apartment complex.

14 THE COURT: Maurice, who is the maintenance man?

15 THE WITNESS: Uh-huh. I've known Maurice. I've
16 lived at that apartment complex for a while.

17 THE COURT: Okay. I just didn't understand you.
18 Okay.

19 I'm going to go ahead and tell the jury to come
20 back at 9:30 tomorrow morning then.

21 MS. SHEALY: Your Honor, may I be heard on that
22 just a second? We are going to have one other witnesses
23 potentially on this issue.

24 THE COURT: We will stay until we finish today.

25 MS. SHEALY: Okay. Well, I certainly understand

1 that. May I go out into the hall to see if that witness is
2 here?

3 THE COURT: Sure. I hope so.

4 MS. SHEALY: I hope so too. Could we approach the
5 bench?

6 THE COURT: Just go ahead and tell me.

7 MS. SHEALY: I would rather not do it in front of a
8 witness.

9 THE COURT: Okay.

10 (Whereupon, a bench conference takes place off the
11 record.)

12 THE COURT: All right. Cross-examination.

13 MS. PROCTOR: Thank you, Your Honor.

14 THE COURT: Let me ask you. I need to discuss
15 something with them without you hearing what we are talking
16 about. I know that's kind of hard to understand right now.
17 But how about stepping out in the hallway right there. One
18 of those gentlemen will stay with you. Just step out in the
19 hallway just a minute.

20 (Whereupon, the witness is excused.)

21 THE COURT: All right. She's out and the door is
22 closed. What I've been told -- Ms. Shealy, tell me what you
23 want to tell me.

24 MS. SHEALY: We met with John Deraddo last week in
25 our office.

1 THE COURT: This is the next-door neighbor?

2 MS. SHEALY: This is the next-door neighbor. And,
3 interestingly, he is also involved in the prosecution of the
4 case we have before us. He came up to our office, was
5 completely helpful, wanted to help, et cetera. Gave him the
6 subpoena. Dan Eckerd, who is present in the courtroom,
7 served the subpoena on him. I talked to him again on
8 Saturday. He was in Asheville. Told him I would like to
9 talk to him again on Sunday. He said absolutely not a
10 problem, that is not a problem.

11 I texted him yesterday a number of times and called
12 him. Never got an answer, which I found odd. Then this
13 morning, I tried to get in touch with him. Sherry Niblock,
14 the investigator from our office tried to get in touch with
15 me. Dan Eckerd just tried to get in touch with him, even
16 went to his house and he was not there.

17 I don't know what was going on at all, because he
18 was extraordinarily helpful and eager to be helpful when he
19 was here the other night. I don't know what was going on in
20 Asheville, et cetera.

21 So when you are saying to bring the jury back at
22 9:30, my concern would be that we might need to address this
23 again tomorrow and give us until tomorrow to see if we can
24 locate him, find out what's going on with him. I didn't
25 want to say it in front of her because --

1 THE COURT: Okay.

2 MS. SHEALY: The other reason I pointed out, we
3 can't make our Lyle motion until we see whether or not we
4 have him.

5 THE COURT: Okay. So if you had him, that's going
6 to add, what, how much time, 30 minutes, an hour?

7 MS. SHEALY: Oh, he will be really short. He will
8 be really short.

9 MS. SEMAN: And then the argument.

10 THE COURT: So maybe I can tell the jury to be back
11 at 10:30 tomorrow, and we will be back at nine o'clock.

12 MS. SHEALY: That would be perfect.

13 THE COURT: Let's tell the jury to be here at 10:30
14 tomorrow.

15 MS. SHEALY: Thank you, Judge.

16 THE COURT: Bring her back in.

17 (Whereupon the witness returns.)

18 THE COURT: We are back with Ms. Dean. She's back
19 in the courtroom now. And it all had to do with scheduling,
20 Ms. Dean, about what time they anticipated how long this was
21 going to take and whatever else we had to do and in regard
22 to telling the jury to be back. That's what we were
23 discussing to resolve that and everything and all. And out
24 of abundance of caution, I wanted you to step out while we
25 were talking about that.

1 THE WITNESS: That's fine.

2 THE COURT: So now, go ahead with your
3 cross-examination.

4 CROSS-EXAMINATION

5 BY MS. SEMAN:

6 Q. Yes, Your Honor.

7 Ms. Dean, you had met Kraig Anderson before you say
8 he raped you, right?

9 A. Yes.

10 Q. You lived in the same apartment complex?

11 A. Yes.

12 Q. You both had dogs?

13 A. Yes.

14 Q. You talked before?

15 A. Just briefly.

16 Q. And you were out drinking together that night that
17 you mentioned?

18 A. We were not out together.

19 Q. But he was present with you and you guys had some
20 conversations, right?

21 A. He approached me once I arrived, yeah. But I told
22 him I wasn't going out, so he didn't know I was going to
23 show.

24 Q. But you did know his name?

25 A. I did know his name.

1 Q. You knew where he lived?

2 A. Yes.

3 Q. He knew where you lived?

4 A. Yes.

5 Q. And that's how he got to your apartment that night,
6 because he knew where you lived?

7 A. Yes. He helped me carry stuff up from the
8 garage.

9 Q. And so he was an acquaintance of yours?

10 A. Acquaintance.

11 Q. Not a stranger?

12 A. If you consider one conversation an acquaintance,
13 then, sure.

14 Q. And you say that this happened in your apartment?

15 A. It did happen in my apartment.

16 Q. In your complex apartment; his apartment complex
17 too, right?

18 A. Yes.

19 Q. He lived nearby, right?

20 A. Yes.

21 Q. You say this was inside the apartment, right?

22 A. Yes.

23 Q. In your bedroom?

24 A. Hallway and bedroom, yes.

25 Q. And in your bathroom?

1 A. Yes.

2 Q. Definitely not outside, not in a wooded area,
3 right; inside, in your apartment?

4 A. Yeah.

5 Q. And this all started when he knocked on your door
6 late at night, right?

7 A. Yes.

8 Q. You knew him and you did answer the door?

9 A. I thought it was John.

10 Q. But you did speak to him for a moment, right? And
11 then you say he pushed his way in?

12 A. He let himself in, yes.

13 Q. But you hadn't been with him earlier that day?

14 A. No.

15 Q. Hadn't seen him in several days?

16 A. Correct.

17 Q. And at some point, you say he took off your
18 clothes, right?

19 A. Correct.

20 Q. So you were naked, right?

21 A. Correct.

22 Q. Still naked when you were talking to police, right?

23 A. Correct.

24 Q. You say there was also oral sex involved, right?

25 A. Correct.

1 Q. Him performing oral sex on you and you performing
2 oral sex on him, right? Is that a yes?

3 A. That is correct, yes.

4 Q. Just for the court reporter. He also kissed you,
5 right?

6 A. I don't recall.

7 Q. But you did tell the nurse at M.U.S.C. that he
8 kissed you?

9 A. To be completely honest with you, it's been six
10 years.

11 Q. I understand. But it wouldn't be surprising to you
12 if you had told that to the nurse at M.U.S.C.?

13 A. It would not be surprising, no.

14 Q. Like you said, this happened June 2012, six years
15 ago?

16 A. Correct.

17 Q. Two years before the allegations in this case of
18 June 2014, right?

19 A. Correct.

20 MS. SEMAN: Beg the Court's indulgence.

21 BY MS. SEMAN:

22 Q. You wanted to prosecute Kraig Anderson for this,
23 right?

24 A. I did.

25 Q. You came to court?

1 A. I did.

2 Q. You came to the bond hearing?

3 A. I did.

4 Q. You met with the solicitor?

5 A. I did.

6 Q. You talked to the solicitor about the case?

7 MS. SHEALY: I'm going to object to the relevancy
8 of these questions.

9 THE COURT: I'm going to allow it. Go ahead.

10 BY MS. SEMAN:

11 Q. The solicitor is the same solicitor as the one
12 today, Ms. Baldwin, correct?

13 A. Yes.

14 Q. And you know he was charged with criminal sexual
15 conduct in the first degree?

16 A. For my case.

17 Q. Correct.

18 A. With mine, yes.

19 Q. And you know that he could have gotten up to 30
20 years for that?

21 A. I did not.

22 Q. But Ms. Baldwin offered him a plea deal, right?

23 A. Correct.

24 Q. Assault and battery, second degree, right?

25 A. It was actually -- I don't know. I know that's

1 what he pled guilty to.

2 Q. That's what I'm talking about. That's the charge
3 that he pled guilty to, right?

4 A. Uh-huh.

5 Q. And he could only get up to three years for that?

6 A. Correct.

7 Q. So that's 1/10th of the penalty as the original
8 charge, right?

9 A. Correct.

10 Q. He basically got time served, right?

11 THE COURT: Remember, this is nonjury now and
12 everything and all. Remember what we are focused on. Go
13 ahead.

14 MS. SEMAN: Yes, sir.

15 BY MS. SEMAN:

16 Q. You came to court, though, for the guilty plea,
17 right?

18 A. What?

19 Q. You came to court for his guilty plea?

20 A. I did, because I didn't know what a year or what
21 the time frame was. I didn't know if it was going to be
22 five years or ten years or --

23 Q. And you were upset about the State giving him a
24 plea deal?

25 A. I was. I didn't want him to hurt another girl.

1 MS. SEMAN:- No further questions.

2 MS. SHEALY: Just a couple of follow-up questions
3 to those last series.

4 REDIRECT EXAMINATION

5 BY MS. SHEALY:

6 Q. Were you happy with the results of the guilty plea?

7 A. Absolutely not.

8 Q. And you don't know all the reasons that Ms. Baldwin
9 may have offered the plea; is that correct?

10 A. I don't. I don't.

11 Q. And you are aware that he remained in jail until he
12 got out, and the next day, allegedly raped this young woman;
13 is that correct?

14 A. I'm sorry? What?

15 Q. That he then got out and then the next day
16 allegedly raped this young woman?

17 A. I didn't even know he had gotten out of jail until
18 the following week.

19 Q. After you learned it from Maurice?

20 A. Yeah, that's who I learned it from.

21 Q. Since then, you have learned that he was in jail
22 until the occasion that we are in court for today?

23 A. Yes.

24 MS. SHEALY: Nothing further.

25 THE COURT: Thank you very much. You can return to

1 wherever you want her to go.

2 MS. SHEALY: She can go home today. And we would
3 ask that --

4 THE COURT: Come back tomorrow, I think.

5 MS. SHEALY: Actually, I guess we can address
6 that.

7 THE COURT: Y'all talk to her. Thank you very much
8 for coming in and telling us all about that. You handled
9 yourself well.

10 THE WITNESS: Thank you.

11 MS. SHEALY: Your Honor, I think we are at a
12 stopping point for today.

13 THE COURT: All right. Let's be back at nine
14 o'clock tomorrow. Actually, I've got somebody coming in at
15 9 for a short little thing downstairs that I don't have to
16 have do in court, little settlement. So let's say 9:15.
17 All right, 9:15.

18 (Whereupon, the proceedings adjourn for the day.)
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1 (Whereupon, the proceedings continue on April 10,
2 2018.)

3 THE COURT: Where are we as far as the witness?

4 MS. SHEALY: He is refusing to come. Your Honor,
5 we would ask for a bench warrant for him. I have had my
6 investigator summarize the contact with him, which I will
7 tell you on two occasions last evening, an officer from the
8 North Charleston Police Department went to his home. And on
9 both times, he said he didn't want to have anything to do
10 with it and wasn't going to come to court. I have a
11 summary, if you want me to hand it up and read it.

12 THE COURT: This is a statement from Investigator
13 Daniel Eckerd?

14 MS. SHEALY: Yes, Your Honor. And he is employed
15 by our office.

16 (Court's Exh. 23, Statement by Daniel Eckerd, was
17 marked for identification.)

18 THE COURT: You have something you want me to sign
19 in terms of a bench warrant?

20 MS. SHEALY: I've spoken to the clerk.

21 THE COURT: Anything you want to say, Ms. Proctor,
22 about this?

23 MS. PROCTOR: I just saw this. I don't know. I
24 don't think there's much I can do.

25 THE COURT: All right. Issue a bench warrant

1 then.

2 MS. SHEALY: And we just have a couple of witnesses
3 to call, Your Honor.

4 THE COURT: Go ahead.

5 MS. SHEALY: Lisa Bloodworth.

6 LISA BLOODWORTH,

7 having been duly sworn, testifies as follows:

8 THE CLERK: State your full name and spell your
9 last name for the record.

10 THE WITNESS: My name is Lisa Bloodworth,
11 B-l-o-o-d-w-o-r-t-h.

12 THE COURT: Spell that last name again.

13 THE WITNESS: B-l-o-o-d-w-o-r-t-h.

14 DIRECT EXAMINATION

15 BY MS. SHEALY:

16 Q. Ms. Bloodworth, if you will tell the Judge, please,
17 where you are employed?

18 A. I work at the Sheriff Al Cannon Detention Center.

19 Q. What do your duties there include?

20 A. I do quite a few different things. But one of my
21 jobs is I do fill subpoenas for the court. I do gang stuff.
22 I do visitation, phone calls.

23 Q. A variety of administrative functions?

24 A. Yes.

25 Q. Pursuant to a subpoena issued by our office, were

1 you asked to determine when it was that Kraig Anderson was
2 put in jail in 2012?

3 A. Yes, ma'am.

4 Q. And when was that?

5 A. That was June 8th, 2012. And he was booked at 7:08
6 a.m.

7 Q. And when was he released pursuant to that arrest?

8 A. He was released on June 17th, 2014, at 7:24 a.m.

9 MS. SHEALY: I have no further questions.

10 MS. PROCTOR: I have no questions for this
11 witness.

12 THE COURT: Thank you very much. You can return to
13 your place or be excused, whatever you want to do.

14 MS. SHEALY: Judge, I would hand up -- I provided a
15 copy to the defense -- from the Department of Corrections,
16 as Ms. Bloodworth indicated, he was released on June 17th,
17 2014. This document, which I could have marked as a court's
18 exhibit, reflects that he entered the South Carolina
19 Department of Corrections on June 17th, 2014, and was
20 released the next day, June 18th, 2014.

21 (Court's Exh. 24, Department of Corrections
22 classification and inmate records of Kraig Anderson, was
23 marked for identification.)
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TANYA MALLETTE,

having been duly sworn, testifies as follows:

THE CLERK: State your full name and spelling your last name for the record.

THE WITNESS: Tanya M-a-l-l-e-t-t-e.

DIRECT EXAMINATION

BY MS. SHEALY:

Q. Will you tell the jury, please, where you are employed?

A. Charleston County Consolidated 911 Center.

Q. And what are your duties there?

A. My duties as an analyst includes I'm the records custodian. And that enables me to process 911 requests, subpoenas, audio, CAD reports, in the course of a normal business day. It is my job to make sure those are efficiently and effectively delivered to the correct personnel.

Q. And pursuant to our request from our office, were you able to determine whether there was a 911 call placed from 2245 Greenridge Road on June 8th, 2012?

A. Yes, there was.

Q. And have you had the opportunity to both listen to the recording and to look at the CAD report?

A. Yes.

1 Q. Do you need to look at the CAD report to tell us
2 what time the call came in?

3 A. Yes, please. It looks like the call -- phone was
4 picked up at 3:06:45 a.m.

5 Q. And does the CAD report also reflect who the caller
6 was by name?

7 A. Caller's name was John, yes.

8 MS. SHEALY: Your Honor, at this time, we would
9 offer as a court's exhibit the 911 recording and request
10 publishing it.

11 THE COURT: Any problem?

12 MS. PROCTOR: No, Your Honor.

13 THE COURT: Okay. No objection. Go ahead.

14 (Video playing.)

15 MS. SHEALY: Your Honor, if I could get that marked
16 as a court exhibit.

17 THE COURT: Why do you think that's relevant, out
18 of curiosity? Never mind. Go ahead.

19 MS. SHEALY: The reason I think it's relevant is,
20 he sees K.J. outside the door. I mean, that's pretty
21 relevant. She comes in screaming she's been raped.

22 THE COURT: Go ahead.

23 MS. SHEALY: I have no further questions.

24 MS. SEMAN: I have no questions for this witness,
25 Your Honor.

1 THE COURT: Thank you very much.

2 (Court's Exh. 25, Kraig Anderson's Release
3 Record, was marked for identification.)

4 MS. SHEALY: That would be all of the evidence
5 regarding our Lyle motion.

6 Your Honor, for the record, the State has
7 previously filed two motions, one entitled State's motion
8 and memorandum of law in support of admission of prior bad
9 acts, which we provided a copy of to both the Court and the
10 defense, and then an amendment to the State's motion and
11 memorandum of law in support of admission of prior bad acts.

12 Your Honor, we would incorporate the arguments
13 within those motions. And I'm prepared to go forward with
14 my motion.

15 The State asserts that Rule 404(b) testimony is
16 appropriate to be allowed in this case under the following
17 allowable provisions. First, it's relevant under Rule 401
18 that the defendant has raped in a similar way previously.
19 It is relevant --

20 THE COURT: That the defendant has what?

21 MS. SHEALY: Has raped --

22 THE COURT: Oh, okay. I just didn't understand
23 you.

24 MS. SHEALY: -- in a similar way previously. It is
25 relevant in that it is evidence having tendency to make the

1 existence of any fact that is of a consequence to the
2 determination of the action more probable or less probable
3 than it would be without the evidence as is required⁷ by Rule
4 401.

5 Here, we don't rely on just one aspect of Rule
6 404(b). We think three are applicable, although only one is
7 necessary. One would be common scheme or plan. The other
8 would be intent. And the other would be absence of mistake.

9 Regarding the common scheme or plan, *Wallace, State*
10 *v. Wallace* is where we could be focused, which states that
11 although not a complete list in this type of case, the trial
12 court should consider the following factors when determining
13 whether there is a close degree of similarity between the
14 bad act and the crime charged. One, the age of the victim's
15 when the abuse occurred; two, the relationship between the
16 victims and the perpetrator; three, the location where the
17 abuse occurred; four, the use of coercion or threats; and
18 five, the manner of the occurrence, for example, the type of
19 sexual battery.

20 The Court noted that we emphasized that these
21 factors are set out merely for guidance and that other
22 factors may be relevant in weighing the similarities and the
23 dissimilarities between the crime charged and the bad act
24 evidence.

25 It's important to point out that while most of our

1 Rule 404(b) cases involves sexual assaults of minors, it's
2 easy to understand why. We don't have serial rapist cases
3 frequently. I have never had a serial rapist case involving
4 nonfamily members in my career as a defense attorney or
5 prosecutor. So there's not a rape-vast amount of cases that
6 deal with this situation. Therefore, when looking at the
7 similarities for the purpose of common scheme, the inquiries
8 are a bit different.

9 Most often with CSCs with a minor, there is a
10 relationship between the parties, a parent, a parent's
11 boyfriend, a teacher, a coach, a minister. Therefore, the
12 types of similarities are different. Why? We are talking
13 about where the exposure to the child would be that which
14 would allow the act, at the home, at the church, at the
15 school, at a home of the defendant. So there's some
16 similarities with CSCs with minors.

17 Here we have a defendant who chooses an
18 acquaintance. That's similar. Both with Ms. Dean and with
19 Ms. Wesley, it's not a close friend. It's not a stranger.
20 It's someone that he engages, attempts to charm. And that
21 is a similarity between these two acts. It's not a
22 situation where there's just a snatching of someone and
23 raping him. He lures them. He's a con man.

24 Where the rape occurs is just an opportunity for
25 him. With Ms. Dean, it was in her apartment. With Ms.

1 Wesley, it was in a wooded area beside a hotel. He lures
2 them into a false sense of safety. He acts charming. He
3 offers to help. With Dean, he takes her sewing materials up
4 to her apartment for her. With Ms. Wesley, he seemingly is
5 getting her away from the older, overweight guy that's
6 following her into the parking lot. That is another
7 similarity. He charms. He assists them. He gives them a
8 false sense of comfort.

9 The two victims here are of a similar age. They
10 are both in their 20s. The same race. They are both white.
11 The same small size, long hair, and both have been drinking.
12 He wants them in a vulnerable state.

13 The defendant attacks them when they are otherwise
14 involved in another activity. That's significant. that's
15 another similarity. He catches them unaware. With Dean, as
16 she closes the door to retrieve a beer. With Wesley, as she
17 goes to the woods to urinate. He immediately begins
18 strangling them. That's a huge similarity. You don't hear
19 of someone strangling people during the course of
20 intercourse every day. He strangles Dean. He strangles
21 Wesley.

22 Both victims have periods of blacking out during
23 the attacks. The area of Greenridge Road is involved in
24 both rapes. With Dean, it's where it occurs. With Wesley,
25 it's where he tells her he lived and that's where he needs a

1 ride to. They are in the same area of town, the North
2 Charleston area of town.

3 With both, a location is similar and involved.
4 With Dean, it is going to Big Horns and playing cornhole
5 with him, socializing, drinking. With Wesley, the same
6 exact location with a new name, Wild Buffalo Steakhouse. He
7 goes there. And you will later see video from that evening,
8 but he picks her out. He knows she's been drinking.

9 Same time of the early morning hours. For Dean,
10 this 911 call comes in at 3:09. For Wesley, the 911 call
11 comes in at 3:09. It's in the middle of the night when
12 there's less foot traffic.

13 As Ms. Wesley has testified, they drove around for
14 a while. He feigned not remembering which hotel he had a
15 room, wanted to go someplace secluded; with Dean, the
16 seclusion of her apartment.

17 With neither victim was there any flirtation prior
18 to the rape, no physical activity of kissing, holding hands
19 as if they were involved in a relationship.

20 Both victims surrendered to her coercion. They
21 kept their legs tight until they feared death from the
22 strangulation. Neither victim consented. Both victims
23 attempted to fight back, Ms. Dean with the scratching and
24 Ms. Wesley with efforts that she said were futile.

25 Both victims in the case immediately reported the

1 attacks. It is not required that every aspect of the two
2 assaults be similar. Here, the similarities outweigh any
3 dissimilarities. And that's important.

4 Then we can move to the provision for intent. It
5 is incumbent upon the State to prove that the defendant
6 intended to sexually assault Ms. Wesley. It is necessary
7 that the jury know that this defendant had nonconsensual sex
8 with another victim, that he was aware that strangling and
9 penetrating another woman was not okay, that he acted
10 similarly here and would have no expectation that for Ms.
11 Wesley he would find a receptive audience. His intention
12 was to rape her, that he knew exactly what he was doing and
13 intended what he was doing, that the act was -- not that the
14 act was consensual and that he had every reason to believe
15 it would be okay with Ms. Wesley. That's a heavy burden for
16 the State.

17 And isolated without the benefit of the testimony
18 of Ms. Dean, the State is in a difficult position. That the
19 strangling was not part of some type of consensual sexual
20 experience during the penetration, that the victims were
21 okay with. You know, this jury without the benefit of
22 knowing that he previously attacked someone by strangling
23 her and making her blackout, knowing that she reported it,
24 and now does the same act, we have the burden of showing
25 that this was not consensual on Ms. Wesley's part.

1 And then it's sort of a blur with absence of
2 mistake, another factor in Rule 404(b). The State must
3 prove that the defendant was not mistaken in believing that
4 the victim was consenting to his acts. The burden for the
5 State could be the jury might think, well, he thought she
6 was in on it, that she was willingly a participant. The
7 Dean testimony is vital for us to disprove that.

8 Testimony regarding Dean is necessary for this jury
9 to hear, to be able to fairly evaluate the facts in Ms.
10 Wesley's case and understand that here, there is an absence
11 of mistake. He intended to rape. And he did it similarly.

12 If the jury is only allowed to hear Ms. Wesley's
13 testimony, it would deprive the jury of a fair
14 representation of what happened to Ms. Wesley. And it would
15 deprive the State of the ability to fairly present our case.

16 Then the inquiry for the Court is, well, is the
17 probative value of this evidence substantially outweighed by
18 the prejudice to the defendant. And it is the State's
19 opinion that, and our position, that this is exactly what
20 Rule 404(b) allows for. The similarity of acts of raping
21 someone and strangling them in such a similar fashion that
22 this jury should be entitled to hear.

23 And I will note, the reason I put in when he went
24 to jail and when he got out is because some of the cases
25 discuss the time difference between the two acts. Here, his

1 next opportunity to rape, he took advantage of.

2 Beg the Court's indulgence just a moment.

3 THE COURT: I appreciate your position. I've been
4 thinking about this. And I've done a lot of reading and a
5 lot of thinking and a lot of researching regarding the law
6 in regard to that and the rules. And I'm prepared to rule
7 without hearing from you, Ms. Proctor.

8 I would not allow the evidence regarding the prior
9 bad act. And I will grant a motion to suppress that,
10 however you want to phrase it. In the final analysis, I've
11 done the balancing that's required under the rules. And I
12 find that it's not relevant, that the potential for unfair
13 prejudice outweighs any possible relevancy.

14 Now, that's not to diminish in any way the
15 testimony of either of the victims that you put up here.
16 But as far as the second person is concerned, I've ruled
17 that that's not relevant. And I am not going to allow it.

18 All right. Anything else?

19 MS. SHEALY: Not at this time, Your Honor.

20 THE COURT: All right. What do we have to do as
21 far as -- did I rule in regard to the Biggers aspect as far
22 as the photo identification?

23 MS. BALDWIN: You did yesterday, Your Honor.

24 THE COURT: We will make sure that I cover that,
25 that I'm going to allow that and a photo identification be

1 done.

2 All right. Anything before we bring the jury in?

3 MS. BALDWIN: I think the State had a brief rape
4 shield motion --

5 THE COURT: You are not going to try to go into
6 anything like that, are you?

7 MS. SEMAN: No, Your Honor.

8 MS. BALDWIN: And the defense, I think, had a
9 couple of small ones.

10 MS. PROCTOR: Your Honor, we would ask that one of
11 our motions is to exclude the prejudicial term "victim". We
12 would just ask that --

13 THE COURT: You know, I appreciate that, but try to
14 refer to her as Ms. Wesley, I believe her name is, and all,
15 W-e-s-l-e-y.

16 MS. PROCTOR: Yes.

17 THE COURT: Try to refer to her that way. Try to
18 refer to him as Mr. Anderson.

19 MS. PROCTOR: And we also did a motion for records
20 of all -- criminal records of all the State's witnesses.
21 And I think our motion for records of all the State's
22 witnesses, I think we have been provided by now. We have
23 been provided with all those.

24 And we would ask -- we have a motion for *Jackson v.*
25 *Denno*, if there were any statements they intend to use that

1 Mr. Anderson made.

2 MS. BALDWIN: At this time, we don't. The only
3 possible statement that he made to law enforcement, there's
4 some statements made on an officer's body-worn camera when
5 the officer is serving the arrest warrant on him. At this
6 time, we don't intend to go into it. If it comes up, we can
7 address that with the Court.

8 THE COURT: All right.

9 MS. PROCTOR: And we would ask should Mr. Anderson
10 testify, which of his prior convictions will the State
11 use.

12 THE COURT: We will deal with that if it comes up.

13 MS. SEMAN: And, Your Honor, just a couple other
14 minor things. We've discussed with the State that there
15 won't be any mention of the fact that Mr. Anderson was
16 released from prison the day that this happened unless, of
17 course, the door is open. But I believe that we are in
18 agreement that that will not come in.

19 MS. BALDWIN: That's correct.

20 MS. SEMAN: We also want to make sure that the
21 State doesn't go into the fact that the defendant was
22 arrested in other state. Again, we also think that the
23 State does not plan to go into that as well unless the door
24 is open.

25 THE COURT: I wouldn't think so. All right.

1 MS. SEMAN: And finally, for the Court's benefit,
2 we have received notice that the State intends to introduce
3 an expert in. For your benefit, we do plan to contest that
4 witness being entered as an expert. We will want to voir
5 dire her and there probably will be a matter of law outside
6 the jury's presence.

7 THE COURT: I've never had that expert in
8 strangulation before, so I look forward to hearing about
9 that.

10 MS. BALDWIN: She's been qualified before, Your
11 Honor.

12 THE COURT: Well, I look forward to learning about
13 it.

14 MS. BALDWIN: Thank you.

15 THE COURT: I think that it will be beneficial.
16 Thank you very much.

17 We've got an extra 30 minutes or so before the jury
18 is supposed to be here, so y'all use it accordingly.

19 (Whereupon, a recess transpired.)

20 THE COURT: All right. We have the last juror,
21 Mr. Riley, here. And I asked him out there why he was so
22 late and he said he got lost. Anyway, he's here. Are we
23 ready to bring the jury in?

24 MS. PROCTOR: Judge, one more thing. We forgot.
25 We had a motion to sequester the witnesses.

1 THE COURT: Any problem with that?

2 MS. BALDWIN: No, sir. Obviously, outside of our
3 case agent and the victim.

4 THE COURT: Okay. Bring the jury in.

5 (Whereupon, the jury returns to open court at 10:46
6 a.m.)

7 THE COURT: Did you all select a foreperson
8 yesterday? Who is it? Ma'am, are you the spokesperson, the
9 foreperson of the jury?

10 THE FOREPERSON: Yes, ma'am.

11 THE COURT: Tell me your name.

12 THE FOREPERSON: Colleen Fleming.

13 THE COURT: All right. I see you on my list.

14 That's the seat we reserve for the foreperson of the jury.
15 So if you will at all times sit in that seat during the
16 course of the trial and then those two back seats there on
17 the side nearest the door, those are the two seats that we
18 reserve for the alternate jurors, Mr. Fryer and Mr. Riley.

19 And we have everybody here now. And Mr. Anderson
20 is present. And the prosecution attorneys are present. So
21 are we ready to proceed with the trial. I would ask the
22 clerk to swear the jury at this point.

23 (Whereupon, the jury is sworn.)

24 THE COURT: Each of you has a notepad and a pen. I
25 want you to put your name or initials on the front of it so

1 you can identify that as your notepad because you will have
2 that throughout the trial. I do allow jurors to take notes.
3 Some people don't think that's a good idea. Some people
4 think it may distract you from what is actually being said
5 or done during the presentation of the testimony and the
6 evidence to you. If you do take notes, do not allow your
7 notetaking to distract you. Notes are to be used only as
8 memory aids. Notes are not entitled to any greater weight
9 than the recollection or the impression of each juror as to
10 what the testimony or evidence actually was. Those are your
11 notes and your notes only. No one will be looking at them,
12 checking to see what you wrote or didn't write or anything
13 like that.

14 At the conclusion of the trial, I will ask you to
15 tear up any notes you may have made. Tear them up, whatever
16 you want to do with them. As I said, those are your notes
17 and your notes only. And notes are not entitled to any
18 greater weight than the recollection or the impression of
19 each juror as to what the testimony or evidence actually
20 was.

21 This is a case in which the State of South Carolina
22 charges that Mr. Anderson, Kraig J. Anderson, that I
23 introduced to you yesterday, violated one of the laws of
24 this state found in Section 16-3-62 of South Carolina Code
25 of Laws. That's just a number that's assigned to it in the

1 Code of Laws for the state. And what the State claims is
2 that he did commit what is called a sexual battery. And I
3 will define that for you later when we get to the end of the
4 case, but that he did commit a sexual battery on Cristen
5 Wesley, who I told you about, I believe -- I know her name
6 was called to you yesterday, and I'm sure you will meet her
7 later on today -- and that he did commit that crime on her
8 on June 19, 2014.

9 Now, Mr. Anderson has said, I am not guilty of that
10 charge. And that places the burden of proving him guilty on
11 the State. A person who is charged is never required to
12 prove himself or herself innocent. The burden of proof is
13 on the State throughout the trial and until you the jury
14 have reached a conclusion in the jury room that the State
15 has proved him guilty beyond a reasonable doubt. If the
16 State doesn't do that, then he's entitled to a verdict of
17 not guilty.

18 Really the question that you will answer when you
19 go back there in the jury room is exactly that. Has the
20 State met its burden of proof of proving Mr. Anderson guilty
21 of this charge beyond a reasonable doubt. You are the sole
22 judges of the fact of this case. I don't have anything to
23 do with the facts. My job during the trial is to make sure
24 that the parties follow the rules. We have rules of
25 evidence and rules of procedure that the parties are

1 supposed to follow during the presentation of the facts to
2 you. My job is to make sure that they follow those rules.

3 Perhaps during the course of the trial an attorney
4 will get up and say something like, Your Honor, I object
5 and, hopefully, have some reason as to why he or she objects
6 to a question that's been asked or an answer that's been
7 given. When the lawyers do that, they are talking to me.
8 They are not talking to you. They are calling a possible
9 violation of one of those rules to my attention. Don't you
10 concern yourselves with those objections, whether I overrule
11 it, sustain it, whatever, because it has absolutely nothing
12 to do with your job in the case, which is to be the finders
13 or the judges of the facts of this case.

14 Perhaps when those kind of situations come up or if
15 the lawyers anticipate something that they think is going to
16 be an objection to, sometimes they will give me an advanced
17 warning. And when that happens, I will send you out of the
18 courtroom. I am not trying to hide anything from you by
19 doing that, it's just that we found over the years that
20 that's the best way for me and the lawyers to be able to
21 freely discuss the rule, let me make a decision, bring you
22 back in and go on with the trial.

23 Again, I'm not trying to hide anything from you .
24 when we send you out of the courtroom. Just that we found
25 over the years that's the best way for me and the lawyers to

1 deal with any of those issues that may come up about the
2 rules and about how it's to be applied during the course of
3 this trial.

4 Now, how are you going to go about learning about
5 this case? First of all, I'm going to allow an attorney
6 from each side to make an opening statement to you. These
7 are not arguments. The arguments will come at the
8 conclusion of the case. But at the start, I do allow each
9 side to introduce themselves a little further, tell you a
10 little bit more about what the position is, what the State
11 claims in regard to this case as far as what Mr. Anderson
12 did, and any response to that claim that he wishes to tell
13 you about.

14 After both sides have had a full and fair
15 opportunity to make their opening statement, then we will
16 have witnesses who come up and sit in that witness chair
17 over there near you and take an oath to tell you what they
18 know insofar as the facts of this case are concerned.

19 After you've heard from all of the witnesses, then
20 we will have closing arguments from the attorneys. And
21 after that, I will discuss with you more fully what your
22 duties and responsibilities are as the jury in this case and
23 the law that you will apply in the case. And then you go to
24 the jury room and you will deliberate and you will answer
25 that question, has the State met the burden of proof in this

1 case. Keep in mind what your job is going to be at the
2 conclusion of the trial.

3 Who is going to make an opening?

4 MS. BALDWIN: I am, Your Honor.

5 THE COURT: Go right ahead.

6 MS. BALDWIN: "This is why you don't give rides
7 to strangers you don't know." This is what the defendant
8 said to Cristen Wesley on June 19th of 2014 when he
9 strangled and raped her. See, that night, Cristen was just
10 going to see a friend. And her friend Heidi was bartending
11 at the Wild Buffalo Steakhouse in North Charleston. While
12 Cristen was there, she saw some other friends. And she
13 talked to them as well.

14 And then during the course of the evening, the
15 defendant entered the bar. She didn't know him. Didn't
16 know who he was. He had something more on his mind, though,
17 than just talking to people. He did strike up a
18 conversation with Cristen, tried to befriend her, lowered
19 her defenses until he was ready to strike.

20 See, Cristen looked at it as just a casual
21 conversation. There was nothing particularly memorable.
22 She went on with her evening, went back to her friends.
23 However, that night, the defendant chose his target and
24 stalked Cristen in the bar. He kept watching her while she
25 was at the bar, even though she didn't know it. And he

1 waited outside for her to leave. And when the time was
2 right, he struck.

3 Cristen will tell you that as she was leaving,
4 another older male that was at the restaurant, Ed, who was a
5 regular at the bar, said he would walk her to her car. She
6 didn't really know how to decline. She didn't like the
7 feeling that she was getting from Ed. And she actually was
8 relieved when the defendant stepped in and told Ed a lie
9 that Cristen was going to give him a ride home. She will
10 tell you that she felt the defendant was helping her. So
11 she agreed to take him home since it was so close by, when
12 he emphasized that he really did need a ride home.

13 Then she will tell you how she started to get
14 nervous when the defendant told her he lived at one place on
15 Greenridge Road, but then told her he was actually staying
16 at another hotel, and how that nervousness started to
17 compound when he couldn't pick out the hotel.

18 He finally did pick out one, the Country Inn and
19 Suites off of Ashley Phosphate Road. They pulled into the
20 parking lot. And by this point, Cristen had to use the
21 restroom. She asked to use his room. He said, no, go in
22 the woods. There's a bank of woods. And you will see
23 pictures of that right by the hotel.

24 So Cristen went in there. And as she was relieving
25 herself, the defendant came upon her. Followed her. He

1 threw her against a tree. And he began strangling her. And
2 then he threw her down on the ground. And she tried to
3 fight back. She kept her legs closed for as long as she
4 could. And she will tell you how she fought until she
5 thought she was going to die from the strangulation. So she
6 had to submit to him raping her.

7 During the course of the trial, you will see the
8 surveillance video from the restaurant that evening. You
9 will see how Cristen didn't really think anything of the
10 defendant, although he's hovering around her. You will see
11 and you will hear from Cristen and other witnesses about the
12 night and about the defendant.

13 You will also hear how the defendant's DNA was
14 found on Cristen when she went to go have a sexual assault
15 exam performed on her. We will show you pictures of the
16 dirt and muck on Cristen's clothes and shoes and on her
17 legs, and the scratches that were on her body. And you will
18 also see pictures of the extreme petechial hemorrhaging that
19 happened to her face as her brain was deprived of air
20 because of the strangulation.

21 Cristen, after this happened, immediately sought
22 help. She immediately reported. And the hospital took
23 pictures of her injuries. And I'm confident that after you
24 hear all that testimony and after you see those pictures,
25 that you will find the defendant guilty of rape.

1 THE COURT: All right. Ms. Proctor or Ms. Seman.

2 MS. SEMAN: Yes, sir. May it please the Court.

3 Shame, guilt, regret, this case is about the
4 emotions a person feels when she's done something she
5 shouldn't have, that feeling deep in the pit of a person's
6 stomach when she can't take something back.

7 This week, the State will call witnesses to the
8 stand. And those witnesses will try to make sense of these
9 senseless accusations. The State will call Cristen Wesley.
10 And Ms. Wesley will tell you a story. She will tell you
11 that Mr. Anderson raped her after a night out at a bar in
12 June 2014. She will tell you that this happened in a small
13 wooded area near a hotel on busy Ashley Phosphate Road.

14 She won't tell you that anyone saw or heard what
15 happened. With her story, she will label Mr. Anderson, as
16 she has since that day back in 2014, as her rapist.

17 To back up Ms. Wesley's story, the State will call
18 several other witnesses. Those people will be friends,
19 police officers, even doctors or medical professionals.
20 Those people will tell you about what they did after Ms.
21 Wesley accused Mr. Anderson of rape. What they did and what
22 they didn't do will show you that Mr. Anderson did not rape
23 Ms. Wesley.

24 So what really happened that day, June 19th, 2014,
25 the early morning hours? That day, Ms. Wesley went to a

1 grand opening celebration for a bar on Rivers Avenue. Her
2 friend Heidi was the bartender there. So Ms. Wesley dressed
3 up and she headed to the bar. She drove there by herself.
4 She started drinking. Ms. Wesley had several drinks at the
5 bar that night.

6 And during the evening, she talked with several
7 people. And one of those people was the defendant. They
8 struck up a conversation over cigarettes on the patio at
9 this bar. Throughout the night, they chatted on and off.

10 And when the bar closed at about 1:30, Ms. Wesley
11 walked out the door with the older gentleman that Ms.
12 Baldwin mentioned, Ed. And Mr. Anderson noticed, and walked
13 over to them. Mr. Anderson told the older gentleman that
14 Ms. Wesley had agreed to give him a ride home in the guise
15 of getting the older gentleman to leave her alone. And when
16 the older gentleman left, Mr. Anderson told Ms. Wesley that
17 he really did need a ride home. He lived on Greenridge
18 Road, which is very nearby.

19 Ms. Wesley readily agreed to take Mr. Anderson
20 home. Again, she had met him that night. He was a
21 stranger. So they drove down Greenridge Road. And when
22 they got towards the end of the road, Mr. Anderson,
23 according to Ms. Wesley, told her he didn't live on
24 Greenridge Road, but instead, at a hotel. But she readily
25 agreed to drive him to that hotel.

1 Now, when they arrived at the Country Inn and
2 Suites on Stafford Drive, as the solicitor said, Ms. Wesley
3 had to use the restroom. And the solicitor mentioned that
4 Ms. Wesley was so nervous, was so uncomfortable with the
5 defendant being in her car. But Ms. Wesley at that point
6 asked Mr. Anderson if she could use the restroom in his
7 hotel room. According to Ms. Wesley, Mr. Anderson said no.
8 And instead of trying to use the restroom in the hotel lobby
9 or in the Denny's next-door or in many gas stations near the
10 hotel, Ms. Wesley went to a wooded area to urinate, she says
11 at Mr. Anderson's urging. That's when and where Ms. Wesley
12 claims that Mr. Anderson raped her, on a busy street next to
13 a bank and a restaurant, at a hotel in a small wooded area.

14 Ms. Wesley drove nextdoor to Denny's to report what
15 happened. And a store employee called police. EMS took Ms.
16 Wesley to the hospital. Ms. Wesley's boyfriend met her
17 there; shame, guilt, regret.

18 We ask that you closely scrutinize Ms. Wesley's
19 memory of what happened even immediately after. Pay close
20 attention to the important details that she had trouble
21 remembering. Pay attention to how she reports her alleged
22 rape to others.

23 At the end of the day, Ms. Wesley's story just
24 doesn't make any sense, because no one was raped that night.

25 Over two years since this arrest, it's

1 Mr. Anderson's time for justice. Because this is an
2 important week for him. It's an important week for him
3 because he's innocent. He did not do what they say he did.
4 He did not rape Cristen Wesley.

5 We ask you to think about whether Ms. Wesley's
6 accusations make any sense. And it's because they just
7 don't that we are confident that when you go back to your
8 jury room and you take with you the evidence that you have
9 seen and heard in this case, your common sense and the law
10 as Judge Hughston will instruct you, that you will find
11 Mr. Anderson not guilty, because that shame, that guilt,
12 that regret will tell you that he's innocent.

13 THE COURT: All right. The State, call your first
14 witness.

15 MS. SHEALY: Jovanna Wilson.

16 JOVANNA WILSON,
17 having been duly sworn, testifies as follows:

18 The CLERK: State your full name and spell your
19 last name for the record.

20 THE WITNESS: My name is Jovanna Wilson. Last name
21 is spelled W-i-l-s-o-n.

22 DIRECT EXAMINATION

23 BY MS. SHEALY:

24 Q. Ms. Wilson, if you would please tell the jury where
25 were you working June 19th, 2014?

1 A. I was working at Denny's.

2 Q. And were you working the early morning hours of the
3 19th?

4 A. Yes, ma'am.

5 Q. At around 3:09, can you tell the jury what happened
6 at Denny's?

7 A. I was standing at the front of the house just doing
8 my server job. And then a young lady walked in very
9 distraught. You could just tell that something was wrong
10 with her. And I asked her, I was like, what's wrong? And
11 she told me that she was sexually assaulted and that she
12 needed the phone to call for help.

13 Q. And did you assist her in any fashion in making a
14 phone call?

15 A. Yes, ma'am, I did.

16 Q. And who did you call?

17 A. I called 911.

18 Q. Were you still present at Denny's when the police
19 arrived at that location?

20 A. Yes, ma'am.

21 Q. And was the young lady still there waiting for the
22 police?

23 A. Yes, ma'am.

24 Q. I'm going to show you two photographs.

25 MS. SHEALY: And, Your Honor, it's my understanding

1 that the defense has no objection. At this time, I would
2 offer State's Exhibit 5 and 6 into evidence and I believe
3 with no objection.

4 THE COURT: Any objection?

5 MS. SEMAN: No, Your Honor.

6 THE COURT: All right. Without objection.

7 (State's Exh. 5, Photograph, is moved in
8 evidence.)

9 (State's Exh. 6, Photograph, is moved into
10 evidence.)

11 THE COURT: Any time something is put into
12 evidence, sometimes they want to pass them around, let you
13 see it now, sometimes they don't. But you will have
14 anything with you in the jury room -- when it's been
15 admitted into evidence, you will have it with you in the
16 jury room at the end of the case when you are considering
17 your verdict. So keep that in mind.

18 BY MS. SHEALY:

19 Q. Thank you. So showing you State's Exhibit 5 -- and
20 I'm going to ask that it be brought up. Can you tell us
21 what this is a picture of?

22 A. My job at the time at Denny's.

23 Q. And where is this located? Tell the jury where
24 this is.

25 A. It's on Ashley Phosphate.

1 Q. And is Ashley Phosphate depicted in that picture?

2 A. Yes.

3 Q. Where is Ashley Phosphate? Let's see. See if you
4 can put your finger on there if it will make a marking.

5 Okay. Where is Ashley Phosphate?

6 A. At this sidewalk right here is the street of Ashley
7 Phosphate.

8 Q. Are you familiar with the Country Inn and Suites
9 hotel?

10 A. Somewhat. I think it's across the street.

11 Q. Do you see it depicted in this picture? If you
12 don't, it's okay.

13 A. No, no.

14 Q. Showing you State's Exhibit 6, could you tell the
15 jury whether or not this is an accurate depiction of the
16 young lady that came in to Denny's that evening?

17 A. It was.

18 Q. And, again, if you would tell us what was her
19 demeanor like when she came in?

20 A. You could just tell that something was wrong,
21 that -- you know, you could tell that she needed some kind
22 of help.

23 MS. SHEALY: Thank you. I have no further
24 questions. Answer any that the defense may have.

25 THE WITNESS: Yes, ma'am.

1 THE COURT: Any questions?

2 MS. SEMAN: Yes, Your Honor.

3 CROSS-EXAMINATION

4 BY MS. SEMAN:

5 Q. As you just said to the solicitor, you were the one
6 that made the 911 call in this case?

7 A. Yes, ma'am.

8 Q. You talked to the solicitor about that call, right?
9 And you decided it was at 3:09. That's what she mentioned?

10 A. Yes, ma'am.

11 Q. And you placed the call because Ms. Wesley came
12 into Denny's, right?

13 A. Yes.

14 Q. And she told you she was almost raped?

15 A. No, she told me she was sexually assaulted.

16 Q. So she did -- so you deny that she told you she was
17 almost raped?

18 A. No, she never said she was almost raped. The exact
19 words she said was, I was sexually assaulted.

20 Q. So you never would have told a 911 dispatcher that
21 a lady was almost raped?

22 A. No.

23 Q. You deny that?

24 A. Right.

25 Q. In fact, she said that someone tried to rape her 20

1 minutes ago, right?

2 A. Not, to my knowledge, no. She just came in to me
3 and said that she needed help and that she was sexually
4 assaulted.

5 Q. Again, you deny that you would have ever told that
6 to a 911 dispatcher?

7 A. Right.

8 MS. SEMAN: Beg the Court's indulgence. No further
9 questions, Your Honor.

10 THE COURT: All right. Anything on redirect? If
11 not, you can return to your place or be excused.

12 MS. SHEALY: We would ask she be excused.

13 THE COURT: Thank you very much for coming. You
14 are free to go.

15 (Whereupon, the witness is excused.)

16 THE COURT: Next witness.

17 MS. BALDWIN: The State calls Cristen Wesley.

18 CRISTEN WESLEY,

19 having been duly sworn, testifies as follows:

20 THE CLERK: Please state your full name and spell
21 your last name for the record.

22 THE WITNESS: Cristen Wesley, W-e-s-l-e-y.

23 DIRECT EXAMINATION

24 BY MS. BALDWIN:

25 Q. Cristen, how are you doing?

1 A. Not great.

2 Q. Are you a little nervous?

3 A. (Witness indicates in the affirmative.)

4 Q. Where are you from?

5 A. I'm originally from Illinois. I moved down to
6 Charleston for college in 2009.

7 Q. Where did you go to college?

8 A. I went to Charleston Southern University.

9 Q. Did you graduate?

10 A. I did, in 2013.

11 Q. What did you major in?

12 A. Political science and sociology and I have a minor
13 in psychology.

14 Q. What did you do after school?

15 A. After school, I had two courses to finish up, to
16 finish up a dual degree. So in 2013/2014, I was taking one
17 class a semester at Charleston Southern. I worked as an
18 assistant school teacher at Fountainhead Montessori
19 Elementary downtown near Hyman's Seafood where I also was
20 employed. Still am employed; have been there since 2013.

21 Q. Where else did you work?

22 A. I always had two jobs. So I worked at a couple
23 different places, but I've always been at Hyman's. I worked
24 at Big Horns briefly in 2013. And then in the fall of 2014,
25 I started working at Benefitfocus.

1 Q. Big Horns, where is that or where was that?

2 A. It's located in North Charleston near the mall.

3 Q. Which mall?

4 A. The Northwoods Mall.

5 Q. And how long did you work at Benefitfocus?

6 A. I was at Benefitfocus for about nine months.

7 Q. Why did you leave?

8 A. I was, like, on a contract there. So I was making,
9 like, \$12 an hour. And it wasn't really a fulfilling job.
10 I wanted to do something with my degree. So I just felt
11 like the money I was making there didn't warrant the stress
12 of the job.

13 Q. What do you do at Hyman's?

14 A. I'm a waitress, bartender, trainer. I started an
15 employee volunteer program there about two years ago. So
16 that's something that I kind of run on my own, where we get
17 the staff together a couple times a year to volunteer in the
18 community.

19 Q. And how old are you now?

20 A. 27.

21 Q. So how old were you back in 2014?

22 A. 23.

23 Q. Where were you working back in June of 2014?

24 A. At Hyman's. I just had one job at the time because
25 I had finished up my year at Montessori, and I hadn't

1 decided yet if I was going back in the fall.

2 Q. Were you dating anybody at the time?

3 A. I was dating Hayden Stephens.

4 Q. How long had you all been dating, about?

5 A. About a year and a half.

6 Q. I'm going to bring you to the night of June 18th of
7 2014. Okay? What were you doing that night?

8 A. I went to visit my friend Heidi who was working at
9 Wild Buffalo Saloon.

10 Q. Did you drink before you went to go meet her?

11 A. No.

12 Q. Do you remember about what time you went out?

13 A. Around ten o'clock.

14 Q. In the evening?

15 A. Yes.

16 Q. And why was it so late in the evening?

17 A. I think I had been working that day at Hyman's.

18 But that's just the typical time I would have went to visit
19 her at the bar.

20 Q. Did you go with anybody?

21 A. I was by myself.

22 Q. Is that unusual?

23 A. Not at all. Really, I'm a chatty type of person.

24 I am not afraid to go places by myself. I will just make
25 friends with whoever is around.

1 Q. And what was Hayden doing that evening?

2 A. Hayden was working at Chili's.

3 Q. Cristen, I'm going to show you what's been marked
4 as State's Exhibit 1. Do you know what that is?

5 A. It's an aerial view of Wild Buffalo Saloon.

6 MS. BALDWIN: At this time, I would like to admit
7 State's 1.

8 THE COURT: Any objection?

9 MS. PROCTOR: No, Your Honor.

10 (State's Exh. 1, Aerial view of Wild Buffalo
11 Saloon, is moved into evidence.)

12 BY MS. BALDWIN:

13 Q. Cristen, so where is the Wild Buffalo Steakhouse?

14 A. It's located there with the red pinpoint.

15 THE COURT: Can you draw a circle around it or
16 something?

17 THE WITNESS: (Witness indicating.)

18 BY MS. BALDWIN:

19 Q. When you got there, where did you park?

20 A. I was parked across here.

21 Q. And where is the front of the building?

22 A. This is the front of the building, right here.

23 Q. Are you familiar with the layout location?

24 A. I'm fairly familiar, because that's the same place
25 that I worked previously for two months when it was under

1 the name of Big Horns..

2 Q. Same building?

3 A. Same building.

4 Q. I will show you State's 2. What's that?

5 A. It's layout of the Big Horns..

6 MS. BALDWIN: At this time, I would like to admit
7 State's 2.

8 THE COURT: Any objection?

9 MS. PROCTOR: I'm sorry?

10 MS. SEMAN: No objection, Your Honor.

11 (State's Exhibit 2, Layout of Big Horns, is moved
12 in evidence.)

13 Q. Mark on there where the front door is for us.

14 A. Right here. (Witness indicates.)

15 Q. Just explain to us briefly what the layout of it
16 is. And you can mark on there and circle things.

17 A. So you come in the front door here. And there's
18 going to be -- there's a main bar, like, right ahead of you.
19 To the right over here is just like dining. This is going
20 to be more like family dining, typically. And the kitchen
21 is over here.

22 The outdoor patio is over here, which you can only
23 get to through this door. Otherwise, it's like bricks
24 around here. There's an inside bar too on the other side on
25 the patio, like, in this area.

1 Q. And do people smoke cigarettes at the outdoor
2 patio?

3 A. Yeah, on the outdoor patio.

4 Q. So when you got to the restaurant, what did you do?

5 A. I go to the main bar and talk to Heidi.

6 Q. Do you remember where you were sitting?

7 A. I don't remember exactly where I went when I first
8 got there. I probably just went to wherever at the bar I
9 could easily talk to her.

10 Q. And did you see anybody else that you knew?

11 A. I don't know if I saw them right away, but that
12 evening, I did see and talk to my friends Dustin and Jason,
13 who I had known since my freshman year of college.

14 Q. Did you talk to anybody else that evening?

15 A. I talked to a lot of people that night. That's
16 just how I am. I spoke to the defendant that night as well,
17 and then Ed for sure. But the other people that I spoke to
18 that night, I don't recall because it's been so long.

19 Q. Who is Ed?

20 A. Ed is a regular at the bar. He had always been a
21 regular at the saloon, which there used to be a different
22 saloon, which is the same company. And Heidi was employed
23 with them as well. So she -- that's how she knew him.

24 Q. When you say "the saloon", do you remember the name
25 of it?

1 A. The other saloon would have been the North
2 Charleston Market Street Saloon. And that's also located
3 near the mall.

4 Q. Is it unusual for you to talk to people that you
5 don't know?

6 A. Not at all. And then that particular case, you
7 know, he comes in all the time, it would have been a
8 situation where Heidi was, like, oh, this is so-and-so, he's
9 a regular. And it's just simple introduction like that.

10 Q. Who are you referring to when you say this
11 "particular guy"?

12 A. Ed, would be an example.

13 Q. You mentioned you spoke with the defendant. Did
14 you know him?

15 A. No, I didn't. I asked him for a cigarette whenever
16 I was on the patio.

17 Q. And how did that conversation go?

18 A. We just kind of talked about, like, where I went to
19 school. I know we talked a little bit about how I worked at
20 Big Horns previously. We definitely talked about finances.
21 I'm always keen to talk to anybody about the Dave Ramsey
22 plan. So I know I for sure was talking about that.

23 And then I know he had mentioned that he knew a
24 male bartender that I also knew by the name of John. And so
25 he mentioned that to me. And told me that he had offered

1 John jobs in Chicago at various bars and restaurants that he
2 claimed to own in Chicago.

3 Q. And how did you know John?

4 A. I knew John from -- I had met him at some point
5 when I was in college. And then we worked together when I
6 was at Big Horns.

7 Q. What did you think about that conversation?

8 A. I didn't think much about it at all. It was just
9 like small-talk. It was nothing significant whatsoever.

10 Q. Do you remember if you got his name?

11 A. I don't remember. I would assume, just based on
12 normal introductions and conversations, that we probably
13 said our names to each other. But I think that in those
14 situations, you don't think that that name is going to be
15 significant. You know, it's just like a fleeting
16 conversation.

17 Q. So what was your impression of him when you spoke
18 with him?

19 A. Upon first meeting him, he was very well-spoken,
20 polite, well-mannered. I didn't have any reason to, like,
21 feel uncomfortable talking to him.

22 Q. And forgive me if you mentioned this. Is the Wild
23 Buffalo Steakhouse still open?

24 A. Saloon, Wild Buffalo Saloon. It's not open any
25 longer.

1 Q. I show you what's been marked as State's 3. What's
2 that?

3 A. That's a picture of the patio.

4 MS. BALDWIN: Your Honor, at this time, I would
5 like to admit State's 3.

6 THE COURT: Any objection?

7 MS. SEMAN: None, Your Honor.

8 THE COURT: All right.

9 (State's Exhibit 3, Photograph of patio, is
10 moved into evidence.)

11 BY MS. BALDWIN:

12 Q. So that's the patio for the outdoor bar?

13 A. Correct.

14 Q. Do you recall approximately where you were when you
15 were speaking with the defendant?

16 A. We were right over here.

17 Q. And then where is the entrance back to inside?

18 A. Right here. The windows would have been up,
19 though.

20 Q. The outside windows?

21 A. Yeah. These windows would have been up. So it's
22 like an open environment.

23 Q. Were you drinking that night?

24 A. I had been drinking.

25 Q. Do you know how much?

1 A. I am not really sure how much, but I was aware of
2 what was going on, happening around me.

3 Q. Were you falling down?

4 A. No, not stumbling or anything.

5 Q. What else did you do while you were there that
6 night?

7 A. I was just talking a lot. I probably danced a
8 little bit. They usually have music on big nights. Grand
9 opening would have been good music. Probably danced, just
10 walked around, talked to my friends Dustin and Jason.
11 Checked in with Heidi periodically throughout the night,
12 just chatting with her whenever she had the moment.

13 Q. Did you know it was the grand opening?

14 A. I don't really remember because it's been so long.
15 I just know that I went to see Heidi because she was
16 working.

17 Q. You mentioned that you spoke with Ed during the
18 course of the evening?

19 A. Yes.

20 Q. What else happened with Ed?

21 A. Right before I left the bar, Ed bought me a drink
22 or a shot. I don't recall. But then as I was leaving, he
23 kept, like, offering and, like, insisting to walk me out to
24 my car, which, like, I didn't need him to walk me to my car.
25 So I kept declining saying, no, I'm okay, I'm okay. But I

1 think his car was parked in the same side as where my
2 vehicle was. So as we were leaving, he ends up still just
3 walking in my vicinity anyway, and still, like, kind of
4 trying to talk to me.

5 Q. And what happened next?

6 A. As I get close to my car, that's when the defendant
7 approaches. And he is just telling Ed, like, oh, like,
8 she's fine, she's giving me a ride home, whatever. Which I
9 thought was weird because I definitely never told him I
10 would give him a ride home. But I thought he was just
11 trying to help me out to get Ed to stop bothering me. So I
12 kind of thought he was doing a nice thing at that time.

13 Q. Do you tend to give rides home to people you don't
14 know?

15 A. No. And I definitely didn't offer him a ride home.
16 Like, he -- I mean, he, like, followed me out to my car.
17 It's not like he was with me. It's not like I said, hey,
18 let's go. He followed me out there and when he said that in
19 front of Ed.

20 Q. What went through your head when he said that in
21 front of Ed?

22 A. At first, I thought he was doing a nice thing. I
23 thought he was just lying to get Ed to, like, kind of move
24 on. And so I was like, oh, wow, thank you, you know. But
25 then my passenger-side car door was unlocked, because I

1 have -- I don't have automatic locks. So if I hadn't
2 remembered to reach over and lock it, it would have been
3 unlocked.

4 So he actually gets in my car. So once I'm in my
5 car, I was, like, talking to him, like, oh, like, thanks for
6 that, ha, ha, thinking that he was just playing out this
7 scenario just to get Ed to leave. But then this is the
8 first time I kind of feel uneasy about him, is because he
9 was, like, no, you did say that you were going to give me a
10 ride. And I knew, like, without a doubt, I definitely had
11 not told him I would give him a ride. So I thought that was
12 really weird that he would just lie like that. And kind of
13 felt like, oh, maybe he wasn't helping me out.

14 But we talked about, like, where he lives. And it
15 was really close, close by. So I was, like, okay, whatever,
16 I can just give you a ride home.

17 Q. Where did he say he lived?

18 A. He said he lived off of Greenridge Road.

19 Q. I show you State's 7. What's that?

20 A. An aerial view of Greenridge Road -- Ashley
21 Phosphate and 26.

22 MS. BALDWIN: At this time, I would like to admit
23 State's 7.

24 THE COURT: Any objection?

25 MS. SEMAN: None, Your Honor.

1 (State's Exh. 7, Aerial view of Ashley Phosphate
2 and 26, is moved into evidence.)

3 MS. BALDWIN:

4 Q. Point to where the Wild Buffalo Steakhouse is for
5 you us.

6 A. (Indicating).

7 Q. And where is Greenridge Road?

8 A. (Indicating).

9 Q. And what happened when you got to Greenridge Road?

10 A. So once we turned down Greenridge Road, we started
11 driving. I'm thinking he's going to point out, you know,
12 the complex or whatever where he lives. And he just
13 doesn't. He doesn't. He doesn't. We get, like, pretty far
14 down Greenridge Road. And I'm, like, okay, we should be
15 here by now.

16 And then at this point, he tells me that, like, oh,
17 I don't actually live on Greenridge Road anymore, I'm
18 staying at a hotel. And so I thought, you know, that was
19 weird. But I'm like, okay, like, what hotel, how far? So
20 we start driving in this area from here. It's just a series
21 of him making things up to me saying, oh, it's this hotel,
22 oh, it's this way. So we started driving around in circles
23 for quite some time.

24 Q. Did you know that he was making things up at the
25 time?

1 A. At the time, I really just thought maybe he had
2 been drinking more than, like, I originally thought and that
3 he was just confused about, like, where he was trying to go.

4 Q. So where did you all eventually end up?

5 A. So, eventually, after we were driving around for
6 quite some time, we ended up at the hotel located near
7 Regents Bank.

8 Q. And is that shown on the map?

9 A. Yes, right here.

10 Q. Do you know the name of that hotel?

11 A. The Country Inn and Suites.

12 Q. Did you know the name of the hotel at the time?

13 A. Not at the time, no.

14 Q. I show you State's 4. What's that?

15 A. That is the Country Inn and Suites.

16 MS. BALDWIN: I would like to admit State's 4,
17 without objection.

18 MS. SEMAN: Without objection, Your Honor.

19 THE COURT: All right.

20 (State's Exhibit 4, Photograph, was received in
21 evidence.)

22 BY MS. BALDWIN:

23 Q. And, Cristen, while y'all were driving around,
24 trying to find where he was staying, was he making any sort
25 of pass at you?

1 A. No, just generally talking about where we were
2 going.

3 Q. Was he being flirtatious at all?

4 A. No.

5 Q. So what happened when you arrived at the Country
6 Inn and Suites?

7 A. We pull in right here, and I park. At this point,
8 we had been driving for quite some time in circles. And I
9 really had to use the restroom. Like, I really had to pee.
10 Initially, I thought I could go in the lobby. But I'm still
11 a little confused about this. I don't know if the lobby was
12 not open or exactly what. But I wanted to use the restroom
13 in the lobby. But he said that it wasn't open or that there
14 wasn't one in the lobby, something along those lines. And
15 then I was, like, okay, well, can I just use the restroom in
16 your room really fast? And he's, like, oh, no, just go in
17 the woods. And I'm just like -- you know, I just don't
18 understand why he's trying to get me to use the restroom in
19 the woods. But at the same time, I'm really about to pee in
20 my pants at this point.

21 So after, like, talking briefly, he's like, no,
22 just go in the woods. I just start walking toward the
23 woods.

24 Q. Which woods are you talking about?

25 A. In this area right here. (Indicating).

1 Q. And you said the hotel was near the Regents Bank.
2 Do you know where that is?

3 A. Right here. (Indicating).

4 Q. And why did you want to use his room?

5 A. I mean, I just didn't want to pee outside. I
6 really had to pee.

7 Q. So what happened when you went into the woods?

8 A. As I started walking into the woods, he's, like,
9 trying to follow me in that direction. At first, I would
10 say staying about 12 feet away from me. I walk -- through
11 parts of that, I'm walking backwards, I know with my hands
12 like this, like, no, stay back, stay back. And I'm trying
13 to get far enough from him so that he can't see me going to
14 the restroom. But he just, like, keeps approaching.

15 So I use the restroom in the woods. And as I use
16 the restroom, like, that's when he, like, closes the gap of
17 the distance that was between us. And then he pushes me up
18 against the tree. And that's when he started strangling me.

19 At some point, I end up on the ground by the tree.
20 And while he's strangling me, I'm just trying to keep my
21 legs closed. I was trying to keep --

22 Q. Take your time.

23 A. So I'm just trying to keep my legs closed as tight
24 as I can, like when you lock your knees out so you can't
25 unbend them. And he just keeps choking me and choking me.

1 And I just remember at one point, like, just -- so
2 he says, just let it happen and he will stop strangling me.
3 But I still was resisting, like, fighting and trying to,
4 like, get away. But then I get to the point where, like, I
5 really just can't breathe. And I was just scared that,
6 like, if I didn't just let that happen to me, like, he was
7 really going to kill me. So I felt like I made a choice
8 then to either let that happen or to live. And so that's
9 when I let go of my legs. And then after that is whenever
10 he penetrated me.

11 After he finally lets me go, he says to me, that's
12 why you don't give rides to strangers. I just took off
13 running out of the woods back towards my car. I get to my
14 car. He tries to get in my passenger's seat. The door was
15 open. And I just was, like, I will run you over with my
16 car. And I just backed out and I just drove.

17 I pulled immediately around into the Denny's, which
18 is the first place that I knew that would be 24 hours and
19 somebody would be there so that I could call 911.

20 Q. I know it's hard, but if you can go back just a
21 little bit. While this was going on, was there any kissing?

22 A. None whatsoever.

23 Q. Any flirtation?

24 A. No.

25 Q. Do you remember how many times he was strangling

1 you?

2 A. I know that -- I know that at one point, whenever I
3 was, like, thinking I was about to die, at some point after
4 that, he had to have let me breathe. But then he continued
5 strangling me after that too.

6 Q. Did you lose consciousness at any point?

7 A. Most of that is, like, in and out. I have, like,
8 blackout moments of the actual assault. Like, from the time
9 he starts penetrating me, it's like blurry and then in and
10 out, so ...

11 Q. When you say he was penetrating you, what are you
12 referring to?

13 A. His penis.

14 Q. Do you know whether or not he ejaculated?

15 A. I'm not sure. I know that I didn't feel, like,
16 anything on me. So I just am not sure.

17 Q. And you went through it a little quickly. What did
18 he say after he was done?

19 A. "That's why you don't give rides home to
20 strangers."

21 Q. And I show you State's 5. It's already been
22 admitted. What is that?

23 A. The Denny's where I called 911.

24 Q. Now, did you call 911?

25 A. I didn't call 911. I think somebody called 911 for

1 me.

2 Q. Why didn't you call anybody from your own phone?

3 A. My phone was broken. It had been broken earlier
4 that day.

5 Q. Did the police respond to to Denny's?

6 A. Yes, the police came there.

7 Q. And what happened after the police came and the EMS
8 came; where did you go?

9 A. I went to M.U.S.C. to have an exam done.

10 Q. What type of exam?

11 A. Sexual assault exam.

12 Q. Was anybody there with you?

13 A. My boyfriend at the time, Hayden Stephens showed up
14 at the hospital after I arrived.

15 Q. Do you know what injuries you had?

16 A. I know that I had a lot of bruising on my neck and
17 on my face from being strangled. I had a lot of soreness in
18 my neck for the next several days. I didn't go anywhere
19 for, like, almost a week.

20 Q. I will show you what's already been admitted as
21 State's 6; is that you?

22 A. Yes.

23 Q. What's that from?

24 A. From the hospital, from afterwards.

25 Q. And I think you can tell, but does your face

1 normally look like that?

2 A. No.

3 Q. Do you need a moment?

4 A. I'm okay.

5 Q. When the SANE exam was performed, were you wearing
6 any underwear?

7 A. No.

8 Q. Where did they go?

9 A. They were still in the woods.

10 THE COURT: I'm sorry. I didn't understand you.

11 THE WITNESS: They were still in the woods.

12 BY MS. BALDWIN:

13 Q. What did they look like?

14 A. They were pink and sparkly.

15 Q. What else did you do with the police at the
16 hospital?

17 A. I did a written statement with a gentleman. And I
18 talked about everything with the SANE nurse as well.

19 Q. Do you remember what police officers you met with
20 while you were at the hospital?

21 A. I don't remember anyone's names until, like, that
22 morning when I go to the actual ER to get checked out for my
23 neck and everything. And that's when I met my original
24 advocate, Nina, and Detective Elmer.

25 Q. And when you say when you went to the emergency

1 department that morning, did you ever leave the hospital in
2 between the SANE exam and the emergency department?

3 A. No. Once I finished up with the SANE nurse, they
4 had me go over to ER, just to make sure I was okay.

5 Q. In the next days and weeks, months after this
6 happened, did the police call you into the station at all?

7 A. I was in contact with them over time, yes.

8 Q. Did you do any photo lineups?

9 A. Yes.

10 Q. Did you have a name to give the police?

11 A. No.

12 Q. Did you know the person that assaulted you at all?

13 A. No.

14 Q. Do you remember about how many lineups you did?

15 A. I looked at four sets of photographs on three
16 separate occasions.

17 (State's Exh. 59, Photograph, was marked for
18 identification.)

19 (State's Exh. 60, Photograph, was marked for
20 identification.)

21 (State's Exh. 61, Photograph, was marked for
22 identification.)

23 (State's Exh. 62, Photograph, was marked for
24 identification.)

25 BY MS. BALDWIN:

1 Q. Cristen, I'm going to hand you State's Exhibit 59
2 through 62. What are those?

3 A. These are photo lineups that I did over time.

4 Q. What are the dates of those lineups?

5 A. There's one from 7/14/2014, from the 20th of 2014,
6 and then from October of 2015.

7 MS. BALDWIN: Your Honor, at this time, I would
8 like to admit State's Exh. 59 through 62 into evidence.

9 THE COURT: Any objection?

10 MS. SEMAN: None, Your Honor.

11 THE COURT: All right.

12 (State's Exh. 59 through 62, is received in
13 evidence.)

14 BY MS. BALDWIN:

15 Q. Do you remember when you went in on July 14th to do
16 the ID?

17 A. I mean, it's been a long time. I remember the
18 process.

19 Q. Did you pick anybody out that day?

20 A. No.

21 Q. Was there anybody that you thought was close to the
22 person that assaulted you?

23 A. There was someone that I thought was similar, but I
24 didn't feel certain about it. I felt like if it was the
25 person, that I would be 100 percent sure.

1 Q. We'll put State's 59 on the overhead for you. Do
2 you remember which one you thought?

3 A. I don't remember.

4 Q. But you didn't pick anybody out that day?

5 A. No.

6 Q. Did you pick anybody out on July 20th?

7 A. No.

8 Q. When did you eventually pick somebody out?

9 A. in October.

10 Q. October of what year?

11 A. 2015.

12 Q. Did anybody tell you whether or not the defendant
13 was going to be in that lineup?

14 A. No.

15 Q. Did they suggest to you that they had a guy?

16 A. No.

17 Q. Tell us about that process when you went into the
18 police station.

19 A. I went into this room with an officer I never met
20 before. He talks to me about the procedure. I signed off
21 on the different aspects of the lineup. And then he
22 presented the photos to me one by one. I saw the defendant.
23 I was very certain that that was the person who had
24 assaulted me. I identified him immediately. And then I
25 signed off on the photographs and on the identification.

1 MS. SEMAN: May we approach, Your Honor?

2 THE COURT: I'm sorry?

3 MS. SEMAN: May we approach?

4 THE COURT: No. Something you want to say, say it
5 on the record. If you want the jury to leave, I will ask
6 them to leave.

7 MS. SEMAN: Yes, sir.

8 THE COURT: Okay. Members of the jury panel, we
9 will take a short break at this time, about five-minute
10 break. We've been out here about an hour or so, five-minute
11 break while I hear about this, five-minute break.

12 (Whereupon, the jury leaves open court at 11:48
13 a.m.)

14 THE COURT: All right. What do you want to say?

15 MS. SEMAN: Yes, Your Honor. I apologize for that.
16 But I think the jury may have wanted a break anyway. But we
17 would object to the hearsay of this lineup. We also,
18 subject to our previous objections, want to renew those at
19 this time, our previous Biggers motion. We also think it's
20 improper bolstering of the witness's testimony. I don't
21 think we need the video of the lineup. I think she can talk
22 about the pictures and the one that she circled that day.
23 That's all I have, Your Honor.

24 THE COURT: All right. I appreciate that. But I
25 overrule that objection and I will allow it.

1 MS. BALDWIN: Thank you, Your Honor.

2 THE COURT: We will take a short break. If you
3 want to stand up, you can, move around, whatever, about five
4 minutes.

5 (Whereupon, a recess transpired.)

6 THE COURT: Bring the jury in.

7 (Whereupon, the jury returns to open court at 11:56
8 a.m.)

9 THE COURT: Mr. Anderson is present, along with his
10 attorney. You may continue to examine the witness.

11 MS. BALDWIN: Thank you, Your Honor.

12 BY MS. BALDWIN:

13 Q. I'm going to show you what's been marked for ID as
14 State's 40. What is that?

15 A. This is when I identified the defendant, lineup.

16 MS. BALDWIN: Your Honor, at this time I would like
17 to admit and publish State's 40.

18 THE COURT: Over your objection, I'm going to allow
19 it.

20 MS. SEMAN: Thank you, Your Honor.

21 (State's Exh. 40 is moved into evidence.)

22 (Video playing.)

23 BY MS. BALDWIN:

24 Q. Cristen, what was the date of the incident itself?

25 A. Of the assault?

1 Q. Yes.

2 A. I don't remember.

3 Q. Do you remember the month and year?

4 A. June of 2014.

5 Q. Do you remember what day you made that ID?

6 A. October 6th of 2015.

7 Q. Do you remember what you wrote on the form?

8 A. I don't recall.

9 Q. I show you State's Exhibit 61.

10 A. It says: No. 4 is the person who assaulted me. I
11 am very certain.

12 THE COURT: I'm sorry. I couldn't hear you.

13 THE WITNESS: Says No. 4 is the person who
14 assaulted me. I am very certain.

15 BY MS. BALDWIN:

16 Q. Is that the person that you circled?

17 A. Yes.

18 Q. Is your signature on there somewhere?

19 A. Yes.

20 Q. Is that person in the courtroom today?

21 A. Yes.

22 Q. Where are they?

23 A. Sitting right there.

24 Q. Right where?

25 A. in the gray pants and the light-colored button-up

1 shirt.

2 Q. Let's just go back to the night of the incident,
3 okay, to the bar, restaurant. Are you aware there was video
4 surveillance?

5 A. Yes.

6 Q. Have you had an opportunity to review that video?

7 A. Yes.

8 Q. I'm going to show you what's been marked for ID as
9 State's 38. What's that?

10 A. This is the footage from the restaurant, Wild
11 Buffalo Saloon.

12 Q. How do you know that?

13 A. Because I reviewed it.

14 Q. Did you put any markings on it?

15 A. Signed my initials.

16 Q. At this time, I would like to admit State's 38 into
17 evidence.

18 THE COURT: Any objection?

19 MS. SEMAN: None, Your Honor.

20 (State's Exh. 38, Video of Wild Buffalo Saloon,
21 was received in evidence.)

22 THE COURT: How long is it?

23 MS. BALDWIN: They are just short clips, Your
24 Honor. And we tested it, so --

25 THE COURT: Good.

1 (Video playing.)

2 THE COURT: What are we looking at there?

3 THE WITNESS: That's me walking into Wild Buffalo
4 Saloon.

5 BY MS. BALDWIN:

6 Q. What are we looking at?

7 A. You can see me walk through.

8 Q. And you can mark on the screen if you need to.

9 A. (Witness indicates.)

10 Q. Do you see yourself in there?

11 A. I think I see myself in the orange right there, but
12 it's really blurry. I can't tell.

13 Q. Do you see yourself there?

14 A. This is me right here in the bottom.

15 Q. You can mark it.

16 A. I'm right here walking.

17 Q. What sort of angle are we looking at there?

18 A. We are looking at the main bar.

19 Q. Can you see yourself in there?

20 A. in the bottom here, talking to Heidi, right here.

21 Q. That's Heidi?

22 A. Uh-huh.

23 Q. Where is that camera angle in relation to the one
24 that we were just looking at?

25 A. We are still -- this is still the main bar, I

1 think, before -- maybe we were seeing from over here,
2 actually from this side.

3 Q. And do you see a time stamp at all on there?

4 A. It says 10:15, 10:17.

5 Q. Where are you seeing that?

6 A. I'm sorry, over here.

7 Q. What are you doing there? Where are you?

8 A. Right here. (Witness indicates.)

9 Q. Who else are you seeing in there?

10 A. I could see my friend Dustin right here. (Witness
11 indicates.)

12 Q. Who else is in there that you recognize?

13 A. Heidi is still in this one. I can't really see
14 over here, because of the quality. But I know Dustin was
15 with Jason that night. So he might be nearby, but I can't
16 really tell from this.

17 Q. What time is that?

18 A. This is 10:42.

19 Q. Do you remember how long you were talking with
20 them?

21 A. I don't recall.

22 Q. Was it a short period of time or long period of
23 time?

24 A. I think it was probably brief, but I talked to them
25 throughout the entire evening just on and off.

1 Q. What time are we looking at now?

2 A. 1:16 a.m.

3 Q. Who are we seeing in this clip?

4 A. You can see Ed in this one, here. (Indicating).

5 Q. And where are you at?

6 A. Heidi is here too. And I can see my hair here.

7 Q. Do you see anybody else in there?

8 A. I can't really tell. Okay. Well, now I see the
9 defendant right behind me.

10 Q. Is that the person you were talking to earlier in
11 the evening?

12 A. Yes.

13 Q. Did you pay him much attention?

14 A. No. I didn't even realize he was there.

15 Q. Were you offering to give him a ride at that point?

16 A. No, not at all.

17 Q. Did you offer at any point?

18 A. No, never.

19 Q. Did you want to be rude to the defendant when he
20 was talking to you?

21 A. I didn't have any reason to be.

22 Q. Do you even remember what he was saying to you at
23 that point?

24 A. Not a clue; nothing significant.

25 Q. Do you know what angle we are looking at now?

1 A. I know we are looking at the main bar. I am not
2 really sure which side.

3 Q. Who do you see in that video?

4 A. I see Ed.

5 Q. Do you know where you are right this second?

6 A. I just came in to the video.

7 Q. And that's about what time?

8 A. 1:26.

9 Q. What area were you coming from?

10 A. I'm not sure.

11 Q. Can you point out on that video? Could you tell
12 where you were walking from, what direction?

13 A. I was coming through over here.

14 Q. And where were you sitting earlier?

15 A. Right here. (Indicating)

16 Q. On that side of the bar or other side of the bar?

17 A. Hard for me to tell which side.

18 Q. Kind of looks the same?

19 A. Yeah.

20 Q. Which side is the exit, do you know, as we put up
21 that?

22 A. It's hard for me tell you which side is the exit.

23 Q. Okay. Who was that that was just walking out?

24 A. The defendant.

25 Q. Did you ever -- did you have any conversation with

1 him as you were leaving?

2 A. No.

3 MS. BALDWIN: Court's indulgence. I have no
4 further questions at this time. Please answer any of the
5 defense's.

6 CROSS-EXAMINATION

7 BY MS. SEMAN:

8 Q. Ms. Wesley, you had never met Mr. Anderson before,
9 correct?

10 A. Correct.

11 Q. That night, you met over a cigarette, as you said,
12 right?

13 A. Correct.

14 Q. And it wasn't just a cigarette, you talked to him?

15 A. I spoke with him briefly outside.

16 Q. You had a conversation, right?

17 A. Correct.

18 Q. You talked about your life, right?

19 A. We spoke about finances, where I went to school.

20 We talked about how I had previously worked at Big Horns and
21 that we both knew John, the bartender.

22 Q. And the debt, the finances issue?

23 A. The finances, yeah.

24 Q. And he talked with you a little bit about his life.

25 He said he was from Chicago, right?

1 A. He told me he was from Chicago and he claimed to
2 own bars and restaurants in that area. That's the only part
3 that I recall about his life at all.

4 Q. And you talked for a while, a couple separate
5 times, right?

6 A. Briefly. Each time was very brief, passing
7 conversation.

8 Q. And when you left, he did help you with Ed, right?

9 A. I would, in hindsight, definitely not say that he
10 was helping me in any way, shape or form.

11 Q. But --

12 A. And Ed didn't try to get into my car.

13 Q. You, at that point, felt comfortable with him?

14 A. At that point, I didn't know that I had reason to
15 be threatened by him, at that point, no.

16 Q. But you did know his name, right?

17 A. I did not know his name.

18 Q. You had never met him before?

19 A. Correct, I had just met him that evening.

20 Q. But you were comfortable enough to drive him to his
21 home, right?

22 A. I don't know really what we are defining as
23 comfort. He had already -- he let himself in my vehicle. I
24 didn't invite him. So as a young female, I don't really
25 know how everyone thinks that you shouldn't behave in that

1 situation, but what did you think I was going to do, push
2 him out of my car?

3 Q. But you didn't kick him out at that point, right?

4 A. Right, I didn't kick him out.

5 Q. And then when his home was not where he said, you
6 didn't kick him out at that point either?

7 A. Yea, I didn't. I don't know how anyone would think
8 I would have done that. But no, I didn't.

9 Q. And you were, even when you pulled into the hotel,
10 comfortable enough to ask him to go to the bathroom in his
11 hotel room?

12 A. Correct.

13 Q. And you had been at the bar that night for a while,
14 you said since about ten o'clock, right?

15 A. Correct, about 10:15.

16 Q. And you were celebrating with your friend Heidi?
17 She was the bartender, right?

18 A. I was visiting her there, yes.

19 Q. And so you went to hang out with her?

20 A. Correct.

21 Q. You went by yourself?

22 A. Correct.

23 Q. And you had a couple drinks?

24 A. Correct.

25 Q. Both beer and liquor?

1 A. Correct.

2 Q. More than four drinks, you would say?

3 A. I don't recall.

4 Q. Would it surprise you if it was four beers and four
5 shots?

6 A. It would not surprise me.

7 Q. And you left at about 1:27. That was the time
8 stamp on that video, right?

9 A. Yes.

10 Q. After you called police that night, they, of
11 course, asked for a description of the suspect, didn't they?

12 A. Yes.

13 Q. They wanted to know what he looked like?

14 A. Yes.

15 Q. What he was wearing?

16 A. Correct.

17 Q. And at some point, you had some trouble remembering
18 what he was wearing, right?

19 A. I don't recall.

20 Q. At first, you said he was possibly wearing a blue
21 shirt, right?

22 A. If that's what I wrote down, then, yes.

23 Q. That was what you wrote in your witness statement.

24 A. Yes.

25 Q. Maybe a bluish shirt?

1 A. Okay.

2 Q. And about a month later, you met with Detective
3 Elmer, right, and you got a little more specific, didn't
4 you?

5 A. I don't recall.

6 Q. You said it was a blue button-up shirt?

7 A. Okay.

8 Q. And in that same visit, she had someone administer
9 to you a lineup, right?

10 A. Correct.

11 Q. One of those lineups that you mentioned earlier
12 that were entered as exhibits?

13 A. Correct.

14 Q. And you did pick someone out in that lineup, right?

15 A. I did not identify anyone in that lineup.

16 Q. But you did say that you were 85 or 90 percent sure
17 that that someone in that lineup was the suspect?

18 A. I believed that it looked like I remembered, but I
19 didn't feel confident that that was the person. I felt like
20 if it was the suspect, I would know without a doubt. And
21 that's why I didn't identify anyone in that lineup.

22 Q. But you did say you were 85 percent sure?

23 A. I said that, but I did not identify anyone in that
24 lineup.

25 Q. But that person wasn't Mr. Anderson?

1 A. Correct.

2 Q. That was somebody else, correct?

3 A. Right, which is why I didn't identify him.

4 Q. And when you called the police, they wanted to know
5 where exactly this happened, right?

6 A. Yes.

7 Q. This was about 20 minutes after what had happened,
8 right after the incident?

9 A. When I was speaking with the EMS and the police?

10 Q. Yes, ma'am.

11 A. Yes.

12 Q. That was at the Denny's that we saw, right?

13 A. Yes.

14 Q. Officers asked you where it happened?

15 A. Uh-huh.

16 Q. And at that point, you couldn't remember where it
17 happened, right?

18 A. I don't recall that.

19 Q. But you thought --

20 A. I probably didn't know the name of that hotel,
21 because I didn't know the name of that hotel at the time.

22 Q. So you definitely never identified the Country
23 Hearth Inn as where it happened?

24 A. I knew how to get there, if I gave you directions.
25 But I wouldn't have known the name of that particular hotel,

1 no.

2 Q. So you would not have said that it was the Country
3 Hearth in?

4 A. Right. I would have told you that you turn right
5 at the Regents, you turn left into the parking lot, and
6 that's the hotel that it happened at.

7 Q. And you would not have told anybody it was the
8 Suburban Extended Stay either?

9 A. I don't even know where that hotel is. I would not
10 recognize that name, so I wouldn't have said that, no.

11 Q. But the Denny's, though, is right next-door to this
12 Country Inn and Suites, right?

13 A. It's nearby.

14 MS. SEMAN: I beg the Court's indulgence.

15 BY MS. SEMAN:

16 Q. Is the Denny's visible on this picture, or at least
17 part of the Denny's visible on this picture?

18 A. I think you can see a little bit of the Denny's
19 right here.

20 Q. And that's where you were when police were called,
21 right?

22 A. Correct.

23 Q. And that's within sight line to that hotel?

24 A. If you were standing over here where I was, you
25 wouldn't be able to see the Denny's.

1 Q. But the hotel itself is right next-door?

2 A. It's nearby, on the same road even.

3 MS. SEMAN: Beg the Court's indulgence.

4 BY MS. SEMAN:

5 Q. Just a couple more questions. Right after this
6 happened, as you said, you went to that Denny's, right?

7 A. Correct.

8 Q. Someone got the attention of an employee, whether
9 it was you or someone else? Yes?

10 A. Yes.

11 Q. And that employee is the one that called police?

12 A. Yes.

13 Q. And that was Ms. Wilson, who I believe you saw on
14 the witness stand a few minutes ago?

15 A. Uh-huh.

16 Q. And you told her that you were almost raped?

17 A. I was scared. And I was still in a lot of shock
18 over what had just happened. And I was in front of a bunch
19 of strangers. So I think that maybe the words that I used
20 were just out of fear and just generally being scared and
21 alone and not really trying to process everything that had
22 happened to me. So I don't recall what I said to her. But
23 I know that I was assaulted. I have no confusion about
24 that.

25 Q. But it wouldn't surprise you if you had told her

1 that you were almost raped?

2 A. I don't recall what I said to her. It's been a
3 long time ago.

4 Q. Sure. And you don't recall whether you told her
5 that someone tried to rape you?

6 A. I do not recall.

7 Q. And then when officers responded, you told them
8 also that you were not sure if you had been raped?

9 A. I don't remember that at all.

10 Q. So you deny making that statement?

11 A. I don't remember. I went to M.U.S.C. immediately
12 after to have the exam done because I had been assaulted,
13 so ...

14 MS. SEMAN: Nothing further, Your Honor.

15 THE COURT: Anything on redirect?

16 MS. BALDWIN: Just briefly, Your Honor.

17 REDIRECT EXAMINATION

18 BY MS. BALDWIN:

19 Q. I believe the defense asked you about celebrating
20 with Heidi. Were you celebrating? Was it a big
21 celebration?

22 A. I just went to see her at work.

23 Q. And how long were you at the restaurant?

24 A. I guess around three hours.

25 Q. When you spoke with the defendant that night and

1 while he was assaulting you, were you paying attention to
2 exactly what clothing he was wearing?

3 A. It wouldn't have been something I thought to take
4 any note of.

5 Q. So when you I.D.'d the defendant on October 6th of
6 2015, was there any doubt that that was the person that
7 sexually assaulted you?

8 A. No doubt whatsoever.

9 MS. BALDWIN: Court's indulgence. No further
10 questions.

11 THE COURT: Thank you very much. You can return to
12 your place in the courtroom.

13 Call your next witness.

14 MS. PROCTOR: Your Honor, may I approach?

15 (Whereupon, a bench conference takes place off the
16 record.).

17 THE COURT: Members of the jury panel, I need you
18 to go to the jury room, please.

19 (Whereupon, the jury leaves open court at 12:30
20 p.m.)

21 THE COURT: All right. Ms. Proctor, what is it?

22 MS. PROCTOR: Your Honor, at this time, the defense
23 would make a motion for a mistrial. We had -- when she put
24 in the line of pictures we had put up, we did object to it.
25 But then when she took out the individual picture and put it

1 up on the screen, you can tell that he's got on a jumpsuit.
2 It looks like he's somebody that's in jail.

3 THE COURT: I looked at it and I didn't get that
4 impression.

5 MS. PROCTOR: Well, everybody else is in regular
6 clothes.

7 THE COURT: I didn't think so. I thought you could
8 see stripes or something on the shoulders on a lot of them.
9 That's what I saw.

10 MS. PROCTOR: No, not in this lineup. They are all
11 in regular clothes. He is in --

12 THE COURT: Let me look at them again.

13 MS. PROCTOR: Maybe --

14 THE COURT: Let me look at them again.

15 MS. PROCTOR: Yes, sir.

16 THE COURT: I looked at the photographs. I will be
17 glad to hear you, but I don't find these photographs are
18 unduly suggestive of it being a prisoner or in jail or
19 anything like that.

20 MS. PROCTOR: Thank you, Your Honor.

21 THE COURT: All right. Bring the jury back in.
22 Who is the next witness?

23 MS. BALDWIN: Heidi McGrath. She's a quick
24 witness.

25 (Whereupon, the jury returns to open court at 12:33

1 (p.m.)

2 MS. BALDWIN: She will be in here in just a moment,
3 Your Honor.

4 THE COURT: All right.

5 HEIDI McGRATH,

6 having been duly sworn, testifies as follows:

7 THE CLERK: Please state your full name, spelling
8 your last name for the record.

9 THE WITNESS: Heidi McGrath, M-c-G-r-a-t-h.

10 DIRECT EXAMINATION

11 By MS. BALDWIN:

12 Q. Heidi, how do you know Cristen Wesley?

13 A. I know her from Charleston Southern. We used to
14 cheer together.

15 Q. What type of person is Cristen?

16 A. She's very outgoing, friendly, social person.

17 Q. Will she talk to pretty much anybody?

18 A. Yeah, pretty much anybody.

19 Q. Where are you living now?

20 A. in Raleigh, North Carolina.

21 Q. Did you come down here for -- to testify today?

22 A. Yes.

23 Q. Where were you living back in 2014, though?

24 A. I was living in Charleston.

25 Q. And where were you working in June of 2014?

1 A. WBS. It was the restaurant.

2 Q. What does WBS stand for?

3 A. Wild Buffalo Saloon.

4 Q. Do you remember seeing Cristen the evening of June
5 2014?

6 A. Yes, I do.

7 Q. How did you see her? What did she do?

8 A. Whenever she first got there, she came to the bar
9 to say hi to me, because she was coming to visit me at work.
10 It was a new job. And she told me she was coming. So she
11 came to the bar to come see me. And throughout the night,
12 she would come back and visit.

13 Q. Was that unusual for her to come to see you?

14 A. No.

15 Q. What was she doing during the course of the
16 evening? Was she only talking to you?

17 A. No. She was talking to other people we knew, as
18 well as just other people there.

19 Q. Was she flirting with anybody?

20 A. No, she was not.

21 Q. What was her demeanor?

22 A. Just friendly, social.

23 Q. Was she showing any particular interest in anybody
24 there?

25 A. No.

1 MS. BALDWIN: Court's indulgence.

2 Q. Did Cristen happen to mention to you that she was
3 giving anybody a ride home that evening?

4 A. No, she did not.

5 MS. BALDWIN: I have no more questions.

6 MS. PROCTOR: We have no questions.

7 THE COURT: Thank you very much. You can return to
8 your place or be excused.

9 Next witness.

10 MS. BALDWIN: The State calls Hayden Stephens.

11 HAYDEN STEPHENS,

12 having been duly sworn, testifies as follows:

13 THE CLERK: Please state your full name, spelling
14 your last name for the record.

15 THE WITNESS: Hayden Thomas Stephens.

16 THE COURT: Tell me again.

17 THE WITNESS: Hayden Thomas Stephens,
18 S-t-e-p-h-e-n-s.

19 DIRECT EXAMINATION

20 By MS. BALDWIN:

21 Q. Hayden, just speak up as loud as you can so
22 everybody can hear. Okay? You need to speak into that
23 microphone there.

24 A. All right.

25 Q. How do you know Cristen Wesley?

1 A. I used to be her boyfriend.

2 Q. How long did you all date?

3 A. Five years.

4 Q. Were you together in June of 2014?

5 A. We were.

6 Q. And what were you doing the night of June 15th of
7 2014?

8 A. I worked, and then I went home and went to bed.

9 Q. Where were you working?

10 A. Chili's.

11 Q. Were you working during the day or during the
12 evening?

13 A. During the evening.

14 THE COURT: Where were you working?

15 THE WITNESS: Chili's.

16 THE COURT: Chili's. Okay.

17 BY MS. BALDWIN:

18 Q. And what was Cristen doing?

19 A. I think she was out with some friends.

20 Q. Do you know her friend Heidi?

21 A. I did.

22 Q. Was it unusual for Cristen to go visit friends
23 where they worked?

24 A. No.

25 Q. When, if ever, did you hear from Cristen after she

1 went out?

2 A. Just when I got the call from the hospital in the
3 morning.

4 Q. About when was that?

5 A. Five or six in the morning, I think.

6 Q. Had you noticed that Cristen wasn't there?

7 A. Yeah, before I went to bed.

8 Q. And when you said you got a call from the hospital,
9 who called you?

10 A. Cristen did.

11 Q. How did she sound?

12 A. Real shaky, quiet.

13 Q. Is that how she normally sounded?

14 A. No.

15 Q. Did she say anything to you?

16 A. Just something --

17 MS. SEMAN: Objection, hearsay.

18 THE COURT: Ask another question.

19 BY MS. BALDWIN:

20 Q. Yes, sir. As a result of Cristen's phone call,
21 where did you go?

22 A. I went to the hospital.

23 Q. And what did you do there?

24 A. Met Cristen.

25 Q. What was her demeanor?

1 A. She looked hurt, tired.

2 THE COURT: I'm sorry?

3 THE WITNESS: She looked hurt and tired.

4 BY MS. BALDWIN:

5 Q. Was that her normal look?

6 A. No.

7 MS. BALDWIN: Court's indulgence.

8 BY MS. BALDWIN:

9 Q. You said y'all dated for about five years?

10 A. Uh-huh.

11 Q. When did you break up?

12 A. August 2017.

13 Q. Relatively recently then?

14 A. Fairly, yeah.

15 Q. And was it unusual to you when you woke up and
16 realized Cristen wasn't there, that she wasn't there?

17 A. I mean, sometimes she stayed with friends. It
18 would be weird if I didn't get a text or something.

19 MS. BALDWIN: I have no further questions.

20 MS. SEMAN: We have no questions for this witness,
21 Your Honor.

22 THE COURT: Thank you very much. You can return to
23 your place in the courtroom or be excused.

24 Do you have another witness?

25 MS. SHEALY: Your Honor, can we approach for a

1 moment?

2 THE COURT: Sure.

3 (Whereupon, a bench conference takes place off the
4 record.)

5 THE COURT: Members of the jury panel, we will take
6 our lunch break now then. It's about quarter to one. I ask
7 you to be back in the jury room at 2:15. Again, I will
8 remind you not to discuss the case even amongst yourselves.
9 The only time you are to discuss it is when you are together
10 after everything has been presented and you are deliberating
11 to give us your verdict.

12 Let's go to lunch. I ask you to be back in the
13 jury room at 2:15. We will get started as soon as we can
14 after that. Have a nice lunch. You can leave your notepads
15 in seat, if you want to. They will be secure.

16 (Whereupon, the jury leaves open court at 12:42
17 p.m.)

18 MS. SHEALY: Judge, one matter that's going to come
19 up this afternoon, in this case what occurred was items were
20 sent to SLED. They were run through the CODIS system. It
21 came back with a hit to the defendant. Based on that,
22 Detective Elmer put the defendant in a lineup and brought
23 the victim in And that's what caused her to put him in the
24 lineup. What we would intend to do is ask --

25 THE COURT: You mean that's what caused him to put

1 him in the lineup.

2 MS. SHEALY: No, actually, no, it's a female.

3 THE COURT: Oh, okay.

4 MS. SHEALY: But what I would intend to do is to
5 refer to what occurred as that there was a bank of DNA. And
6 she could, in fact, even say that her DNA is in the bank.
7 And it resulted in his name showing up, and so she put him
8 in a lineup, not to reference anything about a prior
9 arrest.

10 THE COURT: I don't know why you need to do any of
11 that.

12 MS. SHEALY: They are not going to understand why
13 his picture --

14 THE COURT: They don't have to understand that.
15 You are going to muddy the water by doing all that. They
16 don't have to understand that. She picked him out of a
17 lineup. He was in it, and that's it.

18 MS. SHEALY: Can we inquire of the defense if they
19 are going to ask questions about him randomly being put in a
20 lineup.

21 MS. SEMAN: No. We are not planning to suggest
22 that he was randomly put in a lineup.

23 MS. PROCTOR: True, because we don't anything about
24 any of the other people.

25 MS. SHEALY: I'm going to ask her how she made up

1 those lineups.

2 MS. PROCTOR: What is the reason?

3 MS. SHEALY: That she looked at a Facebook site for
4 the club and she looked at African-American men that might
5 have been similar and was able to --

6 MS. PROCTOR: Then I think that's all you need to
7 say. I don't think you need to say about what else --

8 THE COURT: Unless you are going to do all the
9 other stuff to get DNA stuff in at that point.

10 MS. SHEALY: We are going to be getting the DNA.

11 THE COURT: Later on, but as far as the lineup is
12 concerned, I don't think you can go into the DNA through
13 her, you know, in regard to getting the lineup.

14 MS. SHEALY: I understand the Court's ruling. The
15 the concern is, it's so much later in time that she brings
16 her back in that I think it's unfair for the jury to think
17 for some random reason, she chooses somebody at that time.

18 THE COURT: I don't know what you mean by that.
19 You don't have to show why she put him in the lineup.

20 MS. SHEALY: I don't necessarily have to, but I
21 would like to for the jury to understand that there was a
22 reason.

23 THE COURT: No, not through her in the way that
24 you've described it that you want to do it. I am not going
25 to allow it.

1 MS. SHEALY: Just to make sure you understood that
2 I wasn't going to mention CODIS.

3 THE COURT: I don't know what you are going to do.
4 If you want to put her up nonjury and let me listen to it, I
5 will be glad.

6 MS. SHEALY: Okay. We will consider that over
7 lunch.

8 THE COURT: Okay.

9 MS. SHEALY: Thank you.

10 THE COURT: 2:15.

11 (Whereupon, a recess transpired.)

12 THE COURT: All right. Bring the jury in.

13 MS. SHEALY: Judge, just regarding that issue that
14 we were discussing right before the break, what I intend to
15 do is with the earlier lineups that were shown to Ms.
16 Wesley, I will be asking the detective how it was she came
17 up with those lineups, because it will show that she was
18 thoroughly investigating the case. It has nothing to do
19 with this defendant, how that happened. And then as the
20 lineup with this defendant in it approaches, I am not going
21 to ask how she set up the lineup.

22 THE COURT: I don't know. If you want to, you
23 object and I will rule.

24 MS. PROCTOR: No, Your Honor. I think the reason
25 we are doing this is because I think it was from a CODIS

1 hit.

2 MS. SHEALY: That's right.

3 THE COURT: I don't know what that means.

4 MS. PROCTOR: What that means is they got a hit on
5 his DNA. And I don't want the jury to know.

6 THE COURT: Okay. Anyway, I'm just saying that I
7 am not telling you that you can do that or can't do that.
8 You put it up. And if there's an objection, I will rule.

9 Bring the jury in.

10 (Whereupon, the jury returns to open court at 2:22
11 p.m.)

12 THE COURT: All right. We do have the jury back
13 with us. Mr. Anderson is present along with his attorney.
14 I hope you had a nice lunch, safe drive, and you made it
15 back in time. We will now continue with the trial.

16 Call your next witness.

17 MS. BALDWIN: Thank you, Your Honor. The State
18 calls Detective David Pritchard.

19 DAVID PRITCHARD,

20 having been duly sworn, testifies as follows:

21 THE CLERK: Please state your full name, spelling
22 your last name for the record.

23 THE WITNESS: David Pritchard, P-r-i-t-c-h-a-r-d.

24 DIRECT EXAMINATION

25 By MS. BALDWIN:

1 Q. Where do you work?

2 A. North Charleston Police Department.

3 Q. And in what capacity?

4 A. Currently assigned to the persons crime unit in the
5 detective bureau.

6 Q. How long have you worked for North Charleston?

7 A. 5 1/2 years.

8 Q. So in what capacity were you working in June of
9 2014?

10 A. I was in the patrol division.

11 Q. Did you respond to a call at Denny's 2280 Ashley
12 Phosphate Road on June 19th, 2014?

13 A. I did.

14 Q. Is that location in Charleston County?

15 A. It is.

16 Q. And what was that call in reference to?

17 A. A sexual assault.

18 Q. What did you see when you arrived?

19 A. When I arrived in the parking lot, I observed the
20 victim, Ms. Wesley. She was sitting on a bench out front.
21 She was crying. Whenever I approached her, I observed
22 bright redness to her neck.

23 Q. And you were looking down as you started to speak.
24 Are you referring to something?

25 A. Yeah, I have the incident report in front of me.

1 Q. Does that help refresh your recollection?

2 A. Yes, it does.

3 Q. You said you saw redness to her neck?

4 A. Yes, ma'am.

5 Q. Was anybody with her when you arrived?

6 A. Yeah, there was a black female standing beside
7 her.

8 Q. Did Ms. Wesley tell you what happened?

9 A. She did.

10 Q. And what was your understanding about where the
11 incident took place?

12 A. The area she said it took place in was a road right
13 behind her, which is Stafford Drive. She said it took place
14 near a hotel on Stafford Drive.

15 Q. Did she know which hotel specifically?

16 A. No.

17 Q. Did she know the name of the hotel?

18 A. No. There was only two on there.

19 Q. Are those hotels, either one of them, are they both
20 in Charleston County?

21 A. Yeah.

22 Q. And what did you do while you were on the scene?

23 A. I just got a brief statement from the victim. Once
24 I had seen what kind of call it was, I contacted my sergeant
25 to respond.

1 Q. And you said when you realized what kind of call it
2 was, what do you mean?

3 A. Certain calls sergeants have to be on. Where they
4 can confirm sexual assault, then we have to contact our
5 sergeant.

6 Q. What time did you respond?

7 A. I was dispatched at 3:12 a.m. and I arrived two
8 minutes later at 3:14 a.m.

9 Q. Did Ms. Wesley give you a description of the person
10 that attacked her?

11 A. Yes, ma'am.

12 Q. What was that description?

13 A. She said it was a black male, medium complexion,
14 approximately 5' 11" in height and 160 pounds. And he had a
15 short haircut. She said she believed he was wearing a blue
16 shirt.

17 Q. Did she -- what else happened while you were on the
18 scene?

19 A. Once my sergeant got there, units also responded.
20 While EMS was looking at her, I started contacting detective
21 in crime scene to respond.

22 Q. What happened to Ms. Wesley; where did she go?

23 A. I believe she was transported by EMS to M.U.S.C.

24 MS. BALDWIN: Court's indulgence. I have no
25 further questions.

1 MS. PROCTOR: Court's indulgence. I have no
2 questions.

3 THE COURT: Thank you very much. You can return to
4 your place or be excused.

5 Next witness.

6 MS. BALDWIN: The State calls Sergeant Sid Lewis.

7 SIDNEY LEWIS,

8 having been duly sworn, testifies as follows:

9 THE CLERK: State your full name, spelling your
10 last name for the record.

11 THE WITNESS: Sidney Lewis, L-e-w-i-s.

12 DIRECT EXAMINATION

13 By MS. BALDWIN:

14 Q. Where do you work?

15 A. City of North Charleston Police Department.

16 Q. And in capacity do you work there?

17 A. I'm currently the supervisor of the special victims
18 unit.

19 Q. What capacity were you working there back in June
20 of 2014?

21 A. Same capacity, I was a sergeant of the special
22 victims unit.

23 Q. So how did you become involved in this case?

24 A. My assistant, Detective Elmer, and I came to the
25 crime scene looking for videos. And later on, I also

1 obtained a buccal swab from the defendant.

2 Q. When you say you are the sergeant over the special
3 victims unit, what is that unit?

4 A. Special victims, we handle all cases that are
5 sexual in nature and crimes against children.

6 Q. And you said you assisted Detective Elmer in
7 canvassing the area?

8 A. Yes, ma'am.

9 Q. And what did you do?

10 A. So we went back to the hotel, where the incident
11 took place, and looked for video surveillance and also
12 canvassed to look for any evidence.

13 Q. Was there any video surveillance from the hotel?

14 A. No. The Country Inn Hotel only had video showing
15 the front door. There was no other video in the exterior
16 that we could collect.

17 Q. How did you get the video from -- what other video
18 did you obtain?

19 A. So from Country Inn we went to the Regents Bank,
20 which is right next-door. And then went to Wild Buffalo
21 Steakhouse where the incident started.

22 Q. And where did you -- how did you get those videos?

23 A. We got the video from Wild Buffalo Steakhouse, I
24 believe it was called, pursuant to a search warrant.

25 Q. You mentioned you obtained a buccal swab from the

1 defendant?

2 A. Yes, ma'am.

3 Q. I'm going to show you what's been marked as State's
4 Exhibit 43 for ID.

5 A. Yes, ma'am.

6 Q. What is that?

7 A. It's a buccal swab from the defendant at Leeds
8 Avenue.

9 Q. How do you know that?

10 A. That is the label, has case number, defendant's
11 name, and what the item is.

12 Q. And what did you do with that buccal swab after you
13 obtained it?

14 A. So I went to the jail to serve a search warrant on
15 the defendant, obtain the buccal swab, which later was
16 brought back to Detective Elmer, and handed over to her so
17 she could submit it into evidence.

18 THE COURT: I'm not sure. What are you calling
19 that, what kind of swab?

20 THE WITNESS: A buccal.

21 THE COURT: B-u-c-k-l-e?

22 THE WITNESS: B-u-c-c-a-l.

23 THE COURT: I am not familiar with that term.

24 THE WITNESS: Essentially, it's a long Q-tip used
25 to collect swabs.

1 BY MS. BALDWIN:

2 Q. That was actually going to be my next question.
3 Can you explain what a buccal swab and what the process is
4 in obtaining that?

5 A. Yes, ma'am. It's like a long Q-tip. And there's
6 two Q-tips in each package. And you basically just swab the
7 inside of the -- collect inside their cheek, saliva.

8 Q. And that's to do what?

9 A. Collect DNA.

10 Q. And how did you package that?

11 A. Once you swab the cheek, there's a cardboard
12 container. You put it inside an envelope and seal it and it
13 gets sent to SLED.

14 Q. You said you gave that swab to Detective Elmer?

15 A. Correct.

16 Q. Do you know what she did with it?

17 A. From there, it goes into evidence.

18 MS. BALDWIN: Court's indulgence.

19 Q. One quick question about the buccal swab. Who
20 provides you with that buccal swab with the kit to do it?

21 A. The department, the detective bay, there's just a
22 bunch of them, cardboard tubes that the swabs go in and
23 there's just -- I don't know where they get them.

24 Q. They are pretty standard?

25 A. Yes, ma'am.

1 Q. Do you label that buccal swab afterwards?

2 A. You do. The Q-tips come in sealed package. And
3 once you open that seal, collect the swabs, it goes into a
4 cardboard container. And goes into the cardboard container.
5 And the container gets put into an envelope with evidence
6 label affixed to it and then sealed.

7 MS. BALDWIN: Thank you. I have no further
8 questions.

9 MS. PROCTOR: No questions.

10 THE COURT: Thank you very much. You can return to
11 your place or be excused.

12 Next witness.

13 MS. SHEALY: Angie Elmer.

14 ANGELA ELMER,

15 having been duly sworn, testifies as follows:

16 THE CLERK: Please state your full name, spelling
17 your last name for the record.

18 THE WITNESS: Angela Elmer, E-l-m-e-r.

19 DIRECT EXAMINATION

20 BY MS. SHEALY:

21 Q. Thank you, Detective Elmer. Will you please tell
22 the jury where you are employed.

23 A. I'm employed with the City of North Charleston
24 Police Department.

25 Q. And how long have you been employed there?

1 A. Little over 17 years.

2 THE COURT: How many years?

3 THE WITNESS: 17, sir.

4 BY MS. SHEALY:

5 Q. Tell the jury what different capacities you've
6 served North Charleston.

7 A. I started my career with North Charleston as a
8 records clerk. And shortly after, I went to be a duty
9 officer. And six months after that, I finally turned 21 and
10 was able to go to police academy. And I was assigned to the
11 patrol division for a few years. And then in '05, I was
12 assigned to the forensic unit where I did probably about
13 seven to eight years, left, came back to forensics again.
14 And then I was transferred over to the special victims unit
15 in the detective bureau.

16 Q. Let me go back just for a second. When you said
17 that you were assigned to the forensics unit, what is meant
18 by the term "forensics unit"?

19 A. Forensics is essentially the crime scene unit.

20 Q. So you are one of the North Charleston officers who
21 would go to a crime scene to collect evidence?

22 A. Yes, ma'am.

23 Q. And then you became a detective in the special
24 victims unit?

25 A. Yes, ma'am.

1 Q. What is meant by the term "special victim"?

2 A. Special victims are anything that has to do with a
3 sexual incident, children, any juvenile crimes against
4 children. And we also handle a lot of the elderly, crimes
5 against the elderly.

6 Q. So focusing your attention back to June 19th of
7 2014, would you tell the jury, were you working with the
8 special victims unit at that time?

9 A. Yes, ma'am, I was assigned to special victims at
10 that time.

11 Q. As a detective?

12 A. Yes, ma'am.

13 Q. How did you become involved in this investigation?

14 A. My captain, Captain Perry, when I entered into the
15 building that morning, he advised me that there was a victim
16 at M.U.S.C. And myself and victims advocate responded to
17 M.U.S.C.

18 Q. And had you been briefed at all by an officer
19 before you arrived at M.U.S.C.?

20 A. Yes, ma'am. Officer Pace, who was also one of the
21 detectives at that time, was working the night shift. And
22 he had already spoken with the victim. And he briefed me of
23 the incident.

24 Q. And then did you, in fact, meet Cristen Wesley?

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

1 Q. If you would, please describe her appearance and
2 her demeanor when you first met her.

3 A. I first met Cristen when she was in the ER. She
4 had already been completed with her SANE kit. And she was
5 very frazzled, very tired. And just -- you could just tell
6 she was dying, she was just tired, just --

7 Q. Let me back up, because there's some terms that are
8 second nature to you that may not be to everywhere in the
9 courtroom. You said that she had completed her SANE exam.
10 What do you mean by that?

11 A. SANE exam is a sexual assault exam that the nurses
12 at M.U.S.C. completed on her.

13 Q. So by the time that you first see her, that has
14 already occurred?

15 A. Yes, ma'am.

16 Q. And was there anyone with her at the hospital when
17 you were present?

18 A. Yes, her now ex-boyfriend Hayden was with her.

19 Q. What was first thing that you noticed that drew
20 your attention physically about Ms. Wesley?

21 A. The first thing that drew my attention to her, I
22 was actually kind of nervous to mention, from her neck area
23 all the way up to her forehead, she had red'-- what appeared
24 to be bumps from where I was standing. As I approached her,
25 I realized that it was -- then I thought it was a rash. And

1 I asked her if her face was always like that. And, of
2 course, that's something I don't want to ask somebody. And
3 she's like, what are you talking about? And she stood up
4 off the bed, went to the mirror by the sink. And she was
5 completely shocked to see her face. And it ended up being
6 petechiae all the way from her lower neck to her forehead.
7 Even on the lower edge of her ear she had petechiae.

8 Q. As a result of her appearance, did you take
9 photographs of her?

10 A. Yes, ma'am.

11 THE COURT: What is that word that you using?

12 THE WITNESS: Petechiae.

13 THE COURT: Spell it for me.

14 THE WITNESS: I can't. I'm the worst speller.

15 MS. PROCTOR: Your Honor, I would object to -- I
16 think medical doctors --

17 THE COURT: Is that the condition that's in those
18 photographs there?

19 THE WITNESS: Yes, sir.

20 THE COURT: I'll have it spelled later on then.

21 MS. SHEALY: At this time, I would offer State's
22 Exhibit 8 and 9 without objection.

23 THE COURT: Any objection?

24 MS. PROCTOR: No, Your Honor.

25 (State's Exh. 8, Photograph, is moved into

1 evidence.)

2 (State's Exh. 9, Photograph, is moved into
3 evidence.)

4 BY MS. SHEALY:

5 Q. If we could pull up State's 8. Is that the
6 photograph that you took?

7 A. Yes, ma'am.

8 Q. I'm going to show it directly to the jury.

9 THE COURT: As I said earlier, you will have
10 anything like that with you in the jury room. This is not
11 only chance you will get to look at that.

12 MS. SHEALY: And also State's Exh. 9.

13 BY MS. SHEALY:

14 Q. Did you interview Ms. Wesley at that point?

15 A. Yes, ma'am. We didn't really interview,
16 necessarily, but we did speak. I kind of just elaborated on
17 the initial written statement that she had provided
18 Detective Pace.

19 Q. And you mentioned to us that when you were telling
20 us earlier that you saw her in the ER, so she had moved from
21 the location where the sexual assault exam had been
22 conducted, and was now the ER when you saw her?

23 A. Yes, ma'am.

24 Q. Okay. What were you interested in learning from
25 her when you were talking to her?

1 A. I was more interested in trying to get an actual
2 location, because as it's been advised that she was a little
3 frazzled on scene, which is to be expected, and she did not
4 know the name of the hotel. And the officers that
5 originally responded were guessing at hotel names.

6 Q. Let me interrupt you there for a second. Can you
7 kind of describe that stretch of Ashley Phosphate? Is there
8 just one hotel in that area or are there more than one
9 hotels?

10 A. There are a ton of hotels in that area. On that
11 particular street, I believe on Stafford Street, there is
12 only two. But in that general vicinity of the Denny's, you
13 can look any direction and see multiple hotels.

14 Q. And with that in mind, did you stay with her until
15 she was actually seen by a physician and discharged?

16 A. Yes, ma'am.

17 Q. Okay. And what did you do then with her after she
18 was discharged?

19 A. Ms. Wesley's vehicle was left at the Denny's from
20 the actual incident. So I drove her back to that area to
21 drop her off at her vehicle. But first we drove back to the
22 actual hotel where I knew the exact location of where this
23 occurred.

24 Q. So if you could describe -- beg the Court's
25 indulgence just one moment. Well, I was looking for that

1 overview. If you would just describe for us, how do you
2 enter the area where that hotel was off of Ashley Phosphate?
3 In other words, it's not sitting on Ashley Phosphate, the
4 hotel?

5 A. No, ma'am. You actually have to go to the corner
6 of Ashley Phosphate and Stafford. And you can make a left
7 or a right, depending on where you are coming from. And it
8 would be between 26 and Rivers Avenue, in that area. You
9 would have to take a turn onto Stafford and you go passed
10 Regents Bank. And then there's a little area. And then you
11 actually are in the hotel parking lot.

12 Q. So is it fair to say, it is not directly on Ashley
13 Phosphate Road?

14 A. No, ma'am.

15 Q. And did Ms. Wesley have any difficulty in leading
16 you there?

17 A. No, ma'am.

18 Q. Now, when you were talking to her at the hospital
19 and then as y'all were traveling together, she was in the
20 vehicle with you?

21 A. Yes, ma'am.

22 Q. A law enforcement vehicle?

23 A. Yes, ma'am.

24 Q. Did she give you more details about what had
25 occurred?

1 A. She was slowly starting to remember what had
2 occurred. When we pulled into the parking lot of the hotel,
3 she was able to advise me exactly where she had pulled in.
4 She did not want to get out of the car.

5 MS. PROCTOR: Objection, Your Honor.

6 THE COURT: I sustain the objection. Ask another
7 question.

8 BY MS. SHEALY:

9 Q. I was just asking you, did she have any difficulty
10 in pointing out where --

11 THE COURT: The answer to that is no. Ask another
12 question.

13 MS. SHEALY: Yes, sir.

14 BY MS. SHEALY:

15 Q. When you got there, were you directed to an area
16 that was ultimately photographed later?

17 A. Yes.

18 Q. And was that based on what Ms. Wesley had advised
19 you as to where it had occurred?

20 A. Yes, ma'am.

21 Q. And showing you State's 10, 11, 12, 13, and 14,
22 Your Honor, at this time, I would move into evidence 10, 11,
23 12 and 14.

24 THE COURT: Without objection?

25 MS. PROCTOR: Without objection.

1 (State's Exh. 10, Photograph, is received in
2 evidence.)

3 (State's Exh. 11, Photograph, is received in
4 evidence.)

5 (State's Exh. 12, Photograph, is received in
6 evidence.)

7 (State's Exh. 14, Photograph, is received in
8 evidence.)

9 BY MS. SHEALY:

10 Q. These photographs will appear behind you. Now, the
11 areas depicted in 10, 11, 12 and 14, why did you take
12 photographs of those areas?

13 THE COURT: No, no, no. Ask another question.

14 MS. SHEALY: May I approach?

15 THE COURT: No. Ask another question.

16 BY MS. SHEALY:

17 Q. Okay. As part of your role as a detective, do you
18 take photographs of areas of interest involving a case?

19 A. Yes, ma'am.

20 Q. And these are the areas that you did after
21 interviewing Ms. Wesley?

22 A. Yes, ma'am.

23 Q. And did you all get out and walk around?

24 A. Not really, no, ma'am, as Ms. Wesley did not feel
25 comfortable getting back out of the vehicle at that time.

1 Q. After you left the hotel area, where did you all
2 go?

3 A. We went directly over to -- well, I dropped Ms.
4 Wesley off at her vehicle.

5 Q. And that would have been where?

6 A. At Denny's on Ashley Phosphate.

7 Q. Did you go back to the hotel for any reason?

8 A. I went back to the hotel after the fact to attempt
9 to locate any kind of exterior cameras that might have
10 gotten the incident on video.

11 Q. Was that fruitful at all?

12 A. No, ma'am. The only camera they had was a camera
13 that had the entrance of the -- you actually had to step
14 into the hotel before it would even pick you up.

15 Q. Could you tell the jury whether or not the hotel
16 had a lobby?

17 A. I don't remember, to be honest with you, ma'am.

18 Q. Did you make any effort at any point to see if
19 someone matching the description you had been given was a
20 guest there?

21 A. Yes, ma'am.

22 Q. And when you did that, does that refresh your
23 recollection as to whether or not there was a lobby, or you
24 don't remember?

25 A. I've been in so many lobbies, I don't remember, to

1 be honest with you.

2 Q. That's fine. Before Ms. Wesley drove off in her
3 vehicle, did you do anything with her car?

4 A. Yes, ma'am. I processed the passenger's side of
5 the her vehicle with magnetic black powder.

6 Q. Had you had experience with that when you were at
7 the crime scene?

8 A. Yes, ma'am.

9 Q. Were you aware of whether or not another officer
10 may have already processed the vehicle?

11 A. I was aware that the vehicle had been processed by
12 our crime scene unit, but I was unaware of what details they
13 were provided during that time, because the victim was so
14 shaken (sic) up. So I processed it again -- better safe
15 than sorry -- just to make sure it was completed.

16 Q. And were there any beneficial prints in
17 relationship to this case?

18 A. No, ma'am.

19 Q. Any identification made of anyone?

20 A. No, ma'am.

21 Q. Fingerprints? Now, as you were working on the
22 case, did you have the name of the suspect?

23 A. Not initially, no, ma'am.

24 Q. And did you travel anywhere that Ms. Wesley had
25 frequented the night before?

1 A. Yes, ma'am. We went over to WBS, the Wild Buffalo
2 Saloon to obtain video cameras and to speak to her friend
3 Heidi and members that might have remembered the night
4 before.

5 Q. Ultimately, did you all receive a videotape from
6 that evening from the establishment?

7 A. Yes, ma'am.

8 Q. Now, what efforts did you make, if you did not have
9 a name, to try to figure out who it was that the victim had
10 been assaulted by?

11 A. Because it was the grand opening of this
12 establishment, everybody was posting everything on Facebook.
13 And so I immediately hit social media in reference to trying
14 to figure out somebody that matched the description that Ms.
15 Wesley was providing me.

16 Q. And based on your investigation and seeing names
17 and photographs, I guess, on Facebook, did you have any
18 lineups prepared?

19 A. Yes, ma'am.

20 Q. And would you explain the role of what you saw on
21 Facebook with the lineups that you had prepared?

22 A. I'm sorry?

23 Q. When you were telling us you were looking at
24 Facebook, and then later you had lineups prepared, what was
25 the connection between your looking into Facebook and other

1 social media, and being able to get a lineup for those first
2 three lineups?

3 A. Yes, ma'am. I apologize. Pretty much what I did
4 was I went online. I found somebody that possibly could be
5 the suspect in this incident. And I would find out the real
6 name, confirm the real name, date of birth of that person.
7 And then I would either ask SLED or I would ask Charleston
8 County Detention Center photo labs to provide me with a
9 photo lineup.

10 Q. Okay. And based on the preparation of those
11 lineups, those, in fact, were shown to Ms. Wesley?

12 A. Yes, ma'am.

13 Q. And did she at all, in the first three lineups that
14 had been shown, did she identify anyone?

15 A. No.

16 Q. And you are familiar that the form allows the
17 person to indicate who they do identify, if they identify
18 someone?

19 A. Yes, ma'am.

20 Q. So those first three lineups that you had prepared,
21 she was unable to make any type of identification?

22 A. Correct.

23 Q. Could you tell the jury whether or not Kraig
24 Anderson's photograph was in any of the first three lineups?

25 A. None of the first three.

1 Q. Now, did you have the occasion to go back to the
2 scene of the hotel?

3 A. Yes, ma'am.

4 Q. And what was it that you were looking for when you
5 went back to the scene?

6 A. The victim's panties.

7 Q. Were you able to find the panties?

8 A. Yes, ma'am.

9 MS. SHEALY: Your Honor, I believe without
10 objection, the State would move in State's Exhibit 13.

11 MS. PROCTOR: Without objection.

12 THE COURT: Without objection. All right.

13 (State's Exh. 13, Photograph of panties, was
14 received in evidence.)

15 BY MS. SHEALY:

16 Q. Showing you State's Exhibit 13, can you tell us
17 what that photograph represents?

18 A. That is the photograph of where the victim's
19 panties were located.

20 Q. And then showing you again State's Exhibit 12, you
21 might need to look at the -- can you see it?

22 A. Yes, ma'am.

23 Q. Can you point out in that photograph, please, where
24 the panties were found?

25 A. (Indicating).

1 Q. What date was that?

2 THE COURT: Did you point it out?

3 THE WITNESS: Yes, I circled it, sir.

4 THE COURT: Do it again. Oh, I see. I see now.

5 Okay.

6 BY MS. SHEALY:

7 Q. What date was it that you went back out and found
8 the panties?

9 A. May I refer to my notes, please?

10 Q. Yes.

11 A. On July 14th.

12 Q. July 14th?

13 A. Yes, ma'am.

14 Q. And I was looking earlier for that overhead.

15 Showing you State's 4, okay, orient in this photograph,
16 where is the hotel?

17 A. The hotel is this big building right here.

18 Q. Where is Ashley Phosphate Road?

19 A. It's not shown on this.

20 Q. Can you show us which direction it would be in?

21 A. You would have to go down Stafford, that
22 direction.

23 Q. So take your finger and run it in the direction.

24 A. (Indicating).

25 Q. And it's not depicted there?

1 A. Correct.

2 Q. The photographs I showed you earlier of the wooded
3 area, could you show us on this overhead what area that's
4 located in?

5 A. This area right here. (Indicating).

6 Q. And looking at State's Exhibit 12 again, was there
7 any significance to the tree there?

8 A. Yes, ma'am. I believe that was the tree that the
9 victim was--

10 MS. PROCTOR: Objection; hearsay.

11 THE COURT: I sustain that objection. Ask another
12 question.

13 BY MS. SHEALY:

14 Q. Now, on the 14th, did you reinterview Ms. Wesley?

15 A. Yes.

16 Q. And did you learn greater details than you had
17 previously with her?

18 A. Yes, ma'am.

19 Q. Could you tell the jury whether or not it is usual
20 or unusual for victims to become more detailed the more
21 often you talk to them?

22 A. In my experience, it has been that the victims
23 start to recall a lot more a couple days after the incident,
24 even a couple weeks after the incident. After the shock
25 wears off, they do start to recall a lot more of the smaller

1 details.

2 Q. And on that occasion, had you already received the
3 videotape from the Wild Buffalo Saloon?

4 A. Yes, ma'am.

5 Q. While Ms. Wesley was present that day, did you show
6 her the video?

7 A. Yes, ma'am.

8 Q. And was she able to or not able to confirm whether
9 the defendant was depicted on that video?

10 A. She was able to confirm that he was located on it.

11 Q. I'm going to show you what has previously been
12 marked as 38.

13 MS. SHEALY: Your Honor, State's 38.

14 If we could go to clip 8. If you could stop it
15 there.

16 BY MS. SHEALY:

17 Q. Could you tell us what time is reflected on the
18 video as to the defendant entering that location?

19 A. Military time on it 23:42, which would be 11:42
20 p.m.

21 Q. And showing you clip 9, is that same individual
22 entering the facility itself?

23 A. Yes, ma'am.

24 Q. Can you tell us what time it is?

25 A. Military time 23:44, which means it's 11:44 now

1 p.m.

2 Q. Showing you clip 11, do you see the same individual
3 in the clip?

4 A. Yes, ma'am.

5 Q. Can you point that out to me?

6 A. He's right here. He just exited the screen.

7 Q. And then clip 13, do you see the individual there?

8 A. Yes, ma'am. He's (indicating).

9 Q. What time is reflected on that clip?

10 A. 01:27; which is 1 a.m., 1:27.

11 Q. Is that the victim exiting?

12 A. Yes, with a guy behind her.

13 Q. in addition to the video from Wild Buffalo Saloon,
14 did you obtain any video from Regents Bank?

15 A. Yes, ma'am.

16 Q. And did you look at the video from Regents Bank?

17 A. Yes, ma'am.

18 MS. SHEALY: Your Honor, I believe without any
19 objection, the State would offer State's 39, that being a
20 video from the Regents Bank.

21 THE COURT: Any objection?

22 MS. PROCTOR: No, sir.

23 (State's Exh. 39, Video from Regents Bank, is
24 received in evidence.)

25 BY MS. SHEALY:

1 Q. in watching the video, did something draw your
2 attention at a certain time on that video?

3 A. Yes, 3:09 a.m. in the teller side of the bank, that
4 camera picked up the back of a head.

5 THE COURT: I'm sorry. I didn't understand you.
6 Tell me that again.

7 THE WITNESS: The teller side of the bank, the
8 camera picked up the back of a head.

9 BY MS. SHEALY:

10 Q. And tell us again -- well, I will get you to show
11 us in a second where Regents Bank is in relationship to both
12 Denny's and the hotel. She can only do one disk at a time.

13 Is that an image of what you detected?

14 A. Yes, ma'am.

15 Q. Can you show us -- you indicated that depiction is
16 at what time?

17 A. 3:09:41.

18 Q. Can you tell us what time the 911 call came in?

19 A. May I refer to the CAD, please?

20 Q. Yes.

21 A. According to the CAD, the 911 call was received at
22 3:09 and 15 seconds.

23 THE COURT: What did you say, the teller head shot
24 was 3:09 what?

25 THE WITNESS: 3:09 and 41 seconds, according to the

1 Regents Bank.

2 BY MS. SHEALY:

3 Q. And looking back at State's Exhibit 4 again, can
4 you orient us as to where and what direction Denny's is and
5 what direction Regents Bank is in?

6 A. This is the bank. And this would be Denny's.

7 Q. Okay. Was it a while before Kraig Anderson was
8 arrested in this case?

9 A. Yes, ma'am.

10 Q. Now, you have told us previously about the victim
11 going to the SANE examination. And were items collected
12 from her sent to SLED?

13 A. Yes, ma'am.

14 Q. would you tell the jury what SLED is?

15 A. SLED is the South Carolina Law Enforcement
16 Division.

17 Q. Did you later have the occasion to show Ms. -- or
18 to have someone else show Ms. Wesley a lineup that contained
19 the photograph of Kraig Anderson?

20 A. Yes, ma'am.

21 Q. And if you would remind us of that date.

22 A. October 6th, 2015.

23 Q. After you learned from the officer who presented
24 her with a lineup, what did you do as a result of that, when
25 she identified Mr. Anderson?

1 A. Whenever the following day, I had arrest warrants
2 drawn up on Mr. Anderson.

3 Q. And would that have been -- what day, do you
4 recall?

5 A. October 7th, 2015.

6 Q. What became your focus after getting the warrant
7 drawn up?

8 A. Was to actually locate him.

9 Q. And was Kraig Anderson found?

10 A. He was located, yes, ma'am.

11 Q. And where was he found?

12 A. in Michigan.

13 MS. PROCTOR: Objection, Your Honor. May I
14 approach?

15 THE COURT: No. You want to be heard? I will be
16 glad to hear you without the jury.

17 MS. SEMAN: Yes, Your Honor.

18 MS. PROCTOR: Yes, Your Honor.

19 THE COURT: Members of the jury panel need to go
20 out in the hallway for a few minutes. You don't need to go
21 out in the jury room, just go out in the hallway there.

22 (Whereupon, the jury leaves open court at 3:04
23 p.m.)

24 THE COURT: All right. What do you want to say?

25 MS. SEMAN: Your Honor, we discussed this exact

1 issue in pretrial. We were informed by the State they had
2 no intention of going into the fact that the defendant was
3 arrested in Michigan. However, the solicitor just asked --

4 THE COURT: Well, I don't remember exactly what was
5 said about that, but it really doesn't make -- I mean, I
6 agree with you that it doesn't make any -- it's not
7 relevant, really, as to whether it's proving guilt or not
8 guilt or anything as far as any facts are concerned. So I
9 wish it hadn't come up, but did it. So what do you want me
10 to do about it?

11 MS. SEMAN: We agree that it's not relevant, but
12 further than that, we think it's prejudicial, because it
13 makes it look as though the defendant was running from the
14 law when, in fact, these arrest warrants weren't drawn up
15 until after year after this happened. We will respectfully
16 ask for a mistrial on that.

17 THE COURT: I appreciate that, but I deny your
18 motion.

19 MS. SHEALY: Your Honor, so the record is complete
20 on that, Ms. Baldwin indicates to me that she was asked
21 whether or not we intended to mention that he was arrested
22 there, and that she told them to ask me. No one asked me.
23 I was unaware of that conversation.

24 THE COURT: I don't remember what was said, but I
25 am not going to do a mistrial on it. I don't think it

1 should have come up. It's not relevant.

2 Bring the jury in.

3 MS. SHEALY: Your Honor --

4 THE COURT: Bring the jury in.

5 (Whereupon, the jury returns to open court at 5:26
6 p.m.,)

7 THE COURT: You may continue to examine the
8 witness.

9 MS. SHEALY: Thank you, Your Honor.

10 BY MS. SHEALY:

11 Q. Detective Elmer, did you seek a search warrant to
12 get a buccal swab from the defendant in this case?

13 A. Yes, ma'am.

14 Q. And who actually administered the collection
15 process from him?

16 A. Sergeant Sid Lewis.

17 Q. And did you receive the buccal swab?

18 A. After it was obtained, yes.

19 Q. Showing you what's been marked as State's Exhibit
20 43, could you advise the jury, once you received it from
21 Mr. Lewis, did you tamper with it in any fashion?

22 A. No.

23 Q. What did you physically do with it once you
24 received it?

25 A. I physically print the bar code sticker for

1 evidence, and then I placed it in evidence by the dropbox.

2 Q. Now, tell us what that means when you say that you
3 place it in evidence in the dropbox?

4 A. Evidence is a secured area that only police
5 officers and people pertaining to evidence area can get
6 into. And then there is -- the dropbox is essentially like
7 one of those big blue mailboxes. And you can't get anything
8 out after it's been dropped. The evidence custodians are
9 the only ones that have keys to it.

10 MS. SHEALY: Beg the Court's indulgence just a
11 moment.

12 BY MS. SHEALY:

13 Q. When you were with Ms. Wesley when you went to the
14 hospital initially, did she appear to be intoxicated?

15 A. No, ma'am.

16 Q. And the hotel that you described to us, which
17 county is that located in?

18 A. Charleston County.

19 MS. SHEALY: I have no further questions. Please
20 answer any the defense may have.

21 THE WITNESS: Yes, ma'am.

22 CROSS-EXAMINATION

23 BY MS. PROCTOR:

24 Q. Just the last question the solicitor asked you was,
25 she didn't seem intoxicated. But did you know how many

1 drinks she had had that night?

2 A. No, ma'am.

3 Q. So you don't know if she was intoxicated or not?

4 A. Correct. She did not appear to be.

5 Q. Now, you are the chief -- the head of this case,
6 correct? Would you be the chief investigating officer?

7 A. The lead investigator, yes, ma'am.

8 Q. So everything that goes on, do they come and then
9 give you everything that the other officers have?

10 A. Everything gets put into the case file, which is
11 then my responsibility, yes, ma'am.

12 Q. And when they take pictures, when they go to the
13 crime scene, anything they do comes back to you? Every
14 report they write, everything goes into your file, correct?

15 A. Some of the crime scene stuff may not, because they
16 have a separate case agent, so to speak, for the crime scene
17 part of it. But, essentially, majority of it does make it
18 back.

19 Q. And going to a crime scene, I mean, is very
20 important?

21 A. Yes, ma'am.

22 Q. And as you said, you had been in the police for a
23 long time, you had been there, right?

24 A. Yes, ma'am.

25 Q. And the crime scene is probably one, that's where

1 you find things? That's where you find if a crime had
2 occurred, correct?

3 A. Yes, ma'am.

4 Q. And this happened in June of 2014, correct?

5 A. Yes, ma'am.

6 Q. And when the phone call was made, she was at
7 Denny's restaurant, correct? Cristen was at Denny's
8 restaurant?

9 A. Yes, ma'am.

10 Q. And that's in your report. And Denny's restaurant,
11 basically, as we saw in the pictures, is behind the Country
12 Inn and Suites, not directly behind it, but there's Country
13 Inn and Suites --

14 A. It's catty-cornered. You cannot see Denny's from
15 the front of the parking lot.

16 Q. It is --

17 A. It is rather close, yes, ma'am.

18 Q. And from that, from right then, you knew that the
19 crime scene, or what you had been told, was in that wooded
20 area right by Denny's, correct?

21 A. Ms. Wesley was able to give us the area, yes,
22 ma'am.

23 Q. And going to a crime scene is important, because
24 you want to secure the area? You want to make sure that any
25 evidence that's there is preserved, correct?

1 A. Yes, ma'am.

2 Q. And did you send crime scene out that night or the
3 next day?

4 A. I was not out the night that the incident occurred.
5 I did not take reins on this until the following morning,
6 approximately 9 a.m.

7 Q. Well, the main job of probably crime scene techs is
8 to, say, secure the area?

9 A. Yes, ma'am.

10 Q. And keep the area safe so other people don't come
11 in and disrupt it. And you want to know at that point, say,
12 where people came in, where people left, where they were,
13 correct?

14 A. Yes, ma'am.

15 Q. And you would document everything that was found at
16 a crime scene?

17 A. Correct.

18 Q. So that night after this happened, there was an
19 officer that went and looked all through the scene?

20 A. I'm unaware of exactly what occurred prior to me
21 getting the actual case.

22 Q. The next day, did it happen? Did anybody go the
23 next day, do you know?

24 A. Yes, ma'am.

25 Q. And was anything found the next day?

1 A. Sergeant Lewis and I went through the initial area
2 right beside the hotel, and then later when we were advised
3 of the panties, we found out that the crime scene was
4 actually a lot further back than what we explored.

5 Q. That was basically almost a month?

6 A. Yes, ma'am.

7 Q. That was a month later, correct?

8 A. Yes, ma'am.

9 Q. So for that month, nobody went out there to see
10 anything that had happened, where it could have happened,
11 taken better pictures? Because the pictures we saw, this
12 was in June. There was a lot of rain. So the brush,
13 everything could have grown. It's totally different from
14 what it could have been a month earlier, correct?

15 A. Correct.

16 Q. And so you really can't tell exactly where anything
17 happened, as you say, correct?

18 A. The only thing I can say with all honesty is, how
19 it appeared in those pictures is how it was when we located
20 it.

21 Q. Correct. And that was in July?

22 A. Yes, ma'am.

23 Q. And you said there were a couple lineups that were
24 done, right?

25 A. Yes, ma'am.

1 Q. And in one of the lineups, it possibly was the
2 first one, she had pointed somebody out and said that she
3 was about 85 percent sure it was that person, correct?

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

5 Q. Now, you said you went to the hotel the next
6 morning to see if they had any cameras, correct?

7 A. Correct.

8 Q. Did you ask the manager if you could talk to any of
9 the guests or if anybody had heard anything?

10 A. We were advised from the employees that were there
11 at the time that they had not heard anything. We did not
12 ask to bother their guests.

13 Q. But did you ever go back there and talk to anybody
14 again to say, did you see anything, did you hear anything?

15 A. We did respond back for a secondary time to confirm
16 the fact that -- sometimes people tell us that there are no
17 videos, and there are. So we did respond back a secondary
18 time to confirm for ourselves, to look at the building
19 itself and confirm that there was no videos. And we spoke
20 to the employees once again then.

21 Q. And you didn't ask them anything about any of the
22 guests that were there coming and going?

23 A. No, ma'am.

24 Q. And the hotel has a front door, correct?

25 A. Yes, ma'am.

1 Q. And there would be a camera on that front door? Is
2 there a camera on the front door? Did they tell you?

3 A. It is literally at the door. The only thing it was
4 picking up at this time was the actual door itself.

5 Q. So if anybody at 2 or 3 in the morning had gone to
6 that door, it would have been shown on the video, correct?

7 A. Yes, ma'am.

8 MS. PROCTOR: Court's indulgence.

9 BY MS. PROCTOR:

10 Q. Now, you said Ms. Shealy mentioned to you the CAD
11 report, correct?

12 A. Yes, ma'am.

13 Q. And are you familiar with that, the CAD report in
14 this case?

15 A. I have it in front of me, yes, ma'am.

16 Q. And if you notice on page 2 of 8, when the phone
17 call came in, the officer said --

18 A. May I stop you for one moment? When I said I have
19 it in front of me, I have the first page. That's all I
20 have.

21 MS. SHEALY: Your Honor, I object to any hearsay.

22 MS. PROCTOR: Your Honor, she said that she's
23 familiar with the CAD report.

24 THE COURT: Members of the jury panel, you need to
25 step out in the hallway, please.

1 (Whereupon, the jury leaves open court at 3:17
2 p.m.)

3 THE COURT: All right. We have the jury out. The
4 door is closed. What is it you want to ask? Go ahead and
5 ask it.

6 MS. PROCTOR: The solicitor brought up the CAD
7 report.

8 THE COURT: What is that, C-A-B? What are you
9 saying?

10 MS. PROCTOR: C-A-D, CAD.

11 THE COURT: D?

12 MS. PROCTOR: D.

13 THE COURT: I don't know what that is. What does
14 that stand for? Anybody know?

15 MS. PROCTOR: Caller -- you can tell us.

16 THE WITNESS: I don't know what it actually stands
17 for.

18 MS. PROCTOR: It's my understanding that when
19 something happens and you call the police, everything that
20 goes with the police to the police operator is put on this
21 report, because they are trying to talk to all the officers
22 to tell them what's going on.

23 THE COURT: Okay. So what is it you want to ask
24 her about that?

25 MS. PROCTOR: Well, the solicitor brought up the

1 CAD report and --

2 THE COURT: I don't remember. What did she say
3 about it, anything other than -- what did she say about it?

4 MS. SEMAN: Time.

5 MS. PROCTOR: She said that a crime had been
6 committed --

7 THE WITNESS: She requested the time that the call
8 was dispatched.

9 MS. PROCTOR: Of dispatch.

10 THE COURT: Time? That was on the -- was that the
11 3:15? Yeah, 3:09, 15 seconds came from the CAD report.

12 MS. SEMAN: Yes, sir.

13 THE COURT: So what else?

14 MS. PROCTOR: And I was going to ask her that,
15 because it was brought up, there's a prior inconsistent
16 statement.

17 THE COURT: I'm sorry?

18 MS. PROCTOR: There's a prior inconsistent
19 statement.

20 THE COURT: What is that?

21 MS. PROCTOR: When she says on here, the female is
22 on the scene advising she was almost raped. Caller does not
23 know --

24 THE COURT: Okay. I understand what you are
25 getting at now. But I sustain the objection to that.

1 Bring the jury in.

2 (Whereupon, the jury returns to open court at 3:20
3 p.m.)

4 THE COURT: We do have the jury back with us.
5 Mr. Anderson is present, along with his attorney. Any other
6 questions for this witness?

7 MS. PROCTOR: Court's indulgence one moment.

8 No further questions.

9 THE COURT: Anything on redirect?

10 MS. SHEALY: We have nothing further.

11 THE COURT: Thank you very much. You can step down
12 or return to your place in the courtroom or be excused.

13 Call your next witness.

14 MS. BALDWIN: Your Honor, may we take our afternoon
15 break?

16 THE COURT: We will take a short break. Y'all get
17 one too, five minutes. Okay? Be back with you in about
18 five minutes.

19 (Whereupon, the jury leaves open court at 3:21
20 p.m.)

21 (Whereupon, the defendant is present.)

22 THE COURT: Bring the jury in.

23 (Whereupon, the jury returns to open court at 3:28
24 p.m.)

25 THE COURT: Mr. Anderson is present, along with his

1 attorney.

2 Call your next witness.

3 MS. SHEALY: Nancy Hall.

4 NANCY HALL,

5 having been duly sworn, testifies as follows:

6 The CLERK: Please state your full name, spelling
7 your last name for the record.

8 THE WITNESS: Nancy Hall, H-A-L-L.

9 DIRECT EXAMINATION

10 BY MS. SHEALY:

11 Q. Thank you, Ms. Hall. Will you please tell the jury
12 where you work?

13 A. At M.U.S.C.

14 Q. And what do you do at M.U.S.C.?

15 A. I work at Hollings Cancer Center.

16 Q. Hollings Cancer Center?

17 A. Yes, ma'am.

18 Q. in what capacity do you work there?

19 A. Registered nurse.

20 Q. How long have you been a nurse?

21 A. 34 years.

22 Q. Prior to working at the Hollings Cancer Center, did
23 you work as a SANE nurse?

24 A. Yes, ma'am.

25 Q. Tell us first about your educational background.

1 A. I have a bachelor's degree in nursing. And for the
2 SANE nurse, it's a specialized 40-hour course, followed by
3 that preceptor shift in which you follow more experienced
4 SANE to get experience doing exams until you are on your
5 own.

6 Q. Why don't we start with saying what it means to be
7 a SANE nurse.

8 THE COURT: What is that word you are saying?

9 THE WITNESS: SANE.

10 THE COURT: S --

11 THE WITNESS: A-N-E.

12 THE COURT: S-A-N-E?

13 THE WITNESS: Yes, sir.

14 BY MS. SHEALY:

15 Q. Tell us what each letter stands for.

16 A. It's Sexual Assault Nurse Examiner.

17 Q. And you were telling us then about the specialized
18 training you had to get to be a SANE nurse. Can you go over
19 that again?

20 A. So the training is 40 hours of classroom training.
21 I received my training in 2010 from Linda Ledray, who was
22 known as kind of the pioneer of sexual assault nursing. And
23 then after that, we -- the nurses who do that course paired
24 up with the director of our program at the time. And we
25 would do cases with her until she felt we were ready to be

1 on our own.

2 Q. And have you also had any special education that
3 resulted in your having to take an exam?

4 A. Yes. The International Association of Forensic
5 Nurses offers a certification in SANE. And it's
6 international. And it's just an exam that we can take that
7 shows expertise in our field of sexual assault nursing.

8 Q. And have you, in fact, been certified in the field
9 of SANE exams?

10 A. I've been certified since 2012.

11 Q. And were those two certification processes?

12 A. The first process is you take the exam. And then
13 three years later, you have to show that you've had
14 continuing education, different things, that you have to
15 have certain hours, certain number of cases, certain number
16 of hours of continuing education in order to renew your
17 certification.

18 Q. Okay. So you had your original certification in
19 2012. And it was renewed when?

20 A. 2015.

21 Q. Would you let the jury know, please, how many
22 sexual assaults exams you have performed?

23 A. 155.

24 Q. And have you previously testified as an expert in
25 the field of adult sexual assault exams?

1 A. Yeah, ma'am.

2 MS. SHEALY: Your Honor, at this time, we would
3 offer Ms. Hall as an expert in the field of --

4 THE COURT: Hold on just a minute. Jury panel, I
5 want you to go out in the hallway for just a minute, please.

6 (Whereupon, the jury leaves open court at 3:32
7 p.m.)

8 THE COURT: All right. I just want to make sure I
9 know what we are talking about here. You are offering her
10 as an expert witness. Are you intending to ask her some
11 questions that seeks an opinion, her opinion about
12 something?

13 MS. SHEALY: The questions that she would be asked
14 that are necessary for an expert is what all is included in
15 the SANE exam, what the process entails.

16 THE COURT: So you are not going to ask her about
17 an opinion about whether this, that or the other. You are
18 going to ask about facts what was done?

19 MS. SHEALY: Well, Your Honor, she's also familiar
20 with petechiae.

21 THE COURT: I don't know what that is.

22 MS. SHEALY: Can we get her to explain it?

23 THE WITNESS: Petechiae are when blood capillaries
24 burst. Like in a bruise, the little pinpoint dots, those
25 are petechiae. Sometimes if you are vomiting very strongly,

1 you can get the little dots in the whites of your eyes.
2 Those are petechiae. And they are just caused by the little
3 blood capillaries bursting.

4 THE COURT: Only reason you qualify somebody as an
5 expert is to ask them to give an opinion about something
6 based on their expertise. So that's what I'm wanting to
7 know. You can ask her about facts. You can ask her about
8 what her observations are and so forth. But I am not going
9 to call her as an expert in sex exams or whatever you are
10 calling her.

11 MS. SHEALY: Well, I do intend to ask her if it's
12 her opinion, given the way Ms. Wesley appeared, if that was
13 petechiae.

14 THE COURT: What?

15 MS. SHEALY: I do intend to ask her, is it her
16 opinion that the red dots that are in Wesley's eyes and on
17 her face are, in fact, petechiae. And the reason she can
18 answer that --

19 THE COURT: Are in fact what?

20 MS. SHEALY: Petechiae.

21 THE COURT: Okay. I just want to make sure I
22 understand what you are saying. And what is petechiae?

23 THE WITNESS: Those are when the small blood
24 capillaries burst.

25 THE COURT: Do you object to that?

1 MS. SEMAN: Well, Your Honor, we don't object to
2 her saying what she saw was petechiae. I don't think she
3 needs to be qualified as an expert to say what she
4 observed.

5 THE COURT: I don't think so either. So I will let
6 you ask that question. Bring the jury back in.

7 (Whereupon, the jury returns to open court at 3:35
8 p.m.)

9 THE COURT: Go ahead.

10 BY MS. SHEALY:

11 Q. Ms. Hall, would you describe the process at
12 M.U.S.C. for patients to be seen by a SANE nurse?

13 A. Yes. A patient presents to the emergency room and
14 they sign in and tell the registration clerk why they are
15 there. If they are asked or if they offer that they have
16 some injury or some pain or something that needs to be
17 addressed medically before we see them, then they are
18 registered by the emergency room, seen by emergency room
19 doctor, and they are medically cleared.

20 If the staff does not see any obvious injury, if
21 the patient does not offer any pain or other complaints,
22 then they are not seen by the emergency room. The emergency
23 room then pages the SANE, who is on call. We, in turn, call
24 People Against Rape to obtain an advocate to meet us at the
25 emergency room. And we go and we meet the patient there and

1 take them to our exam room.

2 Q. Are there certain consents that you have to get
3 before you can conduct a sexual assault exam?

4 A. Yes. We have a full consent that explains every
5 portion of the sexual assault exam. And the patient can
6 consent or not consent to any portion of it. Part of that
7 consent is also authorization or not authorization to
8 release the evidence.

9 Q. Focusing your attention back to June 19th of 2014,
10 could you tell the jury whether or not you had the occasion
11 to see Cristen Wesley?

12 A. Yes, I did.

13 Q. And what time did her exam begin?

14 A. 5:25 a.m.

15 THE COURT: What time?

16 THE WITNESS: 5:25 in the morning.

17 BY MS. SHEALY:

18 Q. If you will please describe to the jury how she
19 appeared.

20 A. She was tearful, but controlled. She was
21 disheveled. Her dress was dirty. She had debris and dirt
22 on her shoes. But she was able to respond to my questions
23 and cooperate with the exam.

24 Q. Do you recall anything about the appearance of her
25 face that drew your attention?

1 A. Around her neck in many areas, there was already
2 bruising and petechiae appearing.

3 Q. And tell the jury what is meant by the term
4 petechiae.

5 A. So petechiae are when little blood capillaries
6 burst. Most people are most commonly known with, you know,
7 if you cough hard, if you are vomiting hard, you get those
8 little pinpoint dots in your eyes, those little red dots.
9 Those are petechiae. You see them a lot in bruises, kind of
10 in the middle. So they are just pinpoint dots where small
11 capillaries have burst.

12 Q. And could you tell the jury whether or not you are
13 familiar with petechiae being present if someone has been
14 strangled?

15 MS. SEMAN: Objection.

16 THE COURT: I sustain the objection to that.

17 BY MS. SHEALY:

18 Q. Okay. Was there any other complaint that Ms.
19 Wesley had regarding her throat in any fashion?

20 A. She did. She complained of soreness in her neck,
21 soreness when she swallowed, as though she had a knot in her
22 throat.

23 Q. As part of the exam experience, did you take
24 photographs of Ms. Wesley?

25 A. Yes, ma'am.

1 MS. SHEALY: Your Honor, at this time, I would move
2 State's Exhibit 15, 16, 17, 18, and 19 into evidence, I
3 believe without objection.

4 MS. SEMAN: That's correct, Your Honor.

5 THE COURT: Thank you.

6 (State's Exhibit 15, 16, 17, 18, and 19 is
7 received in evidence.)

8 BY MS. SHEALY:

9 Q. The images are going to appear on your screen.
10 Would you walk us through those photographs and tell us what
11 your observations were.

12 A. In this particular photograph, this, from my
13 recollection, is a little bit into the exam. When it began,
14 the areas right under here where you can see the redness,
15 there's petechiae in those. And right under her chin, that
16 was little earlier in the exam. At this point in time, the
17 red/purple discoloration and petechia had moved upwards to
18 her face. And that's the pattern that it follows when you
19 have a strangulation.

20 MS. SEMAN: Objection.

21 THE COURT: I'm going to allow that. Go ahead.

22 THE WITNESS: Sorry. When you have a
23 strangulation, the petechiae and the bruising spread up
24 towards the head from the location of the strangulation.

25 BY MS. SHEALY:

1 Q. And that was State's Exhibit 15.

2 in looking at State's Exhibit -- well, first of
3 all, can I get you to come down in front of the jury?
4 Sometimes the color gets washed out there. in showing you
5 State's Exhibit 15, can you show us whether there was
6 anything on her neck that drew your attention as well?

7 A. Here in this entire area, this is petechiae and
8 bruising. I can't tell from this if there was any
9 scratches. I would have to look at my notes. It's
10 possible. But all of this in her throat, this redness and
11 bruising is petechiae.

12 Q. When you were describing to us that there was,
13 like, a demarcation in the coloring, can you point that out
14 so they can see it?

15 A. So right here is where it started to move up into
16 her face. (Witness indicating.)

17 Q. You can go ahead and take your seat back. And
18 while you are taking your seat, we will pull up State's
19 Exhibit 16. And looking at this image, is this the image of
20 the dress that Ms. Wesley had on?

21 A. Yes, ma'am.

22 Q. Are you able to see any apparent dirt on that
23 dress?

24 A. Yes.

25 Q. Can you circle around where you see that?

1 A. (Indicating).

2 Q. That is hard to see with that same coloring. in
3 State's Exhibit 17, what is of note there?

4 A. We have -- I would have to refer to my notes. I
5 don't know if it's dirt or if it's blood, but it's one or
6 the other.

7 Q. Do you want to take a look at your notes?

8 A. The dress has dirt on it. So I would say it was
9 dirt.

10 Q. And then State's Exhibit 18, were you just taking
11 pictures -- let me erase those. Was there anything that you
12 noticed on her legs there or were you just taking pictures
13 of her legs?

14 A. Yes, on her legs here is a scratch and redness, and
15 here, which is three areas of dry blood here.

16 Q. I may have a better picture of the lower area.
17 Showing you State's Exhibit 19 --

18 A. Yes. So these areas on her feet are areas of dried
19 mud, dirt and dried blood.

20 Q. Okay. Thank you. Now, if you could walk us --
21 first of all, is there a standard form that is used while
22 performing sexual assault exams?

23 A. Yes.

24 Q. And did you, in fact, use that to record your
25 findings?

1 A. Yes, ma'am.

2 Q. If you would walk us through the initial part of
3 the sexual assault exam, does the clothing stay on or does
4 the clothing come off?

5 A. It depends at the beginning how you sequence it,
6 but in her case, because the clothing I was going to send
7 along with the evidence kit, we have the patient stand on a
8 debris sheet and disrobe. The clothing is then placed,
9 individual pieces of clothing in each, in a paper bag, which
10 is sealed. And then the debris sheet, which is just a big
11 paper sheet, is also folded up and placed in a paper bag and
12 sent along with the rest of the clothing.

13 Q. Okay. So why don't we take a moment. Can you tell
14 the jury, if you would, please, what is your primary concern
15 when conducting a sexual assault exam?

16 A. Our primary reason is for the medical treatment of
17 the patient, to assess for injury, seen or unseen injury, to
18 provide prophylactic medication for sexually transmitted
19 infections, HIV, and pregnancy prevention.

20 Q. While you say that is your primary purpose, is
21 there a secondary element to the sexual assault exam?

22 A. Secondary element is for forensic evidence
23 collection.

24 Q. So you've indicated that you took her clothing and
25 packaged it. Was there any underwear?

1 A. There was not at the time, no.

2 Q. Do you also take a history from the patient --

3 A. Yes.

4 Q. -- as to what occurred?

5 A. Yes.

6 Q. Does that history in any way guide your exam?

7 A. The history guides the exam very much. What the
8 patient relates to us as the events of the assault, that
9 tells me what I need to look for, where I need to look for
10 it. So it very directly guides the exam.

11 Q. Now, do you have a standardized kit that you used
12 in the collection of evidence?

13 A. Yes, ma'am.

14 Q. And who are you provided that kit by?

15 A. The kit comes from the State Law Enforcement
16 Division in South Carolina.

17 MS. SHEALY: Your Honor, at this time we would
18 offer State's Exhibit 41, I believe without objection.

19 THE COURT: Any objection?

20 MS. SEMAN: No, Your Honor.

21 (State's Exh. 41, SLED sexual assault kit, is
22 received in evidence.)

23 BY MS. SHEALY:

24 Q. Ms. Hall, you previously mentioned that her
25 clothing and shoes had been taken out, I guess, on a piece

1 of paper. Can you tell the jury from within State's Exhibit
2 41 what this object is?

3 A. This is the debris sheet.

4 Q. The standardized kit that you told us about, if you
5 could walk us through that.

6 A. This red envelope, this is where we package all DNA
7 samples. So once you collect a sample, and we used two
8 swabs, long Q-tip swabs, to collect a sample. Once your
9 samples are collected, they are placed in individual
10 envelopes. You place the patient's name, date and time,
11 your signature. And it denotes what is in the envelope.
12 That is then sealed and placed in the large envelope.

13 Do you want me to go through each, what they are?

14 MS. SHEALY: If you would.

15 THE WITNESS: So this is suspected body fluid,
16 which could be anything, saliva, semen, blood, anything. So
17 I wrote on here where I obtained it, from the perineum, and
18 what body fluid I suspected, which was semen.

19 BY MS. SHEALY:

20 Q. If you would take a moment and explain to the jury
21 what the perineum is.

22 A. Perineum is just below the vaginal opening that
23 runs to the opening of the anal area.

24 Q. You told us that you take a Q-tip-like device and
25 swab it, that area?

1 A. Yes.

2 Q. That's what you did in Ms. Wesley's case?

3 A. Yes.

4 This one, these are vaginal swabs, and how we
5 obtain those, we use a speculum. Women know what that is.
6 Ours are plastic. And it's an instrument that we place in
7 the vagina, where we can spread it open and so that we can
8 see back to the cervix, which is the opening to the womb,
9 were a woman to carry a baby. Our one set of swabs we get
10 from directly below the cervix. And then another set of
11 swabs, we will swab on the walls of the vagina. So I did
12 that. And also, I collected my sample. And they are
13 self-explanatory, what they are.

14 Q. You label it accordingly?

15 A. Well, this one is labeled, yes. This is a known
16 DNA standard. This is a cheek swab from the patient. It's
17 just so they have her DNA for comparison.

18 Q. Is that referred to as a buccal swab?

19 A. Yes, ma'am.

20 This is another suspected body fluid. And this is
21 the external genital. And in this case, that would be the
22 labia, which are the lips that cover the opening to the
23 vagina. And, again, I wrote what body fluid I suspected,
24 which was semen.

25 This is another set of vaginal swabs. As I said,

1 one came from the posterior part of the cervix. And the
2 other set was from the vaginal walls.

3 The last one are pubic hair combings, which we do
4 not to collect the patient's pubic hairs, but to collect any
5 foreign hair or any material that may be present there. And
6 that's what this one is.

7 These are smears. So when we take vaginal, oral or
8 rectal swabs, we also, once we take the Q-Tips out, we also
9 rub a little bit on this glass mirror that goes into this
10 container.

11 Q. And are those each of the samples that you took?

12 A. Yes. I only took a vaginal smear, because the
13 history did not call for any other ones.

14 Q. And could you describe to the jury what level of
15 care you take in dealing with making sure something doesn't
16 get cross-contaminated as you are doing the sexual assault
17 exam.

18 A. We wear gloves, which we change frequently between
19 each section. So after I would do the vaginal swabs, I
20 wouldn't use those same gloves to swab the mouth. So we
21 change them in between each area. We change them frequently
22 and we wear masks.

23 Q. Once you had completed each of your swabs and
24 smears, you then put them back in the envelope you are
25 provided with?

1 A. Once you take the swabs, they are put in a swab
2 dryer, which is a rectangular box. There's a tray that has
3 holes in it that the Q-Tips fit down in. That tray goes
4 into the swab dryer. We lock it with a special lock. And
5 then it dries anywhere from an hour to two hours. It's
6 usually the last thing we do, is to package it up. So we
7 make sure everything has time to get dry. But once it's
8 dried, then we label them all and put them in these
9 envelopes.

10 Q. Okay. So if I can just get those back from you.
11 And this envelope is not your envelope?

12 A. No, ma'am.

13 Q. Now, in addition to the swabs and the smears, do
14 you examine the body itself for any potential injury?

15 A. Yes, we do. We examine the body, basically, from
16 head to toe, putting special emphasis on areas that the
17 patient relates to us as painful or where we visibly see an
18 injury.

19 Q. And what I'm going to do now, if we can -- you have
20 your report with you?

21 A. Yes, ma'am.

22 Q. I'm showing you a blank image of a female body. If
23 you would, please -- and let me see if there's a way to get
24 a finer line. I'm not sure if there is. If you could,
25 please, go over your findings with the jury. And if you

1 would, just put a dot, kind of a small dot to show what area
2 you are talking about.

3 A. (Indicating). That is a six-centimeter scratch
4 that was on top of her chest. (Indicating). That area is a
5 patterned area of bruising. Patterned areas are areas that
6 conform to a certain shape, as if, say, this was, you know,
7 pushed into me or, say, an iron was pushed on someone.
8 That's a patterned injury. So this patterned injury
9 correlated to the trim on the patient's --

10 MS. SEMAN: Objection; hearsay.

11 THE COURT: I'm not sure what she's talking about.
12 She asked you to put a mark for where you saw something on
13 the body, I believe. Are you doing that or what?

14 MS. SHEALY: Your Honor, I think she is. She was
15 not going to say anything said to her.

16 MS. SEMAN: Your Honor --

17 THE COURT: Ask another question.

18 BY MS. SHEALY:

19 Q. Okay. So you just indicated that's a pattern?

20 A. Yes.

21 Q. If you will go to the next finding.

22 A. That is on her right lower leg, three areas of
23 dried blood. (Indicating).

24 We have dirt and dried blood on the right shoe and
25 foot.

1 And the next one is the left shoe and foot. Here.
2 (Indicating).

3 That's a three-inch scratch above her left knee.

4 Then we have another scratch on her left upper
5 thigh.

6 And then here (indicating), that is a four by four
7 centimeter area of bruising with petechiae on the back of
8 the neck.

9 (Indicating). That is a one and a half centimeter
10 scratch on the left arm.

11 (Indicating). That is a one centimeter scratch on
12 her left arm.

13 (Indicating). That is a three by five centimeter
14 area of bruising.

15 (Indicating). That is a one and a half by two
16 centimeter bruise.

17 (Indicating). That is a three and a half
18 centimeter area of bruising.

19 That's a two centimeter scratch, the top of the
20 sacral area.

21 (Indicating). Those are multiple scrapes and
22 scratches on the sacral area ranging from one-half
23 centimeter to a centimeter and a half.

24 Then in the neck area, as the exam progressed, the
25 entire face, as you saw in the photos, the pronounced purple

1 discoloration with the petechiae moved slowly up her face
2 from the neck area.

3 This is on the side of her neck. So on the right
4 side of her neck is a nine by eight centimeter area of
5 bruising and petechiae.

6 Then on the left side of the neck is a five by five
7 area, five by five centimeter area of bruising and
8 petechiae.

9 I believe that is all of them.

10 Q. Now, in Ms. Wesley's genital area, were there any
11 findings of blood in that area?

12 A. There was, yes.

13 Q. And did you take photographs of each of these areas
14 that you have shown us the overview for?

15 A. Yes, ma'am.

16 MS. SHEALY: Your Honor, at this time, we would
17 offer into evidence State's 20, 21, 23, 24, 25, 26, 27, 28,
18 29, 30, 31, 32, 33, 34, 35, 36 and 37, without objection, as
19 I understand it.

20 THE COURT: Is that right?

21 MS. SEMAN: Yes, Your Honor.

22 THE COURT: All right.

23 (State's Exh. 20, 21, 23, 24, 25, 26, 27, 28, 29,
24 30, 31, 32, 33, 34, 35, 36 and 37, photographs, are received
25 in evidence.)

1 BY MS. SHEALY:

2 Q. Okay. So showing you this series of photographs,
3 as we show you a picture, if I could point out the injury
4 that you saw, or your observations, that would be helpful.

5 Showing you State's 20, I think at this time,
6 unless it's needed, don't put any dots on it, so we can kind
7 of go through those. Showing you State's 20, what are your
8 observations there?

9 A. This would be, from the orientation, the left side
10 of her neck. Sorry. We don't number them on here, so I
11 have to find as I did them. Scratches and petechiae.

12 Q. So you are indicating there are scratches and
13 petechiae on that?

14 A. Yes.

15 Q. And that is the left side of her neck. The device
16 that's there, when you were telling us earlier the
17 measurement of different artifacts on the body, is it that?

18 A. Yes, it is. That's standard forensic measuring
19 tool.

20 Q. Showing you State's 21, what is depicted here? And
21 if you have to point to it, go ahead.

22 A. Well, it appears to be the back of the left side of
23 her neck. When we do photographs, we follow the rules of
24 three. So in this series, there's the first photograph,
25 which is an orientation shot, which would have been farther

1 back from her. So that it would be easy to see what part of
2 her you are photographing. Then we take a mid-range shot.
3 And these then we take up-close, one with the measure and
4 one out the measure. So without the orientation shot,
5 looking at it, it appears to be the scratch on the back of
6 her neck.

7 Q. Showing you State's 23.

8 A. And this is the front of her neck.

9 Q. Now, you told us about the red coloring. If you
10 could take your finger and show us where there appears to be
11 an absence of that on that image.

12 A. So you kind of have this area where you don't see
13 anything, kind of from that area, little area here.

14 Q. Okay. Do you have something else you want to point
15 out?

16 A. This would be the underneath of her chin.

17 Q. Showing you State's 24.

18 A. This would be the right side of her neck and the
19 lower part of the cheek. That's showing bruising,
20 petechiae.

21 Q. State's 25?

22 A. That's an up-close. As I said, we take a with and
23 without shot. So that's an up-close without measuring tool
24 photo of the front of her neck.

25 Q. State's 26.

1 A. Without an orientation shot, I'm not sure of that
2 location.

3 Q. I can withdraw that.

4 State's 27?

5 A. Again, it's a picture of a scratch, but without the
6 orientation shot, I can't tell you where it is.

7 Q. State's 28?

8 A. So that would be her left arm, a scratch on her
9 left arm.

10 Q. State's 29?

11 A. It's showing an area of bruising. But, again,
12 without an orientation shot, I can't tell you exactly where
13 it was.

14 Q. State's 30?

15 A. Those are showing -- it appears to be multiple
16 scratches, which from the shot, does appear to me to be from
17 her chest, but there's no orientation shot, so I can't be
18 sure.

19 Q. State's 31?

20 A. Again, that would be her right shoulder, the
21 bruising.

22 Q. Why don't you circle that one for us. It's a
23 little faint up there.

24 Okay. State's 32?

25 A. So that is the left side of her face. You can see

1 how the bruising and petechiae got moved up now into the
2 forehead and include the ears and the portion behind her
3 ear.

4 Q. State's 33?

5 A. That is her left eye.

6 Q. Is there anything of interest in her eye?

7 A. You can see little conjunctiva, the white part of
8 the eye. So these are little petechiae in her. These are
9 little burst blood vessels.

10 Q. Let me show the jury in the photograph, because I
11 don't think you can see it from there. Showing you State's
12 33, you are talking about the white of her eye?

13 A. Yes, ma'am.

14 Q. State's 34?

15 A. So we have the same petechiae or hemorrhages on
16 that side.

17 Q. State's 35?

18 A. It's a photo, up-close photo of her face.

19 Q. 36?

20 A. More up-close photo of the bruising; petechiae on
21 the lower part of her face and her neck.

22 Q. And 37?

23 A. And that would be her right ear. You can see the
24 area of petechiae on the ear and behind the ear, as well as
25 to the side of her face and cheek.

1 Q. I don't think I showed you this one previously,
2 state's 6, but is this one of the photographs that you took?

3 A. Yes, ma'am.

4 Q. And that's of her face?

5 A. Yes.

6 Q. Now, you told us regarding the kit itself, you
7 collected it after the drying process, et cetera. Then what
8 do you do physically with the kit?

9 A. We call the public safety department. M.U.S.C. has
10 its own police force. So we call public safety. They come
11 to our exam room and they take possession of the kit.

12 Q. Do you recall who from public safety you gave it
13 to?

14 A. Officer Crosby.

15 Q. Now, after you finished your sexual assault exam on
16 Ms. Wesley, could you tell the jury where she was sent after
17 that?

18 A. She was sent to the emergency room.

19 Q. And why was she sent to the emergency room?

20 A. Because I felt she needed to be evaluated for the
21 strangulation.

22 MS. SEMAN: Objection.

23 MS. SHEALY: I think I can --

24 THE COURT: Go ahead.

25 BY MS. SHEALY:

1 Q. When you sent her to the emergency room, was that
2 so she could see a physician?

3 A. Yes.

4 Q. And is there a review process that you have after
5 you've done a sexual assault exam?

6 A. Yes, we have a peer review process.

7 Q. And could you explain what you mean by peer review?

8 A. Peer review, it's a two-step. First, the
9 coordinator of our program looks through the case and looks
10 at the pictures and reviews it for any errors or additions.
11 And then we also have a peer-to-peer. So I would look at
12 the cases that other SANEs did and I would do my review.
13 It's a quality assurance process.

14 Q. And you told us about the smears and the swabs, but
15 as you were working your way down the female body in this
16 case Ms. Wesley's, if you were to see anything in the
17 genital area, et cetera, of note, you would have identified
18 that as well; is that correct?

19 A. Yes.

20 Q. And do you recall whether you found anything of
21 interest in examining her physically?

22 A. Not according to my notes, no.

23 Q. And when it's sent to peer review, they would have
24 the same opportunity to look at your photographs, et
25 cetera?

1 A. Yes. When we peer review, in the main office that
2 we have, there's a large computer screen. So the
3 photographs are all uploaded to a secure server. And then
4 we can view them on this large computer screen that we can
5 zoom in on, make pictures. We can apply a filter that will
6 show -- if I'm showing a bruise on a picture, we can invert
7 a filter on that that will show the bruising under the skin.
8 So that's how sometimes you see things on peer review that
9 you don't see during your exam.

10 Q. And while we haven't presented them in court, were
11 there photographs taken also of her genital area and inside?

12 A. Yes.

13 Q. And those would have gone along to the person who
14 peer-reviewed your work?

15 A. Yes.

16 MS. SHEALY: Beg the Court's indulgence just a
17 moment.

18 BY MS. SHEALY:

19 Q. Regarding some of the blood that we saw on her
20 clothing, did Ms. Wesley advise you that she was on her
21 period?

22 A. Yes, she did.

23 MS. SHEALY: I have no further questions. Thank
24 you.

25 CROSS-EXAMINATION

1 BY MS. SEMAN:

2 Q. Good afternoon, Ms. Hall.

3 A. Good afternoon.

4 Q. Ms. Hall, you mentioned when you were speaking with
5 the solicitor that you are trained to deal with people who
6 report that they've been sexually assaulted, right?

7 A. Yes, ma'am.

8 Q. You are trained in how to talk to them, right?

9 A. Yes.

10 Q. How to be sympathetic?

11 A. Yes.

12 Q. Not to be too critical, too questioning, any of
13 those things, right?

14 A. Not critical, certainly, but questioning, yes.

15 Q. But you want them to feel like you are there to
16 help, right?

17 A. Yes.

18 Q. Because you are?

19 A. Yes.

20 Q. You try to be reassuring?

21 A. Yes.

22 Q. You don't challenge them, right?

23 A. No.

24 Q. You want to put them at ease?

25 A. Yes.

1 Q. And you, as you mentioned, have seen many patients
2 who claim they have been sexually assaulted, right?

3 A. 155.

4 Q. You said 155?

5 A. Yes, ma'am.

6 Q. And you are trained to gather information from
7 them, right?

8 A. Yes.

9 Q. You need that information to treat them medically?

10 A. Yes.

11 Q. Certainly. And then also for forensic purposes, as
12 you mentioned?

13 A. Yes.

14 Q. You might need to collect some evidence from a
15 patient?

16 A. Yes.

17 Q. Generally, the patient is your only source of
18 information?

19 A. Yes.

20 Q. And you are careful when you are reporting that
21 information?

22 A. Yes.

23 Q. You take as much time as you might need?

24 A. Yes.

25 Q. You know it's really important?

1 A. Yes.

2 Q. You know it's going to go to the police,
3 prosecutors, maybe even the defense, depending on how the
4 case goes?

5 A. If the patient chooses to report it, yes.

6 Q. Yes, ma'am. And you, as you mentioned, took a
7 history from Ms. Wesley in this case?

8 A. Yes, ma'am.

9 Q. And you had never met her before?

10 A. No.

11 Q. Didn't know her emotional make-up, right?

12 A. No.

13 Q. Didn't know how she reacts to situations?

14 A. No.

15 Q. You just accepted her at face value?

16 A. Yes.

17 Q. Just treated what you saw and what you heard?

18 A. Yes.

19 Q. When she came in you said she was controlled,
20 right?

21 A. Yes.

22 Q. Able to answer questions?

23 A. Yes.

24 Q. And indeed, you wrote that she readily answered
25 questions?

1 A. Yes.

2 Q. With good eye contact?

3 A. Yes.

4 Q. Ms. Hall, as a SANE nurse, you can request
5 toxicology on patients, right?

6 A. We have a protocol for doing so, if the history of
7 the assault warrants it, yes.

8 Q. Sure. It's important, for example, when someone is
9 forcibly drugged?

10 A. Yes.

11 Q. Or when someone is just intoxicated?

12 A. No.

13 Q. Here, you did some blood work on Ms. Wesley,
14 though, right?

15 A. I did not; blood toxicology, no.

16 Q. So you didn't test for any alcohol or drugs?

17 A. No. Our toxicology testing is only if the patient
18 believes that they were drugged or if the SANE has reason to
19 believe that they may have been. If they have absolutely no
20 memory of the event, then in that instance, we would collect
21 toxicology.

22 Q. You also mentioned several areas of dry blood in
23 your SANE exam, right?

24 A. Yes.

25 Q. Any open wounds on Ms. Wesley when she came in?

1 A. No.

2 Q. As a nurse, your job is to complete the SANE
3 protocol, right?

4 A. Yes.

5 Q. To take a history from the patient?

6 A. Yes.

7 Q. To write it all down?

8 A. Correct.

9 Q. Take pictures, do an exam, right?

10 A. Correct.

11 Q. Document everything?

12 A. Correct.

13 Q. Then, perhaps, like you are doing today, come to
14 court and testify about what you saw and what you wrote
15 down?

16 A. Correct.

17 Q. And that's just what you are doing today?

18 A. Correct.

19 Q. But it's not your job to say what happened?

20 A. No.

21 Q. After all, you weren't there?

22 A. Correct.

23 Q. You didn't see; you didn't hear?

24 A. Correct.

25 Q. Your job is just to report and document?

1 A. And treat, right, yes.

2 Q. Yes, ma'am.

3 MS. SEMAN: Beg the Court's indulgence.

4 No further questions.

5 THE COURT: Anything on redirect?

6 MS. SHEALY: Just very briefly.

7 REDIRECT EXAMINATION

8 BY MS. SHEALY:

9 Q. You indicated to Ms. Seman that "if a patient
10 reports it", what did you mean by that?

11 A. There were several reporting options that patients
12 have that comes to a sexual assault and sexual assault exam.
13 Patient can choose to have medication only, so the
14 prophylactic preventive antibiotics and pregnancy prevention
15 or HIV prevention that we offer them, without any type of
16 exam at all.

17 Then they have the option to have the entire exam
18 done and everything collected, but not reported to law
19 enforcement. So those are called anonymous reports.

20 And then their other option is to go to the entire
21 exam and report to the police.

22 Q. You were aware in this case that Ms. Wesley went
23 all the way?

24 MS. SEMAN: Objection.

25 THE COURT: I will allow that.

1 MS. SHEALY: And reported it to the police?

2 THE WITNESS: Yes, ma'am.

3 MS. SHEALY: I have no further questions. Thank
4 you.

5 THE COURT: Thank you very much. You can return to
6 your place in the courtroom or be excused.

7 Call your next witness.

8 MS. BALDWIN: The State calls Officer Shannon
9 Crosby.

10 SHANNON CROSBY,
11 having been duly sworn, testifies as follows:

12 THE CLERK: Please state your full name, spelling
13 your last name for the record.

14 THE WITNESS: Shannon Craig Crosby, C-r-o-s-b-y.

15 DIRECT EXAMINATION

16 BY MS. BALDWIN:

17 Q. Officer Crosby, where do you work?

18 A. I work at M.U.S.C. Department of Public Safety.

19 Q. And you said for public safety?

20 A. Yes, ma'am.

21 Q. Okay. What involvement did you have in this case?

22 A. I was the responding officer that picked up the
23 sexual assault evidence collection kit from the SANE nurse
24 and brought it over and put it -- gave it to Sergeant
25 Wagner.

1 Q. Do you recall what date that was?

2 A. Not off the top of my head, no, ma'am.

3 Q. If I showed you your report, would that help you?

4 A. Yes, ma'am.

5 That appears to be June 19th, 2014.

6 Q. What did you do with that kit?

7 A. I picked it up from the SANE nurse and carried it
8 back to our department at our headquarters and gave it to
9 Sergeant Wagner.

10 THE COURT: Sergeant who?

11 THE WITNESS: Sergeant Wagner. He was the evidence
12 custodian.

13 THE COURT: Wagner?

14 THE WITNESS: Wagner, yes.

15 BY MS. BALDWIN:

16 Q. I show you what's been marked State's 41. What is
17 that?

18 A. This does appear to be the sexual assault evidence
19 collection kit that I obtained from the SANE nurse.

20 Q. Did you tamper with it in any way?

21 A. No, ma'am.

22 MS. BALDWIN: I have no further questions for
23 you.

24 THE COURT: Any cross-examination?

25 MS. SEMAN: No, Your Honor.

1 THE COURT: Thank you very much. You can return to
2 your place or be excused.

3 Call your next witness.

4 MS. BALDWIN: David Wagner.

5 DAVID WAGNER,

6 having been duly sworn, testifies as follows:

7 THE CLERK: Please state your full name, spelling
8 your last name for the record.

9 THE WITNESS: Yes. My name is Sergeant David
10 Wagner, W-a-g-n-e-r.

11 DIRECT EXAMINATION

12 By MS. BALDWIN:

13 Q. Sergeant Wagner, where are you a sergeant at?

14 A. Medical University of South Carolina, Department of
15 Public Safety.

16 Q. in what capacity do you work with the public
17 safety?

18 A. I'm an investigator. And I also am an evidence
19 custodian.

20 Q. What was your involvement in this case?

21 A. Officer Crosby picked up a kit, criminal sexual
22 conduct kit, and turned it over to me when he picked it up
23 from the SANE nurse.

24 Q. And when you received the item from Officer Crosby,
25 what did you do with it?

1 A. I placed it into our evidence room.

2 Q. Is that a secure facility?

3 A. It is. It's a card-access door. And it's also on
4 an alarm.

5 Q. Did the item appear to be tampered with in any way?

6 A. Not at all.

7 Q. I show you State's Exhibit 41. What's this?

8 A. This would be evidence clothing bag.

9 Q. What is it?

10 A. Sexual assault evidence collection kit.

11 Q. Is that the kit that you obtained from Officer
12 Crosby?

13 A. Yes, it is.

14 Q. And that you put into evidence?

15 A. Yes, it is.

16 Q. What happened to it after it was put into your
17 evidence locker?

18 A. It was picked up on June 26th, 2014, by Sergeant
19 Scott Wyant with the North Charleston Police Department.

20 MS. BALDWIN: I have no further questions.

21 MS. SEMAN: No cross-examination, Your Honor.

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

23 THE COURT: Call your next witness.

24 MS. BALDWIN: The State calls Scott Wyant.

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SCOTT WYANT,

having been duly sworn, testifies as follows:

THE CLERK: Please state your full name, spelling
your last name for the record.

THE WITNESS: Scott Cameron Wyant, W-y-a-n-t.

DIRECT EXAMINATION

By MS. BALDWIN:

Q. Where did you work back in 2014?

A. North Charleston Police Department.

Q. in what capacity?

A. I was a forensic investigator.

Q. What involved a forensic investigator; what did
they do?

A. We went to major crime scenes, rapes, armed
robbery, murders, things of that nature, bank robberies, and
photographed, collect evidence, collect DNA, process the
fingerprints, things like that.

Q. As part of your duties, would you transport
evidence?

A. Yes, I would.

Q. Did you collect and transport some evidence in this
case?

A. Yes, I did.

Q. Do you recall what that was?

1 A. It was a sexual assault kit.

2 Q. I show you State's 41. What is that?

3 A. It is the contents of a clothing bag and it is the
4 contents of a sexual assault kit.

5 Q. Who is the victim on there? Who is it listed for?

6 A. It looks like Cristen Wesley.

7 Q. Did you collect that kit?

8 A. Yes, I did.

9 Q. From where?

10 A. From M.U.S.C. Public Safety.

11 Q. And what did you do with that kit?

12 A. I usually went about once a week to M.U.S.C. Public
13 Safety to pick up kits, because they usually accumulate a
14 lot of them. And I sign for the kit from them, via chain of
15 custody. I transport it to the police department. I start
16 a new chain of custody for North Charleston having a North
17 Charleston case number and stuff. And I log it into
18 evidence.

19 Q. And when you log it into evidence, is that a secure
20 facility?

21 A. Yes, it is.

22 Q. Was the package tampered with in any way when you
23 logged it in?

24 A. No, ma'am. It has evidence tape on it. And it has
25 initials on it to show that it hasn't been -- the seal

1 hasn't been broken or tampered with.

2 Q. Would you have logged it in had it been tampered
3 with?

4 A. No, I would not. I wouldn't have accepted it if it
5 had been tampered with.

6 MS. BALDWIN: No further questions.

7 MS. SEMAN: None from the defense.

8 THE COURT: Thank you very much. You can return to
9 your place or be excused.

10 Call your next witness.

11 MS. BALDWIN: The State calls Shawnta Middleton.

12 SHAWNTA MIDDLETON,

13 having been duly sworn, testifies as follows:

14 THE CLERK: Please state your full name and spell
15 your last name for the record.

16 THE WITNESS: Shawnta Middleton, M-i-d-d-l-e-t-o-n.

17 DIRECT EXAMINATION

18 BY MS. BALDWIN:

19 Q. Ms. Middleton, where do you work?

20 A. North Charleston Police Department.

21 Q. And what is your job there?

22 A. Evidence custodian.

23 Q. What does an evidence custodian do?

24 A. Preserve evidence, package and prepare for court
25 and our analysis.

1 Q. Do you transport evidence?

2 A. Yes.

3 Q. Did you transport any evidence in this case?

4 A. Yes.

5 Q. Do you recall what that evidence is?

6 A. Yes.

7 Q. What was it?

8 A. Buccal swab and I believe a CSC kit.

9 Q. I show you what's been marked as State's 41 and 43.
10 Can you tell me what those are?

11 A. This is the kit and this is the buccal swab.

12 Q. Okay. That you transported in this case?

13 A. Yes.

14 Q. Did you tamper with those items in any way?

15 A. No.

16 Q. Would SLED have tampered with -- would they have
17 accepted those items, had they been tampered with?

18 A. No, ma'am.

19 MS. BALDWIN: I don't have any further questions
20 for you.

21 THE COURT: So you took those to SLED. Is that
22 what you are telling us?

23 THE WITNESS: Yes, sir.

24 THE COURT: Okay. Any questions?

25 MS. SEMAN: No, Your Honor.

1 THE COURT: All right.

2 Next.

3 MS. BALDWIN: Your Honor, may I approach regarding
4 scheduling?

5 THE COURT: Sure.

6 (Whereupon, a bench conference takes place off the
7 record.)

8 THE COURT: It's apparently a good time for us to
9 take our evening break. Again, I'm going to remind you not
10 to discuss the case with family, friends or anyone else over
11 the recess. Rejoin us tomorrow morning at 9:30. We will
12 get started just as soon as we can after that. Have a nice
13 evening. Leave your notepads with the bailiffs as you
14 leave.

15 MS. BALDWIN: Your Honor, may the witness be
16 released?

17 THE COURT: Sure. Forgot about that.

18 (Whereupon, the jury leaves open court at 4:32
19 p.m.)

20 THE COURT: We got the jury out now. How many more
21 witnesses do you expect to call, Solicitor?

22 MS. BALDWIN: I think maybe one quick one and four
23 others. We should be able to finish them, hopefully,
24 tomorrow morning the way we are moving.

25 THE COURT: Okay. Just trying to get an idea.

1 Okay. Good. We will wait a few minutes to make sure the
2 jury -- get the jury cleared out before y'all go out.

3 (Whereupon, the trial adjourns for the day.)

4 (Whereupon, the trial continues on April 11, 2018.)

5 (Whereupon, the defendant is present.)

6 THE COURT: Bring the jury in.

7 (Whereupon, the jury returns to open court at 9:46
8 a.m.)

9 THE COURT: We have the jury with us. Mr. Anderson
10 is present, along with his attorney.

11 I apologize for keeping you back there about 15
12 minutes. It was due to poor planning on my part as far as
13 things I had to get done before I could get to you this
14 morning. But glad you are here. And we are ready to go on
15 with the trial.

16 Call your next witness.

17 MS. BALDWIN: Yes, Your Honor. The State calls
18 Doris Yarbrough.

19 DORIS YARBROUGH,

20 having been duly sworn, testifies as follows:

21 THE CLERK: State your full name, spelling your
22 last name for the record.

23 THE WITNESS: My name is Doris Yarbrough,
24 Y-a-r-b-r-o-u-g-h.

25 DIRECT EXAMINATION

1 BY MS. BALDWIN:

2 Q. Ms. Yarbrough, where do you work?

3 A. I'm employed with the South Carolina Law
4 Enforcement Division, commonly known as SLED.

5 Q. And in what capacity do you work there?

6 A. I'm an evidence control technician in the evidence
7 log-in department.

8 Q. What does that job entail?

9 A. Any evidence that comes in for forensic analysis to
10 our building starts in our office where we take the
11 paperwork into evidence on a said-to-contain basis. It's
12 logged in through our computer system. It's generated a
13 unique bar code label for each item. And then it's placed
14 in storage until it's requested by an analyst for analysis.

15 Q. Did you handle any evidence in this case?

16 A. I did.

17 Q. And what did you handle?

18 A. May I look at my notes?

19 Q. Of course.. And the notes you are referring to,
20 what is that?

21 A. This is a chain of custody. And this is on an
22 electronic chain that follows the items that are submitted
23 through each stage, from time they are logged in to the time
24 they are actually returned to our area to be returned back
25 to the agency.

1 I had actually three different submissions for this
2 particular case. The item number is L1407943; is that
3 correct?

4 Q. Yes, ma'am.

5 A. Okay. I received on the first submission was a
6 sexual assault kit on the name of Cristen Wesley. The
7 second item I received were the victim's underwear. And the
8 third item I received was a buccal swab, or also known
9 standard from the victim as well.

10 Q. And what did you do with those items?

11 A. Once they are logged in, they are placed into
12 evidence in storage until requested by an analyst for
13 analysis.

14 Q. Let's walk us through the chain on the CSC kit on
15 Cristen Wesley, item number 1.

16 A. Okay. It was received on 6/27/2014. And that item
17 was placed on DNA intake shelf No. 85. And then on 1/23 of
18 2015, forensic technician Amy Stevens got it and transferred
19 it to Ashley Belle, who at the time was a serologist. And
20 then when Ashley was through processing it, she returned it
21 back to forensic technician Jackie Davis. And she placed
22 that back on DNA intake shelf No. 79.

23 And then on 6/23 of 2015, I retrieved it once again
24 and transferred it to the forensic scientific Catherine
25 Leisy.

1 Q. Did you also handle a buccal swab from the
2 defendant Kraig Anderson in this case?

3 A. What item is that?

4 Q. It would be item No. 4.

5 A. I did. On 7/15 of 2016, I did take that buccal
6 swab from the DNA intake storage and transfer it to the
7 forensic scientist Catherine Leisy.

8 Q. Who handled the buccal swab before you did?

9 A. It was received on February 25th of 2016 by
10 forensic technician Jennifer Aycock.

11 Q. Those items you handled, were they tampered with in
12 any way?

13 A. Not to my knowledge.

14 Q. If they appeared to be tampered with in any way,
15 what would you have done with them?

16 A. We log it in. That is handled with the DNA analyst
17 when they open it up. We take it on a said-to-contain
18 basis. So if there's any discrepancy, they note it and deal
19 with it.

20 Q. Was there any notation in this case?

21 A. Not that I'm aware of, no.

22 Q. Let me draw your attention to SLED items 1.2, 1.4,
23 1.5.1, 1.6 and 1.7. Those were items tested, I believe, by
24 Ashley Bell.

25 A. Those were sub items from the sexual assault kit.

1 Based on what they find in the kit, that is put in there by
2 the nurse at the hospital, it's what they work with. And so
3 they sub-itemized each item that they find in that kit. I
4 have no knowledge of those items other than it's item No. 1.
5 And all these sub items come from that one item.

6 Q. And did you handle those items as well?

7 A. I did. They were in the kit and transferred to
8 Catherine Leisy.

9 Q. I'm going to show you what's been admitted as
10 State's 41 and marked as State's 43. What are those?

11 A. Item No. 1, the white label makes no difference.
12 Typically, they are yellow, but for some reason, we wound up
13 with white labels at the time. So this is item 1, which is
14 known as sexual assault kit. We call it a CSC kit. And
15 item No. 4 is actually the buccal swab from -- you said the
16 suspect.

17 Q. Those are the items that you handled?

18 A. Yes.

19 MS. BALDWIN: At this time, I have no further
20 questions, Your Honor.

21 THE COURT: Any questions.

22 MS. SEMAN: None, Your Honor.

23 THE COURT: Thank you very much. You can return to
24 your place and be excused.

25 MS. BALDWIN: We just ask that she be excused, Your

1 Honor.

2 THE COURT: All right.

3 Next.

4 MS. BALDWIN: The State calls Katherine Catherine
5 Leisy.

6 CATHERINE LEISY,

7 having been duly sworn, testifies as follows:

8 THE CLERK: Please state your full name and spell
9 your last name for the record.

10 THE WITNESS: Catherine Leisy, L-e-i-s-y.

11 DIRECT EXAMINATION

12 BY MS. BALDWIN:

13 Q. Ms. Leisy, where are you employed?

14 A. I work for the South Carolina Law Enforcement
15 Division, more commonly referred to as SLED.

16 Q. How long have you been employed at SLED?

17 A. For just short of 12 years.

18 Q. What's your job there?

19 A. I'm a forensic scientist assigned to the DNA
20 casework department.

21 Q. What is your educational background?

22 A. I have a bachelor's of science degree in genetic
23 engineering from Cedar Crest College in Allentown,
24 Pennsylvania.

25 THE COURT: Where was it?

1 THE WITNESS: Allentown, Pennsylvania, sir.

2 BY MS. BALDWIN:

3 Q. Have you had any specialized training in the area
4 of forensics and serology?

5 A. I have. I received in-house training by other
6 court-qualified analysts in all the different types of
7 testing analyses I'm required to perform both in the
8 laboratory and in terms of statistical analysis.

9 I'm also required to perform continuing education,
10 such as seminars or conferences that relate to new topics
11 and current topics in the forensic DNA testing.

12 Q. Have you ever been qualified as an expert in the
13 fields of serology and DNA analysis before?

14 A. I have.

15 Q. About how many times?

16 A. Approximately 50.

17 MS. BALDWIN: Your Honor, at this time, I would
18 like to offer as an expert --

19 THE COURT: Any questions you would like to ask
20 about her qualification?

21 MS. PROCTOR: No, Your Honor.

22 MS. BALDWIN: For the record, that would be in the
23 field of serology and DNA analysis.

24 THE WITNESS: That's correct.

25 BY MS. BALDWIN:

1 Q. Let's start by, explain to the jury what DNA is.

2 A. DNA stands for deoxyribonucleic acid. It's the
3 genetic materials found in our body and cells with the
4 exception of our blood cells. DNA is packaged into
5 structures called chromosomes which contain our genes. And
6 genes are simply strands of DNA that code for our physical
7 characteristics, such as our height or our eye color. We
8 inherit one copy of DNA from our mother and one from our
9 father and, therefore, have two copies of every gene.

10 Now, approximately 99.9 percent of an individual's
11 DNA is identical to that of everyone else's. And it's the
12 variation, that remaining .1 percent that we test to be able
13 to tell different people apart. With the exception of
14 identical twins, no two people are going to have the same
15 DNA.

16 Q. And is there any dispute in the scientific
17 community regarding the principles you were just talking
18 about?

19 A. There's not.

20 Q. How do you go about doing DNA testing at SLED?

21 A. When items are submitted to SLED, we first perform
22 a DNA extraction. So we basically just remove DNA from the
23 particular items that we are interested in testing. We then
24 generate what's referred to as a DNA profile. This profile
25 consists of 15 locations in our DNA that are known as STRs

1 or short tandem repeats. An STR is just a location in our
2 DNA where a short piece of DNA repeats a certain number of
3 times. And we are counting the number of repeats that are
4 present.

5 So at a particular location, the DNA that I
6 inherited from my father might have 10 repeats. The DNA
7 from my mother might have 13. Therefore, my DNA types at
8 that location are 10 and 13.

9 In comparison to someone else, they might be an 11
10 and a 12. So if I were to compare my profile to theirs,
11 there would be a difference. So we are just generating DNA
12 profiles from items of evidence at those 15 locations, and
13 then comparing those profiles to the profiles of known
14 individuals to determine whether or not those known
15 individuals could be the contributor of the DNA on the
16 evidence.

17 Q. And are there safeguards and controls used at SLED
18 to ensure the integrity of the samples and reliability of
19 the procedure?

20 A. There are. Whenever a case is submitted to SLED,
21 it is assigned a unique case number. And then each item
22 within that case is assigned a unique item number. So
23 there's no worry about switching of a sample or
24 misidentifying a samples during testing. We process one
25 sample at a time so that we don't have to worry about,

1 again, mislabeling or misidentifying a particular item.

2 And during our testing, we also run what are
3 positive and negative controls. A positive control is a
4 sample that we already know the profile of. We run it at
5 the same time as we run evidence on known standards to make
6 sure that the processes we are running are working
7 correctly. We also run negative controls, which are
8 basically just blanks to show that no foreign DNA was
9 introduced to the samples during our testing process.

10 Q. Did you receive some evidence in this case?

11 A. I did.

12 Q. And how and when did you receive it?

13 A. I took physical custody of a sexual assault
14 evidence collection kit, or CSC kit, on June the 23rd of
15 2015. It was transferred to my physical custody by our
16 evidence control technician, Doris Yarbrough. I also took
17 custody of a known standard or set of buccal swabs from
18 Kraig Anderson on July 15th of 2016, also transferred to me
19 by Doris Yarbrough.

20 Q. Was any processing of the kit done prior to
21 receiving it?

22 A. There was processing of the kit, yes.

23 Q. I'm going to show you what's been marked as State's
24 41 and 43. What are these?

25 A. State's 41 is a heat-sealed pouch that contains the

1 sexual assault evidence collection kit submitted from
2 Cristen Wesley. And State's Exhibit 43 is the set of buccal
3 swabs submitted from Kraig Anderson for testing.

4 Q. Those are the items you received and tested?

5 A. Yes.

6 MS. BALDWIN: Your Honor, at this time, I would
7 like to submit State's 43 into evidence.

8 THE COURT: Any objection.

9 MS. SEMAN: None, Your Honor.

10 THE COURT: All right.

11 (State's Exh. 43, Buccal swabs of Kraig Anderson,
12 was received in evidence.)

13 BY MS. BALDWIN:

14 Q. You said processing was done. What processing was
15 that?

16 A. There was processing performed on the CSC kit by
17 evidence serologist Ashley Bell.

18 Q. What did she do?

19 A. So our serologists are looking for bodily fluids or
20 hairs that may be present in a CSC kit. So depending on the
21 details involved in the incident, we may be looking for
22 semen, blood or saliva in the kit. Ms. Bell performed
23 testing for semen in this particular kit. She ran two
24 different types of testing on the kit itself. One was for a
25 substance known as p30, which is a protein also known as

1 prostate-specific antigen that's found at high concentration
2 in seminal fluid. So the presence of p30 in the kit can be
3 indication of possible presence of semen.

4 On several samples, she also microscopically
5 examined for the presentation of spermatozoa, which are
6 sperm cells which would be an indication of the presence of
7 semen.

8 Q. Have you reviewed her report in preparation for
9 your testimony today?

10 A. I have.

11 Q. And what were her results?

12 A. Based on, again, Ms. Bell's documentation and
13 reports for this case, the first item she tested was SLED
14 item 1.1, which was a vaginal smear. And a vaginal smear
15 would just consist of material collected from the vaginal
16 area and smeared on a glass microscope slide. Those
17 materials would be stained, so that we could examine it
18 microscopically to look for the presence of spermatozoa or
19 sperm cells. That particular item, there were no
20 spermatozoa identified.

21 On SLED item 1.2, which was identified as vaginal
22 swabs set number 1, she performed testing for p30. That
23 test was positive. However, when she testified for the
24 presence of spermatozoa, that was negative. There were no
25 spermatozoa identified. She did take a cutting of that item

1 and forwarded it to me for DNA testing.

2 SLED item 1.3, which was identified as pubic hair
3 combings, there was no DNA analysis performed on that
4 particular item.

5 SLED item 1.4, which were victim buccal swabs, so
6 that would be the sample that was being used to generate a
7 profile from Cristen Wesley for comparison. She took a
8 cutting of that item and forwarded it on to me for
9 processing.

10 SLED item 1.5 was identified as suspected body
11 fluid swabs and hair. So that was broken up into two
12 separate items, 1.5.1, which was the swabs of suspected body
13 fluid identified as being taken from the external genitalia
14 area. For that particular item, her tests for both p30 and
15 spermatozoa were positive. That would mean that semen was
16 identified on that particular item. And a cutting from that
17 swab was taken and forwarded to me for DNA testing.

18 SLED item 1.5.2 would be the hairs collected from
19 that suspected body fluid sample. And it was determined
20 that there were no hairs suitable for DNA testing on that
21 particular item.

22 SLED item 1.6 was vaginal swabs set No. 2. The
23 examination for p30 was positive. The microscopic
24 examination for spermatozoa was negative. There were no
25 spermatozoa identified. A cutting was taken and forwarded

1 to DNA for testing.

2 SLED item 1.7, which were suspected body fluid
3 swabs from the perineum area, both the tests for p30 and
4 spermatozoa were positive, indicating presence of semen.
5 Cutting was taken and forwarded to DNA for testing.

6 And also item 1.8, which was a debris collection.
7 So typically we are looking for hair in that particular type
8 of collection. And on that particular set, there was no
9 analysis performed.

10 Q. And you received several of those items?

11 A. I did. Actually, all of those items were
12 transferred to my custody. When cuttings are taken, they
13 are placed back in a heat-sealed pouch with the kit and
14 everything is transferred to me.

15 Q. On some of those results, it said the p30 test was
16 positive, but there was no spermatozoa identified. Can you
17 explain that?

18 A. So, again, there are different components to semen.
19 We have a liquid or a seminal fluid and we have a cellular
20 component. So the p30 testing is, again, looking for the
21 protein, p30 protein in seminal fluid. So it's possible
22 that we may have enough seminal fluid that we are getting a
23 positive result for that protein, but there may not be
24 enough sperm cells present that we'll be able to identify
25 them when we test on the microscope for physical examination

1 of it. So it is possible to get a p30 positive, but not
2 have enough sperm cells present to be able to identify it on
3 the smear.

4 Q. And when you receive those items, let's refer to
5 items 1.4 and 4, what did you do with those?

6 A. SLED item 1.4, again, is the buccal swabs from
7 Cristen Wesley. And SLED Item 4 would be the buccal swabs
8 from Kraig Anderson. I was able to develop DNA profiles
9 from those samples to be used for comparison with those
10 known individuals.

11 Q. And what about the results for items 1.2, 1.5.1 and
12 1.7?

13 A. For each of those items, there was at least a p30
14 positive, indicating the presence of semen. Those three
15 items were taken and forwarded for DNA testing.

16 For items that we believed semen may be present, we
17 perform what is known as a differential extraction. It's an
18 extraction that allows you to try to separate out male DNA
19 from female DNA. So we can get a good look at the male DNA
20 profile that may be present. Now, it is possible that you
21 will still have some female DNA in the fraction that you've
22 tried to isolate the male, and also some male DNA in the
23 fraction that you try to isolate the female. But the idea
24 is to try to get as much separation as you can. Because
25 we've done the separation, each of these items has two

1 fractions, a nonsperm fraction, where, ideally, we have our
2 female DNA; and our sperm fraction, where, ideally, we will
3 have our male DNA.

4 So for all three of these items, by vaginal swabs
5 set number 1, suspected body fluids swabs from the external
6 genitalia, and suspected body fluid swabs from the perineum
7 area, in the nonsperm fraction, the DNA profile developed is
8 attributable to Cristen Wesley, which we would expect
9 because these are samples that have been taken directly from
10 her body.

11 For the sperm faction for each of these items, for
12 item 1.2, the vaginal swabs, the DNA profile developed is a
13 mixture of at least two individuals. The partial DNA
14 profile developed from the major contributor to this mixture
15 is attribute to Cristen Wesley. And due to the inability to
16 calculate a statistic, the partial DNA profile developed
17 from the minor contributor is not suitable for comparison.

18 With SLED item 1.5.1, the suspected body fluid
19 swabs from the external genitalia area, the DNA profile
20 developed from the sperm fraction is a mixture of at least
21 two individuals. The partial DNA profile developed from the
22 major contributor to the mixture matches the DNA profile of
23 Kraig Anderson. And the probability of randomly selecting
24 an unrelated individual having a DNA profile matching the
25 major contributor to this mixture is approximately 1 in 160

1 trillion.

2 DNA types attributable to Cristen Wesley are also
3 present in this mixture.

4 And in terms of SLED, 1.7, suspected body fluid
5 swabs from the perineum area, the DNA profile developed from
6 the sperm fraction matches the DNA profile of Kraig
7 Anderson. The probability of randomly selecting an
8 unrelated individual having a DNA profile matching this item
9 is approximately 1 in 48 quintillion.

10 Q. Just out of curiosity, how many people are on the
11 planet?

12 A. Approximately 8 billion.

13 MS. BALDWIN: Court's indulgence. I have no
14 further questions for you.

15 CROSS-EXAMINATION

16 BY MS. SEMAN:

17 Q. Just a few questions. So you are here to talk
18 about some DNA found in some swabs submitted to your office
19 by North Charleston Police Department, right?

20 A. That's correct.

21 Q. And also some bodily substances found in those
22 swabs as well?

23 A. Correct.

24 Q. You are not here to say who is guilty?

25 A. No. That's not a question I could answer.

1 Q. Your job is just to examine those swabs, right?

2 A. Correct. Again, my job is to try to identify
3 bodily fluids and attribute who may have contributed them.

4 Q. And you were not the one that labeled these swabs,
5 right?

6 A. That's correct.

7 Q. They came to you in a package?

8 A. That's correct. They were submitted -- again, and
9 received unique item number, cuttings were made. Those
10 items were forwarded to me and labeled by Ashley Bell.

11 Q. So your job, though, is to examine those swabs, as
12 you said earlier?

13 A. That's correct.

14 Q. And you are able to determine some things, like
15 whether there's the presence of p30 protein?

16 A. Correct.

17 Q. Or spermatozoa, as you mentioned?

18 A. Correct.

19 Q. But it's not your job, though, to say how that
20 material might have gotten on those swabs, right?

21 A. Correct. I can't determine exactly how or exactly
22 what point material was left at a particular location. All
23 I can do is say they were present when I did perform the
24 testing.

25 Q. You can't even say that someone had sex with

1 someone else because there's presence of semen in the swabs,
2 right?

3 A. Again, I can't identify exactly how a material was
4 transferred, just that at some point it was.

5 Q. So you can't say what the evidence means? You can
6 just say what it is, right?

7 A. Correct. My job is to identify bodily fluids and
8 to identify DNA contributor.

9 MS. SEMAN: I beg the Court's indulgence. No
10 further questions, Your Honor.

11 THE COURT: Thank you very much. You can return to
12 your place or be excused.

13 Do you have another witness?

14 MS. BALDWIN: Your Honor, the State calls Kathy
15 Gill-Hopple.

16 KATHY GILL-HOPPLE,
17 having been duly sworn, testifies as follows:

18 THE CLERK: Please state your full name and spell
19 your last name for the record.

20 THE WITNESS: My name is Kathy Gill-Hopple. Last
21 name is spelled G-i-l-l-H-o-p-p-l-e.

22 DIRECT EXAMINATION

23 BY MS. BALDWIN:

24 Q. Good morning. What is your current position?

25 A. I am the coordinator of the forensic nurse examiner

1 program at M.U.S.C.

2 Q. How long have you been doing that?

3 A. Six years.

4 THE COURT: Tell me what your -- tell me that
5 again. You are something at M.U.S.C. and I didn't
6 understand what it was.

7 THE WITNESS: The coordinator of the forensic nurse
8 examiner program.

9 THE COURT: Okay.

10 BY MS. BALDWIN:

11 Q. I believe we heard some testimony yesterday
12 regarding what the forensic nurse -- what a forensic nurse
13 is, but could you briefly explain it.

14 A. Yes. A forensic nurse is an RN who is especially
15 trained. She provides services to victims of violence. A
16 lot of people will typically call us SANE nurses or sexual
17 assault nurse examiners. Forensic nurse is just more of an
18 umbrella term referring to all the different services. But,
19 primarily, the role that we play are -- is as a sexual
20 assault nurse examiner.

21 Q. Do you do any trainings or teachings about
22 strangulation as part of that?

23 A. Yes, I do. As a matter of fact, I am one of the
24 faculty persons for the 40-hour SANE training course. And
25 strangulation is a component of that. And we've also done

1 extra strangulation training with our staff.

2 Q. What was your prior occupation before you came to
3 M.U.S.C.?

4 A. Well, I've been a registered nurse for 38 years.
5 And prior to coming to M.U.S.C., I was living in Kansas, and
6 I had a similar position as a director of forensic nurse at
7 Via Christi Hospital in Wichita, Kansas. I had been doing
8 that since 2004. And prior to that, I was teaching at
9 Wichita State University in nursing.

10 Q. And what educational background do you have?

11 A. I have a bachelor's of science in nursing from
12 Saint Luke's University. I have a master's of science in
13 nursing from Wichita State University, and a Ph.D. in
14 nursing from the University of Nebraska Medical Center.

15 Q. Any training that you have?

16 A. Additional training?

17 Q. Yes.

18 A. Well, RNs are required to have additional training,
19 continuing education trainings, to keep up our license. So
20 I have all of that criteria. But I also have additional
21 training as a sexual assault nurse examiner. I have
22 additional training in forensic interviewing, death
23 investigation. I can't remember what else. That's pretty
24 much it.

25 Q. Do you have any licenses?

1 A. Yes, I have a South Carolina RN license.

2 Q. And I believe you mentioned this, but could you
3 explain how one becomes a SANE nurse?

4 A. Yes. To become a SANE nurse, a person would need
5 to be an RN, typically have at least two years of
6 experience, and would have to go through a 40-hour training
7 program. It is a training program that oftentimes is
8 multi-disciplinary. And it involves all the components of
9 working with victims of sexual assault, everything from what
10 are the laws of that particular state to how to do an exam,
11 how to treat for sexually transmitted infections, how to
12 collect evidence. So it's a very broad course to take.
13 There are two separate courses. There's one for adults and
14 adolescents. There's one for pediatrics.

15 And then after the nurse completes that 40-hour
16 course, then the nurse would complete a clinical
17 preceptorship. So that is observations with another SANE
18 nurse. It may also include additional classes, additional
19 time spent with different members of the multi-disciplinary
20 team. So that typically could take three to six months.

21 Q. And do you have any certificates?

22 A. Yes, I do. I'm certified in sexual assault nurse
23 examiner for adults, adolescents and pediatrics. And I am
24 board certified in advanced forensic nursing.

25 Q. And explain to us your teaching experience. You

1 sort of talked about it briefly, but as it regards to
2 strangulation.

3 A. Oh, my teaching experience regarding strangulation,
4 that is a piece of every SANE course or forensic nurse
5 examiner course that we teach. And I have done additional
6 teaching with my staff, with the emergency department
7 residents and physicians. I have also done presentations
8 for emergency medical services here in Charleston County and
9 law enforcement and advocacy services and also the 911 call
10 centers.

11 Q. Are you done any presentations regarding
12 strangulation?

13 A. Yes.

14 Q. And what are those?

15 A. All of what I just mentioned.

16 Q. All of those?

17 A. Yes.

18 Q. Just in this state or in any other states?

19 A. In South Carolina, in North Carolina and in Kansas.

20 Q. Do you keep up with your field?

21 A. Yes, ma'am.

22 Q. And have you published any articles?

23 A. I have. I have published in the Forensic Nurse
24 Association Newsletter, also in the South Carolina Forensic
25 Nurse Examiner Newsletter. And I have a publication pending

1 in Nursing Clinics of North America.

2 Q. And what kind of interaction do you have with
3 victims of strangulation?

4 THE COURT: I didn't understand your question.

5 MS. BALDWIN: What type of interactions does she
6 have --

7 THE COURT: Interaction?

8 MS. BALDWIN: -- with victims of strangulation?

9 THE WITNESS: All of our patients that come in for
10 sexual assault exams, we ask them all about methods of
11 violence that occurred during the assault. And so
12 strangulation is one piece of that. If a person discloses
13 that they were strangled, then we have additional questions
14 that we have to ask. So there's a fairly extensive
15 screening process for anyone that discloses strangulation,
16 as well as an extensive physical examination process. And
17 then depending upon the outcome of both of those, we may
18 have to refer to a physician and collaborate with a
19 physician to provide additional care.

20 Q. Have you ever examined patients who have reported
21 strangulation?

22 A. Yes, I have.

23 Q. About how many?

24 A. Well, usually about 30 percent of all of our sexual
25 assault patients report strangulation. That's just here at

1 M.U.S.C. We keep data on all of that. I have done -- I've
2 completed over 850 exams. So that would probably be several
3 hundred.

4 Q. And is there a peer-review process for your exams,
5 for your work?

6 A. Yes, there is a peer-review process. All of our
7 cases actually go through two levels of review. The first
8 one is that I review all of the cases. And I look at all
9 the photographs to verify that the documentation matches the
10 photographs, and take care of any follow-up needs that may
11 be occurring for that particular patient.

12 We have a physician that works with us to provide
13 additional medical case review. So he sees any
14 additional -- or he sees all of the photographs for people
15 with injury, verifies that.

16 And then our nurses also do peer review. So that
17 each nurse reviews cases throughout the year, so that each
18 one of our cases is peer-reviewed. So there's two levels of
19 review.

20 Q. Have you ever been qualified as an expert in your
21 field?

22 A. Yes, I have.

23 Q. In what areas?

24 A. In the area of sexual assault nurse examiner.

25 Q. Any forensic nursing with strangulation?

1 A. I believe I was in Berkeley County.

2 Q. So how many times have you been qualified?

3 A. In South Carolina, probably four times.

4 Q. And in any other states?

5 A. Kansas.

6 Q. How many times there?

7 A. Seven or eight.

8 MS. BALDWIN: Your Honor, at this time, I would
9 like to admit Nurse Gill-Hopple as an expert in forensic
10 nursing with a focus on strangulation.

11 THE COURT: Any questions you want to ask.

12 MS. SEMAN: Yes, Your Honor.

13 VOIR DIRE

14 BY MS. SEMAN:

15 Q. Ms. Gill-Hopple, you just talked with the solicitor
16 about your various certifications, right?

17 A. Uh-huh.

18 Q. Some of the activities that you participated in?

19 A. Yes.

20 Q. Vast majority of your training is in sexual
21 assault, as you mentioned, forensic nursing?

22 A. No, I would not say that that's the vast majority.
23 That's just what she had asked me about.

24 Q. Okay. And as far as your training in
25 strangulation, you completed one continuing education course

1 in strangulation, right?

2 A. No, actually, I've completed several.

3 Q. Well, on your resume, though, you listed one
4 course.

5 A. Strangulation is often included in those courses.
6 So if you are looking at simply the titles, that might be --
7 that might account for that.

8 Q. But one course specifically focused on
9 strangulation?

10 A. There's been more than one.

11 Q. But -- okay.

12 A. If I could take a look at it, I might be able to
13 point that out.

14 MS. SEMAN: Sure. May I approach, Your Honor?

15 THE COURT: Sure.

16 THE WITNESS: So in 2016, I went to the
17 International Association of Forensic Nursing Conference in
18 Denver. And there were strangulation included in that
19 conference.

20 In 2015, I completed all three parts, that was four
21 and a half hours, of strangulation from the Clinical
22 Forensic Medical Training Center. That was a webinar. In
23 2015, I also went to the International Association of
24 Forensic Nursing Conference in Orlando. That was 20 hours.
25 And some of that was strangulation. In 2015, I did -- I

1 presented two programs that involved strangulation, one in
2 Atlantic Beach, North Carolina, and one in Georgetown, South
3 Carolina. In 2015, I attended the Investigating and Partner
4 in Homicides. That was eight hours and that included
5 strangulation. The End Violence Against Women Conference in
6 New Orleans in 2015 also included strangulation, as did the
7 Domestic Violence Examiner course, 24 hours in 2015.

8 In 2013, I attended the International Association
9 of Forensic Nursing conference in Anaheim, California. That
10 was 13 and a half hours. And that included strangulation,
11 domestic violence, sexual assault, criminal sexual conduct.

12 Course in North Charleston in 2012 included
13 strangulation, recreational asphyxia, mechanical webinar was
14 in 2012. That was strangulation.

15 In 2010, the End Violence Against Women conference
16 in Atlanta, Georgia included strangulation. And in 2010,
17 the International Association of Forensic Nursing conference
18 in Atlanta included strangulation, as did the 2009
19 conference, International Association of Forensic Nursing in
20 Salt Lake City included strangulation, as did the 2009
21 annual Forensic Investigations conference in Kansas City.
22 That's it.

23 Q. Okay. And those hours that you mentioned, other
24 than that one specific webinar that you said was four and a
25 half hours, you mentioned eight-hour course, 20-hour course,

1 13-and-a-half-hour course, right?

2 A. Yes.

3 Q. And you said included in those hours was some
4 component of strangulation?

5 A. Yes.

6 Q. You have a really good memory, I guess, because I
7 can't remember what I had for lunch. But so you wouldn't be
8 able to say how many hours of those courses you spent on
9 strangulation?

10 A. I have the documentation in my office. I could go
11 back to that.

12 Q. But at this point, you can't say that?

13 A. True.

14 Q. No degree or certifications related to
15 strangulation?

16 A. No.

17 Q. Not a member of any professional organizations on
18 strangulation?

19 A. The International Association of Forensic
20 Nursing.

21 Q. But not on strangulation?

22 A. Well, I don't know how you would separate that out.

23 Q. You have no articles that you publish involving
24 strangulation?

25 A. Not yet.

1 MS. SEMAN: Your Honor, we have a matter of law.

2 THE COURT: Members of the jury panel, I need you
3 to step out in the hallway a few minutes. I need to discuss
4 something with the lawyers here. Don't go down to the jury
5 room. Just stay out in the hallway.

6 (Whereupon, the jury leaves open court at 10:25
7 a.m.)

8 THE COURT: All right.

9 MS. SEMAN: Thank you, Your Honor. First, I have
10 to mention, just to protect our record, that we were
11 notified of the State's intention to use Ms. Gill-Hopple as
12 an expert on March 30th. We are just hearing today what
13 she's going to testify to. They did tell us they intended
14 to enter her as an expert in strangulation. Of course, we
15 had no time to hire our own expert in that short amount of
16 time. So we believe it's a violation of our client's rights
17 to a fair trial.

18 THE COURT: What do you want to ask her? Let's
19 hear what she says. Go ahead and ask her questions.

20 MS. BALDWIN: What I want to ask her?

21 THE COURT: Yes.

22 MS. BALDWIN: I can skip ahead.

23 THE COURT: Cut to the heart of it.

24 MS. BALDWIN: I will try to, Your Honor. It's
25 pretty extensive.

1 (in-camera) VOIR DIRE

2 BY MS. BALDWIN:

3 Q. I guess, first, tell us what strangulation is.

4 A. Strangulation is the manual application of pressure
5 to the neck that compresses, constricts or restricts the
6 flow of blood and, therefore, oxygen to the brain resulting
7 in potential for significant injury and death.

8 Q. And what is hypoxia?

9 A. Hypoxia means lack of oxygen.

10 Q. And what is asphyxia?

11 A. Asphyxia is a generalized term that refers to lack
12 of oxygen, typically resulting from smothering.

13 Q. I'm just sort of skipping through this here. What
14 happens to the brain when there's a lack of oxygen after,
15 say, 10 seconds.

16 A. After 10 seconds with a lack of oxygen, a person
17 could pass out, become unconscious.

18 Q. And 20 seconds versus 30 seconds versus a minute?

19 A. Within 20 to 30 seconds, a person could potentially
20 have a seizure, as well as become unconscious. There can
21 also be, surprisingly, there can be strokes in the brain
22 from lack of oxygen. If it progresses up to about three
23 minutes, then a person could suffer cardiac arrest. And
24 within four to five minutes, a person could have brain
25 death.

1 Q. And how much pressure and time does it take to
2 cause damage to the brain or unconsciousness?

3 A. Well, actually, very little. It depends upon the
4 type of pressure and how long that pressure is applied.
5 Part of the issue is that the vessels in the neck, the
6 carotid artery and the jugular vein, are very superficial.
7 So there's no padding that prevents or removes some of that
8 pressure. So something as simple as four pounds of
9 pressure, which is quite a bit less than what it takes to
10 open the top of a soda can, can be used to apply to the
11 jugular veins. And that can be enough to restrict the blood
12 flow.

13 THE COURT: Hold it right here just a second. I
14 guess you better take the jury down to the jury room. It's
15 going to be longer than I thought.

16 Go ahead.

17 A. When the jugular vein, which is the most
18 superficial venous structure in the neck is compressed, then
19 blood cannot drain out of the head or out of the brain. So
20 that means that all the blood that is in the brain stays
21 there. The oxygen has been used up. And now there is no
22 more oxygen that is present in those -- in that blood.

23 If the compression is strong enough to compress the
24 carotid artery, which is a little bit deeper and lies
25 underneath the jugular vein, then not only is the blood

1 that's already in the brain squeezed and kept up there, but
2 there's no additional blood being pushed upward to the
3 brain. So that would be the oxygenated blood.

4 Q. And can strangulation cause changes in swallowing?

5 A. Changes in swallowing can typically come about
6 because of the respiratory compromise and also because of
7 swelling in the neck structures. That is one of the
8 questions that we ask all of our patients, if they have any
9 difficulty swallowing. Sometimes they don't realize that
10 they have that, because they haven't really had anything to
11 eat or drink since an assault. But, you know, if you give a
12 patient pills and they can't swallow it because all of a
13 sudden they are unable to do that, that is a sign of
14 significant strangulation. And that requires further
15 medical assessment and potential intervention.

16 Q. And just briefly give us some of the symptoms of
17 strangulation.

18 A. The questions that we ask our patients have to do
19 with the physical symptoms as well as their impressions of
20 what happened. But then there are also outward signs of
21 compression. So the symptoms that the patient may describe
22 would be dizziness, seeing spots before the eyes. They may
23 describe loss of urine, loss of bowel control. They may
24 describe passing out. They may also describe things like, I
25 saw my life flash before my eyes, I thought I was going to

1 die, I thought it was the last time --

2 THE COURT: Can we get to this case maybe?

3 MS. BALDWIN: I'm about to skip over it may be.

4 THE COURT: Skip over to it now. Ask another.

5 MS. BALDWIN: Yes, sir.

6 BY MS. BALDWIN:

7 Q. As regards to this case, I will show you a few
8 pictures.

9 MS. BALDWIN: Your Honor, I believe you've seen
10 them. I can show them to you if you would like.

11 Q. We will just show you State's 32, 33, 34, 35, 36
12 and 37. Look through those and tell me what you are looking
13 at.

14 A. She has a significant amount of petechiae
15 throughout her face, on her ears, into her ears. She has
16 scleral hemorrhaging in her left eye, in her right eye.

17 This, number 35, also has a significant amount of
18 petechiae.

19 She has petechiae extending down into her neck in
20 36. And it also appears that the ligature marks are visible
21 on her neck.

22 THE COURT: What are those?

23 THE WITNESS: Ligature marks, that would be the
24 bruising left from the compression --

25 THE COURT: Okay.

1 THE WITNESS: -- around the neck.

2 THE COURT: Go ahead.

3 THE WITNESS: 37 shows her right ear. And that is
4 a very substantial amount of petechiae, which is bruising
5 beneath the surface. And it actually extends into her ear
6 and behind her ear, which is unusual for most patients of
7 strangulation. So this is a significant amount of blood
8 constriction that was visible for her.

9 Q. So if a patient reported that she was strangled
10 several times, she wasn't sure whether or not she lost
11 consciousness, she might have, she thought that was going to
12 die, what would that, in your opinion, mean?

13 A. In my opinion and in my experience, that means that
14 she probably did pass out. There was a significant loss of
15 oxygen to the brain, significant risk to that potential --
16 to that individual that could even extend 36 hours past the
17 time of the strangulation.

18 Q. And, in your opinion, what do those pictures show?

19 A. This is dramatic. This is a very dramatic example
20 of strangulation. Over the last 18 years that I've been
21 doing this type of work, this is one of the most significant
22 examples of strangulation that I've seen. And I've seen
23 quite a bit.

24 MS. BALDWIN: Court's indulgence. I don't have any
25 further questions.

1 THE COURT: Do you want to ask her anything now?

2 MS. SEMAN: Your Honor, I don't think I have any
3 questions to ask, but I surely have an argument that --

4 THE COURT: Anything you like to say before I say
5 what I will have to say.

6 MS. SEMAN: Yes, Your Honor. I mean, first of all,
7 we don't believe that there's any such science to
8 strangulation. If there was such science, we don't believe
9 that Ms. Gill-Hopple is qualified to testify about it. We
10 think that this testimony is improper bolstering, that it
11 invades the province of the jury. We think that this is
12 exactly what at issue in this case. The jury saw the
13 pictures. The forensic nurse already testified yesterday
14 about strangulation. I think that's up to a jury to decide,
15 Your Honor. I don't think it's up to her to make an
16 opinion. I think it improperly invades the province of the
17 jury.

18 I certainly have more argument, Your Honor, but I
19 don't think this testimony should come in.

20 THE COURT: Well, I appreciate your position, but I
21 overrule your objection. I qualify her. I didn't hear any
22 questions or answers that she gave that I think that she's
23 unqualified to give. So I think she's qualified to give
24 answers to all those questions.

25 MS. SEMAN: Yes, Your Honor. I will be renewing my

1 objections.

2 THE COURT: Your objection carries forward as far
3 as I'm concerned to all of the questions as far as any
4 opinions that she might have given and all. So if you
5 hear -- if you feel like you need to make them again, I
6 would be glad to hear from you. But as far as I'm
7 concerned, your objections carry forward in regard to the
8 entirety of her testimony so long as it stays within the
9 bounds of what we just heard. If she gets into something
10 else, you want to raise another objection, that's fine.

11 Bring the jury back in. I think she's qualified to
12 give those opinions that she gave.

13 (State's Exh. 63, Diagram of the vascular
14 structures of the neck and the trachea and the human body,
15 was marked for identification.)

16 (Whereupon, the jury returns to open court at 10:37
17 a.m.)

18 THE COURT: Mr. Anderson is present with his
19 attorney. We are back.

20 And before I sent you out, this young lady here
21 that's on the witness stand now was offered as an expert
22 witness in an area of strangulation, I believe, a forensic
23 nurse and with a particular emphasis on strangulation. And
24 what that means, normally witnesses are only allowed to
25 testify based on their physical senses, I heard something, I

1 saw something, I smelled something, if I felt something,
2 those type. That's what witnesses are normally allowed to
3 testify to. But when a person is offered as an expert in
4 some field, what that means is, they can ask the witness for
5 opinions about things. And because of the training,
6 education, background, experience, if a person is found to
7 be qualified as an expert in a certain field, then again,
8 what that means is their lawyer, the solicitor or whatever,
9 can ask for an opinion, not just about what you saw or
10 heard, but what it might mean in terms of an explanation.

11 And so that's all that means when we say that
12 someone is qualified as an expert, just means we are going
13 to allow them to interpret something for us and give us an
14 opinion about it. You still have to decide whether to
15 believe it, how much weight to give it, all the other things
16 you have to do in deciding about whose testimony you believe
17 or don't believe or how much -- how important it is or
18 whatever. But when a person is qualified as an expert, just
19 means we are going to allow them to give opinions about
20 things other than just what they saw or heard or felt. So I
21 just want to make sure you understood what we mean when we
22 say someone is an expert witness. Go ahead.

23 MS. BALDWIN: Thank you, Your Honor.

24 BY MS. BALDWIN:

25 Q. Is it Nurse Gill-Hopple, Dr. Gill-Hopple? I know

1 you have a Ph.D. What should I call you?

2 A. Doctor is good. I worked hard for that.

3 Q. I show you State's Exhibit 63. What is that?

4 A. This is a diagram of the structures, the vascular
5 structures of the neck and the trachea in the human body.

6 Q. Would that aid you in your testimony?

7 A. Yes.

8 Q. Okay. I'm going to put that up on the overhead.
9 What are we looking at here?

10 A. Can I point to this?

11 Q. Sure. You can mark on it. It's a SMART board. So
12 you touch the board in front of you.

13 A. Okay. So this is the line drawing of the vascular
14 structure of the neck. Vascular means it's either arteries
15 or veins. So this one right here is the jugular vein.
16 That's the outermost structure of the neck. All of the
17 muscles in the neck are underneath the vessels. So that's
18 an important consideration when we are talking about
19 strangulation, because there's not really any padding that
20 occurs before a person can compress that.

21 So the jugular vein right here is the vessel that
22 drains all of the blood from the brain. That means the
23 brain has used the blood with the oxygen. The oxygen has
24 been disbursed through the brain. And now the blood is
25 coming back down the jugular vein. It's going to be pumped

1 back through the heart where it's going to be reoxygenated.

2 This one right over here is the carotid artery. So
3 it's pushing blood upwards to the brain. It has freshly
4 oxygenated blood going up. This is the trachea right
5 through here. And then again, this is carotid on this side
6 and jugular vein on that side.

7 Q. Okay. What is choking?

8 A. Well, choking is actually what happens when a
9 person has an object lodged in their throat, such as a
10 hotdog, a peanut. Typically, we teach parents of young
11 toddlers not to give them big pieces of meat or cheese
12 because that can cause choking. A lot of people use that
13 word inappropriately or inaccurately and they refer to the
14 application of pressure on the outside of the neck as
15 choking. That's just the most common public thing that
16 people do. But, that's really different than
17 strangulation.

18 Q. Okay. And you were describing pressure on the
19 outside of the neck, was is that?

20 A. Pressure on the outside of the neck is
21 strangulation. It could be done with hands, with an object,
22 like a telephone cord, a string, a rope, really, just about
23 anything. So it's just the outward application of pressure
24 on the neck that then restricts the blood flow to and from
25 the brain.

1 Q. So what is hypoxia?

2 A. Hypoxia means lack of oxygen. So it refers to the
3 cells of the brain that are not receiving enough oxygen to
4 be able to work, which is devastating to the brain, because
5 the brain feeds on oxygen. So if you've ever heard of
6 people with strokes, they have a lack of oxygen to the
7 brain. So we know that that can cause significant long-term
8 damage.

9 Q. And what is asphyxia?

10 A. Asphyxia is also another word that refers to lack
11 of oxygen. It's throughout the entire body, that there is
12 inadequate oxygen.

13 Q. So what happens to the brain when there's a lack of
14 oxygen after 10 seconds, 20 seconds, 30 seconds, a minute?
15 How do things progress?

16 A. Okay. You know, even as short a period of time as
17 10 seconds, there can be a loss of consciousness. If that
18 progresses over the course of, let's say, the next 30
19 seconds to a minute, there may be seizures. Surprisingly,
20 if that is released, that compression is released and the
21 oxygen is allowed to flow back through the brain, people can
22 wake up, act perfectly normal as if nothing happened. So
23 that's a little bit counterintuitive for a lot of people.
24 But if that pressure were to continue over, say, two to
25 three minutes, there could be cardiac death. In other

1 words, the heart would stop. And if it were to continue
2 four to five minutes, then there would be brain cell death
3 or brain death, and the person would die.

4 Q. And what happens to the brain with blood
5 compression every 10, 20? Is that basically what you were
6 speaking about?

7 A. Well, what I was talking about was compression to
8 the vessels that would restrict the movement of oxygenated
9 blood into the brain.

10 Q. How much external pressure and time would it take
11 for it to cause damage to the brain or unconsciousness even?

12 A. The jugular vein is right on the peripheral part of
13 the neck. So it doesn't take very much to constrict that.
14 If you think about what it takes to open the pop top on a
15 soda can, it's quite a bit less pressure than that, so very,
16 very little bit. Maybe up to four pounds of pressure is all
17 it takes, which is substantially less than what a male,
18 typical, average male handshake is kind of graded about 80
19 pounds per square inch of pressure. So substantially less
20 pressure is required to compress both the jugular vein and
21 the carotid artery.

22 Q. What about if someone is strangled several times in
23 a row?

24 A. Well, that is very concerning, because what that
25 means is that all that period of time when that pressure has

1 been applied to the vein and the artery and there's a lack
2 of flowing oxygenated blood to and from the brain, then
3 there's a build-up of pressure in the head. And the blood
4 can't really go anywhere. It doesn't have any oxygen left.
5 So now it's circulating and really disbursing out the
6 oxygen. So there's even less than there was before. That
7 amount of pressure is substantial because what it can cause
8 is what we call petechiae, which is bruising that is visible
9 in the face. It can also cause hemorrhaging in the white
10 part of the eye, the sclera.

11 It can cause substantial swelling in the structures
12 of the neck, such that you could even have a stroke occur
13 because of the swelling that has occurred.

14 Q. So I think you've covered it, but can strangulation
15 be life-threatening?

16 A. It is life-threatening.

17 Q. You spoke briefly about some of the symptoms. But
18 go into a little bit more about what petechiae is.

19 A. Petechiae is a pinpoint bruise underneath the
20 surface of the skin. It may be reddish, purplish. There's
21 not many things that cause petechiae in the body. But what
22 is unique about strangulation is that the petechiae that
23 occurs is always above the level of the ligature or the
24 constriction around the neck. So there's no other medical
25 reasons why that particular type of pattern of petechiae

1 would occur.

2 It can also cause the scleral hemorrhaging and
3 petechiae in the eyes, or like when you pull down your
4 eyelid, that's the conjunctiva, it could cause petechiae
5 there as well.

6 Q. And are there internal signs of strangulation?

7 A. Yes, there can be internal signs. There can be
8 significant bruising in the vessels in the neck, which can
9 lead to stroke. There can also be significant amount of
10 swelling around this portion of the neck, which then can
11 cause respiratory distress or difficulty breathing in an
12 individual.

13 There can be swallowing difficulties. Persons can
14 have difficulty managing secretions. So, in other words,
15 they might drool a lot. They wouldn't be able to handle
16 that.

17 So those are some of the questions that we would
18 ask patients to help us determine if there's additional
19 testing or screening that needs to be done.

20 Q. So if someone reported to the emergency room or to
21 the forensic -- to the SANE nurse and told the nurse that
22 they were -- that their throat hurt severely, and they had
23 been strangled, would that symptom be consistent with the
24 history they gave?

25 A. That would be consistent with a concern for

1 strangulation. And that would necessitate, most likely,
2 being referred to see a physician in the emergency
3 department.

4 Q. Are there any long-term physical, neurological or
5 psychological effects to strangulation?

6 A. There are. There are both long-term physical
7 effects, as well as emotional effects, perhaps psychological
8 effects. One of the things that happens with strangulation
9 is that when that compression has been applied to the
10 vessels of the neck for so long that there's a lack of
11 oxygen, people at first they begin to panic.

12 MS. SEMAN: Objection as to her testifying about
13 what the people might experience.

14 THE COURT: I can't understand you.

15 MS. SEMAN: May we approach?

16 THE COURT: No.

17 Members of the jury panel, go out in the hallway,
18 please.

19 (Whereupon, the jury leaves open court at 10:49
20 a.m.)

21 THE COURT: What is your objection?

22 MS. SEMAN: The witness just testified about the
23 feelings that a person who has been strangled might
24 experience as to being strangled. And I think that
25 testimony -- first of all, I don't think there's a

1 foundation for that testimony. And number two, I think it's
2 much too prejudicial.

3 THE COURT: Well, I appreciate your position, but I
4 overrule your objection.

5 Bring the jury back in.

6 (Whereupon, the jury returns to open court at 10:50
7 a.m.)

8 THE COURT: We do have the jury back with us. You
9 may continue to examine your witness.

10 Ms. BALDWIN: Thank you, Your Honor.

11 BY MS. BALDWIN:

12 Q. So you were saying that people begin to panic?
13 What's going on? What are they doing?

14 A. When a person is strangled, and my patients have
15 told me, as well as what I've read in the literature, is
16 that panic often occurs and people will try to remove that
17 ligature, whatever it is that's around their neck. So we
18 also look for scratch marks and things like that. But, you
19 know, everybody is individual. And how they react may be
20 different. There also appears to be a point in time that my
21 patients have told me, where they say, I thought this was
22 it, I thought I was never going to see my children again, I
23 thought I was going to die --

24 MS. SEMAN: Renewing earlier objection, Your Honor.

25 THE COURT: Appreciate that. I overrule your

1 objection.

2 Go ahead. Ask another question.

3 BY MS. BALDWIN:

4 Q. So regarding this particular case, you've reviewed
5 some photos in this case?

6 A. I did review photos.

7 Q. Okay. And I'm going to put up some photos on the
8 screen in front of you and behind you. Put up State's 23 --
9 and I will run through these quickly -- and 24, 25, 32.
10 What are you seeing in these pictures?

11 A. This is a picture of the patient that was seen -- I
12 think it was in 2014. This particular patient was in the
13 emergency department. And she was being seen by one of our
14 other forensic nurse examiners related to the history of
15 assault. And she has quite a bit of petechiae. So that's
16 that pinpoint bruising that is visible around her face.
17 What is unique about this situation or this particular
18 picture and the others associated with it, was that the
19 nurse who saw this patient, originally called me down to
20 see --

21 MS. SEMAN: Objection.

22 THE COURT: Just tell us what you see in the
23 picture.

24 BY MS. BALDWIN:

25 Q. Just stick with what your observations were.

1 A. Petechiae.

2 Q. Where?

3 A. Where?

4 Q. Yeah.

5 A. Oh.

6 Q. One spot?

7 A. Oh, no. It's all throughout the face, like all of
8 these little marks here.

9 Q. All over her face?

10 A. Yes. Initially, when we saw her, she had makeup
11 on. And all of this area through here and here was not
12 quite so visible. The makeup covered quite a bit. So
13 little spots like that and that were somewhat visible. I
14 personally asked her if she was wearing makeup, asked her to
15 go to the bathroom to wash her face off so that I could
16 tell. I didn't know if she had bad skin. I didn't know if
17 it was bruising. I didn't know what it was.

18 So after she washed her face, she looked in the
19 mirror. She saw the extent of the petechiae and bruising.
20 And it was extremely obvious to all of us at that point that
21 that was significant indicators of injury.

22 Q. And State's 33.

23 A. All right. So this is the white part of the eye
24 here. There's redness here. And so these vessels are
25 dilated a little bit, which comes about because of the

1 pressure. That little red spot -- I'm going to try to draw
2 a little pointer to it down there -- is petechiae. Each one
3 of these is petechiae. (Indicating.)

4 And then if we were to pull this part of her face
5 down, you know, the eyelids underneath, there may be
6 petechiae underneath the conjunctiva, or if we pull her eye
7 lid up, we would look under there as well.

8 Q. And State's 37.

9 A. Okay. So this is the ear. This is what we call
10 the pinna of the ear. Of course, here's the ear lobe. So
11 all of this is a tremendous amount of bruising or petechiae
12 distributed all the way through here. This is significant
13 because it's not terribly common to see this amount of
14 petechiae that extends actually even into the ear canal.
15 Each one of these is bruising. And then even behind the
16 ear, all of that is petechiae.

17 Sometimes in really dramatic cases, it can extend
18 into the hairline. You can it does here. And that's quite
19 significant for this patient.

20 Q. So, in your opinion, how severe was this case of
21 strangulation?

22 A. This was one of the more -- most severe cases that
23 I have witnessed.

24 MS. SEMAN: Objection, Your Honor, renewing --

25 THE COURT: I appreciate that, but I overrule your

1 objection.

2 BY MS. BALDWIN:

3 Q. Please continue.

4 A. In the last 18 years that I've been doing forensic
5 nursing, there have only been two other cases this severe.
6 This is very significant for this patient. I've never seen
7 that amount of petechiae on a face before that extended into
8 the hairline and behind the ear on both sides of the face.

9 MS. BALDWIN: Court's indulgence. I have no
10 further questions for you at this time.

11 THE COURT: All right. Any cross-examination.

12 MS. SEMAN: Yes, Your Honor.

13 CROSS-EXAMINATION

14 BY MS. SEMAN:

15 Q. Dr. Gill-Hopple, you've been talking a lot about
16 this petechiae. Am I saying that right?

17 A. Yes, you are.

18 Q. And petechiae can look different on different
19 people, can't it?

20 A. Well, petechiae really only means small pinpoint,
21 no bigger than the size of a head of a pin, basically, flat
22 bruising.

23 Q. Right. But it can look different on different
24 people, just like bruises can look different on different
25 people? Some people might bruise darker than others?

1 A. No. I'm sorry. It doesn't. Petechiae is just --
2 it's definite than a plain bruise, like you might get if you
3 fell down.

4 Q. But some people might have petechiae that is
5 lighter in color, right?

6 A. It's either red or purple.

7 Q. So there are different colors of petechiae?

8 A. Red or purple.

9 Q. Petechiae can result from things like coughing,
10 can't it?

11 A. Well, I am not aware of that, but I can imagine
12 that if there was a forceful compression, then a person may
13 have one or two, but not a significant distribution.

14 Q. Petechiae can also result from vomiting?

15 A. I have not seen that.

16 Q. You also mentioned on direct to the solicitor that
17 the external pressure needed to constrict the jugular vein
18 is the same amount of pressure as opening a pop top?

19 A. No. It's quite less than opening a pop top.

20 Q. Not a lot of pressure?

21 A. Correct.

22 Q. You also mentioned earlier, when you were talking
23 about your qualifications, something called recreational
24 asphyxia. What's that?

25 A. There are some people who engage in a practice

1 where they arrange a ligature around their own neck for a
2 short period of time with the -- I believe the hope is you
3 pass out. And some people find that erotic. So that's what
4 that means.

5 Q. You could also see pronounced petechiae in someone
6 with an abnormal sensitivity, like a bleeding disorder,
7 couldn't you?

8 A. A bleeding disorder would typically result in
9 numerous areas of what we call ecchymosis, which is a flat,
10 broader leakage of blood from the vessels, not just
11 petechiae.

12 Q. But did y'all test for a bleeding disorder in this
13 case?

14 A. That would not have been our role. That would have
15 been under the purview of the physician. So I do not know
16 if they tested for that.

17 Q. But, certainly, you don't remember that she was
18 tested for it?

19 A. I wouldn't have any knowledge of that.

20 Q. And, Doctor, you also reviewed the patient history
21 in this case, right?

22 A. I did.

23 Q. No seizure reported or determined in this case?

24 A. Correct.

25 Q. Certainly no cardiac death?

1 A. Cardiac death?

2 Q. I believe that is what you mentioned on direct to
3 the solicitor.

4 A. Correct.

5 Q. No brain deaths, right?

6 A. No.

7 Q. No stroke?

8 A. No.

9 Q. No drooling?

10 A. I don't remember.

11 Q. And you have no knowledge of any long-term physical
12 effects?

13 A. I have no knowledge of what happened to this
14 patient afterwards.

15 Q. And you are relying on Ms. Wesley's history in your
16 discussion of the pictures, right?

17 A. Yes.

18 MS. SEMAN: Beg the Court's indulgence. No further
19 questions, Your Honor.

20 THE COURT: Thank you very much. Anything on
21 redirect?

22 MS. BALDWIN: Court's indulgence. I have no
23 further questions.

24 THE COURT: Thank you very much. You can return to
25 your place or be excused. Do you have another witness?

1 MS. BALDWIN: Your Honor, could we take a brief
2 break?

3 THE COURT: Members of the jury panel, we will take
4 about a five-minute break then, let you go to the jury room
5 for about five minutes, quick cup of coffee or coke or
6 whatever.

7 (Whereupon, the jury leaves open court at 11:01
8 a.m.)

9 THE COURT: Anything else?

10 MS. BALDWIN: I think we are going to rest on the
11 record, Your Honor.

12 (Whereupon, recess transpired.)

13 THE COURT: So anything else from the State?

14 MS. BALDWIN: No, Your Honor.

15 THE COURT: Wait. Wait. Wait. Bring Mr. Anderson
16 in. Excuse me.

17 (Whereupon, the defendant is present.)

18 THE COURT: All right. We have Mr. Anderson in
19 now. Anything from the State?

20 MS. BALDWIN: No, Your Honor.

21 THE COURT: So you are going to rest. Of course,
22 we are going to let you rest in front of the jury, but you
23 can go ahead with any motions, if you have any.

24 MS. PROCTOR: Thank you, Your Honor. At this time,
25 defense would make a motion for directed verdict. The Court

1 must view the evidence in the light most favorable to the
2 State. And you must be concerned with the existence and
3 nonexistence of the evidence that you have heard. We don't
4 believe that the State has produced enough evidence to
5 charge Mr. Anderson with criminal sexual conduct. And we
6 would ask you to direct a verdict in his favor.

7 THE COURT: All right. I appreciate that. But I
8 deny your motion.

9 All right. Are you going to present any evidence
10 on behalf of the defense?

11 MS. PROCTOR: No, Your Honor. At this time, the
12 defense rests.

13 THE COURT: All right. Let me go get some books
14 then. I hadn't brought those out here. Let me get the
15 things that I need. And then we will bring the jury in and
16 rest in front of the jury.

17 MS. PROCTOR: And, Your Honor, we had both asked if
18 you would allow us to go ahead and break for lunch now so we
19 could come back at one o'clock.

20 THE COURT: One o'clock? Okay. All right. So we
21 will let y'all rest in front of the jury and let you break
22 and be back at one o'clock then. Bring the jury in.

23 (Whereupon, the jury returns to open court at 11:22
24 a.m.)

25 THE COURT: We do have jury now. And Mr. Anderson

1 is present, along with his attorneys.

2 Any other witnesses for the State.

3 MS. BALDWIN: Your Honor, at this time the State
4 rests.

5 THE COURT: All right. That finishes everything
6 from the State.

7 Now we switch to the defendant. Any witnesses on
8 behalf of the defendant?

9 MS. PROCTOR: Your Honor, at this time, the defense
10 rests.

11 THE COURT: All right. That finishes all the
12 testimony and evidence that the parties wish you to consider
13 in this case. We still have summation and argument from
14 those attorneys and also my instructions to you as far as
15 the law and how you go about reaching your decision.

16 Looking at the time, I think the best way to do it,
17 best way to organize this is to take an early lunch break at
18 this time. The lawyers need time to switch gears, so to
19 speak, and get ready to give their summations and arguments
20 to you. And they've asked me if I would allow them to do
21 that by breaking now and coming back at one o'clock. So we
22 are going to take an early lunch break. But be back earlier
23 than usual and start back with this at one o'clock.

24 Again, do not discuss the case. Don't start
25 deliberations. Don't start talking about it or anything

1 like that. Be back at one o'clock in the jury room and we
2 will get started as soon as we can after that.

3 All right. Take your notepads with you to the jury
4 room, if you would.

5 (Whereupon, the jury leaves open court at 11:23
6 a.m.)

7 THE COURT: Did any of you all give me any request
8 to charge or anything like that? I don't remember.

9 MS. BALDWIN: No, sir. Just whatever your standard
10 charge is fine.

11 THE COURT: My usual standard charge and then, of
12 course, I'm going to define -- as far as the charge is
13 concerned -- as far as the statute, I'm just going to charge
14 that the State claims the defendant used aggravated force.
15 And then, of course, I will have to define that use, the
16 definition by statute to accomplish sexual battery. And I
17 will define that by the statute. And that's all I need to
18 define, really. I don't need to cover the other things,
19 just that in the indictment. All right. And y'all didn't
20 give me anything, did you?

21 MS. SEMAN: No, Your Honor.

22 MS. PROCTOR: No, Your Honor.

23 THE COURT: You will have an opportunity, of
24 course, to take exception to anything as far as what I
25 charge. I don't think there will be -- there's nothing out

1 of the ordinary as far as the charge is concerned.

2 All right. One o'clock then.

3 (Whereupon, a recess takes place.)

4 THE COURT: Everybody in? Everybody ready to go?
5 Who is going to argue for the State?

6 MS. BALDWIN: I am, Your Honor. Would it be
7 possible for us to look at your jury charge, if you have it
8 printed out.

9 THE COURT: No, I don't. What do you want to
10 know.

11 MS. BALDWIN: Just in general what you are
12 covering. I know you said you are covering the statute
13 itself. And, obviously, they are the general ones. Is
14 there anything --

15 THE COURT: I don't think there's anything out of
16 the ordinary. I never had anybody take exception to it.

17 MS. BALDWIN: I just told you okay. Thank you.

18 THE COURT: All right. Who is going to argue over
19 here?

20 MS. PROCTOR: I am, Your Honor. Before we start,
21 just again, I want to make sure it is on the record that we
22 did make that motion for directed verdict. And we would
23 like to renew all our motions and objections.

24 THE COURT: All right. Thank you. I appreciate
25 that. We will proceed with argument. Are you going to

1 argue, Ms. Proctor?

2 MS. PROCTOR: I'm going to argue second. I think
3 she's going to argue first, Ms. Baldwin, yes.

4 MS. BALDWIN: Yes.

5 THE COURT: That's right. Thank you. Bring the
6 jury in.

7 (Whereupon, the jury returns to open court at 1:09
8 p.m.)

9 THE COURT: We do have the jury back with us.
10 Mr. Anderson is present along with his attorneys.

11 As I told you earlier, you've heard all of the
12 testimony. You've heard all of the testimony and evidence
13 in this case. Now, we will get to that part of the trial
14 where the attorneys can summarize and argue to you. These
15 will be true arguments as they try to persuade you what
16 version or view you should take to the facts of this case
17 and how the facts may fit in the law.

18 We will hear from Ms. Baldwin first, who represents
19 the State in this matter. And then we will switch and we
20 will hear from Ms. Proctor. And then after that, I will go
21 over more fully with you what your duties and
22 responsibilities are as the jury in this case and the law
23 that you may apply in this case. And then you go to the
24 jury room and you will deliberate. And you will answer the
25 question I told you at the start: Has the State met the

1 burden of proof in this case?

2 I would ask you to give your attention now to the
3 attorneys as they summarize and argument to you.

4 Ms. Baldwin.

5 MS. BALDWIN: Thank you, Your Honor. I would
6 just like to start out by thanking you all for your patience
7 and the time you've given this week. It's an important day
8 for Cristen, because what happened to her is the stuff of
9 nightmares. It's a stranger, somebody who seemed like he
10 was there to help her, turned around and raped her and
11 almost killed her.

12 I guess we will start off by talking a little bit
13 about Cristen's testimony. She told you about herself a
14 little bit, about how she graduated from Charleston Southern
15 University. She was working constantly. She held
16 oftentimes two jobs. At the time of the incident, she was
17 working as well, getting ready to possibly go back to
18 Montessori School. And the day of the incident, she was
19 working.

20 She was 23 at the time. She told you about her
21 personality, about how friendly and sociable she is. So she
22 told you about how, when she went over to the Wild Buffalo
23 Saloon, she was there to see Heidi, she saw some of her
24 friends, and she struck up a casual conversation with a
25 stranger when asked him for a cigarette. She didn't know

1 that at that time, she was sealing her own fate. She didn't
2 even think enough of that conversation at the time to really
3 get his name or remember it.

4 And, yes, she was drinking at the time. She
5 admitted to that. She was in a bar and restaurant. She
6 told you she was there for about three and a half hours,
7 from about ten o'clock in the evening to about 1:30 in the
8 morning. She said, yeah, I had -- I don't remember exactly
9 what it was. I think the defense attorney asked her four
10 beers, four shots, over three and a half hours.

11 She talked to this gentleman Ed, the older guy, the
12 regular who she was introduced to by her friend Heidi. She
13 told you how Ed wanted to help her out to her car. She
14 didn't really want that, but he kept insisting. She was
15 trying to be nice.

16 She also thought that the defendant was being nice,
17 was trying to help her out when he stepped in and acted like
18 she was giving him a ride home, even though she knew she
19 hadn't offered that. He had been pleasant. He had been
20 nonthreatening over the evening. So she didn't think
21 anything of it if he was jumping in to be chivalrous. She
22 had no reason to doubt him. She thought he was saving her
23 from the sort of creepy guy sitting at the bar. But she had
24 no idea he was the actual danger.

25 And even though she wasn't in the habit of giving

1 strangers rides home, the defendant insisted. She told you
2 how they went to Greenridge Road because the defendant told
3 her at first they lived there. So they drove around a whole
4 bunch. And then he told her he didn't live there, and he
5 lived at a hotel on Ashley Phosphate. And she thought he
6 was just drunk. She said maybe he had a little bit more to
7 drink that night than I originally thought, because it
8 seemed strange to her.

9 And they drove around for so long that she had to
10 use the restroom. At that point, she was nervous. She was
11 annoyed with the guy. But she really had to go to the
12 bathroom. So, yes, she asked to use the hotel room that he
13 told her he had.

14 And if he was staying there, why didn't he just let
15 her? Because he wasn't staying there. He was trying to
16 trick her into going to a place where he had picked his
17 target. It was just another lie while he figured out how
18 and where he was going to assault her.

19 He found one hotel on Ashley Phosphate that has
20 woods right next to it, a wooded area where he could hide
21 and he could assault her. And, yes, Cristen went and used
22 the woods for the bathroom. And he followed. And he threw
23 her against a tree, strangling her, throwing her on the
24 ground.

25 And she fought back. She told you she locked her

1 legs against him. But he strangled her so much that she
2 thought that she was going to die. So she submitted. She
3 had to make a choice at that point between her own life and
4 submitting to the rape.

5 And then after he raped her, remember, he let her
6 know that he taught her a lesson: This is why you don't
7 give strangers rides home. And she drove to Denny's. And
8 there was some talk, you will see it on the map, that
9 Denny's is nearby. But you also heard Cristen say, I
10 couldn't see it from where we were. She was trying to get
11 away from the danger at that point. She ran to her car.
12 The defendant was still following her. She didn't know what
13 he was going to do next. So she hopped in her car, which
14 was her safety place, and drove to someplace that looked
15 open to get help.

16 She told you that she was pretty much a mess when
17 she got to Denny's. She didn't know what to make of what
18 had just happened to her. She had been strangled severely
19 and raped. She doesn't remember exactly what she said, but
20 she told you one thing, there was no doubt in her mind that
21 she had been sexually assaulted. And she wasn't paying
22 attention to what he was wearing that night. She was paying
23 attention to the face of the person that was assaulting her,
24 as he was just inches away above her, strangling her.

25 And that's why she didn't ID anybody the first

1 three times. Detective Elmer asked her to do a lineup. She
2 knew what the person that assaulted her looked like. And
3 she wanted to make sure that she was 100 percent sure before
4 she picked somebody out.

5 Now, about Cristen's testimony, you also heard
6 other testimony that corroborates what she said on the
7 stand, as well as physical evidence. And I would like to go
8 through some of that as well.

9 You've got Jovanna Wilson. She told you how a
10 young lady walked in distraught to the Denny's, said that
11 she was sexually assaulted. And Jovanna said, I knew
12 something was wrong and that she needed help just by looking
13 at her. And that's why she dialed 911.

14 You heard from Heidi who corroborated what Cristen
15 said about coming into the Wild Buffalo Saloon to see her
16 while she was working. You can see that on the video. They
17 are talking. Heidi pointed out the fact that Cristen really
18 didn't show any interest in anybody that evening. She was
19 talking to some mutual acquaintances of theirs, mostly there
20 talking to Heidi. She also said Cristen is friendly and
21 social and will talk to people. And Heidi came down from
22 Raleigh to tell you that.

23 And you heard from Cristen's ex-boyfriend. They
24 are not together anymore. They broke up in August 2017,
25 over three years after this happened. But he came in to

1 tell you about that night. He said it was a little weird
2 that he didn't get a text from Cristen that evening, but it
3 really didn't seem like a big deal to him. He didn't think
4 it was unusual that she was out. Definitely wasn't unusual
5 that she went over to the Wild Buffalo Saloon to see her
6 friend when he was working.

7 And he described what Cristen sounded like when she
8 called him in the early morning hours of June 19th. That
9 she sounded quiet and her voice was shaking. It wasn't
10 normal sounding. He said at the hospital she didn't look
11 normal at all. She looked hurt.

12 Detective Pritchard, who was Officer Pritchard at
13 the time, also told you that when he responded to the scene
14 at approximately 3:10 in the morning, I believe he said, he
15 saw Cristen crying and her face was red. He didn't even --
16 she didn't even really know where it happened at that time.
17 She was so hysterical she said, maybe somewhere on Stafford
18 Road. He was the one who was trying to figure out where it
19 happened. No one was really quite sure.

20 And then you heard from our case agent, Detective
21 Elmer. Now remember, her focus during the incident was to
22 figure out who this person was. Cristen didn't know him at
23 all. So she did multiple lineups with Cristen based on her
24 investigation. She looked on social media, trying to track
25 that down. And Cristen couldn't pick out anybody. They

1 kept trying to track this person down, went over all the
2 information they had, and still couldn't figure out who it
3 was.

4 Also remember when she saw Cristen at the hospital,
5 she said, does your face always look like that? And she
6 said Cristen was shocked. She had no idea what Detective
7 Elmer was talking about when Elmer saw the petechiae on
8 Cristen's face.

9 She described to you about how they tried to
10 process the car and how they did try to obtain video from
11 the Country Inn and Suites where the incident took place.
12 But she said there wasn't any video of the outside area.
13 She couldn't get anything from that location. All she had
14 was the video that looked directly down on the door.

15 I believe the defense asked -- oh, I did want to
16 point out that Detective Elmer also knew that from Cristen's
17 statements, that the incident took place over in the wooded
18 area. She knows from Cristen's statements and also from the
19 pictures.

20 Cristen described her underwear to you all. It was
21 pink with sparkles. If you look at the pictures that are up
22 there, you can see in the woods there, pink with sparkles.
23 And you can see how far back in the woods they were. It's
24 overgrown. It's dark. I believe the defense was asking
25 about this take place -- these pictures taking place a month

1 later, in July versus June. Things may grow, but they are
2 not going to grow that much in a month. It was further back
3 in the woods that he had her go so that he could take
4 advantage of her.

5 You also had Cristen point out on the map where in
6 the woods it was. And it was further back. Those pictures
7 corroborate what she told you.

8 They kept asking about the crime scene, the crime
9 scene. Cristen is the crime scene. After the incident
10 occurred, Cristen had to go and get a sexual assault exam.
11 Nancy Hall described Cristen as tearful, disheveled. She
12 said she was on her period at the time. That's not
13 something someone does when they want to go and have
14 consensual sex. She was on her period.

15 Cristen also complained of soreness in her neck.
16 And that soreness in her neck and the petechial hemorrhaging
17 was so bad that they actually sent her to the emergency
18 department afterwards to get her checked out.

19 You also heard Nancy Hall describe this exam, about
20 how intrusive it was, how they had to comb pubic hairs, how
21 they had to insert a speculum into her. There are pictures
22 taken. This isn't something that someone does for fun. And
23 I will show you those pictures that Nancy had earlier or
24 that Nancy took during the course of the exam, pictures that
25 show all the bruising, the scratches, scratches that were

1 all over the body.

2 If you remember, Ms. Shealy had Nancy point out on
3 the diagram where all the scratches were, the injuries on
4 her body. They were all over, her legs, her arms, her back,
5 her shoulders, all over her body. Why? Because this
6 defendant grabbed her, threw her up against a tree, and then
7 threw her down on the ground.

8 I won't belabor these points too much because you
9 just heard it from these people this morning. Catherine
10 Leisy from SLED, she was here to talk about the DNA that
11 they recovered from Cristen, the DNA that was recovered from
12 the perineum, just the spot between the vaginal opening and
13 the anus, from the exterior genitalia, but they actually
14 said they found it on the labia, and from the vaginal swabs
15 that they found on her. She described the probability of it
16 being someone else in one case in the quintillions. There
17 are only billions of people on the planet. It's him. It's
18 that defendant's DNA in Cristen's genitalia.

19 And you heard from our expert witness, Dr.
20 Gill-Hopple. I believe she stated that strangulation is
21 always life threatening. It can cause cardiac arrest,
22 stroke. The defense asked her about recreational asphyxia.
23 Dr. Gill-Hopple did explain it, but it seemed pretty obvious
24 that she did not think that that's what the pictures of
25 Cristen's injuries were.

1 The symptoms, she described symptoms of
2 strangulation, sore throat, petechiae. And remember what
3 Cristen said, her sore throat, she had petechiae
4 hemorrhaging. And Dr. Gill-Hopple told you that this was
5 one of the worst cases of strangulation that she has ever
6 seen. She's done hundreds of cases where she saw
7 strangulation. And this was in the top three.

8 And when you look at those pictures, you can see
9 why. You can see the scratches to her neck, the bruising on
10 her shoulders, the petechiae hemorrhaging in her eyes and in
11 her ear. Those pictures aren't consensual. Those injuries
12 are not consensual.

13 And, yes, there was no one around when this
14 happened, because it's a rape. Those things don't happen in
15 front of crowds of people most of the time. They happen in
16 secluded places, because that's where the defendant can get
17 his prey most easily. Defendant wanted to make sure he had
18 Christen isolated from people in order to take what he
19 wanted.

20 And, yes, Cristen did everything wrong from a
21 safety standpoint. She talked to a stranger. She didn't
22 lock her car. She didn't tell him to get out. She didn't
23 kick him out when she realized that he didn't live on
24 Greenridge Road. She didn't use the restroom at a gas
25 station. And she went into the woods with a stranger right

1 there. It's everything that in self-defense classes they
2 tell you not to do, but she did it. She was 23.

3 She would probably tell you now that she would
4 never do that again. But all of that doesn't mean that she
5 deserved to be raped. No one deserves what the defendant
6 did to her.

7 We also have physical evidence. We saw some clips
8 of the videos from the Wild Buffalo Saloon. And you can
9 look. I will show you a couple clips at the end. You can
10 see the body language on there, the defendant hovering
11 behind her, her not really paying too much attention to him.
12 You can see her with the other guys she knows and how she
13 reacts to them, the people that she knows and trusts, versus
14 the defendant. You see the defendant walking around, trying
15 to choose his target.

16 You also have the Regents Bank video. It's real
17 quick. It's just one clip. But the timing of it is very
18 important. At 3:09 a.m., 3:09 and 41 seconds, you see the
19 back of the defendant's head walking through the teller area
20 of the Regents Bank, right where the Denny's is, which is
21 where Cristen ran to to report the rape. She reported it,
22 as you recall, at 3:09 a.m.

23 This is immediate reporting. She didn't take the
24 time to go and come up with some story about what happened.
25 She ran immediately after she was raped, ran over to the

1 Denny's, and told them that she had been assaulted. See,
2 here the issue is -- oh, we also have the photos of the
3 scene. I've gone through those and the SANE exam findings
4 with all the scratches, and, of course, the DNA.

5 So we have the DNA. The defense can't say, oh,
6 well, it wasn't him, must have been somebody else. His DNA
7 is on her. So what they have to do then is go with, oh,
8 well, it was a consensual encounter, she wanted to do this,
9 she wanted to be strangled until she thought she was going
10 to die, that was a good idea.

11 There's so many indicators here that this was not
12 consensual. And I will go through them with you. First of
13 all, it happened in the woods. Her car is right there. If
14 she wanted to have a sexual encounter, she could have done
15 it in there. If he was, in fact, staying in that hotel,
16 they could have gone to the hotel room. This wasn't a
17 consensual thing. She didn't want to go into the woods and
18 get scrapes and dirt and mud all over her body while she was
19 on her period. It wasn't a choice for her.

20 As I mentioned, she drove to Denny's. She didn't
21 know where she was. She couldn't see what she was doing.
22 She was scared and frightened and had to retreat to
23 someplace where she was safe, and that was her car. And she
24 wasn't going to get out of the car while the defendant was
25 still there trying to get into her car. She had to go

1 someplace and get away.

2 And as I mentioned, she immediately reported, 3:09
3 a.m. She didn't have time to make up a story.

4 She also made an identification over a year later,
5 October of 2015. She didn't know the defendant. But she
6 made this whole story up in order to, I don't know, protect
7 herself? She made up a story about being raped when it was
8 consensual? She wouldn't have had to go into the police
9 station. She could have just ignored everything from the
10 very beginning, when the police first called her on July
11 14th and asked her to come in and do a lineup. She could
12 have ignored their phone calls. She could have just let it
13 all go, but she didn't. She could have picked out anyone in
14 the beginning. There was no DNA yet. She could have just
15 picked someone and said, yeah, that's him, that's the guy
16 that did it, and been on her merry way. But she didn't,
17 because she wanted to make sure that the guy who assaulted
18 her was arrested. She wanted to be 100 percent sure.

19 As I mentioned, Hayden, he didn't seem to think
20 anything of her being out. It wasn't a big deal. She had
21 nothing to cover up. If she went and had a sexual
22 encounter, she could have just come home and he wouldn't
23 have been any of the wiser. She called him from the
24 hospital because she needed comfort from the person that she
25 trusted.

1 She had a way out from all of this. She didn't
2 even have to report it. She didn't have to report it to the
3 police. She didn't have to have the sexual assault exam
4 report. She didn't have to have the exam done in the first
5 place. You heard Nancy Hall say, well, we don't always
6 report those. Nothing could have come of this if she
7 decided that, you know what, this was consensual, I am not
8 going to do this. No. This was a very intrusive procedure.
9 It was a traumatic procedure. She went through it because
10 of what happened to her.

11 And then, finally, this is the most telling, I
12 think, the reason why this wasn't consensual, is that
13 strangulation. She said, I thought I was going to die. And
14 you heard Dr. Gill-Hopple say, oftentimes, when people think
15 that when they are being strangled, they go through stages,
16 they panic at first, they fight back. Then they go, oh, my
17 gosh, I'm going to die. Cristen doesn't know that. She's
18 not medically trained. Yet, you heard her on the stand say
19 all of that.

20 Look at the pictures when you go through them. But
21 the defense has to blame the victim, because that's all they
22 have, because we have his DNA.

23 The judge will charge you on the law, but I will
24 briefly go over it. The defendant is charged with criminal
25 sexual conduct in the first degree. And what that means is

1 that the defendant engages in a sexual battery with the
2 victim, and in this case, aggravated force is used to
3 accomplish the sexual battery.

4 And sexual battery includes sexual intercourse,
5 cunnilingus, fellatio, anal intercourse, or any intrusion,
6 however slight, of any part of a person's body. In this
7 case, you have Cristen saying, he penetrated me, he had sex
8 with me, there's no doubt in my mind that he did.

9 Now, he also had to have used aggravated force, the
10 strangulation. He strangled her until she submitted. He
11 used that aggravated force in order to accomplish that
12 sexual battery. She submitted because she thought she was
13 going to die otherwise.

14 The judge will also instruct you that I have the
15 burden of proving this case beyond a reasonable doubt. And
16 I take that burden gladly. It's not all doubt, though.
17 It's not any doubt. If it was beyond all doubt, probably be
18 up on the witness stand.

19 Reasonable doubt is sometimes described as a
20 hesitation to act. That doesn't mean that you don't
21 deliberate. You should deliberate. Go over the evidence.
22 Review the testimony. Review your notes.

23 Proof beyond a reasonable doubt is proof which
24 leaves you firmly convinced of the defendant's guilt. It's
25 a little lighter on there. I want you to look at these

1 pictures. This is not the face of someone who had a
2 consensual encounter. It's not the face of a willing
3 participant in a crime. This is the face of someone who was
4 raped.

5 She was raped when the defendant targeted her, saw
6 her at the bar, stalked her, hovered, and waited for his
7 opportunity to pounce on her. I will play you just two
8 video clips real quick.

9 (Video playing.)

10 MS. BALDWIN: And you see Cristen's behavior there.
11 You see how she was polite. She wasn't overly interested.
12 I think we can read that body language. He kept trying to
13 get her attention. And she really wasn't responding,
14 because she wasn't interested. She didn't want anything to
15 do with him.

16 And then we have the clip from when they left that
17 night. I think this is the most telling of all.

18 (Video playing.)

19 MS. BALDWIN: He's out there. He's hovering. He's
20 waiting for her to leave. She walks out. She didn't say a
21 word for him. Doesn't say, hey, come on, we are leaving,
22 I'm giving you a ride. He doesn't see Ed's gesture at the
23 end, because he's looking off. He sees another female come
24 out, decides is that a better target? No, no, Cristen is.
25 And he follows after her. He follows after her.

1 On Monday, Judge Dennis during qualification told
2 you that to bring your experience -- that you bring your
3 experience as a juror, to use your commonsense. And I urge
4 to do so. Think of the demeanor of Cristen up on the stand.
5 As soon as she talked about that assault, she was staring
6 straight ahead. She was emotional, almost as if she was
7 reliving it.

8 She doesn't have anything to gain by telling you
9 all one of the most embarrassing, horrible things that has
10 happened to her in her life. Think about that demeanor.
11 Look at the pictures. Look at the videos. Look at all the
12 evidence. And once you do, you will know that on July 19th
13 of 2014, Cristen Wesley was brutally raped. And you will
14 find the defendant guilty.

15 THE COURT: Ms. Proctor.

16 MS. PROCTOR: May it please the Court. Ladies
17 and gentlemen, we are here today because Cristen Wesley is
18 ashamed. She's guilty and she's regretful for what happened
19 that night. And the problem is, once this ball started
20 rolling, she couldn't stop it. She was regretful about her
21 alcohol consumption that night.

22 Now, think about the time. She did not go to the
23 bar until it was about ten o'clock, little after 10 when she
24 went to the bar that night. And she told you, she said
25 well, I wouldn't be surprised if I had four beers, four

1 shots. She's a little person. That is an awful a lot to
2 drink that night. She was very drunk. She had been
3 drinking. She had been coming in and out. She had been
4 smoking.

5 As a matter of fact, she told you that she had gone
6 outside a couple of times and she had conversations with Mr.
7 Anderson. She said they talked about school. They talked
8 about finances. The first time the State just said that, at
9 the very end when they were getting ready to leave, that he
10 came up to her and she was, like, acting weird. They had
11 had conversations all through that night. It was not
12 unusual at all for him to come up and talk to her.

13 She feels guilty. Why? Because she has a
14 boyfriend. She has a boyfriend. She was at the bar. She
15 was at the bar for a long time. And she left with somebody.
16 She feels guilty because she had consensual sex with
17 somebody. She had to go home to her boyfriend.

18 And the sex they had, it was in the woods. You
19 noticed her clothes. She was dirty. She was bruised. And
20 she couldn't go home to her boyfriend like that. She felt
21 ashamed about what happened that night. And it was at a
22 time when she had been drinking a lot. It was late at
23 night.

24 And then the ball started rolling. She goes and
25 she calls the police. Now, when the police come, she said,

1 well, she wasn't really sure how much she had been drinking
2 that night. She wants you to rely on what she remembers,
3 but what she remembers is after the fact of what happened.
4 Her memory isn't the same.

5 Now, think about it. They had been around. She
6 left the bar, and you saw on the video, at 1:29. She did
7 not call the police until 3:10. That is a long time. She
8 showed where she drove around. You saw it. That's not very
9 far. What happened during that hour and 45 minutes?

10 Now, when she went over and she called the police,
11 the police came and they canvassed the area. They didn't
12 find anything. You will see her red panties, red panties
13 with sparkles. They found those one month later.

14 And the State will say, oh, it was probably
15 somewhere way back in the woods where nobody would find it.
16 Well, that's a month later. They could have blown there.
17 If they would have thought and taken her seriously that
18 night or the next day, they would have gone out and they
19 would have found those.

20 What the police could have done that night is they
21 could have marked the area off with crime scene tape to make
22 sure nobody went in there to contaminate it. They didn't do
23 that. They didn't do anything. They looked, she said,
24 looked around a little bit. Didn't see anything. They
25 didn't take any pictures. They also didn't go to the hotel

1 and talk to any of the people there: Did you hear anything;
2 did you see anything? They never checked for other cameras.
3 There was the one camera that they said that was at the
4 front door. They never checked that front camera to see if
5 she had ever gone to the hotel to say, I have to go to the
6 bathroom.

7 The time frame in this case makes no sense at all.
8 One hour and 45 minutes, she left again at 1:28. What
9 happened during that 1 hour 45 minutes? You saw the map.
10 They didn't drive around that far. That wasn't very long.

11 She also had told you that, and the State just
12 admitted it, he was very outgoing. He was very friendly to
13 her. There were no problems. He never came on to her
14 sexually in the restaurant.

15 Now, during that time they were driving around,
16 they drove by gas stations. They drove by restaurants.
17 They drove through Greenridge Road. She never at one time
18 said, will you get out of my car. If she was fearful of
19 him, she could have pulled into any restaurant. She could
20 have pulled into any gas station and said, get out of my
21 car.

22 What happened during that 1 hour and 45 minutes?
23 That is a long time. There is no traffic. What was going
24 on? What was their configuration? She was not afraid or
25 she would have had him get out of her car.

1 You also heard that she said, can I go to your room
2 to go to the bathroom? Now, this is after they had been
3 driving around for an hour and 45 minutes. If you are
4 afraid, you certainly don't ask the man that you are
5 uncomfortable with, as the solicitor stated and didn't want
6 to be around, can I go to your hotel room to use the
7 bathroom? She didn't say, let me run to the lobby.

8 There are no pictures. I mean, they have a camera
9 that was right in front of the hotel door. There's no
10 picture of her ever knocking on the door or going into the
11 hotel to go to the bathroom.

12 You also heard he never once said to her, hey, why
13 don't you come to my room, why don't you do this. That was
14 all her ideas. She's the one that said that. And,
15 unfortunately, she had been drinking that point. And I hate
16 blaming a victim, but, unfortunately, in this case, she's
17 drinking, she asked him, said to him, I will give you a
18 ride. An hour and 45 minutes, they are riding around. They
19 are getting very friendly.

20 Now, the State has to prove to you beyond a
21 reasonable doubt what happened that night. And the highest
22 burden we have in the judicial system that we have is
23 criminal law. He has to be proven beyond a reasonable doubt
24 that he is guilty.

25 Now, they talked about the petechiae that was on

1 her face. What about those marks on her face? Well, you
2 heard the SANE nurse, she said, well, they could have come
3 from coughing and vomiting. She did have a lot to drink
4 that night. She could have so easily been in the woods
5 vomiting. But we don't know, because the police never
6 looked in the woods.

7 They also -- Ms. Baldwin kept saying she was on her
8 period, on her period. You heard the SANE nurse said that
9 it was near the very end, there was no blood. So that is
10 not an issue.

11 Now, Ms. Gill-Hopple, that they are making a good
12 to do over, she's not a doctor. She is a nurse. And what
13 you heard her say is just her opinion of what happened. She
14 wasn't there. She does not know what happened.

15 Thinking about this whole night, they are at a bar.
16 They are drinking. They are very friendly. You saw the
17 video of when they came out of the restaurant. He didn't
18 immediately run after her at all. You notice that she walks
19 out, and there's another guy following her. And he goes and
20 gets him away. He wasn't just standing there the minute she
21 walked out. He waited for a few minutes before he walked
22 away. And he went over and got the man away and said, can I
23 have a ride? And she said yes. An hour and 45 minutes
24 later, she's over at Denny's calling the police.

25 There were many opportunities she had if she was

1 afraid of him to get out of that car. And, think, what
2 happened during that time? The time frame is very important
3 in this, because look where they were on the map. That's a
4 small hour. An hour 45 minutes, what was going on? What
5 were they talking about? They could have easily been
6 talking about having sex.

7 The police, we don't know, did they ever check her
8 car to see if there were prints in there. Was there any
9 semen in the car of his? We don't have any of that.

10 At this point, the State, and what you've just
11 heard Ms. Baldwin say, they have to prove this case beyond a
12 reasonable doubt. They want to take away Mr. Anderson's
13 freedom. But the burden is very heavy. We ask that you
14 look at everything that you've heard and that you think
15 about it. We ask that you think about the holes in her
16 story. There are some things that just do not make sense.
17 When you go back to your jury room, we ask that you go back
18 and use your commonsense and think what happened. This is a
19 very serious charge against Mr. Anderson.

20 And one more thing I wanted to point out. If you
21 remember, when she was looking at the lineups, in one of the
22 lineups she was 85 percent sure that that was the person,
23 and it wasn't. What if he would have been arrested? Was 85
24 percent that that's him. And that's scary.

25 We ask that you think carefully about this. Go

1 back, talk about it, and think about all the holes in her
2 story. We are sure when you come back, it will be not
3 guilty for Mr. Anderson. Thank you.

4 THE COURT: Thank you. Members of the jury,
5 you've heard and seen the evidence presented to you in this
6 case and also the arguments from the attorneys. It's now my
7 duty and responsibility under the Constitution and Code of
8 Laws of this state to discuss with you what your duties and
9 responsibilities are as a jury in this case and the law that
10 you may apply in this case. And then you will go to the
11 jury room and you will deliberate and you will give us your
12 verdict.

13 As you know by now, this is a case in which the
14 State of South Carolina claims that Karen J. Anderson (sic),
15 the defendant in this case, Kraig J. Anderson did commit a
16 sexual battery on Cristen Wesley, that was accompanied --
17 that was accompanied by aggravated force to accomplish that
18 sexual battery. That's the charge that the State has made
19 against him. And to that charge, Mr. Anderson has said, I
20 am not guilty. And as I told you, that places the burden of
21 proving him guilty on the State.

22 A person who is charged is never required to prove
23 himself innocent. The burden of proof is on the State from
24 the moment of the arrest, throughout any arraignment,
25 throughout the trial itself, until you the jury has reached

1 the conclusion that the State has proved him guilty beyond a
2 reasonable doubt. He's presumed innocent. And that is a
3 real presumption of innocence. And as I said, it remains
4 with him at all times until the State has removed in
5 presumption of innocence by the evidence presented to your
6 satisfaction beyond a reasonable doubt.

7 Now, what do we mean when we say that the State
8 must prove someone guilty beyond a reasonable doubt? It is
9 not an imaginary or fanciful doubt or weak doubt. The term
10 reasonable doubt may be best understood by giving it it's
11 plain and ordinary meaning. A reasonable doubt is the kind
12 of doubt that would cause a reasonable person to hesitate to
13 act. If, after considering all the evidence, you hesitate
14 to convict Mr. Anderson on the charge that the State has
15 made against him, then he's entitled to a verdict of not
16 guilty.

17 Reasonable doubt may arise from the evidence in the
18 case or from the lack or absence of evidence in the case.
19 You alone must make the decision, the determination of
20 whether or not reasonable doubt exists as to the guilt of
21 Mr. Anderson here charged with criminal sexual conduct in
22 the first degree.

23 You are the sole judges of the facts of this case.
24 I tried to emphasize that to you at the start of this trial.
25 I don't have anything to do with the facts. As I told you,

1 my job is to make sure that the parties follow the rules in
2 presenting the facts to you. Your job is to listen to the
3 testimony, look at the evidence, the physical evidence that
4 has been introduced, consider everything that you heard in
5 regard to that, and make a decision, make your decision
6 about whether the State has met the burden of proof or not
7 in this case.

8 If I've said or done anything that you have
9 interpreted in any way as an opinion that I might have about
10 the facts, please disregard it. For I'm intending to be
11 impartial to both sides in this case.

12 In determining the facts, I would suggest you go
13 about doing that in much the same way you decide that issue
14 in your everyday life. You and I have to decide every day
15 whether to believe what someone tells us. It's so much a
16 part of everyday life, we oftentimes don't think about any
17 mental process we may go through in deciding whether to
18 believe someone. But you do it every day, whether on your
19 job, on the street, wherever. When someone comes up to you
20 and makes a factual statement to you and someone says
21 something like, such-and-such just happened or such-and-such
22 is about to happen, or you should do this because, or you
23 should do that because. When a person makes that type of
24 statement to you, you have to decide, do I believe what that
25 person tells me? How much trust, how much faith do I put in

1 what that person tells me?

2 As I said, I would suggest you go about deciding
3 who and what to believe in regard to the testimony and the
4 evidence in this case in much the same way you decide that
5 issue in your everyday life.

6 But some of the things that you may want to
7 consider, and this is by no means an exhaustive list, but
8 some of the things you may want to consider are such things
9 as the demeanor or the manner of the witness who testified,
10 whether the witness had reason to be bias or prejudice,
11 favor one side or the other, whether a witness's testimony
12 was contradicted on the one hand or supported and
13 corroborated on the other hand.

14 You certainly do not determine truth or credibility
15 or believability merely by counting the number of witnesses
16 who may have testified concerning some particular point or
17 fact that may be involved in the trial of this case. As
18 I've said, you are the sole judges of the facts of this
19 case.

20 I've already mentioned to you what we have in terms
21 of an expert witness in this case. And, again, just because
22 someone is referred to as an expert, doesn't mean that you
23 have to accept everything that that witness said as being
24 true. Again, you have to evaluate that testimony just like
25 you do any other witness's testimony in this case. Decide

1 how much weight to give it in making your decision in this
2 case.

3 Now, the fact that Mr. Anderson did not testify is
4 perfectly consistent with everything that I've told you up
5 to this point in time. I've told you repeatedly the burden
6 of proof is on the State to prove him guilty beyond a
7 reasonable doubt. The fact that he did not testify should
8 in no way weigh in your consideration or in your decision in
9 this case. The burden of proof, as I said, is always on the
10 State to convince you by the evidence presented here in
11 court of his guilt beyond a reasonable doubt. He doesn't
12 have to prove anything. The burden of proof is on the
13 State.

14 Now, the same constitution and code of laws that
15 makes you the finders of fact in this case also makes me the
16 instructor on the law. And you must accept the law as I
17 explain it to be the correct law. And you should not be
18 concerned with what you may think the law should be, but
19 only with what the law is.

20 Now, the charge in this case is rather simple in
21 the way that it is defined. And you will see it in this
22 piece of paper that I have here.

23 By the way, Madam Forelady, you will have this with
24 you in the jury room. And we ask that you use it to let us
25 know what your verdict is in this case. On the back, you

1 will see the printed word "verdict" with some lines below
2 that and a line for you to sign after you reach a verdict,
3 and date it.

4 But the charge is on the other side. And it says
5 just what I've been talking about here. The State claims
6 that on June 19, 2014, Kraig J. Anderson did commit a sexual
7 battery. And sexual battery in regard to this case is
8 defined by another provision of the law. Sexual battery
9 means sexual intercourse. There's some other things that it
10 also means, but that's what the State claims in this case,
11 that Mr. Anderson had sexual intercourse, committed a sexual
12 battery, had sexual intercourse with Cristen Wesley. And
13 that that was accomplished, that he used aggravated force.
14 And aggravated force is defined as -- aggravated force means
15 that Mr. Anderson used his physical force or physical
16 violence of a high and aggravated nature to overcome the
17 victim. That's what the State claims in this case. And
18 those are the charges, as I said, that you will see in this
19 indictment. There's also -- that's the first part of it up
20 here.

21 You will also see item two and item three that's
22 also included in the statute when it's just included in this
23 indictment, but the State is not claiming either two or
24 three, that he did that. It's only that first part that I
25 told you is what the State claims in this case, and that it

1 must prove beyond a reasonable doubt that he used aggravated
2 force to accomplish sexual battery on Cristen Wesley on this
3 occasion. That's the sum and substance of the charge that
4 the State makes against him.

5 Now, you were selected in this case as fair and
6 impartial jurors. You took an oath to decide this case
7 based on the testimony and the evidence presented to you
8 from this witness stand and my instructions to you on the
9 law. When you comply with the oath, when you do what you
10 said you were going to do, no one will have a right to
11 criticize your verdict. You have no friends to reward or
12 enemies to punish. Your job, as I said, is to do what you
13 said you would do, as I said, when you took your oath in
14 this case.

15 Your verdict must be unanimous. All 12 of you must
16 agree on what the verdict is before you can come back into
17 the courtroom and tell us that you've reached a verdict. We
18 don't have any majority verdicts in South Carolina. You
19 have to be unanimous in your decision.

20 And as I said, Madam Forelady, you will have this
21 piece of paper, the indictment. And on the back of it you
22 will see there where it says verdict and the blank lines
23 below that. Write your verdict, whatever it is.

24 If under the facts as you find them to be and under
25 the law as I've instructed you the law to be, you find that

1 the State has not met its burden of proof or proven
2 Mr. Anderson guilty of criminal sexual conduct in the first
3 degree as I have defined that for you, you would simply
4 write the words "not guilty" back there, sign your name as
5 foreman.

6 On the other hand, if under the facts as you find
7 them to be and under the law as I've instructed you the law
8 to be, you find that the State has met its burden of proof
9 of proving him guilty of criminal sexual conduct in the
10 first degree beyond a reasonable doubt, then you would
11 simply write the word "guilty" on this piece of paper. Sign
12 your name and date it. We will know that's your verdict in
13 regard to this case.

14 Now, I'm going to ask you to go to the jury room.
15 Don't start your deliberations yet. I need to look at my
16 notes. I've been looking at some notes that I have to make
17 sure I told you everything I need to tell you. If I have,
18 after I consult with my notes, we will gather up all the
19 evidence, bring it back to the jury room. And you know at
20 that time, you can begin your deliberations. If I've
21 overlooked something, I will bring you back out and tell you
22 what I overlooked before you start your deliberations. So
23 if you will go to the jury room, please.

24 (Whereupon, the jury leaves open court at 2:04
25 p.m.)

1 THE COURT: All right. Jury is out. The door is
2 closed. Any exceptions from the state?

3 MS. BALDWIN: None from the State.

4 THE COURT: Defense?

5 MS. SEMAN: No, Your Honor.

6 THE COURT: So get the physical evidence and we
7 will take it back to the jury.

8 (Whereupon, the jury deliberates at 2:05 p.m.)

9 THE COURT: We got a note from the jury that she
10 would like to review the video where she identifies
11 Mr. Anderson. Get everybody in here. Bring the jury in.

12 (Whereupon, the jury returns to open court at 3:03
13 p.m.)

14 THE COURT: We do have the jury now. Mr. Anderson
15 is present, along with his attorney. I have a note here
16 saying: The jury would like to view the video of the lineup
17 where Cristen confirmed the defendant.

18 And so we've got that video, I believe, set up and
19 ready to go. So play it.

20 (Video playing.)

21 THE COURT: Okay. That's it. Thank you very much.
22 Continue your deliberations.

23 (Whereupon, the jury leaves open court at 3:10
24 p.m.)

25 (Whereupon, a recess transpired.)

1 THE COURT: I just want to keep you all informed.
2 I just got a note from the jury saying they want to take a
3 15-minute break. So I'm letting them have a break, walk up
4 and down the hall. One of them wanted to take a smoke, so I
5 let the bailiffs take them. I told them not to talk about
6 the case while they are on a break, get all of them back in
7 the jury room before they can do any more deliberating or
8 talk about the case in any way. So that's what's going on.
9 I just wanted to let you know that.

10 (Whereupon, a recess is taken.)

11 THE COURT: Bring the jury in.

12 (Whereupon, the jury returns to open court at 4:29
13 p.m.)

14 THE COURT: We have the jury present. The
15 defendant is present. And the jury has returned a verdict
16 of guilty, signed by the forelady of the jury.

17 The procedure is, after a verdict is returned --
18 you do want me to poll the jury?

19 MS. PROCTOR: Yes, Your Honor, I do.

20 THE COURT: We have a procedure, what's called
21 polling the jury. And just have a seat, everybody. The
22 procedure is that I'm going to call each one of your names.
23 If you would, raise your hand when I call your name, because
24 I don't know who you are. But so raise your hand when I
25 call your name. The questions that I'm asking you is this:

1 Was the verdict as I reported it here in the courtroom of
2 guilty, was that your verdict when you last voted in the
3 jury room? And is it still your verdict here in open court?

4 If it was, simply answer yes, or if it was not or
5 is not, answer no. So that's the question that I'm asking
6 you. And that's what we mean when we poll the jury. I'm
7 asking each one of you: Was this verdict of guilty, was it
8 your verdict when you last voted in the jury room? And is
9 it still your verdict here in open court?

10 As I said, if it was, simply say yes, or if it was
11 not, say no.

12 Quantrinaye Smithjones, was that your verdict when
13 you last voted in the jury room? And still your verdict
14 here in that open court?

15 JUROR 284: Yes.

16 THE COURT: Lewis Pearson, was that your verdict
17 when you last voted in the jury room and still your verdict
18 here in open court?

19 JUROR 229: Yes, sir.

20 THE COURT: Chi Swift, was that your verdict when
21 you last voted in the jury room and still your verdict here
22 in open court?

23 JUROR 300: Yes, sir.

24 THE COURT: Zachery Fonner, was that your verdict
25 when you last voted in the jury room and still your verdict

1 here in open court?

2 JUROR 101: Yes, sir.

3 THE COURT: Charles Hill, was that your verdict
4 when you last voted in the jury room and still your verdict
5 here in open court?

6 JUROR 143: Yes, sir, it was.

7 THE COURT: Joshua Stewart, was that your verdict
8 when you last voted in the jury room and still your verdict
9 here in open court?

10 JUROR 294: Yes, Your Honor.

11 THE COURT: Anthony Coakley, was that your verdict
12 when you last voted in the jury room and still your verdict
13 here in open court?

14 JUROR 61: Yes, Your Honor.

15 THE COURT: Zoe James, was that your verdict when
16 you last voted in the jury room and still your verdict here
17 in open court?

18 JUROR 162: Yes, sir.

19 THE COURT: Oscar Devries, was that your verdict
20 when you last voted in the jury room and still your verdict
21 here in open court?

22 JUROR 81: Yes, sir.

23 THE COURT: Joanne Cornish, was that your verdict
24 when you last voted in the jury room and still your verdict
25 here in open court?

1 JUROR 72: It is, Your Honor.

2 THE COURT: Colleen Fleming, was that your verdict
3 when you last voted in the jury room and still your verdict
4 here in open court?

5 JUROR 95: Yes, Your Honor.

6 THE COURT: Thomas Gray, was that your verdict when
7 you last voted in the jury room and still your verdict here
8 in open court?

9 JUROR 123: Yes, Your Honor

10 THE COURT: All right. I believe that completes
11 the polling of the jury. Anyone whose names I missed? I
12 don't believe I missed any, but if so, raise your hand. No
13 hands raised.

14 That completes the polling of the jury. Thank you
15 very much. That completes your service on this jury and
16 also completes your service for the week. I don't have
17 another case to try this week. And the clerk tells me that
18 you are not assigned to come back for any other cases.
19 They've taken care of all the stuff that they need to take
20 care of.

21 But we are going to proceed to sentencing. And I
22 would invite you to stay with us and all for that. But I do
23 want to remind you to tear out any notes you may have made
24 from those notepads. Tear any notes you may have made.
25 Take them with you.

1 I really am not interested all that much in what a
2 jury's verdict is. I am interested in the way you went
3 about arriving at your verdict. And by that I mean, during
4 the course of the trial, I observed that you were paying
5 attention to the testimony and the evidence that was being
6 given to you. You paid attention when the lawyers were
7 discussing the case with you. And you paid attention while
8 all that discussing the case with you. And in my opinion,
9 you did all three of those things. So thank you very much
10 for your service. You did what you are supposed to do as
11 far as your conduct during the trial. And I appreciate that
12 very much.

13 All right. You want to present your client for
14 sentencing?

15 MS. PROCTOR: Your Honor, I will, but also, at this
16 point, we just make renew our motions we made during the
17 trial; make a motion for a new trial.

18 THE COURT: All right. I appreciate that, but I
19 deny your motions. All right. You want to say anything or
20 anything from the State?

21 MS. BALDWIN: Yes, Your Honor. We are still
22 waiting on the sentencing sheet, but I can do the
23 presentation now.

24 THE COURT: Yeah, get the sentencing sheet, but you
25 can go ahead and tell me whatever you want to tell me.

1 MS. BALDWIN: Sure, Your Honor. I am not going to
2 belabor the facts of this case, obviously, because we were
3 all here this week.

4 I would like to first read his record. He does
5 have in 2002 a criminal trespass out of Georgia; in 2006,
6 fraud, failure to to deliver out of Florida; in 2014, the
7 assault and battery, second degree, which was pled down from
8 another criminal sexual conduct in the first degree.

9 I do want to point out that the victim in this case
10 Alexandria Dean is here today. I know both victims would
11 like to address the Court at the appropriate time.

12 THE COURT: Glad to hear from both on them. And I
13 might tell the jury and all, part of the reason that -- we
14 took Monday for me to deal with what's called pretrial
15 motions. And one of the things that the State was wanting
16 to do at that time was to introduce evidence in this trial
17 of the previous events that resulted in that conviction of
18 assault and battery in the second degree, I believe it was,
19 but it started out as another charge of criminal sexual
20 conduct in the first degree.

21 I don't know what all went in to the decisions to
22 not proceed on that charge, but rather to allow Mr. Anderson
23 to plead guilty to the criminal sexual conduct in the second
24 degree charge, but he was sentenced to three years when he
25 pled guilty to that charge. And that was the maximum amount

1 of time that he could receive on that charge. And,
2 actually, he had served, basically, that sentence while he
3 was awaiting jail.

4 So after he was convicted and sent to Columbia,
5 really, for one day and then was released, this event
6 occurred the next day. So that's a little background that
7 you didn't know about. But that's what happened. And this
8 event occurred the next day that he got back to Charleston
9 from that one day in Columbia. But that's the way -- you
10 don't ever know how it's going to work when we are dealing
11 with these cases. We hope that nothing horrible like this
12 happens, but sometimes it does.

13 MS. BALDWIN: Your Honor, I do have that sentencing
14 sheet.

15 THE COURT: And I will be glad to hear from anybody
16 that wants to say anything, although I've heard from, of
17 course, the lady in this case, Ms. Wesley, and I don't
18 remember the other lady's name. But they both handled
19 themselves extremely well, I thought, when they were
20 testifying, one in front of the jury, and the other that was
21 nonjury.

22 I had to make a decision about whether I could --
23 under the law, whether I should let that evidence come in in
24 this trial. And I decided it was not appropriate under the
25 law at this time to let that evidence come in. But that's

1 the facts. That's what happened.

2 All right. Anything else?

3 MS. BALDWIN: Who would like -- would either one of
4 you like to address the judge regarding sentencing?

5 MS. DEAN: I'm -- I just want to say, I'm so sorry
6 that that had to happen to you.

7 And thank you, because I've waited six years for
8 this moment. And when I heard, I was devastated.

9 THE COURT: That's the other young lady that was
10 the victim in the previous case.

11 MS. BALDWIN: For the record, yes, Alexandria Dean.

12 MS. DEAN: I waited six years. Thank you so much.

13 MS. BALDWIN: I don't believe she would like to
14 address the Court.

15 MS. WESLEY: Yes. We've been going through this
16 for a long time. And to tell you the truth, I've never been
17 scared that we wouldn't find out what we found out today,
18 that he's guilty. I always felt really strong about that.
19 And this is the part I've been scared about now, is
20 sentencing, because I can't tell you how many times I
21 thought about 15 years from now, 20 years from now, I'm
22 going to be a mom, and my little girl might be 18 years old
23 by then. And I just want him -- I want him away for as long
24 as you possibly can, because I don't want to ever have to
25 fear for me the daughter the way that I feared for myself

1 during those two years where we didn't have him yet. For
2 two years, we didn't have him.

3 I would look people in the eye, just a little bit
4 too long, honestly just hoping that it would be him so that
5 we could get him. And I'm just glad that we are here today
6 finally getting some justice. And I just want -- I want the
7 furthest extent that we give.

8 THE COURT: I appreciate you coming and telling me
9 that. You are a brave young lady. And as I said, you
10 handled yourself well.

11 All right. Anything else?

12 MS. BALDWIN: Just briefly, to reiterate what Ms.
13 Wesley has asked for, Your Honor, we are asking for 30 years
14 based on his record. The State does have evidence that
15 there was -- just so Your Honor is aware, that there was a
16 conviction in Germany as well for rape in 2009.

17 THE COURT: I didn't know that. What is today's
18 date?

19 MS. BALDWIN: 11th of April, Your Honor.

20 THE COURT: Now I will switch to the other side,
21 either one of your attorneys and, of course, Mr. Anderson,
22 I'll be glad to hear from him.

23 MS. PROCTOR: Thank you, Your Honor. May it please
24 the Court. Kraig is 35 years old -- excuse me, 36 years
25 old. He went through high school. He had some years of

1 college. He was in the Navy. He comes from a big family.
2 He has 10 brothers and sisters. I've spoken -- his mom, I
3 think, is in Florida or Georgia. I've spoken to her on the
4 phone numerous times. One of his sisters was in the
5 courtroom on Monday, but she had to leave because she had
6 business dealings in Jacksonville.

7 Your Honor, we would ask that you be as lenient as
8 possible. And I will say, as far as what Ms. Baldwin just
9 said about the rape in Germany, we just saw a newspaper
10 article. I don't see it on a rap sheet. We would just ask
11 that you not consider that.

12 THE COURT: All right. I appreciate that.

13 Mr. Anderson, anything you want to say? You don't
14 have to, but I will be glad to hear anything that you would
15 like to say.

16 THE DEFENDANT: Thank you for letting me speak.
17 I've been accused before. And thing about it is, sometimes
18 you just are in the wrong place at the wrong time. And the
19 fact of it is, that's the reason I didn't testify today, is
20 because of the fact that I was in the wrong place at the
21 wrong time, around people who have sometimes the worst
22 intentions sometimes. And it's fine. But I think that
23 sometimes it's in the matter of a jury to decide. And this
24 is the decision they came up with. I can't do anything
25 about it. But that's the reason I didn't testify today.

1 I am a firm believer in Jesus Christ and I do not
2 condone any behavior like what they are accusing me of
3 doing.) I have three sisters that was raped before. And so
4 I understand the pain that goes into that. So I don't
5 understand why I'm in these situations, but I do know that I
6 try to do my best to make sure that the people that I'm
7 around in the best of care. I am not who they say that I
8 am. So I would like you to take that into consideration.

9 I also served my country. And I did not have any
10 bad dealings then either. So I would like you to take that
11 into consideration. And this is about my freedom that I
12 fought for for some time. I would like you to take that
13 into consideration.

14 THE COURT: All right. I appreciate that, but I
15 have no hesitation in affirming the jury's verdict. And the
16 sentence is that you be confined to South Carolina
17 Department of Corrections for a period of 30 years.

18 Good luck to you. Thank you very much. You are
19 free to go.

20 (Whereupon, the trial concludes.)

21

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STATE OF SOUTH CAROLINA
COUNTY OF CHARLESTON

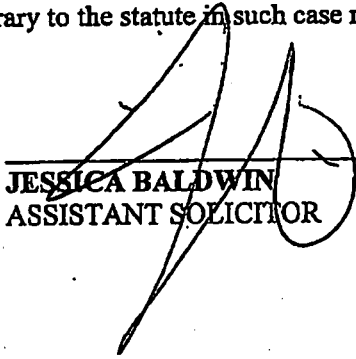
INDICTMENT

At a Court of General Sessions, convened May 2016, the Grand Jurors of Charleston County present upon their oath:

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

That in Charleston County, South Carolina, on or about June 19, 2014, the Defendant, Kraig J. Anderson, did commit a sexual battery upon the victim, (), accompanied by one or more of the following circumstances: (1) the defendant used aggravated force to accomplish the sexual battery and/or (2) the victim submitted to sexual battery under circumstances where the victim was also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act and/or (3) the defendant caused the victim, without the victim's consent, to become mentally incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance. This is in violation of Section 16-3-652, South Carolina Code of Laws (1976) as amended).

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


JESSICA BALDWIN
ASSISTANT SOLICITOR

6

JAB/0311630
WITNESSES

North Charleston Police Department

AGENCY CASE NUMBER

2014-020644

ARREST WARRANT NUMBER

2015A1021000918

DATE OF ARREST

12/02/2015

ACTION OF GRAND JURY

TRUE BILL

MAY 11 2016

Foreperson of Grand Jury

Date:

VERDICT

Yes - Guilty

Colleen M Fleming

Foreperson of Petit Jury

11 Apr 2018

Date:

DOCKET NO. 2016-GS-10-02429

The State of South Carolina

County of Charleston

COURT OF GENERAL SESSIONS

MAY TERM 2016

THE STATE

VS.

KRAIG J ANDERSON

DOB: 1

Indictment for

CRIMINAL SEXUAL CONDUCT FIRST
DEGREE

SC Code: § 16-03-0652

CDR Code: 0160

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SC Court of Appeals

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Taylor D. Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

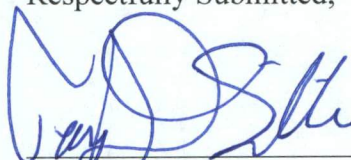
ATTORNEY FOR APPELLANT

This 27th day of February, 2019.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Taylor D Gilliam
Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 27th day of February, 2019.

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