

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM PICKENS COUNTY

Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MATTHEW RYAN HENDRICKS,

APPELLANT

APPELLATE CASE NO. 2011-203730

RECORD ON APPEAL

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**THE FOLLOWING EXHIBITS ARE ON FILE WITH THE COURT:
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#28 (PHOTOGRAPHS) AND STATE’S EXHIBIT #37 (TEXT MESSAGES)**

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF PICKENS	)	Case No(s) : 2011GS3901640,
	)	2011GS3901641
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	Volume 1 of 2
Matthew Ryan Hendricks,	)	
	)	
Defendant.	)	
	)	

November 14, 2011
 Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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

SAM TOOKER, Esquire
 Assistant Solicitor

DONALD L. CHUCK ALLEN, Esquire
 Attorney for Defendant

Recorded by: Sharon Vizer-Hanks
 Circuit Court Reporter

Transcribed by: Teresa B. Johnson
 Circuit Court Reporter

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1 This is the case of State of South Carolina
2 versus Matthew Ryan Hendricks. Representing the
3 state in this case is Sam Tooker. Please stand and
4 introduce yourself and introduce anyone who might be
5 trying this case with you.

6 **MR. TOOKER:** Thank you, Your Honor. My name
7 is Sam Tooker. I'm an Assistant Solicitor here in
8 Pickens County. Seated beside me at counsel table
9 is Detective Michael Baker with the Pickens County
10 Sheriff's Office. He will be assisting me with this
11 trial.

12 **THE COURT:** Is any member of the jury panel
13 related by blood or marriage to either of these two
14 men or have you been represented by Mr. Tooker in
15 any proceeding or has he prosecuted you in any
16 proceeding? And if so, please stand.
17 (No response.)

18 And none are standing.

19 Mr. Allen, would you please stand and introduce
20 yourself and your client?

21 **MR. ALLEN:** Yes, ma'am. May it please the
22 Court.

23 Good morning, Ladies and Gentlemen. I'm
24 Attorney Chuck Allen. It is my pleasure today and
25 probably part of this week to represent this young

1 be very careful with that.

2 THE COURT: All right. I appreciate it. I
3 appreciate it. All right. So we've dealt with that
4 one.

5 MR. TOOKER: Uh, next will be the Jackson v.
6 Deno, Your Honor.

7 THE COURT: Okay. And I think you said you
8 had three motions?

9 MR. TOOKER: Uh, yes.

10 THE COURT: Did you tell me that?

11 MR. TOOKER: The Rape Shield, the Jackson v.
12 Deno and a couple -- I'm not saying they are much --
13 I'm not sure they are so much motions as they are,
14 uh, just getting a ruling ahead of time so we'll
15 know how to proceed with a couple of pieces of
16 evidence.

17 THE COURT: All right.

18 MR. TOOKER: One is the 911 tapes from that
19 night. The other is with regards to prior
20 consistent, subsequent consistent claims of sexual
21 assault. You know, I rely on State v. Cox, but the
22 defendant, the victim is permitted to, uh, -- the
23 State's permitted to rely on the victim's hearsay in
24 as much as it goes to that she was raped, who did it
25 and where it happened. There's an abundance of case

1 law out there that backs that.

2 **THE COURT:** All right. All right. If you
3 want to go ahead and proceed then, if you think
4 logically the Jackson v. Deno hearing comes next,
5 that will be fine.

6 **MR. TOOKER:** Okay. All right. Well, the
7 State calls Detective Michael Baker.

8 **(WHEREUPON, Court's Exhibits 1 and 2 are marked for**
9 **identification purposes.)**

10 **MICHAEL BAKER**

11 having first been sworn, testifies as follows:

12 **DIRECT EXAMINATION**

13 **BY MR. TOOKER:**

14 **Q** All right. Detective Baker, uh, we're here
15 today with regards to the sexual assault the defendant's
16 been charged with. Did you have a chance to interview
17 him about that incident?

18 **A** I did.

19 **Q** Okay. Was he in custody at that point?

20 **A** He was.

21 **Q** Had he already been arrested?

22 **A** He had.

23 **Q** Where were y'all?

24 **A** We were in what we call the Multipurpose Room
25 in our detention facility.

1 case. So I'm going to order that portion of the
2 statement be, uh, redacted. But so far as its
3 voluntariness, I mean, it clear from the audio
4 recording and from the testimony of the officer that
5 the statement was made freely and voluntarily. He
6 was advised of his Miranda rights and waived those.
7 He said he fully understood them. And several times
8 during the interview, the officer acknowledged that
9 the defendant could break off the interview at any
10 point in time. And in fact, the defendant seemed to
11 well understand it. So I find that the, uh, the
12 statement was freely and voluntarily made. Uh, what
13 next do we need to take up?

14 **MR. TOOKER:** Well, with regards to the other
15 two motions, they are not so much motions as they
16 are just evidentiary rulings that I want to get done
17 ahead of time. But I understand we're getting a
18 little pressed. If you want, we can break for lunch
19 now and when, uh, we get involved at trial and it's
20 time to start talking about these pieces of evidence
21 at that point, you know, Mr. Allen can make any
22 motions.

23 **THE COURT:** And I believe you -- you talking
24 about the 911 tape?

25 **MR. TOOKER:** Yeah. Two 911 tapes as well as,

1 uh, just prior -- subsequent and consistent claims
2 of rape. Very general circumstances.

3 **THE COURT:** And let me ask you this, as far
4 as the 911 tapes are concerned, those 911 calls,
5 when were they made in relation to the instance?

6 **MR. TOOKER:** Sure. The first call is placed
7 by the victim. He actually heard the defendant
8 mention in that audio recording that she called the
9 police from her residence when she thought someone
10 was breaking in the back door. It's actually a
11 recording when she's on the line with the dispatcher
12 and she realizes it is, in fact, the defendant and
13 then cuts off. The second recording is one from the
14 victim's mother after the victim gets out, gets her
15 mother and they are on the way to the hospital
16 asking for a police officer to meet them at the
17 hospital.

18 **THE COURT:** You think both of these -- I
19 assume your victim's going to testify. Is the
20 mother going to testify?

21 **MR. TOOKER:** I would introduce both 911
22 tapes. One through the victim and the other through
23 her mother.

24 **MR. ALLEN:** I don't see the sense in the
25 second one. Maybe the first one. But I don't --

1 **THE COURT:** We can take a -- I'll take -- we
2 can take a listen to that at some point. I assume
3 it's fairly brief.

4 **MR. TOOKER:** Yeah. It's not but probably a
5 minute.

6 **THE COURT:** Okay. Let's deal with that after
7 lunch. It sounds like those are issues we don't
8 need to cross at this point unless you were
9 intending on getting into them.

10 **MR. TOOKER:** No.

11 **THE COURT:** All right. All right then.
12 Let's be in recess until 1:30.

13 **MR. TOOKER:** Thank you, Your Honor.

14 **THE COURT:** Thank you.

15 (WHEREUPON, a lunch recess is taken.)

16 **THE COURT:** All right. Any matters we need
17 to take up before we bring the jury back from the
18 State?

19 **MR. TOOKER:** Nothing from the State.

20 **THE COURT:** Okay. Anything from the defense?

21 **MR. ALLEN:** No, ma'am, Your Honor.

22 **THE COURT:** Okay. Bring the jury back in.

23 (WHEREUPON, the jury enters at approximately
24 1:36 p.m.)

25 **THE COURT:** Good afternoon, Ladies and

1 The first thing they did, the evidence will
2 show, when they came in was they had sex. In fact,
3 they had sex, then they took a little time off and
4 then they had sex again. A discovery was made about
5 the infidelity and that's when the reaction started.
6 At the time in question, Matthew lived there. He
7 knew her. He knew her children.

8 The evidence also is going to show after that
9 evening or that time in question in September of
10 last year, she made contact with him after that on
11 several occasions, several occasions. What I need
12 to remind you of again is every allegation made by
13 prosecuting authority must be proven beyond a
14 reasonable doubt. Beyond a reasonable doubt. I
15 look forward to trying the case with you. Thank
16 you, Your Honor.

17 **THE COURT:** Thank you. Mr. Tooker, you want
18 to call the first witness?

19 **MR. TOOKER:** Yes, ma'am. The State calls
20 Brittany Wardlaw to the stand.

21 **BRITTANY WARDLAW**
22 having first been sworn, testifies as follows:

23 **THE CLERK:** You may have a seat. State your
24 name for the record.

25 **THE WITNESS:** My name is Brittany Wardlaw.

DIRECT EXAMINATION

BY MR. TOOKER:

Q Brittany, I know it's hard cause that chair kind of goes right up to that thing. But if you would, scoot forward and try to talk directly into the mic so that everybody in the back row can hear you. Now, Brittany, where are you from?

A I'm from Dacusville, South Carolina.

Q And, uh, how old are you?

A I'm 23 years old.

Q How long have you lived in Pickens County?

A 23 years.

Q 23 years. And do you have any kids?

A I do.

Q What are their names?

A Minor 1 and Minor 2.

Q How old are they?

A 4 and 6.

Q 4 and 6. Okay. Do you know the defendant?

A I do.

Q Would you, I guess, briefly give us the history of your relationship. How long have you known him?

A We have known each other for almost four years.

Q And was it a romantic relationship?

A We did have a romantic relationship.

1 Q Okay. How long after y'all met did y'all
2 become romantic?

3 A Probably two or three weeks.

4 Q Okay. And, uh, did you say "I love you"?

5 A We did.

6 Q Okay. Did he live with you?

7 A He did.

8 Q Okay. Uh, your relationship, would you
9 categorize it as off and on or straight through?

10 A Off and on.

11 Q Off and on. Okay. And, uh, what was the
12 status of your relationship back in September of 2010?

13 A We had split up and got back together, like,
14 before.

15 Q And on September 15th of 2010, were you and the
16 defendant back together?

17 A We were.

18 Q And to your knowledge, where was he?

19 A He was in Florida working.

20 Q Do you know what he was doing in Florida?

21 A Putting in coolers.

22 Q Like in --

23 A Grocery stores.

24 Q Grocery stores? Okay. And, uh, where were you
25 living at that point on September 15th of 2010?

1 A

2 Q Okay. Where is that? What county?

3 A It's in Pickens county.

4 Q And, uh, on September 15th, had you talked to
5 the defendant?

6 A I had.

7 Q Okay. And what did y'all talk about that day?

8 A We had talked about a lot of random things. We
9 had talked about sex even, about him being gone for a
10 little longer to the next week, about the kids.

11 Q Okay. And you talked about these things on the
12 phone or what?

13 A We did.

14 Q Both live communication and text messaging?

15 A Yes, sir.

16 Q Would you say that you talked to him
17 periodically during the course of the whole day?

18 A Yes, sir.

19 Q Okay. The defendant, was he living with you at
20 this time?

21 A No, sir.

22 Q He wasn't. Did he have a key to your
23 residence?

24 A No, sir.

25 Q Okay. You said you talked to him all day.

1 Before you saw him that evening, when was the last time
2 that you actually did have communications with him?

3 A Ten minutes before the attempt to break-in. I
4 had spoke with him on the phone after I put the boys to
5 bed. He told me that he loved me and that he would see
6 me next week.

7 Q Okay. Did you still think he was in Florida at
8 this point?

9 A I did.

10 Q Now, you said 10 minutes before the break-in,
11 what break-in are you talking about?

12 A He attempted to break in my back door. The
13 house started shaking.

14 Q Okay. And what did you do when that happened?

15 A Called 911.

16 Q You called 911. I'm going to show you, it's
17 been marked State's Exhibit number 2. It's an audio CD.
18 Do you recognize the CD?

19 A I do.

20 Q Do you know what's on the CD?

21 A I do.

22 Q What's on the CD?

23 A It's the 911 call I placed that evening.

24 Q How do you recognize the CD?

25 A I had --

1 **MR. ALLEN:** Your Honor, I thought we were
2 doing some of that in camera. We need to be careful
3 with that.

4 **THE COURT:** All right.

5 **MR. TOOKER:** Well, at this point, in terms of
6 the chronology of the testimony, I'd like to get the
7 911 call in.

8 **THE COURT:** All right. Ladies and Gentlemen,
9 I'm going to need to ask you to step to your jury
10 room for just a moment. I have a brief matter of
11 law. It will only take a little while.

12 (WHEREUPON, the jury exits at approximately
13 2:10 p.m.)

14 **MR. TOOKER:** Just pick up where we left off?

15 **THE COURT:** Let's take a listen to it.

16 **MR. TOOKER:** All right.

17 **MR. ALLEN:** Yes, ma'am. That was my
18 understanding. Maybe I misunderstood.

19 **MR. TOOKER:** I just kind of figured I'd do it
20 and you'd object.

21 **THE COURT:** I suggest that we take a listen
22 to those before.

23 (WHEREUPON, State's Exhibit 2 is played.)

24 **MR. ALLEN:** I won't object to that.

25 **THE COURT:** While we're at it, why don't we

1 take a listen to the ---

2 MR. TOOKER: The other audio?

3 THE COURT: --- the other one ---

4 MR. TOOKER: Sure.

5 THE COURT: --- while we've got them out.

6 MR. TOOKER: Now, the trick with the other
7 audio recording is it had to be redacted. There's a
8 portion there where some prior misconduct of the
9 defendant is mentioned. So when it does come time
10 to introduce it, you know, initially, we had -- the
11 victim's mother did the same thing we did with the
12 victim. She initials the CD. She hasn't listened
13 to the redacted copy yet.

14 THE COURT: Okay.

15 MR. TOOKER: So maybe after she listens to
16 this copy, we'll have her sign it so she can
17 authenticate it when it comes down to --

18 THE COURT: All right. All right. And we
19 may not take up its admissibility fully right now.

20 MR. TOOKER: Fair enough.

21 THE COURT: But at least so we all heard it.

22 (WHEREUPON, State's Exhibit 3 is played.)

23 THE COURT: All right. Uh, unless there's
24 anything else we need to take up right now, we'll
25 bring the jury back in. And I'll let you put on the

1 record you don't have any objection.

2 MR. ALLEN: I don't to the first one. I may
3 want to be heard on the second one.

4 THE COURT: Certainly. Certainly. We may
5 take that up after this witness.

6 MR. ALLEN: Sure.

7 THE COURT: You're not intending to, I
8 wouldn't assume, to --

9 MR. TOOKER: Not through her. Right.

10 THE COURT: All right. Let's bring the jury
11 back in.

12 (WHEREUPON, the jury enters at approximately
13 2:13 p.m.)

14 THE COURT: Thank you, Ladies and Gentlemen.
15 Mr. Tooker.

16 BY MR. TOOKER:

17 Q All right. Brittany, so this disk, you've
18 listened to it?

19 A I have.

20 Q And what is contained on that disk?

21 A The 911 call I made.

22 Q Okay. And when did you make the call?

23 A That evening.

24 Q Okay. And what did you think was happening
25 initially when you made the call?

1 **A** Someone was breaking in.

2 **Q** What is it you realized while you were on the
3 phone?

4 **A** That it was Matthew.

5 **Q** You said you listened to it, would you say this
6 is a fair and accurate representation of that phone
7 conversation you had with dispatch?

8 **A** It is.

9 **MR. TOOKER:** At this point, Your Honor, the
10 State would like to publish State's 2 for the jury.

11 **THE COURT:** Any objection?

12 **MR. ALLEN:** No, ma'am. In fact, we join in
13 to have it introduced.

14 **THE COURT:** All right. Thank you, sir.

15 **(WHEREUPON, State's Exhibit 2 is played for the**
16 **jury.)**

17 **BY MR. TOOKER:**

18 **Q** Now, that audio, that tape, it cuts off
19 abruptly. What happened when the audio cut off?

20 **A** Matthew had grabbed the phone.

21 **Q** Grabbed the phone. Where were y'all standing
22 in this house?

23 **A** The back door.

24 **Q** Okay. What I'm going to show you now has been
25 marked as State's 1. All right. On this diagram I'm

1 showing you that's been marked State's 1, do you
2 recognize that?

3 A I do.

4 Q Would you say that while it's not exact, that's
5 a fair and accurate representation of the layout of your
6 house?

7 A Yes, sir.

8 MR. TOOKER: Okay. At this point, Your
9 Honor, the State wants to publish State's 1 and move
10 it into evidence.

11 MR. ALLEN: There's no objection to that,
12 Your Honor.

13 THE COURT: All right. Do you want to enter
14 both of these pieces of evidence? I know you said
15 you wanted to publish them?

16 MR. TOOKER: Yes, ma'am.

17 THE COURT: All right.

18 MR. TOOKER: We'd like to enter both 1 and 2.

19 THE COURT: All right. So admitted.

20 (WHEREUPON, State's Exhibits 1 and 2 are admitted
21 into the record.)

22 BY MR. TOOKER:

23 Q All right. Brittany, uh, I believe we have a
24 laser pointer over here. I think it's this. Press the
25 button that says laser. Would you show us on the diagram

1 where you met the defendant at your residence.

2 A We were here.

3 Q No, when he took your phone, did he go into the
4 house or go outside first?

5 A Outside.

6 Q Okay. And what happened out there. What was
7 he doing?

8 A He was making calls.

9 Q Who was he calling?

10 A Uh, random people at first. Then Jason White.

11 Q Okay. Now, he was call --

12 THE COURT: Would you repeat that name again,
13 ma'am?

14 THE WITNESS: Jason White.

15 BY MR. TOOKER:

16 Q He was calling people from your phone?

17 A Right.

18 Q Did he text anybody?

19 A He did.

20 Q Now, when y'all were on the back porch, why
21 does he start calling these people? Why does he call
22 Jason White?

23 A He found the number on the phone. I'm not
24 exactly sure.

25 Q Had he gone through what was on the phone?

1 **A** He had snatched the phone and was going through
2 it.

3 **Q** And after he called Jason White, what had
4 happened?

5 **A** He continued to use both phones.

6 **Q** You say your phone?

7 **A** And his.

8 **Q** And his phone. Okay. Did he come into the
9 residence at any point?

10 **A** He did.

11 **Q** Was he talking to you?

12 **A** He was saying random things, but not really a
13 concern of me at that point.

14 **Q** You saying he was saying random things. What
15 do you mean? Be more specific.

16 **A** He said, uh, that I was cheating.

17 **Q** Okay. Why is it that he suspected you were
18 cheating after he took your phone?

19 **A** I'm not sure.

20 **Q** And what did he do once he came inside the
21 house and he was going through both phones?

22 **A** He continuously was just making phone calls on
23 both phones.

24 **Q** And where did y'all go from the back porch into
25 the residence? Show us with the laser pointer.

1 **A** From here outside to the porch. All the way
2 through. Ended up on the front porch.

3 **Q** Okay. So you guys moved from the back porch to
4 the front porch. Where you were you sitting?

5 **A** On the front step.

6 **Q** Sitting on the front step?

7 **A** Right.

8 **Q** Where were you facing? Were you facing towards
9 the house or facing towards the front?

10 **A** Right in the driveway.

11 **Q** In the driveway. And your driveway, what kind
12 of driveway was it?

13 **A** It's a circle driveway.

14 **Q** Circle drive. And your front porch, is it new
15 or old?

16 **A** It was actually brand new.

17 **Q** Brand new. Did people generally go to your
18 house through the front or the back?

19 **A** Front.

20 **Q** Anyone ever go in through the house in the
21 back?

22 **A** No.

23 **Q** Why not?

24 **A** We never used it except for when I moved in.

25 **Q** Okay. So let's go back to where -- you're

1 sitting on the front step of the front porch. What
2 happens next?

3 A We were saying random things. I told him I
4 would just take him home. He was calling people telling
5 them to come get him.

6 Q What was he saying to those people?

7 A He said that I had -- he caught me cheating and
8 he needed a ride out of there but refused to let me take
9 him anywhere.

10 Q How long did this go on? You're sitting there.
11 He's calling people asking for rides and accusing you of
12 cheating, how long did this happen?

13 A Not exactly sure. But I could guess about 15
14 minutes, 20 minutes.

15 Q Okay. What happened next? What was the next
16 big event in this series of events?

17 A I just kept saying to him I would take him
18 home. He said I was cheating. The next thing that
19 happened was he hit me in my arm.

20 Q He hit you in your arm?

21 A He did.

22 Q How did he hit you?

23 A With his fist.

24 Q With his fist. I'm going to show you a couple
25 of pictures. The bruise to your arm, was that ever

1 photographed?

2 **A** It was.

3 **Q** Where was it photographed?

4 **A** It was photographed at the hospital and at my
5 home.

6 **Q** Okay. I'm going to show you what's been marked
7 as State's Exhibit 4, 5, 6 and 14. Would you tell us
8 what's depicted in each of these? First, what's in
9 number 6?

10 **A** Bruise on my arm where he had hit me.

11 **Q** And number 4.

12 **A** Same bruise.

13 **Q** And number 5.

14 **A** Also the same.

15 **Q** Okay. Now those three images, where were those
16 taken?

17 **A** The hospital.

18 **Q** Those were taken at the hospital. Now, this is
19 a different image. Do you recognize this image?

20 **A** I do.

21 **Q** What is that image of?

22 **A** My arm again.

23 **Q** Okay. Now that's, I believe, State's 14.

24 Would you say that these pictures, these images fairly
25 and accurately represent your arm and the bruise on your

1 arm after the incident?

2 A I do.

3 Q Okay. Now, this final picture, number 14, was
4 this taken at the hospital or at a different time?

5 A This was taken at my mother's house.

6 Q How many days later, do you know?

7 A Not exactly sure.

8 Q But after the hospital?

9 A Correct.

10 MR. TOOKER: At this point, Your Honor, the
11 State would like to move 4, 5, 6 and 14 into
12 evidence.

13 THE COURT: Any objection?

14 MR. ALLEN: No, ma'am. There's no objection.

15 THE COURT: All right then. You may publish
16 it.

17 (WHEREUPON, State's Exhibits 4, 5, 6 and 14 are
18 admitted into the record.)

19 BY MR. TOOKER:

20 Q Now, Brittany, the bruise depicted is that
21 what's been framed by that L-shaped ruler?

22 A Yes.

23 Q Is this one of the images that was taken at the
24 hospital?

25 A It is.

1 Q Okay. Is this another one of the same
2 photographs?

3 A It is.

4 Q And this picture right here, when was this one
5 taken?

6 A It was taken at my mother's.

7 Q At your mother's house. Okay. Now, all four
8 of these images depict the bruise that was a result of
9 the defendant's punching your arm?

10 A Yes, sir.

11 Q Okay. And after that happened, after he hit
12 you in the arm, what did you do?

13 A I told him that we were done.

14 Q How did he respond?

15 A He jerked me up by the hair on my head.

16 Q Jerked you up by the hair on your head?

17 A Uh-huh.

18 Q So where was he standing in relation to you at
19 that point? You're sitting on the steps still?

20 A Right. When he hit me, I was sitting.

21 Q Okay. And did you stand up after he hit you?

22 A I did.

23 Q And after you stood up, is that when you said
24 it was over?

25 A I did.

1 Q How did he react?

2 A He snapped basically.

3 Q Okay. And you said he grabbed you by your
4 hair?

5 A Yeah.

6 Q What did he do when he grabbed you by the hair?

7 A Threw me into the living room.

8 Q Okay. And where in the living room did he
9 throw you?

10 A Where the couch was, which would be here.

11 Q Okay. And after he did that, what happened,
12 what did he do?

13 A Proceeded to pick me up again and take me to
14 the back bedroom.

15 Q You say he threw you on the couch. About how
16 long do you think you were on the couch?

17 A Not long.

18 Q Not long. So he took you to the back bedroom.
19 Which bedroom is the back bedroom?

20 A This one.

21 Q That other bedroom, who stayed in that bedroom?

22 A My boys.

23 Q Your boys?

24 A Uh-huh.

25 Q Were they there that night?

1 **A** They were.

2 **Q** Okay. Were they sleep?

3 **A** They were.

4 **Q** Did they wake up at any point?

5 **A** No.

6 **Q** So he takes you to the back bedroom. Once he
7 got you in the back bedroom, what happened?

8 **A** He told me that I was a dirty slut and I was
9 going to take it like I was one and he was going to leave
10 me like that.

11 **Q** I'm sorry. You're going to have to repeat
12 that. Take your time.

13 **A** He said that I was a dirty slut and he was
14 going to do me like that and leave me like that.

15 **Q** So he said that to you and then what did he do
16 next?

17 **A** After using the phone again, he was going back
18 and forth in the house.

19 **Q** So you're in the back bedroom at this point and
20 he's still on the phone?

21 **A** He gets on and off of it.

22 **Q** Okay. And how long do you say this probably
23 went on?

24 **A** I'm not exactly sure on time. It felt like
25 forever but I can't tell you a specific time.

1 Q Did he keep returning to the bedroom?

2 A He did.

3 Q Did you feel free to leave?

4 A I was not to leave.

5 Q And, uh, after he spent some time going back
6 and forth on the phones, what happened?

7 A He had grabbed my hair on my head again.

8 Q This is in the bedroom?

9 A In the bedroom.

10 Q Where in the bedroom?

11 A The bed's here and the dresser's here. I was
12 -- we were in between. He had my hair. He slammed my
13 head in the ground.

14 Q Slammed your head in the ground?

15 A Uh-huh.

16 Q The back of your head or the front of your
17 head?

18 A The back.

19 Q Okay. So you were laying on your back at this
20 point?

21 A Uh-huh.

22 Q After that happened, what did he do next?

23 A He told me to take my clothes off.

24 Q Okay. Where is he standing in relation to you
25 in the house?

1 A Next to the closet.

2 Q Okay. And it's not a particularly big bedroom.

3 In terms of feet, how far away from you do you think he
4 was?

5 A Maybe four or five.

6 Q And he told you to undress?

7 A He did.

8 Q Okay. Did you undress?

9 A At first, I didn't.

10 Q What did you say to the defendant?

11 A I kept telling him no and asking him what he
12 was doing. We did love each other. This was way out of
13 character. I didn't understand, you know, his telling me
14 that. I'm like no, what are you talking about, you know.

15 Q Okay. So eventually do you disrobe?

16 A I do.

17 Q Entirely or partially?

18 A Partially.

19 Q What parts of your clothes did you take off?

20 A My pants and my underwear.

21 Q Okay. And what does he do?

22 A He tells me to turn over, he doesn't want to
23 see my face.

24 Q Where are you?

25 A On the bed.

1. Q On the bed. What does he do?

2. A (No response.)

3. Q I know this is difficult.

4. A At that point is when he, uh, anally sexually
5 assaulted me.

6. Q Did you consent for him to do it?

7. A No.

8. Q At all?

9. A At all.

10. Q And did the assault last very long?

11. A No. It felt like it did, but it didn't.

12. Q Do you know whether he ejaculated?

13. A He did.

14. Q After that happened, what did he do?

15. A Got back on the phone again.

16. Q Okay. When he was assaulting you, was he
17 holding you down?

18. A He had my hands. I was trying to push him off.

19. Q How did he have your hands?

20. A Held down.

21. Q From behind you?

22. A From behind me.

23. Q Okay. After he got back on the phones, what
24 did you do?

25. A I finally got to the bathroom because I was

1 bleeding. I sat there as long as I could cause he told
2 me, he kept repeating to me that it was my fault, that I
3 was going to take it like that and he was going to leave
4 me like that. That's all he kept repeating really to me.
5 I sat there until he wanted me to come back in the room.

6 Q And how did he express to you that he wanted
7 you to come back in the room?

8 A He told me to get back in there.

9 Q Once you got back in there, what did he do?

10 A He wanted me to turn over again.

11 Q Okay. And how did you react to that request?

12 A I told Matthew what you're doing is wrong. We
13 love each other. Why are you doing this? I'm asking
14 him, why don't you just go? Why can't I just take you
15 somewhere, you know, and go?

16 Q What did he say?

17 A That he was going to "F" me like the dirty slut
18 I was and leave me that way.

19 Q Okay. And what happened next?

20 A He did exactly what he said.

21 Q This is very private, but were you on your
22 cycle at this point?

23 A No.

24 Q And the second assault, was that also an anal-
25 assault?

1 A No.

2 Q What area of your --

3 A Vaginally.

4 Q Okay. And how long did that last?

5 A It wasn't long.

6 Q Okay. Again, did he hold you down?

7 A Yes.

8 Q And again, did you consent at all to this?

9 A No.

10 Q Okay. After he finished, what happened?

11 A He wanted to lay there with me. He got mad
12 because I wouldn't cuddle with him before he was leaving
13 me for good.

14 Q Okay. Now, is that something he said to you?

15 A It is.

16 Q That he wanted to cuddle with you before he
17 left?

18 A Right.

19 Q And you said no?

20 A Right.

21 Q What did he do?

22 A Went back to using the phones again.

23 Q How long do you think he did that?

24 A I'm not exactly sure.

25 Q Now, uh, during the course of these assaults,

1 did you cry out?

2 **A** No.

3 **Q** Why not?

4 **A** Because I knew my boys would wake up. My boys
5 had been through a lot that year.

6 **Q** Now, there is a poem, I believe. What's the
7 significance of that poem?

8 **A** I wrote that poem. It meant a lot to me.

9 **Q** What did he do with it?

10 **A** He ripped it up and threw it at me.

11 **Q** Okay. Was this in the bedroom as well?

12 **A** It was.

13 **Q** Were you still on the bed?

14 **A** I was.

15 **Q** How long did you lay on the bed after the
16 second assault?

17 **A** For -- I didn't stay in the room long. I tried
18 to stay in the bathroom as long as I could after each
19 time so he would leave me alone.

20 **Q** Did he eventually leave?

21 **A** He eventually did.

22 **Q** How much longer, you think, after the second
23 assault before he left?

24 **A** It was at least an hour or two. I'm not
25 exactly sure, but it took a little while.

1 Q Now, do you know who he was calling trying to
2 get a ride?

3 A He called several people. The only ones I know
4 for sure of was Brent Watson and his dad.

5 Q What about Zach Watson?

6 A Zach Watson, sorry.

7 Q That's okay. And did anybody ask for
8 directions?

9 A They did.

10 Q What did you do when he asked you?

11 A I yelled out how to get there.

12 Q Why did you do that?

13 A Cause I just wanted him to go.

14 Q Was he eventually picked up?

15 A He was.

16 Q Do you know who picked him up?

17 A Zach Watson and his girlfriend Christy.

18 Q Where were you when he was picked up?

19 A In the bathroom on the toilet.

20 Q Okay. So at some point, you moved from the
21 bed, the bedroom to the toilet. Why did you move to the
22 toilet?

23 A Cause I was bleeding.

24 Q Again, I know this is difficult. Where were
25 you bleeding from?

1 A Both vaginally and anally.

2 Q And do you remember whether or not any blood
3 was on the bed?

4 A There was.

5 Q And after he left with Zach, what did you do?

6 A I got the phone and I called Jason White who I
7 had spoke to before all of it happened and I had to get
8 in the shower.

9 Q Why did you get in the shower?

10 A Cause there was blood everywhere. And I had to
11 get my boys out of the bed. I couldn't have with
12 everything on me like that.

13 Q Okay. So after you got out of the shower, what
14 did you do?

15 A I went and got my boys out of the bed and took
16 them to the car and went to my mom's.

17 Q Do you remember much of what happened after
18 that?

19 A I -- just bits and pieces.

20 Q Do you remember talking to Jason on the phone?

21 A No.

22 Q Okay. Do you remember if he was even there
23 when you got to your mom's house?

24 A No.

25 Q Do you remember seeing your mom?

1 A I do.

2 Q Okay. Once you saw your mom, how would you
3 describe your emotional state?

4 A I just wanted her to take my boys in.

5 Q And is that what happened?

6 A That's what happened.

7 Q Now, your mom, you and she went to the
8 hospital, correct?

9 A We did.

10 Q Who watched your boys?

11 A My brother was there and my mom's boyfriend.

12 Q And when you and your mother went to the
13 hospital, did someone call 911?

14 A Not sure. But I'm pretty sure my mom did.

15 Q Okay. Did you tell your mother what happened?

16 A I did.

17 Q And when you got to the hospital, what was the
18 first thing that you did once you got there?

19 A They did a kit.

20 Q Okay. Uh, so you talked to a nurse?

21 A I did.

22 Q Okay. You recall talking to anyone else?

23 A No.

24 Q The nurse that you talked to, were you honest
25 with her?

1 A I was.

2 Q Did you describe to her what happened to you?

3 A I did.

4 Q Okay. How long did it take for them to do the
5 kit?

6 A I really honestly do not remember that.

7 Q You did go home this -- early that morning at
8 some point?

9 A I did.

10 Q Who did you go home with?

11 A My mother.

12 Q And did you go back to your house, to
13 ?

14 A No.

15 Q You know, the house was a mess after that. Do
16 you recall if anybody came to the house to clean it up,
17 for you?

18 A I do.

19 Q Who cleaned up the house for you?

20 A Trudy Honeycutt and her daughter and a friend
21 of hers.

22 Q Who is Trudy Honeycutt?

23 A She's one of my mom's really close friends.

24 Q And, uh, just to sort of backtrack some.

25 You've known the defendant for over four years. How

1 would you say he appeared emotionally before the assault,
2 when he came and he was angry?

3 A He was not himself at all. He was way out of
4 character.

5 Q And then during the assaults, did you ever
6 actually look at his face?

7 A Not during, but when he was talking to me
8 before the sexual assaults, I did.

9 Q Okay. And how did he appear? What did his
10 face look like? Did it look different?

11 A He just was out of character. It was just a
12 frantic almost.

13 MR. TOOKER: Okay. One moment, Your Honor.

14 No further questions.

15 THE COURT: Mr. Allen?

16 MR. ALLEN: May it please the Court?

17 THE COURT: Yes, sir.

18 CROSS-EXAMINATION

19 BY MR. ALLEN:

20 Q Ms. Wardlaw, I need to ask you a few questions.
21 Okay?

22 A Yes, sir.

23 Q First of all, how old are you?

24 A I'm 23.

25 Q And how old is Matthew? Do you know?

1 A He is 20.

2 Q 20?

3 A Uh-huh.

4 Q And you've known him for four years?

5 A Yes, sir.

6 Q And at some point in time, you all lived
7 together. Is that correct?

8 A We did.

9 Q How many different times did you live together?

10 A A numerous amount of times.

11 Q Well, let's see if we can figure it out. Five
12 different times?

13 A I'm not exactly sure how many times.

14 Q Less than 10 times?

15 A Probably less than 10. I'm not exactly sure.

16 Q 25 and 10?

17 A I'm not exactly sure how many times.

18 Q Now, on this day that you testified to the
19 prosecutor about Matthew was at least -- early part of
20 that day, he was in Florida to your knowledge, is that
21 correct?

22 A Yes, sir.

23 Q And that's when you and Matthew were
24 corresponding by telephone?

25 A We were.

1 Q Were you talking to him on the telephone?

2 A We talked and texted.

3 Q Okay. And it was said earlier it was -- how
4 many times you think you talked or texted that day?

5 A A good bit that day.

6 Q A lot, right?

7 A More than one, I guess.

8 Q And the primary issue that day was sex, was it
9 not?

10 A Yeah. He had brought it to my attention a lot
11 that day.

12 Q And you corresponded in like fashion, did you
13 not?

14 A I did.

15 Q And that was something y'all typically would do
16 is send -- I'm going to call them dirty text messages to
17 one another.

18 MR. TOOKER: Objection, Your Honor. We've
19 covered this with Rape Shield. I mean, he can talk
20 about consent, but anything else out of that, I
21 believe, is violative of the statute.

22 MR. ALLEN: Well, Your Honor, they opened the
23 door. They talked about it on direct.

24 THE COURT: All right. Y'all approach.

25 (WHEREUPON, a bench conference is held off the

1 record.)

2 **BY MR. ALLEN:**

3 **Q** So as I was asking you there, Ms. Wardlaw, so
4 that was going on frequently throughout the day?

5 **A** Yes, sir.

6 **Q** Okay. And it was -- just to be clear, it was
7 text messaging?

8 **A** Yes, sir.

9 **Q** And for those of us that don't clearly
10 understand text messaging, what is that?

11 **A** That's when you type in something on the phone
12 and send it to another phone. A message.

13 **Q** So you type it in and then you send it to
14 another phone and that person on the other phone can read
15 it?

16 **A** Yes, sir.

17 **Q** All right. And so did you send any, did you
18 send any nude pictures?

19 **A** I did.

20 **Q** How many nude pictures did you send him?

21 **A** I'm not exactly sure, but it was very few.

22 **Q** Well, was it less than 10?

23 **A** Way less than 10.

24 **Q** Okay. Now, uh, obviously nobody forced you to
25 send those messages or pictures or phone calls. Nobody

1 made you do that, correct?

2 A No, they didn't.

3 Q In fact, you kind of anticipated when Matthew
4 would return so you and he could resume your
5 relationship, isn't that correct?

6 A We had spoke about some things when he got home
7 but it wasn't agreed. Some of the things that was said
8 was not agreed upon.

9 Q And in fact, on the 911 tape when you called,
10 now it sounded to me like you -- it sounded like you
11 were, uh, excited when you realized it was Matthew that
12 was at the backdoor rather than an intruder. Were you
13 not excited when you saw him?

14 A I was very surprised.

15 Q Were you pleased?

16 A Not pleased. Very surprised.

17 Q Now, you heard the 911 tape?

18 A I made that call.

19 Q Okay. And you are telling this court under
20 oath that when you finally realized or when you realized
21 it was Matthew Hendricks coming in the back door that you
22 were not pleased?

23 A I was relieved that it wasn't a total stranger.

24 Q All right. And actually what happened was that
25 he came in and you all embraced and you were happy to see

1 one another and then you were having sex and then you
2 took a break and there was more sex and then he
3 discovered that -- those unusual numbers on your
4 telephone and that's when the reaction started, isn't
5 that correct?

6 A In no way, shape or fashion is that true at
7 all.

8 Q Well, you got neighbors close by there, do you
9 not?

10 A I do.

11 Q In fact, they are very closely situated to you,
12 at least three or four other mobile homes there, correct?

13 A They are not close.

14 Q How far would you say they are away?

15 A They are spread out.

16 Q Maybe what? Isn't there one as close as here
17 to the back of the courtroom?

18 A A little further than that.

19 Q But not much, is it?

20 A Further than that though.

21 Q But not much farther. Now, while you were out,
22 you could have easily shouted or yelled over to one of
23 the neighbors and got somebody out there if that's what
24 you intended, couldn't you?

25 A It did not start outside like that.

1 Q You could have gotten out the door. This is a
2 small area we're talking about here, right? I mean, it's
3 not a double-wide mobile home, is it?

4 A No.

5 Q That's a single-wide mobile home.

6 A Yes, sir.

7 Q Correct? You could have opened the front door
8 and just across the way shouted and somebody been over
9 there, isn't that right?

10 A No, that's not true.

11 Q And, in fact, when -- Matthew got there around
12 what time?

13 A About 10:30.

14 Q And he was there until about what time?

15 A I'm not exactly sure. Early morning.

16 Q And you had a phone -- it was several hours,
17 correct?

18 A Yes.

19 Q It was two or three hours or more?

20 A Or more.

21 Q And you had a phone the entire time, did you
22 not?

23 A No, I did not.

24 Q You had a phone. When he left, you called
25 somebody I thought you said in your testimony.

1 **A** Because he brought the phone back in to me.

2 **Q** But you never, on that phone, in that time in
3 question, you -- never did you call 911, did you?

4 **A** I called 911 before the door was opened.

5 **Q** Correct. I'm talking about afterwards.

6 **A** No, I went and got my children and went to my
7 mother's.

8 **Q** And you never called 911, correct, afterwards?

9 **A** No, we went to the hospital.

10 **Q** And again, you and Matthew had a stormy
11 relationship over the years, had you not?

12 **A** Yes, sir.

13 **Q** And, in fact, there's at least one documented
14 account where law enforcement had to come to another
15 location when y'all lived together, is that right?

16 **A** Yes, sir.

17 **Q** That was in April of 2009?

18 **A** I don't know, sir, what the date was, but there
19 was several incidents.

20 **Q** Several. Okay. So there was at least one in
21 April of 2009.

22 **A** I'm not sure if it was April, but around that
23 time.

24 **Q** And on that occasion, the responding officer
25 couldn't determine who the aggressor was, whether it was

1 you or whether it was Matthew, isn't that correct?

2 A No.

3 Q I'm going to remind you you're under oath,
4 ma'am.

5 MR. TOOKER: Your Honor, I'm going to have to
6 object to this line of questioning. I think we're
7 getting into 404(b) stuff. If he intends to use
8 prior bad acts, then, you know, we need to have an
9 in camera hearing.

10 THE COURT: Let's approach for a second.

11 BY MR. ALLEN:

12 Q All right. Just to wrap that up, Ms. Wardlaw,
13 that was one incident in April of 2009, but there were
14 others as well, correct?

15 A Yes, sir.

16 Q Okay. And the Solicitor asked you this
17 question. I'm going to ask you with hesitation. You
18 were also, uh, in your menstrual cycle at that time, were
19 you not?

20 A No, sir. I was not.

21 Q Did you not have a device that a woman
22 typically uses when it's that time of the month?

23 A I had them at home.

24 Q Beg your pardon?

25 A Were you talking about feminine products?

1 Q Yes, ma'am.

2 A They were in my home, yes, they were.

3 Q But you actually had one applied at the time,
4 did you not, or shortly thereafter?

5 A I'm not sure about that.

6 Q You're not sure about that?

7 A I was not on my period. Afterwards?

8 Q Yeah.

9 A I'm not sure. I'm not sure.

10 Q You're sure that one of those products was
11 removed from your person at the hospital?

12 A I had a very horrible night. I'm not sure
13 exactly what happened at the hospital.

14 Q You could have. You just have no recollection
15 of it.

16 A Right.

17 MR. ALLEN: Your Honor, if I could have just
18 one moment.

19 THE COURT: All right.

20 (WHEREUPON, there is a pause.)

21 BY MR. ALLEN:

22 Q And then lastly, you also, after the fact, had
23 contact with, uh, Matthew, did you not?

24 A No, I did not.

25 Q You didn't pick him up in your car?

1 **A** No, I did not.

2 **Q** All right. I'm going to remind you one last
3 time you're under oath. Did you not pick him up and take
4 him to work in April of this year?

5 **A** No, I did not.

6 **Q** Did you not take him to Anderson?

7 **A** I did not.

8 **Q** And then your car -- don't you have a gold
9 vehicle?

10 **A** I do.

11 **Q** A gold Honda?

12 **A** I do.

13 **Q** And you did not -- one last time. You did
14 not --

15 **MR. TOOKER:** Your Honor, I'm going to object.
16 What's the relevance of this?

17 **THE COURT:** I assume he'll tie it in at some
18 point.

19 **BY MR. ALLEN:**

20 **Q** You deny after the fact that you drove your
21 gold Honda and picked him up?

22 **A** I do.

23 **Q** You deny it?

24 **A** I deny that.

25 **Q** You don't admit it?

1 **A** I don't admit it.

2 **MR. ALLEN:** All right. That's all the
3 questions I have for this witness, Your Honor.

4 **THE COURT:** Mr. Tooker?

5 **MR. TOOKER:** Just briefly on recross.

6 **THE COURT:** Yes, sir.

7 **MR. TOOKER:** Redirect.

8 **REDIRECT EXAMINATION**

9 **BY MR. TOOKER:**

10 **Q** Okay. As a result of the assault, you were
11 bleeding?

12 **A** Yes, sir.

13 **Q** Were you bleeding a lot?

14 **A** Yes, sir.

15 **Q** Did you insert a tampon to stop the bleeding?

16 **A** I'm not exactly sure what I did.

17 **Q** If you did do that, the nurse would know that,
18 right?

19 **A** Yes, sir.

20 **MR. TOOKER:** Okay. No further questions.

21 **THE COURT:** Anything else?

22 **MR. ALLEN:** No, ma'am.

23 **THE COURT:** Ma'am, you can step down. Thank
24 you.

25 I'll tell you what, let's take about a five-

1 minute break.

2 (WHEREUPON, the jury exits at approximately
3 2:50 p.m.)

4 THE COURT: We'll be in recess for five
5 minutes.

6 (WHEREUPON, a recess is taken.)

7 THE COURT: Y'all be seated. All right.

8 MR. TOOKER: Your Honor, before we bring the
9 jury back in, you want to go ahead and settle the
10 matter with regards to the 911 tape.

11 THE COURT: All right. And you -- is that
12 your next witness?

13 MR. TOOKER: Yes, ma'am.

14 THE COURT: All right. Mr. Allen?

15 MR. ALLEN: Your Honor, I would object. I
16 would say that's bolstering. That witness is going
17 to testify. It's just kind of bootstrap or
18 bolstering testimony cause if she could testify to
19 everything that, you know, that she
20 contemporaneously experienced, that's what that 911
21 tape is. I would object to it, Your Honor.

22 THE COURT: All right.

23 MR. TOOKER: Your Honor, with regards to the
24 claim of bolstering, the State relies on cases like
25 I mentioned before, uh, State v. Cox, which is -- I

1 have copies for everybody. I actually don't see the
2 citation on the front. Maybe it's on the back.

3 It's 274 S.C. 624. But in it, the court says
4 pretty specifically that there's a long line of
5 jurisprudence that says any time you've got a victim
6 that testifies as to allegations of sexual assault
7 and subsequent witnesses that she told about who did
8 it, various basic questions or statements as to what
9 happened, that is admissible. It's not bolstering.
10 It's not improper.

11 Then the 911 tape then is after the victim's
12 mother hears these statements that she's going to be
13 allowed to testify to, based on this line of cases,
14 after she hears it. She calls 911 and then it's a
15 present sense impression. She's sitting there. She
16 says we're going to the hospital. Please meet us
17 there.

18 **THE COURT:** It's her that initiates police
19 contact.

20 **MR. TOOKER:** Yeah. In addition to which,
21 she's responding to traumatic events when it's fresh
22 in her head. She's got no reason to lie or make up
23 a story or anything else. That's why the State
24 believes that evidence should be admissible.

25 **THE COURT:** I think what Mr. Allen's concern

1 is is a step beyond that, that the 911 tape would
2 actually bolster the mother's testimony.

3 **MR. ALLEN:** Correct. She's going to testify.
4 She can relate to the same thing with her testimony.
5 It's simply a different method of doing it. But
6 yes, ma'am, Your Honor..

7 **THE COURT:** You want to respond to that at
8 all, Mr. Tooker?

9 **MR. TOOKER:** Again, any time you've got a
10 present sense impression or an excited utterance, at
11 least to my understanding, it's recorded. I'm not
12 understanding why it's inadmissible for bolstering
13 as much as she is -- it's very important and direct
14 and specific and relevant based on how she's
15 feeling, based on what she just heard, based on
16 their intent to go to the hospital to get the victim
17 looked at. I mean, I --

18 **THE COURT:** I'm going to allow it. For what
19 it's worth, I'm going to allow it. All right.

20 **MR. TOOKER:** Thank you, Your Honor.

21 **THE COURT:** Anything else before we bring the
22 jury back in?

23 **MR. TOOKER:** Nothing from the State.

24 (WHEREUPON, the jury enters at approximately
25 3:15 p.m.)

1 **THE COURT:** All right. Mr. Tooker?

2 **MR. TOOKER:** Yes, ma'am. The State calls
3 Lisa Gilstrap.

4 **THE COURT:** Ma'am, come forward and be sworn.

5 **LISA GILSTRAP**

6 having first been sworn, testifies as follows:

7 **THE CLERK:** Have a seat. State your name for
8 the record.

9 **THE WITNESS:** My name is Lisa Gilstrap.

10 **DIRECT EXAMINATION**

11 **BY MR. TOOKER:**

12 **Q** Where are you from, Mrs. Gilstrap?

13 **A** I'm from Easley.

14 **Q** Easley? How long you lived in Easley?

15 **A** 27 years.

16 **Q** 27 years. Okay. You have any children?

17 **A** I have two.

18 **Q** What are their names?

19 **A** Brittany and Brandon.

20 **Q** Brittany and Brandon. Brittany, is that the
21 victim in this case?

22 **A** It is.

23 **Q** And I'll just jump right into it. Do you
24 remember the night that Brittany was raped?

25 **A** I do.

1 Q And that night, what was the first contact you
2 had with your daughter?

3 A She called me.

4 Q She called you?

5 A She called me.

6 Q Do you know what time she called you?

7 A Between 2:00 and 2:30.

8 Q So pretty late?

9 A Yeah.

10 Q Or early, I guess.

11 A Into the 16th.

12 Q Okay. And, uh, when she called you, how did
13 she sound?

14 A Distraught.

15 Q Was she crying?

16 A Crying. She was "Momma, momma, momma".

17 Q Okay. And --

18 A I was trying to get her to tell me what had
19 happened.

20 Q And without going into specifics, just with
21 regards to the allegations and where it happened and who
22 did it, what did she say happened?

23 A She told me that, uh, Matt had showed up at her
24 house and that he had beaten her up and raped and
25 sodomized her.

1 Q And when you talked to her, did you gleam from
2 her if her kids were okay?

3 A The boys were sleep.

4 Q And after -- what is it she told you she was
5 going to do?

6 A She was coming to my house.

7 Q She was going to your house?

8 A Yes.

9 Q Did she show up at your house?

10 A Yes, she did.

11 Q Okay. And when she showed up at your house,
12 how did she appear?

13 A Distraught.

14 Q Distraught. Can you extrapolate on that a
15 little bit? Was she crying?

16 A Yes.

17 Q Was she shaking?

18 A Shaking, crying. The first thing we did was we
19 put the boys to bed.

20 Q Okay.

21 A We had to put them in the bedroom. Then she
22 just lost it and begin to tell me what had happened and
23 everything. In my mind, the first thing at that point
24 was to get her some help.

25 Q Okay. So initially the boys were her paramount

1 concern?

2 **A** Absolutely.

3 **Q** So after y'all got the boys down, did you get a
4 chance really to look at her and see how she looked?

5 **A** Yes.

6 **Q** Now what is it that you remember about her
7 appearance?

8 **A** She looked like she'd been in a fight.

9 **Q** Okay.

10 **A** In a fight.

11 **Q** Do you remember if she had any damage to her
12 face?

13 **A** She did.

14 **Q** What about anywhere else that you saw?

15 **A** Her arms.

16 **Q** And she showed you these injuries?

17 **A** I looked. She was not able to do anything at
18 that time.

19 **Q** Okay. And just one moment. We're going to
20 show you some pictures here.

21 **A** Sure.

22 **Q** Well, after she showed up, you said you needed
23 to get her help. What was the plan? What were y'all
24 going to do?

25 **A** I was taking her to the hospital.

1 Q So were you going to drive?

2 A Yes, I was.

3 Q Why were you going to drive?

4 A She was not able.

5 Q Okay.

6 A And I'm her mother, of course, I'm going to
7 take her.

8 Q Okay. And on the way to the hospital, did
9 anybody contact law enforcement?

10 A I did. I dialed 911.

11 Q What I'm going to do now is show you some
12 pictures. First couple, I'm showing State's 7, 8 and 9.
13 Do you know where these pictures were taken?

14 A At the hospital.

15 Q At the hospital. What's depicted in those
16 pictures?

17 A Where she was hit in the face and around the
18 eyes, some swelling in her cheek.

19 Q Okay. Would you say those pictures fairly and
20 accurately represent how she appeared when you first saw
21 her that night?

22 A They were more dramatic in person, but yes.

23 MR. TOOKER: Okay. At this point, Your
24 Honor, the State wants to move 7, 8 and 9 into
25 evidence.

1 **THE COURT:** Any objection?

2 **MR. ALLEN:** There's no objection.

3 **THE COURT:** All right then.

4 **(WHEREUPON,** State's Exhibits 7, 8 and 9 are admitted
5 into the record.)

6 **BY MR. TOOKER:**

7 **Q** So that's a picture of Brittany's head only,
8 correct?

9 **A** Yes.

10 **Q** Now depicted in State's 8 is her left
11 cheekbone. Would you, with the laser pointer and this
12 remote control right here, just press the button that
13 says -- I'm not sure what it says.

14 **A** Laser.

15 **Q** Yeah. Does it say laser?

16 **A** Yes.

17 **Q** Okay. Show us where the swollen area is on her
18 face.

19 **A** It is all through here and up through there.
20 On her eye. Her whole eye was swollen here. Down to her
21 cheek and her outer lip. The whole area mainly.

22 **Q** All right. Is this another representation of
23 the same --

24 **A** Yes, it is.

25 **Q** Same image. Now, you said it actually looked

1 worse in person?

2 **A** Yes, it did.

3 **Q** How did it look worse in person?

4 **A** It was just redder and more swollen.

5 **Q** Okay. Now, I'm going to show you what's been
6 marked as 11, 12 -- excuse me -- 10, 11, 12 and 15.

7 **MR. TOOKER:** You've already seen these, Mr.
8 Allen, in that initial stack I handed you.

9 **MR. ALLEN:** Yeah. Let me make sure.

10 (Pause.)

11 We have no objection to those photographs, Your
12 Honor.

13 **THE COURT:** All right then.

14 **BY MR. TOOKER:**

15 **Q** Would you tell us what you see in these
16 pictures?

17 **A** That's her at my house.

18 **Q** That's her at your house?

19 **A** Yes, it is.

20 **Q** Now, when were these pictures taken?

21 **A** A couple of days later.

22 **Q** Okay. And who took those pictures?

23 **A** Uh, --

24 **Q** Somebody with the sheriff's office?

25 **A** Yes.

1 Q Now, uh, what's in that first picture?

2 A That's the bruise on her arm and on her face.

3 Q What's the next one?

4 A That's of her eye, her other eye on the other
5 side. This one is the same side. That's her elbow. It
6 was an injury here.

7 Q Okay. Now, would you say that these images
8 fairly and accurately represent how she appeared a couple
9 of days later when the sheriff's office took these
10 pictures?

11 A Yes.

12 Q All right. So in this first picture, it's kind
13 of hard to tell on this monitor, but you see the bruising
14 on her arm?

15 A I can.

16 **MR. ALLEN:** Your Honor, I'm going to object.
17 These photographs are what they are. They are a
18 representation of what's being depicted. For her to
19 give -- elaborate, describe -- it's someone -- its
20 almost opinion. Your Honor, I mean, the exhibit
21 speaks for itself. It doesn't need a lay person
22 opinion on it.

23 **THE COURT:** Well, I'll allow her to testify
24 as to what she observed.

25 **BY MR. TOOKER:**

1 Q And then in this picture?

2 A That's where I saw her cheek.

3 Q And is this the other side of her face?

4 A It is.

5 Q And what's depicted there?

6 A Her eye. The swelling of her eye. The
7 swelling of her eye and underneath her eye.

8 Q And then finally, what's in that picture?

9 A That's her elbow.

10 MR. TOOKER: Now, at this point, Your Honor,
11 the State wants to move 11 -- 10, 11, 12 and 15 into
12 evidence.

13 THE COURT: Any objection?

14 MR. ALLEN: There is no objection.

15 (WHEREUPON, State's Exhibits 10, 11, 12 and 15 are
16 admitted into the record.)

17 BY MR. TOOKER:

18 Q Now, you said that you called 911.

19 A I did.

20 Q Where were you when you called 911?

21 A In my car.

22 Q In your car. What were you doing when you
23 called 911?

24 A Going to the -- fixing to go to the hospital.

25 Q Fixing to go to the hospital.

1 **A** I got her in the car and we were going to the
2 hospital.

3 **Q** All right. I'm going to show you what's been
4 marked as State's 2.

5 **THE COURT:** Ma'am, I hate to interrupt you.
6 I'm going to ask you, if you could, just scoot up
7 best as you can to the microphone.

8 **THE WITNESS:** I'm sorry.

9 **THE COURT:** That's okay. I just want the
10 Court Reporter and the jury to hear you.

11 **THE WITNESS:** I'm sorry.

12 **THE COURT:** That's good.

13 **THE WITNESS:** I apologize.

14 **BY MR. TOOKER:**

15 **Q** It's been marked as State's 2. Do you
16 recognize this disk?

17 **A** Yes, I do.

18 **Q** And what's on this disk?

19 **A** That's Brittany's disk.

20 **Q** Oh, I'm sorry. I grabbed the wrong one. Good
21 thing you're smarter than I am.

22 **A** Sorry.

23 **Q** All right. So what is this disk?

24 **A** That's my disk.

25 **Q** And what's on this disk?

1 **A** That's my 911 call.

2 **Q** How do you know this is your 911 call?

3 **A** Cause I initialed it.

4 **Q** Did you listen to it?

5 **A** Yes, I listened to it.

6 **Q** Would you say it fairly and accurately
7 represents the conversation you had with dispatch that
8 night?

9 **A** Yes, it does.

10 **MR. TOOKER:** Your Honor, at this point, the
11 State wants to move State's 3 into evidence.

12 **THE COURT:** Any objection?

13 **MR. ALLEN:** Well, I would just reserve the
14 prior one, Your Honor, for the record.

15 **THE COURT:** All right. And I'm going to
16 allow it. Your objection is noted. That was number
17 3, Mr. Tooker?

18 **MR. TOOKER:** State's 3..

19 **THE COURT:** State's 3. All right. Thank
20 you.

21 **MR. TOOKER:** I believe I said 2 before and
22 grabbed the other one.

23 **(WHEREUPON, State's Exhibit 3 is admitted into the**
24 **record.)**

25 **(WHEREUPON, State's Exhibit 3 is played.)**

1 BY MR. TOOKER:

2 Q Once you got to the hospital, what happened?

3 A They took us back to a room and gave her a
4 gown. She talked to a nurse. The police officer came in
5 and spoke with her briefly. Then we were taken to
6 another area for her to have a rape kit done. They had
7 me in like a family room.

8 Q And how long do you think you were at the
9 hospital?

10 A Three or four hours.

11 Q When you finally finished, what did you and
12 Brittany do?

13 A We went to my house.

14 Q Uh, had she been prescribed anything to your
15 knowledge?

16 A I don't recall.

17 Q When you got to the house, what did she do?
18 Did she stay at your house?

19 A Oh, yes, she stayed at my house.

20 Q She did not go back to ?

21 A No, she did not.

22 Q Did you talk to Trudy Honeycutt?

23 A Yes, I did.

24 Q What is it you asked Trudy Honeycutt to do?

25 A To go clean out the house.

1 Q Why did you ask her to do that?

2 A Because it was totally destroyed. There was
3 blood and a lot of things that needed to be cleaned up.

4 Q Did you pay Trudy to go clean up the house?

5 A I did.

6 Q With regards to Brittany's emotional state, we
7 touched on she was crying when she showed up at your
8 house. She seemed very shaken, very upset. Did that
9 ever change?

10 A Yes, it did.

11 Q What happened?

12 A She just shut down. When we got to the
13 hospital, she was just distant and -- I can't think of a
14 word to describe. She kind of went into herself. Very
15 -- not traumatized, but the crying, boohoo. More just
16 reserved, quiet. Didn't want to talk with me.

17 Q Is that like her at all?

18 A No.

19 Q If you had to characterize her personality
20 generally, how would you do it?

21 A Boisterous.

22 Q Okay.

23 A Very happy, bouncy.

24 Q This was the opposite?

25 A Hyper. Oh, yeah.

1 **MR. TOOKER:** At this point, Your Honor, no
2 further questions.

3 **THE COURT:** All right. Mr. Allen?

4 **MR. ALLEN:** I don't have any questions for
5 this witness, Your Honor.

6 **THE COURT:** Thank you, sir. Ma'am, you can
7 step down.

8 **MR. TOOKER:** At this point, the State calls
9 Tony Robinson.

10 **THE COURT:** All right.

11 **TONY ROBINSON**

12 having first been sworn, testifies as follows:

13 **THE CLERK:** Have a seat and state your name
14 for the record.

15 **THE WITNESS:** Tony Robinson.

16 **DIRECT EXAMINATION**

17 **BY MR. TOOKER:**

18 **Q** All right. Lieutenant Robinson, where do you
19 work, sir?

20 **A** I'm with the Pickens County Sheriff's Office.

21 **Q** And how long you worked there?

22 **A** Uh, 22 years.

23 **Q** Okay. And what's your position with the
24 sheriff's office?

25 **A** I'm a Lieutenant in the ID division, which is

1 also known as the Crime Scene Unit, and we are over
2 Property and Evidence.

3 Q Okay. All right. So Crime Scene Unit, give us
4 an explanation of your duties.

5 A Respond to crime scenes and document, uh, what
6 we see and photograph and collect evidence.

7 Q Now, in this case, did you collect any
8 evidence?

9 A I did.

10 Q Okay. What I'd like to do is show you several
11 of those pieces of evidence and have you explain to us
12 what they are and where you found them. When did you go
13 to ?

14 A On the morning of September 16th, 2010.

15 Q Okay. And at , what did you do?
16 What's the protocol when you respond to a scene like
17 that?

18 A The first thing I did was photograph the scene.

19 Q You photographed the scene?

20 A Yes.

21 Q I'm about to show you some images. If you
22 would, please tell me what it is that's depicted in these
23 images. This is State's 17. What's depicted in that
24 image?

25 A This is the comforter on the bed. I'm

1 photographing a spot of what appeared to be blood on the
2 comforter.

3 Q Okay. To your knowledge, after the victim
4 reported the assault and went to the hospital, had anyone
5 been back to the residence?

6 A The victim's mother met us there. I'm not sure
7 if she was there before us. I think she met us there on
8 that morning.

9 Q Okay. Did she unlock the place to let you in?

10 A I do not recall.

11 Q Okay. I'm going to show you what's marked as
12 State's 18. What's depicted in that image?

13 A That's a photograph of a spot of blood on the
14 bedsheet.

15 Q I'm going to show you State's 19. What about
16 that image?

17 A That is a closer up view of the spot of blood
18 on the comforter.

19 Q I'm going to show you State's 20. What's
20 depicted in that image?

21 A That is a picture of the bathroom toilet.
22 There is what appears to be blood on the toilet seat.

23 Q Now those images, would you say they fairly and
24 accurately represent what you photographed when you
25 responded to ?

1 **A** Yes, they do.

2 **MR. TOOKER:** Okay. At this point, Your
3 Honor, the State wants to move, uh, State's 17, 18,
4 19 and 20 into evidence and publish them to the
5 jury.

6 **MR. ALLEN:** I have no objection.

7 **THE COURT:** All right then. Very well.

8 **(WHEREUPON, State's Exhibit 17, 18, 19 and 20 are**
9 **admitted into the record.)**

10 **BY MR. TOOKER:**

11 **Q** All right. So this first photograph, State's
12 20, you said it's the toilet seat. It didn't contrast
13 particularly good. But you see some discoloration around
14 the rim of the toilet?

15 **A** Yes.

16 **Q** Is that why you photographed that image?

17 **A** Yes.

18 **Q** Okay. Now, with regard to State's 19, what is
19 that that we're looking at?

20 **A** That's the photograph of the comforter on the
21 bed.

22 **Q** And you put a ruler next to that stain that
23 will give scale?

24 **A** Uh, I did, yes.

25 **Q** Okay. And you know, I guess, how long you been

1 doing this again?

2 **A** 22 years.

3 **Q** Uh, you see a lot of blood?

4 **A** Yes, sir.

5 **Q** Did that appear to you, based on your training
6 and experience to be blood?

7 **A** It did.

8 **Q** Okay. Now, this is State's 18. What's
9 depicted in this image?

10 **A** That's the sheet on the bed.

11 **Q** Okay. And again, the red spot in there, did
12 that appear to you to be blood?

13 **A** Yes, it does.

14 **Q** And then finally, this is State's 17. Again,
15 another picture of the comforter?

16 **A** That's just a further away, yes, picture.

17 **Q** All right. So those are all images depicting
18 blood on items found in the household?

19 **A** That is correct.

20 **Q** I'm going to show you several other images.
21 Have a look at State's 21 through 30. Tell me what you
22 see in those pictures.

23 **A** You want to tell me in each picture or just
24 overall photographs that I took at

25 **Q** Okay. So did you take every one of these

1 pictures?

2 **A** Yes.

3 **Q** Now, having just looked at all those pictures,
4 would you say that those pictures fairly and accurate
5 represent what you saw at when you
6 responded to that scene?

7 **A** They do.

8 **MR. TOOKER:** Okay. Your Honor, at this
9 point, the State wants to move -- mark that as
10 State's 21 through 30 into evidence.

11 **THE COURT:** Any objection?

12 **MR. ALLEN:** Okay. No objection, Your Honor.

13 **THE COURT:** All right then. Very well.

14 **(WHEREUPON, State's Exhibits 21 through 30 are**
15 **admitted into the record.)**

16 **BY MR. TOOKER:**

17 **Q** I'm going to show you what's been marked as
18 State's 29. What is this image depicting?

19 **A** That's the residence at

20 **Q** Okay. Now this dirt drive in the front, is
21 that the circle drive?

22 **A** It is.

23 **Q** Now, to you, did it appear that that was the
24 primary means of ingress and egress?

25 **A** It is.

1 Q Okay. Now, I'm going to show you what's been
2 marked as State's 30. What is that image depicting?

3 A That is the back of the residence at
4

5 Q Now, is that the back porch that we heard
6 mention?

7 A It is.

8 Q Okay. Did that appear to be a primary means of
9 ingress and egress?

10 A No, the driveway circles around in front of the
11 residence. You're right there at the front porch when
12 you pull into the driveway.

13 Q Okay. Now, I'm going to show you what's been
14 marked as State's 23. What's depicted in this image?

15 A That's the mattress on the bed after I removed
16 the comforter and sheet.

17 Q Why did you take a picture of the mattress?

18 A There's a spot lying on the mattress also.

19 Q This image right here, is that depicting that
20 spot of blood with a ruler for scale?

21 A Yes, it is.

22 Q Now, all these spots of blood, were they found
23 about on the same spot of the bed?

24 A The covers on the bed, the sheet and especially
25 the comforters were in disarray, but yes. That would be

1 probably under the sheet, where the sheet -- spot of
2 blood was.

3 Q Okay. Is this a larger image of that same spot
4 of blood?

5 A It is.

6 Q Okay. Now, what is depicted in this image
7 right here?

8 A That's a clump of hair that appeared to have
9 been pulled out by the roots that I found on the bed. I
10 think that's actually laying on the comforter of the bed
11 when I started moving the covers around.

12 Q Okay. Now, that clump of hair, did you take
13 that clump of hair into evidence?

14 A I did.

15 Q I'll show you what is marked as State's 32.
16 Can you verify that that is the same clump of hair that
17 you took into evidence?

18 A I can.

19 Q Okay. And what did you do when you found it
20 and how is it that you, I guess, maintained the integrity
21 of that evidence?

22 A I placed it in this bag. This bag has been in
23 my custody or been secured in our evidence room ever
24 since. I sealed it with evidence tape.

25 MR. TOOKER: Okay. All right. At this

1 point, the State wants to move State's 32 into
2 evidence.

3 THE COURT: Any objection?

4 MR. ALLEN: Can we approach?

5 THE COURT: Yes.

6 (WHEREUPON, a bench conference is held off the
7 record.)

8 MR. TOOKER: Now --

9 THE COURT: Any objection?

10 MR. ALLEN: No, ma'am. No objection.

11 THE COURT: All right..

12 (WHEREUPON, State's Exhibit 32 is admitted into the
13 record.)

14 BY MR. TOOKER:

15 Q This is, in fact, the item of hair, clump of
16 hair that was discovered at the scene?

17 A It is.

18 Q It appears there's some biological material in
19 there. Can you tell what it is?

20 A It looks like blood on the ends.

21 Q I'm going to show you what's been marked as
22 State's 31. What is State's 31?

23 A As I was moving bed covers around, I noticed
24 that there was a torn up piece of -- little small pieces
25 of torn up paper on the bed sheet. I collected these

1 pieces of paper.

2 Q Okay. And just like that previous item of
3 evidence, that hair, did you maintain custody on this
4 piece of evidence as well?

5 A I did.

6 MR. TOOKER: All right. At this point, Your
7 Honor, the State wants to move State's 31 into
8 evidence.

9 THE COURT: Any objection?

10 MR. ALLEN: No objection, Your Honor.

11 THE COURT: Okay.

12 (WHEREUPON, State's Exhibit 31 is admitted into the
13 record.)

14 BY MR. TOOKER:

15 Q And finally, we have what appears to be the
16 remnants of a cell phone marked State's 33 and 34.. Where
17 were these items recovered?

18 A Item 34 is the back plate for an LG cell phone
19 which I found outside the back door on the ground. I
20 believe it shows it on the photographs. The phone itself
21 I collected from -- the victim's mother had it. And I
22 went over there and picked it up that morning.

23 Q You said the photographs depicted. Is this an
24 image of the cell phone plate before you picked it up?

25 A It is.

1 Q And is that in proximity of the back porch?

2 A Yes. You can see the stepping stones leading
3 up onto the back porch at the top of the photograph.

4 Q Now, the next two pieces of evidence that I
5 have to show you were not gathered from the scene of
6 course. What I'm going to show you is what's been marked
7 as State's 35 first. What is State's 35?

8 A State's 35 is what we call a buccal swab
9 sample, which is a sample I've taken from Mr. Hendricks
10 of DNA and secured in this envelope to be sent to SLED
11 for analysis.

12 Q Okay. Did Mr. Hendricks consent to your taking
13 that sample?

14 A He did.

15 Q After he took the sample, what is it that you
16 did with -- first of all, let's describe the process
17 itself. What is a buccal swab?

18 A A buccal swab is basically I take a sterile Q-
19 tip, sterile swab like you see at hospitals or doctors'
20 offices. They are rubbed inside a person's mouth. It's
21 on the cheek, the inside of the cheek. And what we're
22 after in that situation is skin cells. It's a way to
23 gather known DNA from a person.

24 Q Okay. And after you gather the sample itself,
25 what do you do with it?

1 A There's a small box inside this envelope that
2 the swabs will fit in. I put the swabs inside that box,
3 then I seal the box up inside this paper envelope.

4 Q Now, that paper envelope, did you put anything
5 on it to guarantee that it couldn't be tampered with?

6 A I put evidence seal -- an evidence seal on it
7 so it can't be tampered with.

8 Q And after you gathered that and put the
9 evidence seal on it, what did you do with it?

10 A I secured it in our evidence room until it was
11 transported to SLED at a later time.

12 Q Okay. Who took it down to SLED?

13 A Deputy J.T. Albreicht actually carried it to
14 SLED.

15 Q Okay. Now, what I'm going to show you is
16 State's 36. What is State's 36?

17 A This is a sexual assault evidence collection
18 kit that was performed on Brittany Wardlaw at Palmetto
19 Baptist Medical Center in Easley.

20 Q Okay.

21 A On the morning of the -- when she went to the
22 hospital.

23 Q And that, in layman's terms, is a rape kit?

24 A This is a rape kit.

25 Q Okay. Where did you get that rape kit?

1 **A** I picked it up from Easley Hospital on the
2 morning of the 16th.

3 **Q** Who did you get it from?

4 **A** Rachel Simmons.

5 **Q** Do you know who Rachel Simmons is?

6 **A** She's the SANE nurse, Sexual Assault Nurse
7 Examiner at the hospital.

8 **Q** And did she make sure that it couldn't be
9 tampered with?

10 **A** Yes. All the evidence that she collected was
11 placed in this box. And she sealed this box. All sides
12 were sealed with evidence seal tape. This tape is very
13 easy to break so you can see if somebody's been in the
14 box or not.

15 **Q** So if, for instance, you got that box or let's
16 say you went back to evidence to look at the box and the
17 seals were broken, you could tell that someone had
18 tampered with it?

19 **A** Yes.

20 **Q** Okay. After you took that from Nurse Simmons,
21 what did you do with it?

22 **A** I took it to the sheriff's office and secured
23 it in our evidence refrigerator.

24 **Q** Okay. Why did you put it in the refrigerator?

25 **A** Sometimes sexual assault kits have a blood

1 sample in them and occasionally a urine sample so we
2 refrigerate them. It just keeps it better until I get to
3 SLED.

4 Q And did you take that sample or was that sample
5 taken along with the Schmerber sample, the cheek sample,
6 to SLED?

7 A Yes. This box and the buccal swabs from Mr.
8 Hendricks were carried to SLED at the same time.

9 Q Who carried it down there?

10 A Deputy Albreicht.

11 Q Okay. How do you know Deputy Albreicht carried
12 it down there?

13 A He signed my paperwork. He signed it out of
14 the evidence room on January 19th, 2011.

15 Q How does that work?, What is it exactly that's
16 shown?

17 A Each item that I collect is numbered. So
18 there's a list of items with the corresponding evidence
19 number on the page. The criminal sexual assault kit is
20 item number 8. The buccal swabs are item number 10. On
21 the morning of January 19th, 2011, Deputy Albreicht
22 signed out items 8 and 10 and carried it to Columbia.

23 Q Okay. And you are reading that off a piece of
24 paper, I assume, correct?

25 A I am.

1 **Q** And is this a copy of that same piece of paper?

2 **A** It is.

3 **Q** And how is it that you know that it hadn't been
4 tampered with? You said it hadn't been sliced open or
5 anything, but it sat in evidence for some time. What are
6 your protocols and evidence to guarantee that evidence is
7 not tampered with?

8 **A** There's only three people who have access to
9 our evidence facilities, myself, Deputy Albreicht and
10 Deputy Brian Gibson. That's all that works in my unit.
11 We are the only ones that have access to the evidence
12 room and evidence facilities.

13 **MR. TOOKER:** Okay. No further questions.
14 Actually, I'm sorry, the State would like to move,
15 uh, 35 and 36 into evidence if there are no
16 objections.

17 **MR. ALLEN:** 35 is -- what is 35?

18 **MR. TOOKER:** We've got the cheek swab and
19 the --

20 **MR. ALLEN:** I wouldn't object to 35. But 36,
21 I think it might need quite a little more things in
22 foundational testimony, Your Honor.

23 **THE COURT:** All right. You said 35 you don't
24 object to?

25 **MR. ALLEN:** Yes. 35 was the swab. Yes,

1 ' ma'am.

2 **THE COURT:** All right.

3 **MR. ALLEN:** I don't object to that.

4 **THE COURT:** I'll admit 35 at this time.

5 (WHEREUPON, State's Exhibit 35 is admitted into the
6 record.)

7 **MR. TOOKER:** Okay.

8 **THE COURT:** 36, uh, subject to more
9 foundation.

10 **MR. TOOKER:** Okay.. No further questions at
11 this time, Your Honor.

12 **MR. ALLEN:** May it please the Court.

13 **THE COURT:** Yes, sir.

14 **MR. ALLEN:** I may have to ask the Court
15 Reporter to help me with these exhibits.

16 **CROSS-EXAMINATION**

17 **BY MR. ALLEN:**

18 **Q** Uh, Mr. Robinson, you were out on the property
19 there? What was the date that you were out there?

20 **A** September 16th.

21 **Q** I'm sorry. If you would, say that again. I
22 got distracted.

23 **A** I was out there on the morning of September
24 16th.

25 **Q** Okay. Then did you go along or did you have

1 assistance?

2 **A** Detective Baker and I went during the same
3 time.

4 **Q** Did you go out there on that one occasion or
5 more than one?

6 **A** That was the only time I went there.

7 **Q** Let me ask you something. You took some
8 photographs. I'm not going to pull them. The jury can
9 see them if they haven't already -- some photographs of
10 kind of the layout there of those mobile homes?

11 **A** I did.

12 **Q** I don't know if that's called a mobile home
13 park or a mobile home community. Did you happen to
14 notice anything in that regard?

15 **A** It's a community. Not necessarily what I would
16 term a park under my definition.

17 **Q** Got you. But the other mobile homes, the
18 mobile homes are relatively closely situated together,
19 are they not?

20 **A** Fairly close. The reason I say community is
21 because they are not as close as -- stacked in like some
22 places I've seen.

23 **Q** But it would be, and you can see from the
24 photograph, it would be quite easy at the mobile home
25 we're talking about here, the residence, to open a door

1 and --

2 **MR. TOOKER:** Objection, Your Honor. Calls
3 for speculation.

4 **THE COURT:** To the extent he knows, I'm going
5 to allow him to answer.

6 **BY MR. ALLEN:**

7 **Q** Again, as close enough in proximity, if someone
8 stood in the door of the residence there, on the front
9 porch and yelled across the street, somebody's over
10 there, they'd most likely be heard, correct?

11 **A** Possibly. That's true.

12 **Q** Matter of fact, there's three or four around
13 the one we're talking about, right?

14 **A** Yes.

15 **Q** And I'm going to ask you about Exhibit --
16 State's Exhibit 32. I want to show it to you.

17 **MR. ALLEN:** If I could approach the witness,
18 Your Honor.

19 **THE COURT:** Yes, sir.

20 **BY MR. ALLEN:**

21 **Q** That is what's been referred to as the clump of
22 hair that was found on the bed?

23 **A** Yes.

24 **Q** Is there any other hair bedsides this that was
25 retrieved from the bed?

1 A I didn't retrieve any other hair. I'm sure
2 there was probably some loose strains. That's because of
3 the blood on it.

4 Q That's the clump?

5 A That's it.

6 Q Now, were any of these items actually analyzed?

7 A The only thing that was analyzed in this case
8 was what was in this kit and the buccal swabs from Mr.
9 Hendricks.

10 Q Okay. So I would ask you, on the photographs
11 that -- that -- that is said to show blood, was that
12 blood analyzed in any way?

13 A No, sir.

14 Q Was it analyzed as to blood type?

15 A No, sir.

16 Q Was it analyzed -- well, let me strike that,
17 Madam Court Reporter.

18 Let me ask you this. Was any of those items
19 cut and taken?

20 A I took the entire comforter and the bedsheet
21 and several pillow cases.

22 Q And in fact, since there's no -- there was no
23 analysis done on the blood, right?

24 A No, sir.

25 Q That is available? That's a technique that can

1 be utilized?

2 **A** When necessary, yes.

3 **Q** Well, my question would be, wouldn't it be
4 impossible to say how old or how long that blood had been
5 there if it was not analyzed?

6 **A** It would be impossible to say how long it had
7 been there even if it had been analyzed.

8 **Q** Well, there is a technique that a qualified
9 analysis could ascertain how old dry blood is, isn't that
10 true?

11 **A** I'm not familiar with that technique, no, sir..

12 **Q** Do you do that?

13 **A** No, sir.

14 **Q** Was there an attempt again, to your knowledge,
15 to send it to SLED and have it analyzed in that respect
16 in Columbia?

17 **A** No, sir.

18 **Q** Okay. And the same would be true -- I would
19 suppose the same would be true because of lack of
20 analysis of any alleged blood residue -- I'll call it
21 residue -- on the toilet seat?

22 **A** Correct.

23 **Q** Thank you.

24 **MR. ALLEN:** That's all the questions I have
25 for the witness, Your Honor.

1 **THE COURT:** Anything else, Mr. Tooker?

2 **MR. TOOKER:** Briefly on redirect.

3 **REDIRECT EXAMINATION**

4 **BY MR. TOOKER:**

5 **Q** So we're clear, you're not aware of anything
6 that can determine the age of blood?

7 **A** I'm not aware of anything that can determine --
8 they can determine who's blood it is, but they can not
9 determine -- I don't know of any way they can determine
10 how long the blood had been there.

11 **Q** And you said that you do get those things
12 analyzed when it's necessary. Was it necessary in this
13 case?

14 **A** We didn't feel it was necessary in this case.
15 SLED doesn't want us to send that type of evidence in.
16 They just want the kit and the buccal swabs to start
17 with. If they find the evidence in that, we don't want
18 to send anything else in.

19 **Q** So in this case, why'did you not send the sheet
20 -- comforter in?

21 **A** We felt like we had enough evidence based on
22 what we had already sent that we didn't need to send
23 anymore evidence.

24 **Q** Thank you. No further questions.

25 **RECROSS-EXAMINATION**

1 BY MR. ALLEN:

2 Q Of course, that would be an opinion, correct?

3 A Yes, sir.

4 Q Okay. And if the blood is not analyzed in any
5 respect, then really there would be no way to say who's
6 blood it was, correct?

7 A Correct. I can't 100 percent say who's blood
8 that is.

9 Q No. You can't say in any respect without the
10 appropriate analysis, can you?

11 A That's right.

12 Q Thank you.

13 THE COURT: Mr. Tooker, anything else?

14 MR. TOOKER: May this witness be excused?

15 THE COURT: Any objection?

16 MR. ALLEN: No objection. No, ma'am.

17 THE COURT: All right. Sir, thank you for
18 being here.

19 MR. TOOKER: The State calls John Albreicht.

20 JOHN ALBREICHT

21 having first been sworn, testifies as follows:

22 THE CLERK: If you would, have a seat and
23 state your name for the record.

24 THE WITNESS: John Albreicht.

25 DIRECT EXAMINATION

1 BY MR. TOOKER:

2 Q All right. Where do you work?

3 A Pickens County Sheriff's Office.

4 Q I couldn't tell. How long you work there?

5 A Since 2001.

6 Q Okay. And in what capacity are you employed by
7 the Sheriff's Office?

8 A Right now, I'm Sergeant in Forensics.

9 Q So you work with Lieutenant Robinson?

10 A That's correct. He's my lieutenant.

11 Q Now, I see that you carried up to the stand a
12 copy of what I got here. What is that?

13 A It's a copy of the evidence sheet.

14 Q Evidence sheet?

15 A Uh-huh.

16 Q And what is the purpose of this evidence sheet?

17 A It maintained a log of what was taken from the
18 crime scene, where it was stored at the sheriff's office.
19 And if we move it from where we put it, remove it for any
20 reason, we log it.

21 Q All right. Now, 35 and 36, State's 35 and 36,
22 have you seen those two pieces of evidence?

23 A Yep.

24 Q Okay. What did you do with respect to those
25 two pieces of evidence, if anything?

1 A These two items were carried to the State Law
2 Enforcement Division by me.

3 Q Okay. And, uh, there's some tape on that box
4 there, some red evidence tape.

5 A That's correct.

6 Q Did that red evidence tape remain unbroken?

7 A It did.

8 Q And you took that evidence from where?

9 A This came from the sheriff's office evidence
10 refrigerator area.

11 Q All right. So you took those two things
12 together?

13 A Yes.

14 Q You took them to Columbia?

15 A That's correct.

16 Q In the meantime, did you mess with them in any
17 way?

18 A No.

19 Q Tamper with them?

20 A No.

21 Q Put extra DNA in there?

22 A No.

23 Q Okay. Uh, you take them to Columbia. Once you
24 get to Columbia, what do you do with it?

25 A Take it into the building, into the actual SLED

1 forensic area. They -- I maintain possession of them
2 while they fill out the appropriate paperwork and check
3 my paperwork and make sure they can take it. If my
4 paperwork's good and they fill out theirs, I hand it to
5 them and it's gone.

6 Q Now, would they take it if had been disturbed,
7 ripped open or anything?

8 A No.

9 Q Okay. So it's got to maintain that seal for
10 them to take that into evidence?

11 A Yes.

12 Q Okay. Now, did you do anything else with this
13 evidence in this case?

14 A No.

15 Q Okay. No further questions.

16 THE COURT: Mr. Allen?

17 MR. ALLEN: Yes, ma'am. Please the Court. I
18 may need to retrieve something, Your Honor. If I
19 could have just a moment.

20 THE COURT: Certainly.

21 (WHEREUPON, there is a pause.)

22 MR. ALLEN: May it please the Court?

23 THE COURT: Yes, sir.

24 CROSS-EXAMINATION

25 BY MR. ALLEN:

1 **Q** Sir, uh, during this process, did -- do you
2 recall delivering to SLED as part of the chain of custody
3 a request for a toxicology report?

4 **A** No.

5 **Q** Well, let me rephrase it. Could you have done
6 that and just don't recall it or do you know that you
7 didn't submit a request for a toxicology report on, uh,
8 Brittany Wardlaw?

9 **A** No, all I took to SLED is right here.

10 **Q** Okay.

11 **MR. ALLEN:** Uh, I guess I better get this
12 marked. Judge, if I could approach the Court
13 Reporter.

14 **THE COURT:** All right.

15 **MR. ALLEN:** That will be Defendant's number
16 1.

17 **(WHEREUPON, Defendant's Exhibit 1 is marked for**
18 **identification purposes.)**

19 **MR. ALLEN:** Your Honor, if I could approach
20 the witness?

21 **THE COURT:** Yes, certainly. And I give you
22 blanket permission to do that.

23 **BY MR. ALLEN:**

24 **Q** Sir, I'm showing you what's been marked as
25 Defendant's Exhibit number 1. Could you tell us what

1 that is please, sir?

2 A It's a forensic services request from SLED.

3 Q And the second page, would you turn to that
4 please, sir. Does it have your signature on it?

5 A It does.

6 MR. ALLEN: And let me -- if I could approach
7 again, Your Honor.

8 THE COURT: Yes.

9 BY MR. ALLEN:

10 Q I'm trying to help refresh your recollection.

11 A Okay.

12 Q Does it have a -- yeah. Does it have a --
13 under the square, it says "analysis requested". Does it
14 say toxicology there?

15 A It does.

16 Q Does that refresh your memory?

17 A If it was in that box, then it was in that box.

18 Q Okay. But I mean, you're certifying that with
19 your signature, I assume.

20 A That's my signature right there.

21 Q Again, just so we're clear for the record,
22 there was a toxicology analysis requested?

23 A If it was in the box, it was in the box.
24 That's all I can tell you.

25 Q And under the middle square there where it says

1 toxicology, does it also say blood?

2 **A** Blood toxicology, Brittany Wardlaw.

3 **Q** Thank you.

4 **MR. ALLEN:** That's all the questions I have
5 for the witness, Your Honor. I'm not moving to
6 admit that.

7 **THE COURT:** All right.

8 All right, Mr. Tooker?

9 **REDIRECT EXAMINATION**

10 **BY MR. TOOKER:**

11 **Q** So you take the stuff in the box?

12 **A** That's correct.

13 **Q** Take everything in the box?

14 **A** I took everything in the box.

15 **Q** Everything in the box got there?

16 **A** Everything in the box got there.

17 **Q** Didn't mess with it?

18 **A** No.

19 **Q** Okay.

20 **THE COURT:** Mr. Allen, anything else for this
21 witness?

22 **MR. ALLEN:** No, ma'am.

23 **THE COURT:** All right. Sir, you can step
24 down.

25 Yes, sir.

1 **MR. TOOKER:** The State next calls Alex Levy.

2 **THE COURT:** I'll just say, while she's coming
3 forward, to the attorneys, I should have said this
4 at the beginning of the trial. But I give you
5 blanket permission to approach the witness and any
6 piece of evidence that's been admitted can be
7 published to the jury. All right.

8 **MR. ALLEN:** Thank you.

9 **MR. TOOKER:** Thank you, Your Honor.

10 **ALEX LEVY**

11 having first been sworn, testifies as follows:

12 **THE CLERK:** If you would, have a seat. State
13 your name for the record.

14 **THE WITNESS:** My name is Alex Levy.

15 **DIRECT EXAMINATION**

16 **BY MR. TOOKER:**

17 **Q** I said Levy, didn't I?

18 **A** That's okay.

19 **Q** Uh, where are you from?

20 **A** I am from Pickens.

21 **Q** Okay. And your whole life?

22 **A** Yes, sir.

23 **Q** Where did you go to high school?

24 **A** I went to Pickens.

25 **Q** Where do you work at?

1 **A** I work at the Rape Crisis Center in Pickens
2 County.

3 **Q** How long have you worked there?

4 **A** 12 years.

5 **Q** What does that entail exactly?

6 **A** Different parts. Right now, I'm the Executive
7 Director at the Rape Crisis, so I'm in charge of day-to-
8 day operations. I'm also in charge of being on call.
9 What that means is if we get a call from a victim,
10 whether it be a hotline call or a hospital call or
11 police, we go and help that victim.

12 **Q** What does that mean exactly "you help the
13 victim"? Do you ever go to the hospital?

14 **A** Yes, sir, quite often.

15 **Q** Okay. And what is it you do when you go to the
16 hospital?

17 **A** According to the victim, what the victim wants.
18 That's my job to make sure I'm there for them. I can go
19 into the room with them. I make sure they know what's
20 happening next. You talk a lot about the kit. That's my
21 job to make sure the victim knows why we are pulling
22 hairs, why are they taking fingernail scrapings, why are
23 they doing this, that and that. That's when we explain
24 to them we are not trying to revictimize you. This is
25 evidence collection so if we do, like this, go to trial,

1 we can have something there. That's part of it.

2 Q Do you remember seeing Brittany Wardlaw?

3 A Yes, sir.

4 Q Uh, when she came in, do you recall how she
5 appeared emotionally?

6 A Yes, sir.

7 Q How did she appear?

8 A Uh, I used the word "shock". There's no
9 certain way a victim should act. There's not a carbon
10 copy of what a victim should be. She was very quiet.
11 She was very tearful. She wasn't sobbing hysterically.
12 She would sit there. She was very withdrawn into
13 herself. When she would start speaking of the event, she
14 would just tear up and cry.

15 Q Did you notice any injuries about her person?

16 A Uh, yes. There was a mark on her face. It was
17 her left side, her cheek. You could see the bruise. Not
18 an obvious injury, but the one that I kept noticing is
19 she couldn't sit. She kept moving like this a lot.

20 Q So she wouldn't put any direct pressure on --

21 A On her bottom.

22 Q On her bottom.

23 A And the chairs were a lot similar to this.

24 They have arms. I just kept noticing she could never get
25 comfortable. This is before I knew the story.

1 **Q** Okay. So this was before you knew the story.
2 Let's go back. What visible injuries did you see?

3 **A** I saw the face. By the time I had gotten
4 there, she was already in a, uh, I think they already put
5 her in a robe. I did see a bruise on her arm too.
6 That's really all I could see.

7 **Q** Okay. I'm going to ask you a very specific
8 question. Your Honor, just give me a little leeway with
9 regards to the leading. But did the victim complain that
10 she was raped?

11 **A** Yes.

12 **Q** Where did she say she was raped?

13 **A** Can I ask a question? Do you mean like her
14 body or the location?

15 **Q** No, no, no. The location of the incident.

16 **A** Okay. I'm sorry. In her home in Pickens
17 County.

18 **Q** Okay. Did she equivocate about that?

19 **MR. ALLEN:** Objection. I mean, that's just
20 more elaboration. It's supposed to be direct
21 questions. The rule is very specific and precise on
22 what can be asked and answered.

23 **THE COURT:** I'll just allow her to answer
24 that question. Of course, it's limited to time and
25 place.

1 BY MR. TOOKER:

2 Q Okay. I mean, she maintained that story
3 throughout?

4 A Yes.

5 Q Okay. Uh, what did you do -- actually, let me
6 go back. You say you work in tandem with the nurses at
7 the hospital?

8 A The SANE nurses, the Sexual Assault Nurse
9 Examiners, yes.

10 Q Okay. Now, the SANE nurses, they have a
11 specific job?

12 A Yes.

13 Q What is their specific job?

14 A To collect evidence of a sexual assault victim.
15 They're also a nurse in the hospital, but they got
16 specialized training to be able to do these kits and do
17 them effectively without a doctor coming in. They'll
18 give you all that background, but pretty much in a
19 nutshell.

20 Q Now, were you with -- which nurse administered
21 to Brittany?

22 A Rachel Simmons.

23 Q Were you with Nurse Simmons with the kit was
24 conducted?

25 A Yes, sir.

1 Q Were you with Nurse Simmons and Brittany
2 throughout the entire ordeal?

3 A Yes, sir. I might have stepped out of the room
4 for a few minutes to go tell her mom, give her mom
5 updates. That's just part of my job to make sure they
6 know their kids are okay.

7 Q Now, when someone is examined, are they on a
8 table?

9 A Yes, sir.

10 Q What kind of table is it? Can you describe it?

11 A It is a breakaway bed. What it is used for is
12 sometimes, like in labor delivery, the bottom actually
13 comes out of the bed. The ladies' legs are put in
14 stirrups and put up so that the genitalia will be easy to
15 see and take pictures of. It is my job to go in there
16 and make the bed.

17 Q Okay.

18 A To put clean sheets on just for evidence
19 collection purposes.

20 Q Okay. And, uh, how do you clean off the bed
21 before?

22 A Wipes, a disinfectant wipe.

23 Q So you put -- is it like a fitted sheet?

24 A No, it's a hospital sheet.

25 Q Okay.

1 A Just a flat sheet that you fold double and you
2 tuck into the top and leave the bottom hanging off.

3 Q Now, were those sheets clean?

4 A Yes, sir.

5 Q White?

6 A Yes, sir. Hospital grade sheets.

7 Q Okay. What did you notice after Brittany had
8 gotten off the sheets?

9 A They use what is called a Chuck's pad, which is
10 like the blue little pads. There was blue. And also
11 toulidine dye, which again the nurse will speak of. It's
12 a blue dye. A pretty good amount of blood on the sheets
13 and the pad.

14 Q Did it appear fresh?

15 A To my knowledge, to be fresh blood, yes.

16 Q Okay. Now how long did the examination take?

17 A There's two different parts to the examination.
18 One is when she comes into the room and she talks to the
19 nurse and she gives her story. That took about an hour.
20 Then we actually go into another part of the room which
21 is where the bed is. We can close the curtain and have
22 privacy. That took about an hour and a half, maybe even
23 more. There were a lot of photos.

24 Q Uh, yes, during the course of the examination,
25 did the nurse ascertain as to if anything needed to be

1 given to the victim, given to Brittany?

2 **MR. ALLEN:** Objection, I don't -- you have to
3 lay a foundation for that.

4 **THE COURT:** All right. Sustained.

5 **BY MR. TOOKER:**

6 **Q** The nurse saw Brittany for some time?

7 **A** Yes.

8 **Q** Was anything prescribed to her?

9 **A** Yes.

10 **Q** What was prescribed to her?

11 **A** The basic things prescribed in a rape kit.

12 Again, I'm not a nurse so excuse my layman's terms, but,
13 uh, antibiotics.

14 **MR. ALLEN:** I'm going to object to that, Your
15 Honor, on her on admission there.

16 **THE COURT:** Mr. Tooker, I don't know that
17 she's the best witness to tell us.

18 **THE WITNESS:** Sorry.

19 **MR. TOOKER:** Okay.

20 **THE COURT:** That's okay.

21 **BY MR. TOOKER:**

22 **Q** Did you personally take it on yourself to get
23 anything for the victim?

24 **A** Yes, I did.

25 **Q** What did you get the victim?

1 **A** It's called a sitz bath.

2 **Q** What's a sitz bath?

3 **A** A sitz bath is pretty much an IV bag that you
4 hang up. It comes down into a little contraption that
5 you put on top of a toilet. It shoots up or sprays the
6 genitalia -- the general -- general -- I mean, your
7 private region with a warm water. It helps healing.
8 It's also very comforting.

9 **Q** Now what is that traditionally used for?

10 **A** I got it for -- after -- uh, you could tell she
11 was very much pain. I knew that after having a child,
12 that's what they gave me. It was a great comfort for the
13 area. So I called up the labor and delivery and I went
14 up there and got one that we can send her home with it.

15 **Q** Okay. Now, you said before, but I can't
16 remember it. How long have you been in this line of
17 work?

18 **A** 12 years.

19 **Q** And how many times you think you been party to
20 an examination of sexual assault?

21 **A** I'd say over 100.

22 **Q** Had you ever seen somebody complaining of
23 sexual assault prescribed pain medication?

24 **A** Yes.

25 **Q** Is it often?

1 **A** No. I've seen maybe three cases.

2 **Q** And how many sexual assault examinations have
3 you witnessed?

4 **A** Over 100.

5 **Q** So that's a rare thing?

6 **A** Yes, sir.

7 **Q** Reserved for more serious cases?

8 **A** Uh, I'll use the word brutal, but yes.

9 **MR. TOOKER:** Okay. No further questions.

10 **THE COURT:** Okay. Mr. Allen.

11 **MR. ALLEN:** May it please the Court, Your
12 Honor?

13 **CROSS-EXAMINATION**

14 **BY MR. ALLEN:**

15 **Q** Uh, ma'am, did -- you were there in the
16 examination room?

17 **A** Yes, sir.

18 **Q** And you were there for what period of time?

19 **A** I was there from probably about 30 minutes
20 after she got to the hospital until she left.

21 **Q** Okay. And how long would that have been
22 approximately to the best of your recollection?

23 **A** Three and a half hours, maybe four. I stayed
24 after she was gone.

25 **Q** Uh, were you, uh, -- were you aware or did you

1 discover during your time there that a feminine product
2 was removed?

3 A Yes, sir.

4 Q You were?

5 A Yes, sir.

6 Q And what type of feminine product was that?

7 A A tampon.

8 Q And obviously, that would relate to a menstrual
9 cycle?

10 A No, sir.

11 Q Okay. Thank you, ma'am.

12 MR. ALLEN: That's all the questions I have
13 of that witness, Your Honor.

14 THE COURT: Mr. Tooker, anything else?

15 MR. TOOKER: Uh, briefly.

16 REDIRECT EXAMINATION

17 BY MR. TOOKER:

18 Q You said you noticed a tampon?

19 A Yes, sir.

20 Q Did the victim explain why that tampon was
21 inserted?

22 A Yes, sir.

23 Q Why?

24 A Because she was bleeding from the assault.

25 Q Okay.

1 **A** She was not on her menstrual.

2 **MR. TOOKER:** No further questions.

3 **MR. ALLEN:** Nothing further on recross.

4 **THE COURT:** Ma'am, you can step down.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** Mr. Tooker?

7 **MR. TOOKER:** Maybe a brief recess? I need to

8 use the little lawyer's room.

9 **THE COURT:** Okay. That will be fine. That

10 will be fine.

11 Ladies and Gentlemen, let's take about a ten-

12 minute break. And, uh, we'll be back with you

13 shortly.

14 (WHEREUPON, the jury exits at approximately

15 4:14 p.m.)

16 **THE COURT:** One quick thing. I don't want to

17 -- if it's an emergency, go run on.

18 **MR. TOOKER:** Oh, no.

19 **THE COURT:** One quick thing. I got a note

20 from a juror, Krista Oglesby, asking can she be

21 excused from court tomorrow. Obviously, we're going

22 to have to bring her in and see what her situation

23 is. But anyway, we'll deal with that in a little

24 bit. All right. All right. Let's be in recess for

25 10 minutes.

1 **THE COURT:** Okay. Let's just see how far we
2 get.

3 **MR. TOOKER:** Sure.

4 **THE COURT:** All right.

5 **(WHEREUPON, Court's Exhibit 3 is marked for**
6 **identification purposes.)**

7 **(WHEREUPON, the jury enters at approximately**
8 **4:35 p.m.)**

9 **THE COURT:** All right. Yes, sir.

10 **MR. TOOKER:** Thank you, Your Honor. Just a
11 matter of housekeeping too real quick. The State
12 wants to move, uh, 34 and 33 into evidence. It's a
13 phone in the bag. I don't believe --

14 **MR. ALLEN:** There's no objection.

15 **MR. TOOKER:** At this point, move these into
16 evidence.

17 **THE COURT:** All right.

18 **(WHEREUPON, State's Exhibit 33 and 34 are admitted**
19 **into the record.)**

20 **MR. TOOKER:** The State calls Jason White to
21 the stand.

22 **JASON WHITE**

23 having first been sworn, testifies as follows:

24 **THE CLERK:** Have a seat. State your name
25 for the record.

1 **THE WITNESS:** My name is Jason White.

2 **MR. TOOKER:** One moment, Your Honor.

3 **(WHEREUPON, State's Exhibit 37 is marked for**
4 **identification purposes.)**

5 **DIRECT EXAMINATION**

6 **BY MR. TOOKER:**

7 **Q** All right. Sorry about that, Jason. Where are
8 you from?

9 **A** Easley.

10 **Q** Easley? And what do you do for a living?

11 **A** I work at Bosch.

12 **Q** Okay. Uh, you work third shift, is that right?

13 **A** That's right.

14 **Q** What time did you finish up this morning?

15 **A** Uh, seven o'clock.

16 **Q** Seven o'clock and then you came here?

17 **A** Yeah. I've got to be back in at 7:00.

18 **Q** Okay. You slept at all?

19 **A** No.

20 **Q** Appreciate you being here. You got any kids?

21 **A** Yes. I've got a daughter.

22 **Q** What's her name?

23 **A** Minor

24 **Q** How old is she?

25 **A** Three.

1 Q Okay. Do you know Brittany Wardlaw?

2 A Yes.

3 Q How long have you known her?

4 A I've known her since school, but we never
5 really talked. I've only talked to her for a couple of
6 months last year.

7 Q So you've known her for a long time. But you
8 didn't become close until lately?

9 A Last year.

10 Q And, uh, well, do you know why you've been
11 called to testify today?

12 A Yes.

13 Q Okay. What do you remember about the events of
14 late September 15th or early September 16th, 2010?

15 A I remember I got a few text messages from Matt.
16 It was coming from Brittany's cell phone. I believe I
17 only got like three text messages that I didn't really
18 acknowledge.

19 Q I'm going to have you stop right there. I'm
20 going to show you what's been marked as State's 37. Now
21 what are these three documents?

22 A This is the text message coming from Matt from
23 Brittany's phone to my phone.

24 **MR. ALLEN:** Objection, Your Honor, unless
25 there is a foundation for that.

1 **MR. TOOKER:** We're going to --

2 **THE COURT:** Let's lay a little bit more
3 foundation for it.

4 **BY MR. TOOKER:**

5 **Q** Now, you received these text messages at what
6 point?

7 **A** It was around 11:00, 11:30 or so on September
8 15th.

9 **Q** Okay. And after you got those text messages,
10 did you think anything about them at that time?

11 **A** No, sir.

12 **Q** Okay. Now, they are printed on a piece of
13 paper right there. How is it that they ended up on that
14 piece of paper -- those pieces of paper?

15 **A** I sent these text -- these text messages to
16 Detective Baker's phone.

17 **Q** Okay.

18 **A** To his email.

19 **Q** Okay. And did you look at those messages in my
20 office?

21 **A** Yes, sir.

22 **Q** Okay. And did you read over those messages
23 carefully in my office?

24 **A** Yes, sir.

25 **Q** Are those the same messages that you forwarded

1 to Detective Baker?

2 **A** Yes, sir.

3 **Q** Okay. Now the messages, each of them, would
4 you read through them briefly, don't read them out loud.
5 Just read them to yourself.

6 **A** Okay. (Reading.) Okay.

7 **Q** Now, are those the same messages that you sent
8 to Detective Baker?

9 **A** Yes, sir.

10 **Q** The same messages that went to your phone?

11 **A** Yes, sir.

12 **Q** What phone are they sent from?

13 **A** From Brittany's phone.

14 **Q** Now, you said Matt sent them. How do you know
15 that Matt sent them?

16 **A** Well, first of all, one of those text messages
17 says Matt, you know, this is Matt.

18 **MR. ALLEN:** Objection. It's not admitted.

19 **THE COURT:** All right. Let's approach.

20 **(WHEREUPON, a bench conference is held off the**
21 **record.)**

22 **MR. TOOKER:** At this point, Your Honor, the
23 State moves State's 37 into evidence.

24 **THE COURT:** Any objection?

25 **MR. ALLEN:** Uh, I'm -- I'm -- I'm a little

1 fearful because of the text message language, but I
2 don't object.

3 **THE COURT:** All right. All right.

4 **MR. TOOKER:** Okay.

5 **THE COURT:** I'll admit it.

6 **(WHEREUPON, State's Exhibit 37 is admitted into the**
7 **record.)**

8 **BY MR. TOOKER:**

9 **Q** I'm not going to have you read these, but, uh,
10 you got three messages?

11 **A** Yes, sir.

12 **Q** Initially, who did you think was sending you
13 the text messages?

14 **A** On one of them, it says it's Matt. On one, it
15 seemed like it might have been Brittany. I'm not going
16 to say it is or it isn't. But the way that the language
17 was written, I could tell it wasn't Brittany.

18 **Q** Okay. So you could tell by the way you receive
19 certain text, certain people use, ---

20 **A** Yes.

21 **Q** --- I guess, certain ways of writing text
22 messages.

23 **A** Different slang, yes, sir.

24 **Q** Did you receive those messages, I guess, one
25 after the other very quickly or were they spread out over

1 a long period of time?

2 **A** They were pretty close together, maybe within a
3 15-minute time frame.

4 **Q** In addition to those texts, did you ever get a
5 phone call?

6 **A** Yes.

7 **Q** Who did you get a phone call from?

8 **A** I got two different phone calls at two
9 different times.

10 **Q** Now, the first phone call, what phone did that
11 come from?

12 **A** It came from -- they both came from Brittany's
13 phone.

14 **Q** Okay. So that first phone call, did you
15 answer?

16 **A** Yes, sir.

17 **Q** What did you hear when you answered the phone?

18 **A** It sound like struggling, like on the bed, like
19 a bunch of noise.

20 **MR. ALLEN:** Objection. He can't testify to
21 that.

22 **THE COURT:** I'm going to allow it.

23 **BY MR. TOOKER:**

24 **Q** Okay. So continue.

25 **A** And all I heard from that was "Call my momma"

1 coming from Brittany.

2 Q You heard Brittany say "Call my momma"?

3 A Yes.

4 Q Did you hear another voice on there?

5 A No, sir.

6 Q Okay. Uh, did she sound frantic?

7 A Yeah.

8 Q Okay. Did you call her mother?

9 A No, sir.

10 Q When was the next time you got a phone call
11 from Brittany that night?

12 A Around 1:30, 1:45.

13 Q Okay. When you got that call, you said that
14 was Brittany as well?

15 A Yes, that was Brittany.

16 Q Okay. So that was really in the A.M. did she
17 wake you up or were you already up?

18 A I was already awake.

19 Q What did she say when you called her? And
20 don't -- well, let me ask a very pointed question.

21 A Okay.

22 Q Did she say that she had been raped?

23 A Yes.

24 Q What location did she say she had been raped
25 at?

1 A She did not say.

2 Q She didn't say. Did you guys come up with a
3 plan or what you were going to do? Were you going to
4 meet someone?

5 A Yes. I was going to meet her at her momma's
6 for moral support and see if she was okay.

7 Q Okay. And could you hear anything else in the
8 background?

9 A I heard the shower running.

10 Q Okay. Where do you live in relationship to
11 Brittany's mom?

12 A Maybe five minutes apart.

13 Q So pretty close?

14 A Yes.

15 Q So after you got off the phone with Brittany,
16 what did you do?

17 A Went over to her momma's house.

18 Q Okay. Were you there when Brittany got there?

19 A Yes.

20 Q What happened when Brittany got there?

21 A She got the kids out of the car, took them
22 inside. She came outside. She was trying to tell me
23 about it, but she was in too much shock. She couldn't
24 really tell anything.

25 Q Was she crying?

1 **A** Yes.

2 **Q** Did she appear upset?

3 **A** Yes.

4 **Q** What did she do after that?

5 **A** Her and her momma went to the hospital.

6 **Q** And, uh, when you saw her, did you see anything
7 on her? Did you see any physical injury?

8 **A** Yes, I could tell in her face, on the left was
9 real swollen and starting to bruise up a little bit and
10 on her arm and elbow.

11 **Q** And, uh, you said they went to the hospital.
12 When they left, what did you do?

13 **A** I went back home.

14 **Q** Okay. Did you see or observe anything else of
15 relevance with regards to this case?

16 **A** No, sir.

17 **Q** Okay. Thank you.

18 **THE COURT:** Mr. Allen?

19 **MR. ALLEN:** May it please the Court?

20 **THE COURT:** Yes, sir.

21 **CROSS-EXAMINATION**

22 **BY MR. ALLEN:**

23 **Q** All right. So Jason, just to be clear for the
24 record, you're the third party in the relationship issue
25 that was going on at this time in September of 2010?

1 **MR. TOOKER:** Objection, Your Honor.

2 **THE COURT:** What's the objection?

3 **MR. TOOKER:** The Rape Shield statute. We
4 can't talk about her prior relationships.

5 **MR. ALLEN:** They have made it a point of the
6 issue of the discovery of infidelity and not being
7 -- motivating this young man, Your Honor. They
8 talked about it extensively in their testimony. I'm
9 not going into the issue that the Rape Shield
10 statute --

11 **THE COURT:** All right.

12 **MR. ALLEN:** Simply that he's the --

13 **THE COURT:** I'll allow you to ask those
14 questions. Clearly, that fact's been covered.

15 **MR. ALLEN:** Yes, ma'am.

16 **THE COURT:** All right.

17 **BY MR. ALLEN:**

18 **Q** So again, you are the other person in the
19 relationship that -- at the same time or at or near the
20 same time Brittany was still seeing Matthew?

21 **A** It was maybe a month before because I left for
22 Germany August 19th and didn't get back til September
23 5th. It was probably about two months prior to that of
24 me leaving.

25 **Q** Okay. But you understood that she had a

1 relationship with Matthew?

2 **A** I was not 100 percent about that.

3 **Q** You never knew it?

4 **A** I never met him. I never knew those two were
5 together. They talked -- she talked about in her past
6 being with him, but nothing.

7 **Q** And you don't have any knowledge of any text
8 messages that were going between Brittany and Matthew on
9 the same day, do you?

10 **A** No, sir.

11 **Q** But the text messages that came into evidence
12 that you have before you, those came from Brittany
13 Wardlaw's telephone?

14 **A** Yes, sir.

15 **Q** Thank you, sir.

16 **THE COURT:** Mr. Tooker?

17 **MR. TOOKER:** Nothing on redirect.

18 **THE COURT:** All right, sir. You can step
19 down.

20 **THE WITNESS:** Thank you.

21 **THE COURT:** Mr. Tooker, your next witness, do
22 you anticipate it to be a lengthy witness?

23 **MR. TOOKER:** I think this next witness will
24 probably be pretty lengthy.

25 **THE COURT:** All right.

1 know it's a hardship on your own. I just appreciate
2 how kind and understanding you've been about it all.
3 All right. We are ready to continue with the
4 State's case.

5 **MR. TOOKER:** Thank you, Your Honor. The
6 State calls Rachel Simmons.

7 **RACHEL SIMMONS**
8 having first been sworn, testifies as follows:

9 **THE CLERK:** Have a seat and state your name
10 for the record please.

11 **THE WITNESS:** My name is Rachel R. Simmons.

12 **DIRECT EXAMINATION**

13 **BY MR. TOOKER:**

14 **Q** Where do you work?

15 **A** I currently work in the Emergency Department at
16 Baptist Medical Center in Easley.

17 **Q** Okay. So you work in the Emergency Department.
18 What is it that you do for a living?

19 **A** I'm a registered nurse.

20 **Q** Okay. So what's your educational background?

21 **A** I have an Associate Degree RN at Tri-County
22 Tech. I graduated in 1991. I'm currently pursuing my
23 bachelor's degree through Chamberlain University. I am a
24 Certified Emergency Nurse.

25 **Q** Okay. And how long have you been a nurse?

1 **A** 20 years.

2 **Q** How many hospitals have you worked for?

3 **A** Worked for two. I worked at Easley for 20
4 years since -- prior to becoming a nurse. But through
5 that period of time, I've had situations where I've had
6 two jobs at once. Up until October the 8th, I've worked
7 with the Emergency Department at AnMed for three years
8 prior to October the 8th of this year.

9 **Q** Okay. And what kind of nursing work was that
10 exactly both at Easley and --

11 **A** Both in the emergency department. So you deal
12 with a variety of situations from children all the way to
13 adults.

14 **Q** Okay. And I know it's difficult cause the
15 chair is kind of bolted to that thing. But if you could,
16 make sure you talk in that microphone so everybody back
17 here can hear you.

18 **A** Okay.

19 **Q** All right. Now how long -- you said 20 years
20 as a nurse. Is that 20 years as an emergency room nurse?

21 **A** No. For the first five years, I spent working
22 on the Cardiac floor and in Critical Care prior to
23 becoming an emergency room nurse. So the last 15 years,
24 I've been an ER nurse.

25 **Q** Okay. And do you participate in any continuing

1 education or seminars?

2 **A** Yes. In order to maintain your, uh,
3 certification as a Certified Emergency Nurse and as a
4 Sexual Assault Nurse Examiner, you have to maintain 30 to
5 40 hours a year of education. The last class I took was
6 in August, which was actually in Columbia related to
7 forensic nurse examining.

8 **Q** Okay. Do you hold any specific nursing-related
9 licenses?

10 **A** I am licensed in the State of South Carolina as
11 a Registered Nurse. I'm certified in trauma nursing care
12 advanced pediatric life support, advanced cardiac life
13 support for adults, Sexual Assault Nurse Examiner and
14 Certified Emergency Nurse.

15 **Q** Okay. Now sexual assault nurse, you said that,
16 in abbreviation is SANE?

17 **A** Yes.

18 **Q** S-A-N? What is that?

19 **A** Uh, that is a course that is voluntarily. You
20 have to be a nurse for at least two years. You
21 voluntarily take a 40-hour contact course. You do
22 another 40-hour clinical plus you're supervised and
23 assist with another eight actual cases prior to being
24 allowed to perform your own cases, which what you do as a
25 Sexual Assault Nurse Examiner, you collect evidence when

1 a person presents to the emergency department saying they
2 were sexually assaulted.

3 Q Okay. How long you been doing that? How long
4 have you been certified as a SANE nurse?

5 A Since 2009.

6 Q Since 2009. Since 2009, how many sexual
7 assaults have you examined?

8 A Between both hospitals, 12.

9 Q 12. And before becoming a SANE nurse, as an
10 emergency room nurse, how many sexual assaults did you?

11 A Many. But the way you perform is different.
12 Without the certification, you collect all of the general
13 physical evidence from the body and then the physician
14 would perform the pelvic examine. But understanding that
15 the Sexual Assault Nurse Examining role has not be
16 around, but just since the early to mid-90s.

17 Q Okay.

18 A It's not something that's been around for 40 to
19 50 years. It's a relatively new development.

20 Q Okay. So in your experience, as a whole, how
21 many rapes have you done?

22 A I would estimate around 100 in the last 15
23 years.

24 MR. TOOKER: Okay. Your Honor, at this
25 point, I'd like to have the witness considered an

1 expert in the field of Sexual Assault Nurse
2 Examining.

3 MR. ALLEN: Uh, no objection.

4 THE COURT: Any objection?

5 MR. ALLEN: I may preserve an objection to
6 the form of the opinion as to the testimony.

7 THE COURT: Certainly.

8 MR. ALLEN: But I don't object to her being
9 recognized.

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

11 Ladies and Gentlemen, normally, a person can
12 not give opinion testimony. Normally, when a person
13 testifies, he or she must testify to something they
14 have actually seen or heard or sense. However,
15 there is an exception when someone becomes qualified
16 as a result of education or experience. They are
17 permitted to give opinion testimony in certain areas
18 if the Court qualifies them this way.

19 This witness will be qualified in the area of
20 Sexual Assault Nurse Examination to give opinion
21 testimony in this area. That does not mean that you
22 must accept the opinion, that it is evidence for you
23 to consider in any way you see fit.

24 Yes, sir.

25 MR. TOOKER: Thank you, Your Honor.

1 BY MR. TOOKER:

2 Q Now, one -- let's go back. Were you working at
3 Palmetto Baptist back in 2010?

4 A Yes.

5 Q September 15th, 2010?

6 A Yes.

7 Q Were you working at the ER?

8 A Yes, sir.

9 Q Okay. So late night, early hours, September
10 15th and 16th, 2010, you were working in the ER?

11 A Yes, sir.

12 Q Okay. In what capacity were you working in?

13 A As staff nurse.

14 Q Staff nurse. Okay. As staff nurse, are you
15 still on-call as a SANE nurse?

16 A Yes.

17 Q What's the general procedure when a patient is
18 admitted to the hospital with a complaint of a sexual
19 assault?

20 A When a patient presents to the emergency
21 department, signs in, they are taken to the triage nurse.
22 The triage nurse then does general medical history and
23 takes their complaint, vital signs. And, uh, at that
24 point, if the police have not already been notified, the
25 nurse there will contact Rape Crisis and notify the

1 police department depending upon the jurisdiction of
2 where this occurred.

3 Q Okay. So triage, just so I understand, what
4 exactly is triage?

5 A That's where the nurse sorts out the different
6 complaints in the initial contact with the patient.

7 Q Would the patient see a nurse and a doctor in
8 triage?

9 A No.

10 Q Just a nurse?

11 A Just a nurse.

12 Q Okay. And then that nurse would do what
13 exactly? Life signs, vitals?

14 A Vital signs and that the medical history and
15 complaint.

16 Q Okay. So then after that happens, what's the
17 next step for the patient complaining?

18 A The patient will be taken to a private room
19 where the physician could come in or nurse practitioner
20 and medically clear the patient for a sexual assault
21 exam.

22 Q Now, what does that mean "medically clear the
23 patient"?

24 A People present in, of course, many different
25 ways. At times, people are injured to the point that

1 they are too ill to have a kit collected. They are not
2 stable enough for the examination process. It is a long
3 process to be performed, especially people who may have
4 been assaulted with various things other than a human
5 life. They can have lacerations, bleeding, head injury.
6 So it depends on the circumstance around what occurred to
7 them.

8 Q Okay. So I guess first they've got to be
9 stable?

10 A Correct.

11 Q So I guess you don't want somebody who's
12 bleeding profusely to then go examined by the SANE nurse?

13 A Right. If their blood pressure is low or they
14 are altered in their level of consciousness or there's an
15 obvious fracture deformity that will need to be dealt
16 with surgically, anything of that nature will obviously
17 trump your ability to perform a sexual assault kit on
18 that patient.

19 Q In this case, uh, -- well, first off, do you
20 remember Brittany Wardlaw?

21 A I do, yes, sir.

22 Q Okay. And, uh, when she came into the
23 hospital, did you tend to her?

24 A Yes, sir.

25 Q What was it that she was complaining of when

1 she came in the hospital?

2 A She presented with sexual assault.

3 Q What time do you think about when you first
4 seen her?

5 A It was around 4:15 that I was notified that we
6 had a patient that needed to be cared for. It was around
7 -- between 4:15 and 4:30 that I actually introduced
8 myself.

9 Q Okay. And at what time did you complete your
10 examination?

11 A My examination was completed around 7:00. She
12 was discharged. But you have to understand that even
13 after the patient is discharged, I'm not finished with,
14 uh, the process and procedure. So it takes a long time
15 after the patient actually is allowed to go home before
16 the kit is actually completed.

17 Q So discharge is you can go at this point, but
18 not necessarily that you do actually leave at this point?

19 A She was free to leave because I was finished
20 collecting the evidence from her but not finished with
21 preserving the evidence.

22 Q All right. And when you say preserving the
23 evidence, we heard talk yesterday about it that -- this
24 box right here, do you recognize this?

25 A Yes, sir.

1 Q What is this exactly? It's been marked as
2 State's 36.

3 A That is what would be considered the rape kit.

4 Q Do you recognize this particular rape kit?

5 A Yes, sir. That's my handwriting on the top
6 corner, my signature.

7 Q Okay. And I see what appears to be red tape on
8 each side of the box.

9 A Yes, sir.

10 Q Who put that tape there?

11 A I did.

12 Q You did. How do you know you put that tape
13 there?

14 A My initials were on the tape.

15 Q So you seal that box after you complete the
16 examination?

17 A Yes, sir..

18 Q Who did you give that box to?

19 A I believe it was Officer Robinson.

20 Q Does it say on the box?

21 A Tony Robinson.

22 Q Okay. Does it say when he picked it up from
23 you?

24 A 10:53 a.m.

25 Q On what day?

1 **A** On the 16th.

2 **Q** Now, what exactly is the protocol when you are
3 treating the patient for a complaint of rape?

4 **A** After they've been medically cleared by the
5 physician or nurse practitioner, they are moved to an
6 area that has been set up by a hospital for this type of
7 exam. We have an area where I have my computer with my
8 database that only certain people have access to that.
9 Then you take their history as far as what they are able
10 to tell you occurred.

11 **Q** I'll stop you right there. There are several
12 steps in the process?

13 **A** Yes, sir.

14 **Q** So after they've gone through triage and
15 cleared that they are stable, they come to you?

16 **A** Yes, sir.

17 **Q** Y'all have a special facility set up for these
18 cases?

19 **A** Yes, sir. We have an area that is separate
20 from the emergency room.

21 **Q** All right. So the first stage, once they get
22 to you, is they give you back that information?

23 **A** I review their past medical history, the last
24 menstrual period. I will review what occurred. It will
25 give me kind of a general overview of what happened in

1 the assault. Then I will move from there into drawing
2 the labs, which you have labs that go in the kit and then
3 you have labs that you draw by protocol to verify that
4 someone doesn't have some sort of hidden infection or
5 some other problem going on. That's part of the exam for
6 the physician to review.

7 Q Okay. So I guess you need to gather as much
8 evidence or information as you can so that you can make a
9 better determination as to how to treat the patient?

10 A Correct. But my job is not to prescribe and
11 diagnose and treat, per say, because I'm not a physician.
12 I'm a nurse.

13 Q Okay.

14 A My job is to collect evidence, preserve that
15 for SLED and then present labs back to the physician for
16 any changes. If we were to find there was a urinary
17 tract infection or anything that he would need to treat
18 differently based on that lab work for anemia or anything
19 of that nature, then the physician would be the one to
20 make the decision what prescriptions or changes need to
21 be made at that time.

22 Q Okay. Now, is it important to obtain
23 information regarding the cause of injury so you could
24 accomplish your job?

25 A Yes, sir.

1 Q Okay. Why is that important?

2 A Uh, it's important so that what you're being
3 told, you can determine whether or not what you're seeing
4 may be important or not and to see if that is consistent
5 with what you're being told. That way, if someone gives
6 you -- if the patient says I was licked on my neck or my
7 shoulder, then those are areas I'm going to look to try
8 to see if I see any evidence of body fluid or saliva.

9 Q Okay. So is it necessary to learn whether or
10 not a patient was exposed to bodily fluids of the
11 assailant?

12 A Yes, sir.

13 Q Why is that important?

14 A For the process of evidence. In this situation
15 and oftentimes, people will have already showered,
16 changed their clothes. So you may have lost evidence in
17 that scenario. But you still try to collect what you
18 can. So, uh, there's a process you use in determining if
19 you can see anything. You have an ultraviolet light that
20 you shine across the person's body to see if anything
21 fluoresces that you might can swab. And that is a part
22 of the normal process for examination.

23 Q Is it necessary to learn about these areas of
24 injury to the patient's body?

25 A Yes, sir.

1 Q Why is that?

2 A So that it can be documented in the note or by
3 photograph if you are able to do that.

4 Q Okay. Now, did you obtain that kind of
5 information from Brittany Wardlaw?

6 A Yes, sir.

7 Q Why did you obtain that information?

8 A She had stated that she was struck in her head,
9 face, her arm. I did note that she had hematoma to her
10 scalp. But I did not photograph that because she had
11 such thick, long hair. There was no laceration. There
12 really wasn't much to appreciate with a camera. But I
13 could feel that she had a hematoma. She did have some
14 bruising to her face and arm.

15 Q I'm going to show you a couple of pictures that
16 have already been introduced into evidence. They have
17 been marked as State's 9, 8, 7, 5 and 4. Did you take
18 this picture of Ms. Wardlaw's cheek?

19 A Yes, sir.

20 Q Why did you take that picture?

21 A She complained of pain and bruising. It was
22 just easily visible. So I photographed that.

23 Q Okay. Is this another -- same picture?

24 A Yes, sir.

25 Q And you took a picture of her arm?

1. A Yes, sir.

2. Q Why is it you took that picture?

3. A She complained of pain there. There was a
4. noticeable bruise.

5. Q Okay. And you took a picture of her face as
6. well?

7. A Yes, sir. That was part of the normal
8. procedure that you do. Your initial photograph is of the
9. person's face so that you have a rule of who you are
10. photographing.

11. Q Okay. Now, how is it that she seemed to you
12. when she came into the same room to talk to you
13. emotionally?

14. A She was tearful, quiet. She was looking down.
15. Not a whole lot of eye contact. She was very compliant
16. with my questions and with the exam to the best of her
17. ability.

18. Q Your questions, you already mentioned that she
19. claimed injuries to her face and arm. Did she complain
20. of other areas of injury?

21. A Yes, sir, to her vaginal area and her rectal
22. area.

23. Q Okay. And what was it that she was complaining
24. about?

25. A She said that at the scene, she had had a lot

1 of bleeding. She had to put a tampon in, but also had
2 some rectal bleeding which had stopped. She was just
3 very tender and sore.

4 Q Did she describe how it was that she was
5 assaulted?

6 A How was it that she was assaulted?

7 MR. ALLEN: Objection.

8 THE COURT: Sustained.

9 BY MR. TOOKER:

10 Q For the purposes of your diagnosis, is it
11 important to understand the position of the assault?

12 A Again --

13 Q For the purpose of your examination, is it
14 important to understand the position of --

15 MR. ALLEN: Objection. The question is not
16 even appropriate.

17 MR. TOOKER: Your Honor, may we approach?

18 THE COURT: Yes.

19 (WHEREUPON, a bench conference is held off the
20 record.)

21 BY MR. TOOKER:

22 Q For the time being, let's move on. Did she
23 report whether or not the defendant used a condom?

24 A She said she did not think so.

25 Q Did she complain of ejaculation?

1 **A** She told me she thought he had ejaculated in
2 her rectum. She wasn't 100 percent sure about vaginally.
3 She didn't think so at that time.

4 **Q** We talked about the rape kit briefly. Go
5 through what is that the rape kit is designed to do.
6 What is it that you collect evidence with and it's
7 included in the rape kit?

8 **A** Inside the kit, you have different envelopes
9 that are labeled. They are labeled with head hair, pubic
10 hair, oral swab, buccal swab, vaginal swab, rectal swab.
11 Any kind of, uh, fibers or other things that you may find
12 to be placed in there. You have a bag for clothing. Uh,
13 you have, uh, an array of things that you are able to
14 collect. Saliva, semen.

15 What you do is, after you talk with the
16 patient, you actually move them to the exam room, undress
17 the patient, preserve the clothing at that time. With
18 Ms. Wardlaw, the only thing that I did take was her
19 underwear. She had changed her outer clothing already
20 and removed her tampon.

21 Then we do a general scan as I previously
22 described. If you see something or if someone says yes,
23 this happened here and here, then you will swab that with
24 Q-tip saline and drop. We have a dryer that you have to
25 allow that to dry. You can't just stick it in the

1 envelope and put it back in there. It has to dry before
2 you can seal it up. So through that process, you collect
3 external evidence.

4 Q So in regards to the external evidence, did you
5 take any samples from Ms. Wardlaw's person in this case?

6 A I did.

7 Q Okay. What samples did you take?

8 A Different swabbings from areas that she thought
9 may have been a bite or mark. I didn't have a lot of
10 faith that I would actually collect anything because she
11 had showered. But based on what the patient tells you,
12 you still attempt to collect evidence.

13 Q Okay. Now, in addition to bodily samples, did
14 you take samples from the genitalia as well?

15 A Yes, sir.

16 Q What kind of samples did you take?

17 A The normal procedure is after you do the
18 general overview of the body is you go ahead and allow
19 the patient to lay back and you do a general visual of
20 the vaginal and rectal area. At that point is where you
21 photograph that area.

22 Q Now, did you do that in this case?

23 A Yes.

24 Q What samples did you take from --

25 A You do a DNA swab which is for gonorrhea and

1 chlamydia. That is a baseline, uh, not for the kit, but
2 for the medical purpose. You've got dual reason for
3 performing these. You have a medical reason to make sure
4 that an individual stays healthy or that they are not
5 sick. Then you also have an evidence collection portion.

6 So you do a DNA swab. Then you do a vaginal
7 swab that you place on a plate, plus you save the swab to
8 dry to go in the kit as well. After you do the vaginal
9 exam and photograph, then you move to the rectal portion
10 of the exam where you photograph that area. Then swab
11 and part of the procedure for both of those areas is that
12 you use something called toluidine dye to try and stain
13 any skin that may have -- you can see if it uptakes any
14 of the dye and you could then photograph that.

15 Q You did all that to Brittany?

16 A Yes, sir.

17 Q With regards to the samples you took, you said
18 you put those -- were those included in the rape kit as
19 well?

20 A Yes, sir.

21 Q After everything that needed to be put in the
22 rape kit that you put in the rape kit, what did you do
23 with the kit itself?

24 A The kit stays with me to protect the chain of
25 custody. And each individual envelope is sealed inside

1 the kit and then the kit is sealed again.

2 Q Now, you said that you took pictures?

3 A Yes, sir.

4 Q What did you take pictures of?

5 A There are certain anatomical landmarks that
6 you're taught to take pictures of. You take a general
7 vaginal picture. Then you take a picture to look at the
8 posterior fourchette which is the thin skin at the bottom
9 of the vagina before you get to the rectal area and of
10 the hymenal area, which in any woman who is of child-
11 bearing years, you have more of a fluffy hymen. So you
12 want to document that. You then document the left labia
13 minora and majora and right labia minora and majora.
14 Anatomically, when you are looking at the photograph, it
15 won't -- this won't be the left. This will be the right.
16 You'll be in the position of the patient, so...

17 Q Your left is my right.

18 A Right.

19 Q And your right is my left?

20 A Uh-huh.

21 Q Did you take pictures of Ms. Wardlaw in this
22 case?

23 A Yes, sir.

24 Q The pictures that you took of Ms. Wardlaw, did
25 you use any special instruments or anything? How did you

1 take the pictures?

2 **A** It is not a regular camera. It is a bit
3 cumbersome. You use a colposcope. What that is is it's
4 like a microscope that's mounted on an arm. So what you
5 do with one hand is you hold the colposcope in place.
6 With your other hand, you are attempting to hold the
7 patient's anatomy in place. And then you photograph
8 actually with your foot. .

9 **Q** Okay. So it's a large apparatus?

10 **A** Yes, sir.

11 **Q** And you used a lot of medical terminology
12 before describing the anatomy of the female victim. If I
13 may paraphrase, what you were saying is you start from
14 the outside and kind of get closer and closer in?

15 **A** Yes, sir.

16 **Q** Okay.

17 **A** Until you can get to the cervix and get a
18 picture of the cervix.

19 **Q** Now, when you examined Brittany, did you note
20 any injuries or damage to the vagina?

21 **A** The outer aspect, uh, of the perineal area, the
22 right side, I did not really appreciate a whole lot of
23 injury. I did not see lacerations or anything of that
24 nature. On the left, there was some edema coming up from
25 the posterior fourchette. And then --

1 Q What is edema?

2 A Swelling. Slight swelling.

3 Q You said posterior fourchette, is that like the
4 outside, outside?

5 A No. That's the thin piece of skin at the
6 bottom of the vaginal. If you are looking forward into
7 the perineum --

8 Q How about I stop you right there. We'll
9 utilize the pictures that you took, okay?

10 **THE COURT:** Let me just take just a moment
11 with the jury before we go any further.

12 Ladies and Gentlemen, we're going to see some
13 photographs that are of a personal nature. I know
14 that it might be somewhat difficult to look at
15 photographs of a personal nature. We will try to be
16 as sensitive as possible. If you will note, we
17 cleared the courtroom for purposes of these
18 photographs. All right.

19 **BY MR. TOOKER:**

20 Q All right. The, uh, -- the first image I'm
21 going to show you has been marked as State's 39. Would
22 you examine that for me please.

23 A Okay. This is, uh, a photograph of the outer
24 portion of the vagina with the hymen visible. It is
25 redundant hymen, which just means it's estrogenized

1 fluffy hymen.

2 Q Okay.

3 A There is slight amount of blood drainage to the
4 left anterior aspect of the labia minora.

5 Q Let me just stop you right there. Is that a
6 picture that you took of Brittany Wardlaw?

7 A Yes, sir.

8 Q Okay. And would that picture fairly and
9 accurately represent what you saw that night?

10 A Yes, sir. It's not quite as clear as your own
11 eye.

12 Q Sure. Sure.

13 MR. TOOKER: At this point, Your Honor, the
14 State moves State's 39 into evidence.

15 MR. ALLEN: I have no objection.

16 THE COURT: All right then. Very well.

17 (WHEREUPON, State's Exhibit 39 is admitted into the
18 record.)

19 BY MR. TOOKER:

20 Q So this image right here, what is important
21 that we're seeing? We have a laser pointer over here
22 that you can utilize to show us. Just press the red
23 button that says laser.

24 A What you're looking at here is the hymenal
25 area.

1 Q Uh-huh.

2 A Which is normal. Through here, you have some
3 oozing blood.

4 Q Uh-huh.

5 A To the right area, you really don't appreciate
6 a whole lot of injury here. Through here, you can see as
7 you move up slightly this was tender when touched. That
8 is another portion of trying to obtain a good photograph.
9 You are hurting the person. They are moving. So you are
10 trying to hold that while you obtain these photographs.
11 and trying to be as quick as possible to finish your
12 exams.

13 Q So you're saying that what you're seeing right
14 here is swelling?

15 A Through here. And as you move from here out
16 from the posterior fourchette up this way, there are
17 other photographs that will be better.

18 Q Let's talk about some of those photographs.
19 First thing I'm going to show is State's 41. Do you
20 remember taking this picture?

21 A Yes, sir.

22 Q Is that of the victim Brittany Wardlaw?

23 A Yes, sir.

24 Q That picture fairly and accurately represents
25 her state in that part of her anatomy when you took that

1 picture?

2 **A** Yes, sir.

3 **Q** Now, what is that picture supposed to show?

4 **A** This is more getting a better view of the
5 posterior fourchette. The reason that there's so much
6 emphasis in making sure you get a good picture of that
7 area is because statistically, you see a lot of damage
8 there most of the time. There was not a whole lot of --
9 there was nothing, no dye pick up or anything in the
10 posterior fourchette itself.

11 **Q** Now, you say there's supposed to be damage
12 there most of the time. Why is that -- I guess, what
13 type of sexual act would result damage to that part of a
14 woman's anatomy?

15 **A** Most of the time whenever someone presents and
16 they are describing their sexual assault, they have been
17 assaulted on their back?

18 **Q** They are laying --

19 **A** In a lithotomy position or a missionary
20 position if you would say that. Medically, you say a
21 lithotomy position, most of the time, they have been
22 pushed to their back or thrown down. But that is the
23 position that they're in. Due to even if they are not
24 fighting, due to the force, uh, it will pull that skin
25 into the vaginal area and pull it and tear it.

1 **Q** Is that because of the direction of the
2 penetration?

3 **A** That's part of it, but not all of it. Most of
4 the time, just the woman's response, even if she's not
5 hitting or screaming, if she is alert and not drugged,
6 she coils back and resists the penetration. So her
7 pelvis is tilted back. So the penal penetration is not
8 what you would have in a consensual or normal sexual act.

9 **Q** It's not straight on?

10 **A** Correct.

11 **MR. TOOKER:** Now, uh, I can't remember if I
12 did it, but the State wants to move State 41 into
13 evidence.

14 **THE COURT:** Any objection?

15 **MR. ALLEN:** No, ma'am.

16 **THE COURT:** All right.

17 **(WHEREUPON, State's Exhibit 41 is admitted into the**
18 **record.)**

19 **BY MR. TOOKER:**

20 **Q** All right. So this picture right here, you are
21 saying, uh, this area that I'm pointing to with my
22 finger, you would suspect that there would be damage to a
23 woman's person if she were assaulted in a missionary
24 position?

25 **A** Yes, sir.

1 Q Now, if she were assaulted from behind, would
2 you see damage there? Would you expect to see damage
3 there?

4 A Not necessarily.

5 Q Okay. I'm going to show you another image
6 that's been marked as State's 42. What are we seeing in
7 this picture?

8 A Uh, this is showing the bruising to the left
9 labia minora and some blood drainage from the vaginal
10 opening.

11 Q Uh, did you take that picture?

12 A Yes, sir.

13 Q Did you take it of the victim Brittany Wardlaw?

14 A Yes, sir.

15 Q Would you say that picture fairly and
16 accurately represents what you saw that night?

17 A I would like for it to have been more clear,
18 but yes, sir.

19 MR. TOOKER: All right. Now, at this point,
20 Your Honor, the State wants to move State's 42 into
21 evidence.

22 THE COURT: Any objection?

23 MR. ALLEN: No objection, your -- no
24 objection.

25 THE COURT: All right then.

1 (WHEREUPON, State's Exhibit 42 is admitted into the
2 record.)

3 BY MR. TOOKER:

4 Q Now, the contrast isn't great but you said
5 there's bloody drainage here. Would you show us the
6 blood.

7 A Right through here. Then you can see as the
8 labia is pulled back you've got more bruising here. This
9 is on the left.

10 Q Okay.

11 A You really don't have -- I mean, I really did
12 not appreciate a whole lot of injury on the right
13 throughout any of the examination.

14 Q So the discoloration over here to be would be
15 on the left side of her body?

16 A Correct.

17 Q Uh, that's bruising?

18 A Yes, sir.

19 Q Okay. Now, I'm going to show you what's been
20 marked as State's Exhibit 33. Do you recognize that
21 injury?

22 A Yes, sir.

23 Q Is that a picture taken of the victim?

24 A Yes, sir.

25 Q Did you take that picture?

1 **A** Yes, sir.

2 **Q** Does that picture fairly and accurately what
3 you saw -- fairly and accurately represent what you saw
4 that night?

5 **A** Yes, sir.

6 **Q** Now, what is depicted in that image?

7 **A** This is after toluidine dye has been placed.
8 The process for that, is it doesn't take very much. You
9 can sort of think of it like (inaudible) when your
10 grandma would put it on your skin. It's sort of that
11 same consistency and color. You paint the area that, uh,
12 you're looking at to see if anything takes. You have to
13 let it sit there for two minutes and then you wash it
14 off. And what's left behind here is residual of some
15 tension-type tearing to that same area where the bruising
16 was present.

17 **Q** Okay. So toluidine dye, you utilize it to see
18 if there was some sort of abraded area on the skin?

19 **A** Because sometimes because of the folds in the
20 skin, you can't see everything. But the dye kind of
21 highlights something that you may have missed with your
22 naked eye.

23 **Q** Okay. So in that image, do you see toluidine
24 dye?

25 **A** Yes, sir.

1 Q And just so we're clear, what does that reflect
2 with regards to any damage done to her body?

3 A Pulling of the skin. Pulling -- you can think
4 of it just like fabric. If you're pulling a towel or
5 sweater and the fabric stretches, it loses the same form
6 as it has previously, but it's not completely torn open.

7 Q Uh-huh.

8 A So it's the tension of the skin pulling in.

9 Q Okay.

10 MR. TOOKER: Your Honor, the State wants to
11 move State's 42 -- excuse me -- 43 into evidence.

12 THE COURT: Any objection?

13 MR. ALLEN: I have no objection.

14 THE COURT: All right.

15 (WHEREUPON, State's Exhibit 43 is admitted into the
16 record.)

17 BY MR. TOOKER:

18 Q So in this picture, what we're seeing --

19 A Right through there. (Pointing.)

20 Q And that's darker than on the right side.

21 A Right. The right side, as I said before, I
22 really did not appreciate a whole lot of injury to that
23 side. Most everything I saw was to the left.

24 Q Now, is this consistent with consensual sex?

25 A It could possibly be consistent with that. The

1 fact that she presented what her complaint was the reason
2 that these photographs were taken. Having said that --

3 Q Let me stop you right there. You say the
4 photographs were taken because of a specific complaint?

5 A Correct.

6 Q Now, the specific complaint, is that consistent
7 with that you observed?

8 A She told me that when she was assaulted, she
9 was assaulted face down so that the penetration took
10 place from behind. That would make sense if the position
11 of her body was rotated over. It pulled from the side
12 and pulled the skin in.

13 Q So that's consistent with what she complained
14 of?

15 A Yes, sir.

16 Q The next image I'm going to show you has been
17 marked as State's 44. What is depicted in this image?

18 A You see the speculum to the cervix which was
19 actively bleeding.

20 Q Now, you say "actively bleeding". You
21 mentioned toluidine uptake and stuff like that before for
22 abraded areas.

23 A You don't use toluidine inside the vaginal area
24 or everything will just be purple. It's all moist.
25 Inside the vagina, you don't put toluidine inside the

1 vagina. Uh, this is a photograph of the cervix. The os
2 has a little blue pool in it. What I had tried to do was
3 take a swab and hold the bleeding off long enough to get
4 a picture without any blood on the cervix.

5 Q I'm going to stop you right there. When you
6 were looking at the cervix, it was continuing ---

7 A It was bleeding.

8 Q --- to bleed as you were looking at it.

9 A Yes, sir.

10 Q Okay. How is it that you could actually see in
11 there? What did you utilize to --

12 A You have a speculum. Any woman that's been to
13 the gynecologist understands what a speculum is. It's
14 the tool that you use to actually open up the vaginal
15 area which the cervix sits inside and you are able to
16 visualize it.

17 Q Now, you took that picture?

18 A Yes, sir.

19 Q Would you say that picture fairly and
20 accurately represents the state of the victim's cervix on
21 this occasion?

22 A Yes, sir.

23 MR. TOOKER: Your Honor, at this point, the
24 State wants to move State's 44 into evidence.

25 THE COURT: All right then.

1 **(WHEREUPON, State's Exhibit 44 is admitted into the**
2 **record.)**

3 **BY MR. TOOKER:**

4 **Q** All right. So what we're seeing here is a
5 plastic circular object. What is that?

6 **A** This is the speculum.

7 **Q** Okay. Now, at the bottom, it's very dark red.

8 **A** That's pooling of blood here.

9 **Q** Pooling of blood. Now, did you note as to
10 where on the victim's cervix the spot that was actively
11 bleeding was located?

12 **A** When you talked about the cervix, you look at
13 it like a clock. The cervix is actually the opening the
14 uterus. That's where the baby comes out when a woman has
15 a baby. That's where -- when you have your period, you
16 bled from your cervical os here when the blood sheds out.
17 So in this instance, you're looking twelve o'clock, three
18 o'clock, six o'clock, nine o'clock. She had an abrasion
19 around two o'clock right in here that kept bleeding in
20 here.

21 **Q** Okay. Now, when you looked in there, was the
22 cervical os itself bleeding like she was menstruating?

23 **A** I did not see that when I dabbed on it.
24 Whenever I tried to dab the cloth -- the swab to make it
25 stop, I saw the blood come from here down.

1 Q All right. So the part of her vagina, her
2 cervix that was bleeding was actually on the outer wall
3 of the cervix as opposed to from within her body as if
4 she were menstruating?

5 A It's from around two o'clock right here.

6 Q Okay.

7 A The os is here, which is not the source of what
8 I saw. What I saw was here.

9 Q Now, what you saw, you said you saw the
10 bleeding at two o'clock on the cervix. Would you say
11 that that is consistent with her complaint that she had
12 been assaulted from behind?

13 A It's difficult to say if that was from penal
14 penetration or from penetration of a fingering. I can't
15 100 percent say that. It would be consistent with if she
16 were turned over with a force coming in the direction of
17 that part of her cervix.

18 Q Okay. With opposed to having been assaulted in
19 a missionary-type position?

20 A If your body would be turned over, you would
21 think the injury would be more toward the back of the
22 cervix.

23 Q Okay. So down below as opposed to up high?

24 A Uh-huh.

25 Q Okay. Now, -- well, I'm going to stop there.

1 The, uh, -- the complaint, the injuries that you saw, you
2 took a patient history of Brittany, correct?

3 A Yes.

4 Q Did she tell you whether or not she had any
5 kids?

6 A Yes, sir. She had.

7 Q Did she tell you how many?

8 A I think she had two children.

9 Q Okay. Now, uh, I don't want to put words in
10 your mouth, but what you describe female genitalia as
11 resistant?

12 A Yes, sir.

13 Q Why would you describe it that way?

14 A Not on the vaginal area, but the rectal area
15 also. There's a lot of nerve innervation and blood flow
16 to that area. So when you do have lacerations or tears
17 that tend to heal quickly because of how we're created,
18 you know, you don't have to have -- you can have a pretty
19 good tear to your vaginal area and not need stitches.
20 That kind of thing. With sitz baths, they'll heal on
21 their own.

22 Q And the reason for that is because we actually
23 -- women give birth to children and have to accommodate
24 larger bodies.

25 A Correct.

1 Q The next image I'm going to show you has been
2 marked as State's 46. What's depicted in this image?

3 A This is an anal image. The way you take this
4 type of picture is you position the patient on their
5 side. You then have to bring the arm of that colposcope
6 around and take a picture so it is not quite as clear as
7 the straight on photograph of the vaginal area.

8 Q So you're saying the details are a little bit
9 more obscure?

10 A It's more blurry. Yes, sir.

11 Q Despite that fact, describe to us what it is
12 that you noticed or witnessed on the victim's rectum.

13 A She had no active bleeding at that time from
14 her rectal area. She said she had had bleeding at home
15 prior to coming to the hospital.

16 Q Rectal bleeding?

17 A Rectal bleeding, yes. But she does have the --
18 the folds of the anal area are very swollen and tender,
19 painful. It's very painful for me to touch that area.

20 Q So based on your experience, is that a
21 depiction of a normal human anus?

22 A It coincides with her complaint of having had
23 anal intercourse in that she had pain with that.

24 Q Okay.

25 A Uh, generally speaking, if someone has anal

1 intercourse as part of their normal sexual habit, their
2 rectum becomes loose and you are not going to see this
3 type of swelling and pain from that..

4 Q Okay. So this swelling and pain was consistent
5 with the lack of use of the anus for that?

6 A Correct. Consistent with what she said
7 happened to her..

8 Q Okay. Now, did you take that picture as well?

9 A Yes, sir. I wish it was better.

10 Q Does it fairly and accurately represent what
11 you saw that night?

12 A Yes, sir.

13 MR. TOOKER: I'm going to, Your Honor,
14 introduce State's 46 into evidence.

15 MR. ALLEN: No objection.

16 THE COURT: All right.

17 (WHEREUPON, State's Exhibit 46 is admitted into the
18 record.)

19 BY MR. TOOKER:

20 Q If you would, with that laser pointer again,
21 show us on here -- and I know it's difficult because the
22 picture's --

23 A Especially through here.

24 Q Now, to a layman, all I'm seeing are lines
25 going in there. How is that different from what you

1 would normally observe?

2 **A** You would normally see thin, flat folds moving
3 in toward the rectum itself. These are swollen.

4 **Q** Are they wider than they would normally be?

5 **A** More puffy. More white.

6 **Q** Okay.

7 **A** Through here, these little tiny lines through
8 here, I don't know if the next picture may be a little
9 bit better or not. But there's fissures, little tiny
10 torn areas through here that the dye did pick up on.

11 **Q** Okay. So you administer the same toluidine dye
12 to the victim's rectum as you administered to the skin?

13 **A** Right.

14 **Q** And that dye did uptake?

15 **A** Yes, sir.

16 **Q** And that indicates to you that there was
17 tearing?

18 **A** I described them as fissures which were tiny
19 tears, yes, sir.

20 **Q** This is another image. I think this is a
21 little clear and shows what you mention. It's been
22 marked as State's 45. Can you tell us what's depicted in
23 that image?

24 **A** That's the swollen anal folds.

25 **Q** Is that a better example of the pickup of the

1 toluidine dye?

2 A You can see --

3 Q I'll bring you the last exhibit, State's
4 Exhibit 46.

5 A Actually, here you and see that there with the
6 fissures that the dye is uptaking through here.

7 Q Let's first introduce 45. Did you take the
8 picture? Did you take 45?

9 A Yes, I did.

10 Q And was it of the victim's anatomy?

11 A Yes, sir.

12 Q And does that picture fairly and accurate
13 represent what you saw on that day?

14 A Yes, sir.

15 MR. TOOKER: At this point, Your Honor, the
16 State moves State's 45 into evidence?

17 THE COURT: Any objection?

18 MR. ALLEN: No objection.

19 (WHEREUPON, State's Exhibit 45 is admitted into the
20 record.)

21 BY MR. TOOKER:

22 Q I think this picture is a little bit better
23 contrast. Again, is what we're looking at --

24 A See how swollen that is?

25 Q And again, that's indicative to you of what...

1 exactly?

2 **A** Trauma.

3 **Q** Trauma. I'm going to ask you to come, because
4 I think these pictures are better seen in person by the
5 jury. Come and stand with me over here. Show us on
6 these pictures where the toluidine dye is.

7 **A** (Inaudible.)

8 **THE COURT:** All right. We're not getting
9 anything on the record at this point.

10 **MR. TOOKER:** Okay.

11 **THE COURT:** I don't know how y'all, uh, --

12 **MR. TOOKER:** Fair enough.

13 **THE COURT:** I'll tell you what, why don't we
14 do it like this. Why don't we let her explain maybe
15 closer to the microphone a little bit and then point
16 out what she's talking about closer to the jury?
17 Why don't we do it like that?

18 **MR. TOOKER:** Sure.

19 **THE COURT:** Okay.

20 **BY MR. TOOKER:**

21 **Q** So with regards to the anal injury, the
22 toluidine did uptake and you can see that in the
23 pictures?

24 **A** Yes, sir. Visually, I can see it better.

25 **Q** And if she's on her side and these pictures

1 were taken on her side, would they be on the left or the
2 right half of her body?

3 A She would be laying on her left side.

4 Q And the uptake, would that be on the left or
5 the right?

6 A Some around each. Do you need me to come point
7 that out?

8 Q Yes. Please come down now. Point out to us,
9 point out to the jury where there is the toluidine
10 uptake.

11 A (Pointing.)

12 Q Okay. Can you see that in this image as well?

13 A This, not as much. This was applied after.

14 Q Okay. Now, the victim came in. Did she
15 complain of rape?

16 A Yes, sir.

17 Q How many instances of rape did she complain of?

18 A She told me that initially, she was carrying on
19 a phone conversation and --

20 MR. ALLEN: That's going beyond the scope
21 of --

22 THE COURT: If she'll just confine her answer
23 to statements made for purposes of medical
24 treatment.

25 MR. TOOKER: Sure.

1 BY MR. TOOKER:

2 Q Now, the complaints of rape, did she complain
3 of rape to different areas of the body?

4 A Do you mean penal penetration?

5 Q What I'm asking you is we just looked at
6 pictures of both her vagina and her anus.

7 A Correct.

8 Q Did she complain of being vaginally raped?

9 A Yes.

10 Q Did she complain of a separate and distinct
11 occurrence of anal rape?

12 A Yes.

13 Q Now, you said before that she complained of
14 ejaculation?

15 A Yes.

16 Q Uh, did she say in which area the defendant
17 ejaculated?

18 A She told me she was pretty sure in her rectal
19 area that he had ejaculated. Not so sure about her
20 vaginal area. Didn't think at that time that he had.

21 Q She did describe to you the circumstances of
22 her assault?

23 A Yes.

24 Q I think we've asked this with regards to a
25 couple of specifics, but were the injuries you observed

1 on her whole person and on her genitalia consistent with
2 what she complained of with regards to the assault?

3 **A** She told me she was hit in the head. She had a
4 hematoma. She told me she was pulled and hit. She had
5 bruises on her arm. She told me that she had been
6 assaulted sexually face down vaginally and rectally. She
7 had bleeding from her vagina with an abrasion to her left
8 inner labia minora and cervix. She had swelling to her
9 rectal area.

10 **Q** Okay. And after you completed the examination
11 of her person and you took the pictures, did you give her
12 pain medication?

13 **A** I actually gave her pain medication before I
14 started her vaginal exam after I saw how tender and
15 swollen her bottom was. I had to call and get an order
16 for it. I gave her something. I knew what I was going
17 to do was going to hurt.

18 **Q** Okay. And you said you've deal with hundreds
19 of rape cases. How many times have you prescribed pain
20 medication?

21 **A** I don't prescribe pain medication.

22 **Q** How many times have you asked for pain
23 medication for a victim?

24 **A** Very few. I would say less than 10.

25 **Q** Less than 10?

1 **A** Uh-huh.

2 **Q** Out of hundreds?

3 **A** Out of a hundred or so.

4 **Q** Now you say that when she was in there, she was
5 actively bleeding. Did she actually bleed on the table?

6 **A** Yes. We have blue pads that we place
7 underneath the patient. There was some blood there.
8 Yes, sir.

9 **Q** Okay. I want to come back to something. You
10 said that you dry out samples after you take them from a
11 victim's person. Why is it that you let them dry?

12 **A** So that during the time the specimens are in
13 the box, they don't become moldy and you lose your
14 evidence.

15 **Q** Okay. So to preserve evidence of DNA, you got
16 to make sure they are dry before you put them in there?

17 **A** Uh-huh.

18 **MR. TOOKER:** Okay. One moment, Your Honor.
19 No further questions for this witness.

20 **THE COURT:** I'll tell you what. Why don't we
21 take a five-minute break? Let's take a short break,
22 Ladies and Gentlemen. We'll resume the testimony
23 once you return.

24 **(WHEREUPON, the jury exits at approximately**
25 10:17 a.m.)

1 **THE COURT:** All right. Let's be in recess
2 for, uh, maybe five minutes.

3 **(WHEREUPON, a recess is taken.)**

4 **THE COURT:** Anything we need to take up
5 before we bring the jury back in?

6 **MR. TOOKER:** Nothing from the State, Your
7 Honor.

8 **THE COURT:** All right.

9 **MR. ALLEN:** Nothing from the defense.

10 **(WHEREUPON, the jury enters at approximately**
11 10:38 a.m.)

12 **THE COURT:** All right. Mr. Allen?

13 **MR. ALLEN:** Yes, ma'am. May please the
14 Court. Just a few questions of this witness, Your
15 Honor.

16 **CROSS-EXAMINATION**

17 **BY MR. ALLEN:**

18 **Q** Ms. Simmons, let me ask you, did you bring a
19 chart or file with you here today?

20 **A** Yes, sir.

21 **Q** You have it with you?

22 **A** Yes, sir.

23 **Q** Could you retrieve that please, ma'am?

24 **MR. ALLEN:** If she could step down, Your
25 Honor.

1 **THE COURT:** Yes, sir.

2 **BY MR. ALLEN:**

3 **Q** All right. You got your file there?

4 **A** I've got mine. You want me to look at the same
5 database portion?

6 **Q** Well, let me just show you what I've got. I'm
7 not familiar with all your terminology. You have that
8 with you?

9 **A** Uh-huh.

10 **Q** You do have that?

11 **A** Yes, sir.

12 **Q** If you would, look at page 2 please, ma'am.

13 **A** Okay.

14 **Q** And under the category of pertinent medical
15 history, you see that?

16 **A** Yes, sir.

17 **Q** And there it says, uh, --

18 **MR. TOOKER:** Your Honor, I'm going to object
19 right now. I think I know where this is going. I
20 think we need to take up something outside of the
21 jury's presence.

22 **THE COURT:** All right, Ladies and Gentlemen.
23 I hate to ask you to step out but we do need to take
24 up one of these legal matters I mentioned to you
25 earlier.

1 fact, the statements that she's made about the type
2 of the assault and that sort of thing, those are
3 admissible under that same hearsay objection. I'm
4 going to allow her to testify about the IUD, about
5 irregular menstrual cycle.

6 **MR. ALLEN:** I'm not going to ask her about
7 diagnosis, Your Honor. That's not even the
8 question.

9 **THE COURT:** Okay. All right. Anything else
10 y'all think?

11 **MR. TOOKER:** Nothing from the State at this
12 time.

13 **THE COURT:** All right. Bring the jury back
14 in.

15 **(WHEREUPON, the jury enters at approximately**
16 **10:45 a.m.)**

17 **THE COURT:** All right. The State's objection
18 is overruled. Yes, sir.

19 **MR. ALLEN:** Yes, ma'am. Thank you and may it
20 please the Court.

21 **BY MR. ALLEN:**

22 **Q** All right. Ms. Simmons, I was asking you, I
23 think before we stopped there, to look at page 2 of that
24 report.

25 **A** Yes, sir.

1 Q All right. And that -- under the category of
2 medical history, do you see that category?

3 A Yes, sir.

4 Q And immediately under Medical History, there's
5 an abbreviation there of LMP.

6 A Uh-huh.

7 Q Would you tell us what that stands for please?

8 A Last menstrual period.

9 Q Okay. And then over to the right, it asks is
10 it normal. And it's checked what?

11 A No.

12 Q Okay. And then there's a comment there entered
13 after that that says what?

14 A Irregular since removal of the Mirena IUD.

15 Q Would you repeat that please?

16 A Irregular since removal of Mirena IUD.

17 Q Okay. Now, based on your knowledge and your
18 understanding, what is a Mirena IUD?

19 A It's a device placed inside the uterus to
20 prevent pregnancy.

21 Q So it's indicated to you by the patient or the
22 complainant that the cycle was irregular?

23 A It was my understanding with reading this that
24 that had been in the distant past. I did not
25 specifically ask her how many weeks has it been or months

1 since the IUD was removed.

2 Q Okay.

3 A That's my purpose for asking about are your
4 cycles normal is to figure out if the person has a normal
5 menstrual period five to seven days. Light, heavy. They
6 describe that to me.

7 Q And a period would at least, could account for
8 some of the discharge that you found. Isn't that
9 correct?

10 A What I found was coming from an abrasion on the
11 cervix, not from her cervical os.

12 Q Okay. If you would answer yes or no, then
13 explain your answer. All right. Down below, there's an
14 entry -- I'm going to count from the bottom up. Okay.
15 You see those choices there to check? Going up from the
16 bottom -- well, let's go down from the top. One, two,
17 three, four, five. You see that one?

18 A Can you read the question?

19 Q Remove the tampon?

20 A Yes.

21 Q That was removed?

22 A That was removed.

23 Q That was removed at the emergency -- at the
24 hospital?

25 A Yes, sir.

1 Q Okay. Now, again, are these -- well, most of
2 it is very sensitive. I got the same sentiment about it,
3 but I got to ask you some questions that are sensitive.
4 Now, anal intercourse.

5 A Yes, sir.

6 Q That is not a natural human process, is it?

7 A That is a very opinionated question. If
8 someone prefers that form of intercourse, ---

9 Q Okay.

10 A --- I can't say that that's unnatural.

11 Q Well, anatomically and physically, the body is
12 not equipped for that like it is vaginal penal
13 intercourse?

14 A That's correct.

15 Q And would you agree also that the vagina and
16 penal intercourse there are certain things that the body
17 does that makes it a little easier?

18 A Correct. The puzzle pieces fit together.

19 Q Now, when you took the medical history from
20 this patient, did she also tell you that her and Matthew
21 Hendricks had a relatively long-term off-and-on again
22 relationship?

23 A Yes, sir.

24 MR. TOOKER: Objection, Your Honor. That's
25 hearsay.

1 **MR. ALLEN:** It came from the medical history.

2 **MR. TOOKER:** Well, but it's out -- he
3 objected to me when I asked about specific --

4 **THE COURT:** Sustained.

5 **MR. ALLEN:** Did you have any knowledge in the
6 -- I ask these questions because the intent in
7 direct examination as to opinion questions about
8 what this is consistent with, Your Honor.

9 **BY MR. ALLEN:**

10 **Q** I'm going to ask you as well, as part of that
11 history, did you determine that during the day in
12 question here, September the 15th, I believe it was, that
13 there was a number of sexual communications going on
14 between --

15 **MR. TOOKER:** Objection, Your Honor. This is
16 again hearsay. This has nothing to do with purposes
17 of medical diagnosis. This is what we talked about
18 earlier.

19 **THE COURT:** Y'all approach. Y'all approach.

20 **(WHEREUPON, a bench conference is held off the**
21 **record.)**

22 **THE COURT:** Sustained.

23 **BY MR. ALLEN:**

24 **Q** And the issue of -- of some of your findings,
25 most of that was relatively minor, correct, physically?

1 **A** It's not life-threatening, but it was greater
2 than many sexual assaults on the scene.

3 **Q** You said in your testimony earlier that it
4 could have come from consensual sex, didn't you say that?

5 **A** Yes, sir. I was not there. I can't say what
6 an individual person's sexual habits are. I can say that
7 she described one, two, three and I saw A, B, C.

8 **Q** You agree that what you found could have been
9 resolved as consensual sex?

10 **A** There was one particular --

11 **Q** I need you to answer --

12 **MR. ALLEN:** Your Honor, if she'd answer yes
13 or no and then she can explain.

14 **THE COURT:** Ma'am, I would ask you to answer
15 yes or no. I will certainly give you an opportunity
16 to explain your answer.

17 **THE WITNESS:** Yes.

18 **BY MR. ALLEN:**

19 **Q** Okay. Let me go through the question so the
20 record is clear. It is true that what you found in those
21 findings could have come from consensual sex?

22 **A** Can I elaborate?

23 **Q** After you answer yes or no.

24 **A** I can answer yes to a portion.

25 **Q** Okay.

1 **A** In the question that was asked of me
2 previously, it was concerning the abrasions to the inner
3 aspect of the left labia, could that come from consensual
4 sex, that could.

5 **Q** Yes, sir.

6 **A** Looking at it in a reasonable mindset and a
7 rational mindset, if you are having anal intercourse to
8 the point of the patient reporting to me bleeding,
9 painful to touch, just for me to touch her and the person
10 you are having sex with continues to perform the sexual
11 act to ejaculation, you know that is painful.

12 **Q** All right. You had no history about what
13 occurred several hours before she was delivered there by
14 her mother, correct?

15 **A** No history as of other than what she told me.

16 **Q** Okay. And everything that you took came from
17 her? You don't have any independent knowledge, you
18 didn't go out and verify truth of facts?

19 **A** All I'm there is to write down what a patient
20 tells me and to collect what is available to collect.

21 **Q** So to make a determination like that, wouldn't
22 it assist you to have a more thorough medical history or
23 sexual history between the patient and who she is
24 complaining of?

25 **A** It's not pertinent to that episode.

1 Q And as far as those particular findings, that
2 could be affected by the number of insertions. If they
3 had had sex, consensual sex --

4 MR. TOOKER: Objection, Your Honor. Calls
5 for speculation.

6 THE COURT: Well, if she knows -- if she can
7 answer, I will allow her answer.

8 BY MR. ALLEN:

9 Q If there had been consensual sex a number of
10 different times, that could be a factor?

11 A That could be a factor as far as yes, that was
12 not reported to me.

13 Q The actual tempo of what was going on, that
14 could be a factor, could it not?

15 A Yes, sir.

16 Q In other words, the intensity of the episode
17 that could be a factor, could it not?

18 A Correct.

19 Q And the intensity of the episode could be a
20 factor, could it not?

21 A Correct.

22 Q And even -- and even the, uh, penis size could
23 affect?

24 A Correct. Could I elaborate after?

25 Q Yes.

1 **A** Having been a nurse for 15 years specifically
2 in the ER, I have taken care of many people who have had
3 postpartum pain, pain after intercourse who did not
4 report to the emergency department complaining of sexual
5 assault.

6 **Q** I understand. I understand.

7 **A** So therefore, in comparison ---

8 **Q** To other cases, I --

9 **A** --- to other cases.

10 **Q** I understand. I understand. I'm just simply
11 asking you. These physical features could be factors,
12 even substantial factors in causing the findings, such
13 as, again, the intensity of the sex, the frequency of the
14 sex, the size of the penis or if there was a tampon
15 within the lady's vaginal area and there was intercourse,
16 that could be a factor, could it not?

17 **A** That was not reported to me.

18 **Q** That would be a factor, would it not?

19 **A** That would be a factor.

20 **Q** Yes, sir. Thank you.

21 **MR. ALLEN:** I think that -- Your Honor, with
22 your indulgence, that may be all the questions. I
23 have. (Pause.)

24 That's all the questions I have for the
25 witness, Your Honor.

1 **THE COURT:** All right. Thank you, sir.

2 Mr. Tooker?

3 **MR. TOOKER:** Briefly on redirect.

4 **THE COURT:** Yes, sir.

5 **REDIRECT EXAMINATION**

6 **BY MR. TOOKER:**

7 **Q** That was a lot of could have happens. You said
8 that you had people coming in complaining of postpartum
9 pain, but not sexual assault. ---

10 **MR. ALLEN:** Objection.

11 **MR. TOOKER:** --- and I think you were
12 interrupted.

13 **MR. ALLEN:** Objection to relevance, Your
14 Honor, on any other case.

15 **MR. TOOKER:** He asked her about it. She was
16 attempting to elaborate and he cut her off. I'm
17 giving her an opportunity to finish her statement.

18 **MR. ALLEN:** That's not relevant. Other cases
19 aren't relevant.

20 **THE COURT:** All right. Uh, I'm going to
21 allow the question but only in drawing the relevancy
22 in the question.

23 **MR. TOOKER:** Sure.

24 **THE COURT:** So you may ask the question, but
25 it needs to be phrased.

1 **MR. TOOKER:** Okay.

2 **BY MR. TOOKER:**

3 **Q** The series of questions that Mr. Allen just
4 asked you were about, could certain things be indicative
5 of consensual sex and could consensual sex cause these
6 injuries and he asked you several questions to that
7 effect, correct?

8 **A** Yes.

9 **Q** Then he asked you a question and you attempted
10 to answer by explaining your experience with people
11 complaining of postpartum pain, pain as a result of
12 consensual sexual activity. What I'm asking is for you
13 to finish that answer, what you were going to answer when
14 he asked you that question.

15 **MR. ALLEN:** Objection. Relevance, Your
16 Honor. I renew that objection.

17 **THE COURT:** I'm going to allow her -- I think
18 what you're getting at is what would the difference
19 be. I'm going to allow her to an -- I'm going to
20 allow her to answer that question.

21 **MR. TOOKER:** Okay.

22 **THE COURT:** All right.

23 **THE WITNESS:** In my experience with people
24 who present to the emergency department with pain
25 after intercourse, they will tell their partner they

1 are hurting.

2 **MR. ALLEN:** Objection. Hearsay.

3 **THE WITNESS:** And they will stop before you
4 see the types of bleeding that had been
5 photographed.

6 **BY MR. TOOKER:**

7 **Q** So there would have been pain before it got to
8 the point that you saw?

9 **A** Correct.

10 **Q** And if it were consensual sex, that would have
11 been brought to that person's attention.

12 **MR. ALLEN:** That's a leading question.

13 **THE COURT:** That's leading.

14 **MR. TOOKER:** Okay.

15 **THE COURT:** I'll sustain that.

16 **BY MR. TOOKER:**

17 **Q** He mentioned that rough sex could cause
18 injuries?

19 **A** True.

20 **Q** But they can be consensual?

21 **A** True.

22 **Q** The injuries that you observed, would that have
23 been pretty rough sex?

24 **A** Yes.

25 **Q** It would have been very rough sex?

1 **MR. ALLEN:** Objection to leading.

2 THE COURT: You're still leading.

3 BY MR. TOOKER:

4 Q Okay. How rough would the sex be?

5 **A** I can't say.

6 | Q You can't say?

7 **A** I don't -- can't be the judge of something I
8 did not actually see. But I can say from me touching her
9 body, it caused her pain. So in a logical thought
10 process, someone penetrating her rectum vigorously with a
11 penis would cause pain.

12 Q Okay. And of all the complaints she gave, and
13 she gave complaints about a lot of different things, the
14 injuries you observed that night were consistent with her
15 complaint?

16 **A** As I have said previously, she told me she was
17 hit in the head. She had a hematoma. She told me she
18 was pulled and hit. She had bruises to her arm. She
19 told me that she had been assaulted. She had trauma in
20 both areas.

21 Q Okay. No further questions.

22 | **MR. ALLEN:** I have no further questions.

23 THE COURT: All right. Ma'am, you can step
24 down.

25 Mr. Tooker, you ready to call your next

1 witness?

2 MR. TOOKER: Yes, ma'am. The State calls
3 Trudy Honeycutt. She'll be coming in.

4 THE COURT: Okay.

5 TRUDY HONEYCUTT

6 having first been sworn, testifies as follows:

7 THE CLERK: Have a seat and state your name
8 for the record please.

9 THE WITNESS: My name is Trudy Honeycutt.

10 DIRECT EXAMINATION

11 BY MR. TOOKER:

12 Q Ms. Honeycutt, uh, where do you live?

13 A I live at , Dacusville,
14 Easley, South Carolina.

15 Q Okay. And do you know the victim, Brittany
16 Wardlaw?

17 A Yes, sir.

18 Q How do you know her?

19 A Through her mother. Her mother and I are best
20 friends.

21 Q And y'all been friends a long time?

22 A Since Brittany was in diapers, 22 years.

23 Q You have any kids?

24 A Yes. One.

25 Q You have a daughter?

1 **A** Yes, sir.

2 **Q** Brittany and she friends?

3 **A** Best friends.

4 **Q** Do you know what this case is about today?

5 **A** Yes, sir.

6 **Q** How is it you came to know what this case is
7 about?

8 **A** Her mother and I always talk to each other. I
9 cleaned the mess that was made from what happened.

10 **Q** Cleaned up the mess. So cleaned up the house?

11 **A** Yes. The trailer.

12 **Q** The trailer, whose trailer did you clean?

13 **A** Brittany's.

14 **Q** And, uh, why is it that you cleaned up that
15 trailer?

16 **A** Because they didn't want to go back to it.

17 **Q** Did you know that Brittany had been living
18 there?

19 **A** Yes, sir.

20 **Q** And you talked to Brittany's mother Lisa about
21 cleaning up the house?

22 **A** Yes, sir. Her grandmother paid me to go do it.

23 **Q** Okay. And did you come with anybody else to
24 clean the house?

25 **A** My daughter and my other friend.

1 Q Okay. Uh, what cleaning materials did you
2 bring?

3 A Rubber gloves, Clorox, dish detergent and the
4 scrubby things that are kind of like an S.O. [sic] pad,
5 but it's a sponge.

6 Q What particular part of Brittany's house did
7 you clean up?

8 A The bathroom and the master bedroom.

9 Q Okay. And in the master bedroom, what state
10 did you find that room in?

11 A It was tore up. There was stuff throwed behind
12 the dresser and behind the bed. There was blood on the
13 mattress.

14 Q Okay. And, uh, you said it was stuff thrown
15 everywhere. What kind of stuff are we talking about?

16 A Like there had been a struggle or something and
17 stuff had been knocked off and was behind the dresser.

18 Q Not like a normal mess, just clothes on the
19 floor, but things that should have been in certain places
20 that weren't?

21 A Yes, sir.

22 Q Okay. You said you saw blood on the mattress?

23 A Yes, sir.

24 Q Did you observe blood anywhere else?

25 A In the bathroom.

1 Q In the bathroom, where in the bathroom did you
2 see blood?

3 A On the toilet and on the floor.

4 Q Okay. And why is it that you had occasion to
5 see blood on the floor?

6 A I went there to clean.

7 Q Okay. When you went to clean, did you get on
8 your hands and knees?

9 A Yes, sir.

10 Q Okay. Did you scrub?

11 A Yes, sir.

12 Q Were you able to scrub up the blood?

13 A Yes, sir.

14 Q What about on the toilet?

15 A Yes, sir. I used a brush.

16 Q And it came off?

17 A Yes, sir.

18 Q How do you know what you saw was blood and not
19 paint or something else?

20 A I'm a free bleeder. I know what blood looks
21 like.

22 Q So you are confident that what you saw was
23 blood?

24 A Yes, sir.

25 Q And when in relation to this incident did you

1 come clean up? Was it a day later, two days later?

2 A Two days later.

3 Q Two days later. No further questions.

4 **CROSS-EXAMINATION**

5 **BY MR. ALLEN:**

6 Q Ma'am, you cleaned out the trailer and they
7 paid you to clean it up?

8 A Yes, sir.

9 Q All right. Thank you.

10 **THE COURT:** All right. Any other questions?

11 **MR. TOOKER:** No, ma'am.

12 **THE COURT:** Ma'am, you can step down.

13 **THE WITNESS:** Okay. I can go?

14 **MR. TOOKER:** Yes, ma'am.

15 **THE WITNESS:** Thank you.

16 **MR. TOOKER:** The State next calls Doris
17 Yarborough.

18 **DORIS YARBOROUGH**

19 having first been sworn, testifies as follows:

20 **THE CLERK:** Please have a seat and state your
21 name for the record.

22 **THE WITNESS:** My name is Doris Yarbrough.

23 Y-A-R-B-R-O-U-G-H.

24 **DIRECT EXAMINATION**

25 **BY MR. TOOKER:**

1 Q Where do you work?

2 A I'm employed with the South Carolina Law
3 Enforcement Division also known as SLED.

4 Q And what's your job at SLED? In what capacity
5 do you work there?

6 A I'm a forensic technician in the log-in
7 department.

8 Q Forensic tech, what does that mean exactly?
9 Forensic technician?

10 A Well, I work in the forensic building. My
11 position is a log-in technician. I receive evidence
12 throughout the State, law enforcement agencies that need
13 forensic analysis.

14 Q And are you aware of why we called you to
15 testify today?

16 A Yes, sir.

17 Q Now with regards to a couple of particular
18 pieces of evidence, these have been marked as State's 36
19 and State's 35. Did you have occasion to check these
20 items into SLED?

21 A When a kit like this is brought into our
22 office, the box is sealed. I break the seals on the box,
23 I open the box and I separate the contents.

24 Q Uh-huh.

25 A Based on what it is.

1 Q Let's look inside the box. You separate the
2 contents. This is one of y'all's State Law Enforcement
3 bags, is that correct?

4 A That's correct.

5 Q Explain to the jury what is contained in this
6 bag.

7 A This is considered Item number 1. It is the
8 criminal sexual assault kit.

9 Q Okay.

10 A I would take out the items that are going to
11 the DNA department that belong to this kit, I would take
12 them out of this box, place them into this package, heat-
13 seal this package at the top. I would have the officer
14 that brought it to me to initial and date. He initials
15 and dates that seal and then he signs and dates them the
16 11th. Then I write here the department that it's going
17 to be designated for.

18 Q Okay. And did you do that with these items?

19 A I did.

20 Q After you do that, what is exactly the next
21 step in these items?

22 A Once it's logged in, I put everything into the
23 computer system. Once it's logged in, it generates this
24 yellow sticker, which is considered the SLED lab number.
25 It designates item numbers. This is Item 1. This is.

1 Item 2. Item 2 is the sexual assault kit. Item 2 is a
2 buccal swab from a suspect.

3 Q Okay. And you process those materials and then
4 sealed them?

5 A I don't process them. I just package them.

6 Q Yeah. Package them. You package those
7 materials?

8 A Correct.

9 Q And they are sealed until the DNA expert gets
10 in there and opens them up?

11 A Correct.

12 Q No further questions..

13 THE COURT: Any questions for this witness?

14 MR. ALLEN: No, ma'am. I don't have any
15 questions.

16 THE COURT: All right. Ma'am, you can step
17 down. Thank you.

18 All right. Mr. Tooker.

19 MR. TOOKER: Uh, the State calls Catherine
20 Leisy.

21 CATHERINE LEISY

22 having first been sworn, testifies as follows:

23 THE CLERK: Have a seat and state your name
24 for the record please.

25 THE WITNESS: Catherine Leisy. L-E-I-S-Y.

BY MR. TOOKER:

A SLED is audited on an annual basis. The DNA

1 department specifically, every year, we have a group of
2 other qualified analysts come in. They go through our
3 standard protocols. They'll examine some of our case
4 files to make sure that we're following protocols
5 correctly, basically just go in and make sure that we are
6 following the standards and guidelines that are set forth
7 for us.

8 Q Okay. And, uh, well, how long have you worked
9 for SLED?

10 A For approximately five and a half years.

11 Q And what other professional experience do you
12 have in the field of DNA identification?

13 A Prior to my time at SLED, I spent approximately
14 four years as a forensic DNA analyst at a private testing
15 company in Maryland where I performed the same types of
16 tests and analysis that I do here at SLED.

17 Q Do you belong to any professional
18 organizations?

19 A I am a member of the American Academy of
20 Forensic Scientists.

21 Q And have you testified in regards to DNA
22 testing before?

23 A Yes, I have.

24 Q How many times?

25 A Approximately 40.

1 Q 40?

2 A Yes, sir.

3 MR. TOOKER: Okay. Uh, at this point, Your
4 Honor, the State wants to introduce or move that the
5 witness be considered an expert in the field of DNA
6 analysis.

7 THE COURT: All right. Any objection?

8 MR. ALLEN: No, ma'am.

9 THE COURT: All right. She is so qualified
10 as an expert to give her opinion in the area of DNA
11 analysis. Ladies and Gentlemen, I've spoken to you
12 before about an expert witness.

13 BY MR. TOOKER:

14 Q Okay. DNA. What is DNA?

15 A DNA stands for deoxyribonucleic acid. It's the
16 genetic material found in all of our body cells with the
17 exception of our red blood cells. DNA is packaged into
18 structures called chromosomes, which contain our genes.
19 Genes are simply strains of DNA that are codes for our
20 physical characteristics, such as our height or our eye
21 color. We receive half of our DNA from our mother and
22 half from our father. Approximately 99.9 percent of an
23 individual's DNA is identical to that of everyone else's.
24 It's variation in that remaining .1 percent that allows
25 us to tell different people apart.

1 Q Okay. So DNA is something that's unique to
2 each of us?

3 A Correct.

4 Q Is it in only certain parts of our body, like
5 our blood or skin or can it be found all over? Where do
6 you find DNA in someone's body?

7 A Basically, you find it all throughout their
8 body. You'll find the same DNA in their blood, in their
9 tissue, their skin, saliva, vagina secretions or semen.

10 Q Okay. So semen and blood are two different
11 examples. If you pull DNA from someone's semen or
12 someone's blood, would that DNA be the same?

13 A It would be the same.

14 Q And, uh, is there any dispute in regards to the
15 validity of DNA testing in the scientific community?

16 A No, there's not.

17 Q All right. Uh, generally, what is it that you
18 are trying to determine through DNA identity testing?

19 A We are trying to develop a DNA profile from an
20 unknown biological material left on piece of evidence at
21 a crime scene and determine whether or not that material
22 could have been contributed by a known individual whose
23 standard we test for comparison purposes.

24 Q Okay. So I guess you have two different
25 scenarios. You either have a comparison or you don't?

1 **A** If we are able to develop DNA profile from an
2 item, depending on whether it's single source or a
3 mixture, you may be able to match an individual to an
4 item and include them as contributor or potentially
5 exclude them as a possible contributor.

6 **Q** Are there different kinds of DNA testing?

7 **A** There are.

8 **Q** What are their names or what are the different
9 kinds.

10 **A** The type of testing that was performed in this
11 case is PCR-STR testing. PCR stands for Polymerase Chain
12 Reaction. It allows us to make copies of the specific
13 locations in DNA that we want to test. Those locations
14 are called STR or short tandem repeats. There are
15 locations in our DNA where a short core unit of DNA
16 repeats a certain number of times. The number of time
17 that unit repeats varies from person to person. That's
18 what allows us to tell different people apart.

19 **Q** Okay. Do you utilize any safeguards or
20 procedures or practices to ensure that the process itself
21 isn't corrupted or tainted?

22 **A** We do. Each case is assigned the unique case
23 number. Each item assigns a unique item number. Only
24 one item will be processed at a time. We also use what
25 we call positive and negative controls. Positive

1 controls being a DNA sample that we already know the
2 profile of. We carry that throughout the testing. As
3 long as we obtain a profile that we expect, it shows us
4 that the testing worked as we expected. A negative
5 control would be -- basically, we're just adding all the
6 chemicals to a two minus in DNA. We carry that negative
7 control all the way through. As long as it is still
8 negative at the end of the testing, it shows that we have
9 not introduced any contaminant DNA through the chemical
10 that we used.

11 Q So in this case, did you receive any evidence?

12 A Yes, I did.

13 Q What's right in front of you, I believe, is 35
14 and 36. Did you receive these pieces of evidence?

15 A Yes, I did.

16 Q Okay. And how do you know you received it?

17 A I recognize the specific SLED case number and
18 item number as well as my initials on the front of the
19 package and my initials and the date on each side where I
20 sealed it.

21 Q Okay. So you get a sealed package from
22 evidence?

23 A I received, well, took custody of this package
24 of evidence from a locked storage facility that the DNA
25 department used for evidence control.

1 Q Okay. And when you got the package itself, was
2 it sealed?

3 A Yes, it is.

4 Q So you are the one who opened it up after you
5 received the sealed package?

6 A Correct.

7 Q Is that the same for item 35 as well?

8 A Yes, it is. Again, I recognize the SLED
9 sticker with the case number as well as my initials. The
10 case number and my initials on the envelope inside the
11 pouch as well.

12 Q Okay. Now, with regards to the rape kit, what
13 was inside the rape kit that you did examine?

14 A There were several items included in the rape
15 kit. What's included will depend somewhat on the
16 incident report of what is collected by the nurse. This
17 particular kit included vaginal, oral and rectal smears
18 that can be examined microscopically, contained vaginal,
19 oral and rectal swabs, fingernail scrapings from the
20 victim, an envelope labeled miscellaneous materials that
21 included a tampon. It is included victim buccal swabs to
22 be used as a standard for the victim. It also contained
23 suspected saliva swabs and suspected body fluid swabs
24 that were identified as being from the left shoulder and
25 inner thigh.

1 Q Now, a buccal swab, what exactly is a buccal
2 swab?

3 A A buccal swab is just an oral swab collected
4 from someone to use to develop the DNA standard profile
5 for them. It's basically just a sterile cotton swab
6 that's rubbed against the inside of the cheek to collect
7 cells that we can use for testing.

8 Q Okay. Now, that second item, item 35, is that
9 what that is?

10 A Correct. This was a set of buccal swabs
11 identified as belonging to Matthew Hendricks.

12 Q Okay. Now, you received both the rape kit and
13 the buccal swab. What is it that you did with these
14 items after you received them?

15 A I screened the rape kit, several of the items
16 in the rape kit, looking for the presence of semen as it
17 was an alleged sexual assault. That would have been the
18 first probative thing that we would look for. Probative,
19 meaning, an item that would likely give us an informative
20 link potentially between the victim and the suspect. The
21 rectal swabs located in the kit did test positive for the
22 protein that we test that indicates the possible presence
23 of semen. I then perform DNA testing on the rectal swabs
24 and was able develop a male DNA profile from the semen.
25 I also tested the suspected saliva swabs and was able to

1 develop a DNA profile.

2 **MR. TOOKER:** Okay. At this point, Your
3 Honor, the State wants to move State's, I believe
4 it's 36, into evidence. 35 has already been
5 admitted, I believe.

6 **MR. ALLEN:** I have no objection.

7 **THE COURT:** All right then.

8 **(WHEREUPON, State's Exhibit 36 is admitted into the**
9 **record.)**

10 **BY MR. TOOKER:**

11 **Q** Okay. Now I'm going to show you what's been
12 marked as State's 47. Do you recognize this document?

13 **A** Yes, I do.

14 **Q** Is that something you prepare after you do
15 analysis on these items?

16 **A** It is. It's a report that indicates all of the
17 items tested and the results that we received.

18 **Q** Okay. So do you do this for every analysis?
19 Every time you look at a rape kit and you look at DNA, do
20 you make one of these reports?

21 **A** Yes, we do.

22 **Q** Okay. Now, with regards to your analysis in
23 this case, you said you were able to find similar
24 proteins on swabs from the victim's rectum?

25 **A** Correct.

1 Q What is it you did once you found the results
2 of that protein?

3 A Once we have a item that tests positive for
4 this protein, it indicates the possible presence of
5 semen. I then perform what we call a differential
6 extraction. It's a technique that lasts to try and
7 separate any female cells that may be present on the item
8 from any male cells that are present. It leaves us with
9 what we call a non-sperm fraction which ideally will be
10 just the female victim profile and the sperm fraction
11 which we're hoping will be a single source male profile
12 from the same contributor.

13 Q Is that information reflected on that report
14 that you prepared?

15 A Yes, it is.

16 Q How is it reflected?

17 A On the third page of the report is the DNA
18 table. It lists all of the items tested as well as all
19 the STR locations tested. In each of the locations for
20 each item, it lists the DNA types. The DNA type is just
21 the number of the assign based on the number of unit
22 repeats present. So at a particular location, if an
23 individual has one copy of DNA that contains eight repeat
24 units and the other copy contains ten repeat units, their
25 DNA at that location are eight and ten.

1 **Q** So you analyzed the rectal swab or you were
2 able to develop a similar profile from the rectal swab,
3 were you able to develop any other profiles from the
4 samples provided in the rape kit?

5 **A** I was also able to develop a DNA profile from
6 the non-sperm fraction which was consistent with Brittany
7 Wardlaw. I was able to develop a DNA profile from the
8 suspected saliva swabs.

9 **Q** Okay. Now, with regards to the sperm profile,
10 the similar profile, what is it that you were able to
11 determine?

12 **A** The DNA profile developed from the semen on the
13 rectal swabs matches the DNA profile with Matthew
14 Hendricks.

15 **Q** Okay. Now, you say it matches his profile.
16 That sounds kind of ambiguous. Can you give us some
17 degree of certainty? How positive are you that it is, in
18 fact, his profile?

19 **A** I did generate a statistic on the match. And
20 the probability of randomly selecting an unrelated
21 individual having a DNA profile matching the semen on
22 this item is approximately 1 in 3.1 quadrillion.

23 **Q** Quadrillion. How many zeros is that?

24 **A** One quadrillion would be a one with 15 zeros
25 behind it.

1 Q How many people are on the planet earth?

2 A Currently, approximately seven billion.

3 Q Okay. So that's a lot more than the number of
4 people on this planet?

5 A It is.

6 Q How many people are in Pickens County, do you
7 know?

8 A That, I don't know.

9 Q You don't know. Maybe about 100,000?

10 A Couldn't tell you.

11 Q With regards to that piece of paper that you're
12 holding in your hand, you are positive that is the report
13 that you prepared in this case?

14 A Yes, sir. I am.

15 **MR. TOOKER:** Okay. At this point, Your
16 Honor, the State would like to move State's 47 into
17 evidence.

18 **THE COURT:** Any objection?

19 **MR. ALLEN:** No objection.

20 **(WHEREUPON, State's Exhibit 47 is admitted into the**
21 **record.)**

22 **BY MR. TOOKER:**

23 Q Okay. Now with regards to, uh, this piece of
24 paper, uh, we talked about what it is that you analyzed
25 and what you didn't analyze. Some of the samples, you

1 didn't analyze. Why didn't you analyze some of the
2 samples?

3 **A** With a potential rape, we try and prioritize
4 what we believe might be most probative. The two items I
5 did not analyze in this case were the vaginal, oral and
6 rectal smears and the fingernail scrapings. Typically
7 what we use the smears for would be if I go all the way
8 through a kit and all the items I test for semen are
9 negative and I'm not able to develop a foreign profile to
10 the victim anywhere in the kit. I can add a stain to the
11 smears that will dye both the cells present from the
12 female as well as any potential sperm cells that may have
13 been contributed by a male. I can then microscopically
14 examine smears to determine if sperm cells are present.
15 In this case, because I had an item test positive for the
16 possible presence of semen in addition to a male DNA
17 profile developed from that item, I didn't believe it was
18 necessary to examine those smears as I already confirmed
19 the presence of semen.

20 In regard to the fingernail scrapings, I
21 typically will only do fingernail scrapings in an
22 instance where the victim claims she was assaulted by
23 someone she does not know. When you have a victim and
24 possible suspect who do know each other and there may
25 have been more casual contact leading up to an assault,

1 it could be possible that skins were transferred to the
2 fingernails through something as simple as a hug or
3 holding hands. I typically only do fingernail scrapings
4 when a woman says she was assaulted by someone she
5 doesn't know or never seen before and there's really no
6 other explanation as to how that material could get under
7 her nails except through that assault.

8 Q Okay. So you have a variety of samples in that
9 box and you can prioritize them based on the likelihood
10 that you are going to get a sample and then where that
11 sample came from?

12 A We base it on what's most likely to contain
13 semen. It depends somewhat too on the incident report
14 itself, what the victim reports as having happened during
15 the assault and where we might find a link between the
16 victim and the possible attacker.

17 Q So the reason or one of the reasons you analyze
18 the rectal swab is because of what was reported?

19 A We will always run the test for the protein
20 developing semen on vaginal, oral and rectal swabs
21 identified in the kit.

22 Q Okay. And just again so that we are clear, uh,
23 the semen developed from the rectal swab matches the
24 defendant, Matthew Hendricks?

25 A The profile from the semen.

1 Q Okay. No further questions.

2 THE COURT: All right.

3 MR. ALLEN: Just a couple, Your Honor.

4 CROSS-EXAMINATION

5 BY MR. ALLEN:

6 Q Leisy?

7 A Leisy.

8 Q Excuse me. Your comments on the fingernail
9 scrapings here, there was no analysis done on the
10 fingernail scrapings, correct?

11 A Correct.

12 Q And that was not done because of the issue of
13 these to individuals knew one another?

14 A Correct.

15 Q How did you have knowledge of that?

16 A Based on the incident report, we typically
17 always receive an incident report outlining what happened
18 and what we would most likely look for in the kit.

19 Q If a person resisted, they would typically be
20 or at least very potentially be something under the
21 fingernails to scrap for, correct?

22 A If it's possible, yes.

23 Q And then also in -- as part of the process
24 there, you've got listed as item 1.6 in your report that
25 the tampon was part of that?

1 **A** Yes, sir. I received an envelope labeled
2 miscellaneous materials that contained a tampon.

3 **Q** And was there no analysis done on that or was
4 there an analysis done on that?

5 **A** There was. I performed a test on the tampon
6 checking for the presence of the protein that would
7 indicate semen. That test was negative, meaning there
8 was no semen identified.

9 **Q** All right. Thank you very much.

10 **THE COURT:** Anything else, Mr. --

11 **MR. ALLEN:** Thank you, Your Honor.

12 **THE COURT:** You welcome.

13 **MR. TOOKER:** Just briefly on redirect.

14 **REDIRECT EXAMINATION**

15 **BY MR. TOOKER:**

16 **Q** You said you tested the tampon for semen?

17 **A** Correct.

18 **Q** So if the tampon had been inside the vagina
19 when ejaculation occurred, there's a likelihood the semen
20 would have been developed from --

21 **MR. ALLEN:** Objection to leading the witness.
22 He's leading the witness.

23 **THE COURT:** All right. Rephrase please.

24 **BY MR. TOOKER:**

25 **Q** It's a hypothetical. If there's a tampon

1 inserted inside the vagina, would you expect to find
2 semen on it if sex occurred while the tampon was inside?

3 **A** That would depend on if and exactly where
4 ejaculation occurred, whether or not the individual was
5 wearing a condom. It's possible, but it would depend
6 greatly on the specific circumstances of the incident.

7 **Q** Okay. Now, in that report, you said you
8 developed, uh, a partial profile from the vaginal swab?

9 **A** There was no profile developed from the vaginal
10 swab.

11 **Q** Okay. So the rectal swab, you developed semen
12 and then you were not able to develop a swab from the
13 vagina, correct?

14 **A** The vaginal swabs tested negative for the
15 protein that we're looking for. There was no semen
16 identified, so I did not carry that forward to DNA
17 testing.

18 **Q** So if someone had inserted the tampon after,
19 uh, the incident, you would not expect to find semen on
20 that tampon?

21 **MR. ALLEN:** Objection, leading.

22 **MR. TOOKER:** I don't how else to ask that
23 question.

24 **THE COURT:** Uh, ma'am, you can answer that
25 question.

1 But be careful about leading.

2 **THE WITNESS:** Again, it's going to depend on
3 the specific circumstances. If there is semen
4 present when the tampon is inserted, it would be
5 possible that there would be some transfer from the
6 vagina onto the tampon. Whether or not there would
7 be enough, again, would depend on how much the
8 material had been deposited to start with.

9 **MR. TOOKER:** Thank you.

10 **THE COURT:** Anything else?

11 **MR. ALLEN:** No, ma'am. Nothing further.

12 **THE COURT:** All right. Ma'am, you can step
13 down.

14 **THE WITNESS:** Thank you.

15 **THE COURT:** Ladies and Gentlemen; due to a
16 scheduling conflict that is my fault, has nothing to
17 do with any of the attorneys or any of the parties
18 involved, we need to take our lunch break a little
19 bit early today. I hope that's alright. We're going
20 to take a break from 11:30 until one o'clock. If
21 you'll be back in jury room at one o'clock. Thank
22 you so much.

23 (WHEREUPON, the jury exits at approximately
24 11:28 a.m.)

25 **THE BAILIFF:** Door's closed, Your Honor.

1. **MICHAEL BAKER**

2. having first been sworn, testifies as follows:

3. **THE CLERK:** State your name for the record
4. please.

5. **THE WITNESS:** Michael Baker.

6. **DIRECT EXAMINATION**

7. **BY MR. TOOKER:**

8. **Q** All right. Detective Baker, where do you work?

9. **A** I work for the Pickens County Sheriff's Office.

10. **Q** And, uh, in what capacity are you employed by
11. the sheriff's office?

12. **A** I'm an investigator.

13. **Q** An investigator. What does that mean?

14. **A** I'm assigned to investigations, anywhere from
15. simple larcenies to homicides.

16. **Q** Okay. So detective is an appropriate moniker?

17. **A** Yes.

18. **Q** Okay. And, uh, your unit or -- what's the name
19. of the branch that you work for?

20. **A** It's, uh, CID, which stands for Criminal
21. Investigation Division.

22. **Q** And, uh, in regards to this case, are you the
23. detective assigned to investigate?

24. **A** I was.

25. **Q** Okay. And, uh, how is it that those

1 assignments are given to y'all?

2 **A** We have a morning meeting everyday. We're
3 supposed to be there at eight o'clock. The meeting
4 starts at eight o'clock. During that meeting, we are
5 assigned our cases based on our geographical areas.

6 **Q** Okay. So you were assigned this case on the
7 morning of the 16th?

8 **A** That's correct.

9 **Q** So once you were assigned the case, what was
10 your first --

11 **A** As soon as I was assigned the case, I called
12 Easley Baptist Hospital to see if Ms. Wardlaw had been -
13 - was still there or if she had been discharged. I was
14 advised that she had just been discharged.

15 **Q** Okay. So where did you go after obtaining that
16 information?

17 **A** I then called her number. I had her mother,
18 Ms. Gilstrap. Didn't receive an answer. I left an
19 answer so I left a message. Instead of waiting around, I
20 just went to Ms. Gilstrap's residence.

21 **Q** And when you got to that residence, what is it
22 you found?

23 **A** When I got to the residence, I met with Ms.
24 Gilstrap. Ms. Wardlaw was in the back bedroom. They had
25 just gotten home.

24 Q And once you got there, what did y'all do, what
25 was the protocol?

1 **A** While en route, Ms. Gilstrap went with us. She
2 had the key to the residence. While en route, I
3 contacted Lieutenant Robinson so that he could meet us
4 out there and take possession, take custody of whatever
5 evidence we deemed necessary.

6 **Q** Was it just you and Lieutenant Robinson who
7 were actually present inside the residence when you
8 searched?

9 **A** From the sheriff's office. That's correct.

10 **Q** And Ms. Gilstrap was there. Did she let you
11 in?

12 **A** That's correct, as well as her son.

13 **Q** All right. Her son Brandon?

14 **A** That's right. That's right.

15 **Q** So y'all searched and all that evidence that we
16 saw earlier that was gathered by Lieutenant Robinson,
17 that was what was uncovered?

18 **A** That's correct.

19 **Q** So after y'all examined the house and took the
20 pictures and gathered the evidence, what was your next
21 move?

22 **A** Uh, after we gathered the evidence and we
23 secured it, I advised Lieutenant Robinson that the rape
24 kit needed to be picked up from Easley Baptist Hospital,
25 which he then did.

1 Q I'm going to backtrack to when you go back to
2 the house, did you go throughout the entire house?

3 A I did.

4 Q And did you have occasion to observe the
5 bedroom?

6 A I did. When you first walk into the house, you
7 go to the front steps, uncovered porch, go inside,
8 immediately in the den, living room, go to the far end of
9 the left side the trailer and that's where Ms. Wardlaw's
10 bedroom was. I observed clothes thrown about. Clothes
11 everywhere. Bed disheveled. A mess.

12 Q Now, you heard Lieutenant Robinson talking
13 about the sheets. We saw pictures of those things. Did
14 you have occasion to see those?

15 A I did.

16 Q Okay. And what did you observe on them?

17 A I observed a blood stain about in the middle of
18 the bed on the sheets and the comforter. I basically
19 stand by. Don't touch anything. I wait until Lieutenant
20 Robinson comes in. He photographs everything, does what
21 he needs to do. I stand by and observe. I noticed a
22 clump of hair in the general area of the blood stain as
23 well as torn up pieces of paper.

24 Q Okay. Did you have occasion to see the
25 bathroom?

1 A I did.

2 Q And what did you see in the bathroom?

3 A The bathroom, there were also clothes that were
4 in the bathroom. I saw what appeared to be blood stains
5 on the toilet seats. Smeared types of blood stains.

6 Q Did anywhere else in the residence indicate to
7 you that a struggle had occurred?

8 A The only other thing in the residence was in
9 the den, living room area, right when you walk in.
10 There's a couch against the wall near the kids' bedroom
11 to the right, which was the opposite end of the trailer.
12 All of the seated cushions had been flipped over.

13 Q Okay. All right. Did you ever have occasion
14 to speak to Brittany about the incident?

15 A I did. But I did not do a formal interview
16 with Brittany until the 17th, the following day.

17 Q Okay. Why did you wait?

18 A Medication issues. After receiving the
19 warrant, I did go back out to Brittany's residence to
20 advise them that I had obtained a warrant and to see if
21 she knew where Matthew might have gone. I met the
22 warrant service officer out there. Ms. Wardlaw still --
23 I could tell she was still under the influence of
24 medication. I didn't want to do an interview at that
25 time.

1 Q So you waited until she was clear of the pain
2 killers before you talked to her?

3 A That's correct.

4 Q And did you talk to her about the specifics of
5 that night?

6 A I did.

7 Q And after you talked to her, did she tell you
8 she was raped?

9 A She did.

10 Q Did she say she was raped two times?

11 A She did.

12 Q Did she tell you where that rape happened?

13 A She did, at her residence at

14 Q Okay. Now, did you happen to notice any
15 injuries about her person?

16 A I did. When I first met with her the morning
17 of the 16th, I could tell visible swelling on her left
18 eye, cheekbone area, as well as a bruise to her upper
19 arm.

20 Q Now, uh, you've seen the pictures. We've all
21 seen the pictures of the bruising to her face and arm
22 both from that night and from when you and Lieutenant
23 Robinson photographed this. My question is did those
24 injuries appear to worsen?

25 A They did. As usual with assault victims, the

1 following day, which is when I did my interview with Mr.
2 Wardlaw, you could tell there was more bruising apparent.
3 And oftentimes, we'll take follow up pictures to show the
4 injuries as they appear worse.

5 Q Okay. And you talked to Brittany about her
6 life, uh; -- she have kids?

7 A She does. She has two kids, Minor 1 and Minor 2 ,
8 I believe.

9 Q Okay. And, uh, who is their dad?

10 A Their dad was Christopher Wardlaw. That was
11 Brittany's husband.

12 Q What happened to him?

13 A He's deceased. I'm not exactly sure what
14 happened to him.

15 Q Okay. After you talked to Brittany about that
16 night, who did you go see next?

17 A After I talked to Brittany that night, handed
18 the warrant off, I was contacted a short time later by
19 Deputy Ticknor and advised that he had picked up Matthew
20 Hendricks not far from his residence, his father's
21 residence.

22 Q Did you ever talk to a Zack Watson and his
23 girlfriend Christy?

24 A I did. After I was notified that he had been
25 arrested, I went to his father's residence and spoke with

1 him and his live-in girlfriend Tammy Bridges.

2 Q And I want to go back. This is something that
3 was addressed earlier. But we described -- you described
4 the interior of the trailer. The exterior of the
5 residence, how would you say? You are driving towards
6 that house, describe what you see?

7 A Like much of Pickens county, it is a dead-end
8 gravel road with nothing but trailers on it. Uh, is
9 on the left about halfway up the road. I don't believe
10 you have a trailer below it, but you do have the
11 neighboring trailer above it and you have trailers across
12 the dirt road with pretty expansive yards to the next
13 trailer. It's a single-wide trailer. The drive is a U-
14 shaped drive leading you to the front steps of the
15 trailer, which at that time, appeared to be newly
16 constructed steps and the obvious point for entry.

17 Q Okay. And those front steps, do they face up
18 the hill towards the other residences or down the hill
19 toward the street?

20 A The front steps?

21 Q Yeah, the steps by the circle drive.

22 A The trailer kind of staggered. So if you're
23 coming down the steps, obviously, you are pointing down
24 the dirt road.

25 Q The way toward the highway?

1 **A** Right.

2 **Q** Now, you say you spoke to Zack and Christy,
3 what is it you ascertained after speaking to them?

4 **A** I wanted to know from Zack, I was told by Mr.
5 Wardlaw that Zack and Christy were the ones that had
6 picked Matthew up. I wanted to confirm that was true.
7 Zack said he did. He thought it was around 1:30.

8 **Q** And, uh, did you talk to the defendant's
9 father?

10 **A** I did.

11 **Q** And after talking with the defendant's father,
12 what is it you were able to ascertain?

13 **A** As a result of my conversation with him, I was
14 able to ascertain that he also had been contacted to pick
15 Matthew up that night.

16 **Q** Did he pick Matthew up?

17 **A** He did not.

18 **Q** And uh, did he say why?

19 **MR. ALLEN:** Objection to hearsay.

20 **MR. TOOKER:** Yeah. I'm sorry.

21 **THE COURT:** Sustained. All right.

22 **BY MR. TOOKER:**

23 **Q** Did you see anything, uh, did he show you
24 anything from the defendant?

25 **A** Ms. Bridges had on her cell phone some text

1 messages from --

2 **MR. ALLEN:** Objection to that. That's
3 hearsay in a different form. Unless it's been
4 admitted in one of the exhibits up there.

5 **MR. TOOKER:** Well, he can testify to what he
6 saw. He says he saw text message from the defendant
7 to Ms. Bridges.

8 **MR. ALLEN:** That's the transcribed statement,
9 Your Honor.

10 **MR. TOOKER:** From the defendant..

11 **THE COURT:** Y'all approach.

12 (WHEREUPON, a bench conference is held off the
13 record.)

14 **THE COURT:** Overruled. I'm going to allow
15 it.

16 **BY MR. TOOKER:**

17 **Q** Okay. Those text messages, what did they say?

18 **A** Uh, can you come pick me up. I called Fred and
19 Gene and some of the others. Can you give Zack's
20 girlfriend Christy \$5 for gas so they can come pick me
21 up?

22 **Q** And, uh, they didn't pick her up -- didn't pick
23 him up?

24 **A** Mr. Hendricks did not.

25 **Q** Okay. Did you talk to anybody else in your

1 investigation of this case?

2 **A** Mr. Hendricks, Ms. Bridges, went next door to
3 Zack's residence which is right next door to Mr.
4 Hendricks'. I spoke with Zack. Christy was not there at
5 the time. She was the one that had been receiving the
6 messages and she had her cell phone with her at the time.

7 **Q** Who is Michael Parozo?

8 **A** Michael Parozo, uh, is -- was the manager of a
9 company called I-Cell phones on Calhoun Memorial Highway.
10 They sell cheap phones, uh, track phones, minute phones,
11 whatever you want to call them.

12 **Q** Why is it you talked to him?

13 **A** As a result of my investigation, I found that
14 Mr. Hendricks' -- Matthew Hendricks' phone as well as
15 Brittany's phone were both purchased at this location. I
16 talked with him about possibly retrieving any text
17 messages from the phone since they both appeared to have
18 been erased.

19 **Q** Okay. With regards to this incident, anything
20 else you did in the course of your investigation that we
21 have not touched upon?

22 **A** I was able to speak with Jason White on the
23 17th.

24 **Q** Okay. And when you talked to him, is what you
25 guys talked about what we saw him testify to earlier?

1 **A** Yes. That's correct. The three text messages.

2 **Q** And absent anything from the defendant, did
3 your investigator talk to anyone else?

4 **A** I did not, not to my knowledge.

5 **Q** Did you speak to the next door neighbor, Mr.
6 Dennis Durham?

7 **A** I did. . The incident location is
8 . His is the next above, . He was outside the day
9 that I was there. I spoke to him briefly to see if he
10 heard or seen anything we should know.

11 **Q** Okay. Did you have any other occasions to
12 speak with Brittany?

13 **A** On the 17th?

14 **Q** After the 17th.

15 **A** No, not in a --

16 **Q** Not outside the courtroom or --

17 **A** Not for --

18 **Q** So you didn't meet with her, prepare for her
19 testimony or anything?

20 **A** No, no.

21 **Q** Okay.

22 **A** It's been some time since I've talked with her.

23 **Q** Okay. No further questions.

24 **MR. ALLEN:** I've got just a couple. May it
25 please the Court.

1 **THE COURT:** Yes, sir.

2 **CROSS-EXAMINATION**

3 **BY MR. ALLEN:**

4 **Q** Uh, Mr. Baker, there were some other things
5 that you did in the course of your investigation, is that
6 correct?

7 **A** What are you referring to?

8 **Q** Well, what I'm referring to is did you not
9 interrogate Matthew Hendricks on September the 20th, just
10 a few days after the alleged incident?

11 **A** I did, yes, sir.

12 **Q** And that interrogation lasted a half an hour or
13 more?

14 **A** Yes, sir. A half an hour.

15 **Q** And he voluntarily spoke with you, is that
16 correct?

17 **A** He did. That's correct.

18 **Q** Answered all your questions, is that correct?

19 **A** That's correct.

20 **Q** And the entire time, he maintained his
21 innocence, isn't that correct?

22 **MR. TOOKER:** Objection, Your Honor. That's
23 hearsay.

24 **THE COURT:** All right. Sustained.

25 **MR. ALLEN:** Okay. Thank you, Your Honor.

1 That's all the questions I have for the witness.

2 **THE COURT:** Mr. Tooker, anything else from
3 this witness?

4 **MR. TOOKER:** Nothing.

5 **THE COURT:** All right. Sir, you can step
6 down.

7 **THE WITNESS:** Thank you.

8 **THE COURT:** Mr. Tooker, next witness?

9 **MR. TOOKER:** At this point, Your Honor, the
10 State rests its case.

11 **THE COURT:** Ladies and Gentlemen, uh, due to
12 some scheduling situations this week, we are going
13 to break now. We're going to break for the rest of
14 the day and come back. I'm going to ask that you be
15 back on Thursday morning at 8:30. We're going to do
16 our best to complete this case on Thursday morning,
17 just to kind of give you a timeline. But we want to
18 start a little bit early so that we know we've got a
19 little cushion in there so to speak.

20 If 8:30 is a problem for any of you to get
21 there, I would ask if you would let the bailiffs
22 knowledge in the form of a note to me and, uh, if
23 y'all would all maybe step back to your jury room
24 and see if there's a problem with anybody being here
25 at 8:30. And then if there's nothing else we need

1 side note, I will tell you that the bailiffs have
2 told me this week y'all have really been such a nice
3 jury to deal with. I appreciate that so much. They
4 don't always give me that report. They certainly
5 have enjoyed working with you and I appreciate that.

6 I am so sorry. When I drove up this morning, I
7 saw many of you trying to get in the building with
8 it raining. And I feel terribly about that. That
9 is my fault not doing very good planning and I do
10 apologize. All right. We'll begin with the
11 defense's case.

12 Mr. Allen.

13 **MR. ALLEN:** May it please the Court, Your
14 Honor. I call Matthew Hendricks.

15 **MATTHEW HENDRICKS**

16 having first been sworn, testifies as follows:

17 **THE CLERK:** Have a seat and state your name
18 for the record please.

19 **THE WITNESS:** My name is Matthew Ryan
20 Hendricks.

21 **DIRECT EXAMINATION**

22 **BY MR. ALLEN:**

23 **Q** The volume is good and loud this morning.
24 However, let's situate this in front of you a little bit
25 more if we can. All right. You are Matthew Hendricks?

- 1 **A** Yes, sir.
- 2 **Q** And Matthew, where do you live?
- 3 **A** I live at
- 4 **Q** Is that in Pickens county?
- 5 **A** Yes, sir. Easley.
- 6 **Q** Easley. And how old are you?
- 7 **A** I am 20 years old.
- 8 **Q** What's your date of birth?
- 9 **A**
- 10 **Q** You got a birthdate coming up next month?
- 11 **A** Yes, sir.
- 12 **Q** So that would mean that September a year ago,
- 13 you were how old?
- 14 **A** I was 19 years old.
- 15 **Q** Okay. And as far as your schooling and your
- 16 educational background, uh, did you go to school here in
- 17 Pickens County?
- 18 **A** Yes, sir.
- 19 **Q** Have you spent all of your young life here in
- 20 Pickens county?
- 21 **A** Yes, sir. My whole life.
- 22 **Q** Were you born here?
- 23 **A** Yes, sir.
- 24 **Q** And you -- I ask you, you went to school here
- 25 in Pickens County?

1 A Yes, sir.

2 Q How far did you go in school?

3 A Uh, I made it to 9th grade. I took some 10th
4 grade classes.

5 Q What school, what elementary school did you
6 attend?

7 A West End Elementary.

8 Q How about middle school or junior high?

9 A Gettys Middle School.

10 Q And did you go to high school at all?

11 A Yes, sir.

12 Q What high school did you attend?

13 A I attended Easley High School.

14 Q Are you currently married or single?

15 A I'm single.

16 Q Do you have any children?

17 A No, sir.

18 Q Are you currently employed?

19 A Yes, sir. I work for a tree company in
20 Anderson.

21 Q And what's the name of that company? It have a
22 name?

23 A Yes, sir. Phillips Tree Service.

24 Q And what do you do as an employee of that
25 company?

1 A I work the ground, pick up logs, throw them in
2 the wood chipper, rake, stuff like that.

3 Q Did you go to work -- when you finished with
4 your schooling, did you go to work immediately?

5 A Yes, sir. I was, uh, landscaping.

6 Q Let me do it a little different way. Okay.
7 You currently work for the tree company, right?

8 A Yes, sir.

9 Q Where did you work prior to that?

10 A I worked at GCR Tire on 153.

11 Q And what did you do at GCR Tire?

12 A I loaded and unloaded trailers.

13 Q All right. About how long did you do that?

14 A About four months.

15 Q Prior to that, where did you work?

16 A I worked at Columbia Farms off of Rutherford
17 Road in Greenville.

18 Q In Greenville?

19 A Yes, sir.

20 Q And about how long did you work there?

21 A About four months also.

22 Q All right. Did you work anywhere prior to
23 that?

24 A Uh, Yes, sir. A couple of under-the-table
25 jobs. But before that, it was Silver Bay on 123.

1 Q All right. I want to ask you some questions
2 about September of 2010, okay. But first, I want to ask
3 you these specific questions. In September of 2010, did
4 you commit rape in Pickens county?

5 A No, sir.

6 Q In September of 2010, did you commit kidnaping
7 in Pickens County?

8 A No, sir.

9 Q No. Now, you know the complainant, Brittany
10 Wardlaw, correct?

11 A Yes, sir.

12 Q How long have you known Brittany Wardlaw?

13 A I've know Brittany Wardlaw since I was 16 or
14 17, four years.

15 Q To your knowledge, how old is she?

16 A She is three years older than me. She should
17 be 23 now.

18 Q And just briefly, how did you come about, how
19 did y'all come about knowing one another?

20 A Me and Brittany through her best friend and one
21 of my friends. That's how we knew each other.

22 Q So y'all got introduced to one another?

23 A Yes, sir.

24 Q Did you and Brittany Wardlaw, at some point in
25 time, become, I'm going to call it, romantically involved

1 in a relationship?

2 **A** Yes, sir. The first or second night.

3 **Q** And did that relationship result in you or
4 Brittany Wardlaw living together at any time?

5 **A** Yes, sir. Several times.

6 **Q** Let me ask you specifically about that. From
7 the time you initially -- from the first time until last
8 year, approximately, to the best of your memory, how many
9 times did y'all live together?

10 **A** Did you say how many times last year?

11 **Q** No. I said from the time y'all got to know one
12 another until last year.

13 **A** I want to say seven, around seven.

14 **Q** Okay. And let me ask you when you lived with
15 you and Ms. Wardlaw lived together, where did you live?

16 **A** We lived with my daddy one time. We lived with
17 her mother one time. Then we lived with my mother one
18 time. We've had several, we've had an apartment
19 together. We've had three trailers together.

20 **Q** All right. And so let me ask you about those
21 to the best of your recollection now, the best of your
22 memory. When you lived with her mother -- when you lived
23 together with her mother, about how long was that?

24 **A** It was off and on a couple of times. It was
25 probably three months at a time.

1 Q All right. And when you lived together with
2 your mother, Ms. Wardlaw, how long was that?

3 MR. TOOKER: I'm going to go ahead and object
4 now. We're kind of not really on top at this point.
5 I think all of this is irrelevant. I'm sort of
6 indulging Mr. Allen for the time being.

7 THE COURT: I'm going to allow it.

8 BY MR. ALLEN:

9 Q I think the question was, when you lived with
10 your mother, how long was that?

11 A That was about a month.

12 Q Okay. And then you lived with your father, you
13 and her lived with your father?

14 A Yes, sir.

15 Q About how long was that?

16 A Around three or four months.

17 Q Did you say that you -- did you ever live in an
18 apartment with, uh, with her?

19 A Yes, sir. That was my first place together. I
20 was again 17, 16.

21 Q And what part was that?

22 A That was in Liberty right beside Liberty High
23 School.

24 Q And how long did you live there?

25 A Not long. Maybe four months.

1 Q Then you had several mobile homes that you
2 lived in with -- with Ms. Wardlaw?

3 A Yes, sir.

4 Q And at the best of your recollection, how long
5 did you live in the mobile homes with her?

6 A The first time was probably four months. The
7 second time was not long at all. We had a house by
8 probably a month or two. This last time was maybe three
9 weeks.

10 Q During the course of that time period in the
11 relationship, what kind of relationship did you -- excuse
12 me -- did you and Ms. Wardlaw have?

13 A It was a rocky relationship.

14 Q All right. I need to ask you this, we talked
15 about it most of the week, what kind of physical
16 relationship did you have with her as far as sex?

17 A It was very, very sexually active.

18 Q Well, what do you mean by that?

19 MR. TOOKER: Objection, Your Honor. With
20 regards to what was talked about earlier, they can
21 go into whether or not they had a consensual
22 relationship but barring that, absent that, no
23 details.

24 THE COURT: Uh, let's approach.

25 (WHEREUPON, a bench conference is held off the

1. record.)

2. **BY MR. ALLEN:**

3. **Q** And so you were about to describe your
4. relationship as far as the sex between you and Ms.
5. Wardlaw?

6. **A** Yes, sir. It was very sexually active. We
7. sometimes had intercourse --

8. **MR. TOOKER:** Objection, Your Honor. Again --

9. **THE COURT:** I'm going to sustain that
10. objection. As I said, you established that they had
11. an ongoing sexual relationship.

12. **BY MR. ALLEN:**

13. **Q** Now, in September of last year, around the
14. middle of the month, you had gone to Florida to work?

15. **A** Yes, sir.

16. **Q** At that time -- when did you leave for Florida?

17. **A** Not exactly positive. It was, uh, maybe five,
18. six, seven days, maybe a week before this incident had
19. occurred.

20. **Q** At that time, were you living with Brittany?

21. **A** Yes, sir. I had been living with her about
22. three weeks.

23. **Q** All right. On the particular day that you came
24. back, had she sent you sexually-oriented text messages?

25. **A** Yes, sir. She sent me about three pictures,

1 nude pictures, several text messages about us, you know,
2 wanting to have intercourse and stuff of that nature.

3 MR. TOOKER: Your Honor?

4 THE COURT: I'm going to allow that.

5 BY MR. ALLEN:

6 Q How many text messages of that type of content
7 did you receive from Brittany Wardlaw on that day?

8 A I want to say 15, around 15, somewhere in
9 there.

10 Q And those were in addition to the three
11 pictures by way of text messaging?

12 A Yes, sir.

13 Q Would you explain for us to the best of your
14 ability how that works as far as a text message and
15 photograph going from one telephone to another?

16 A It's just a text message when you are in a
17 conversation with one person to another and you are
18 exchanging a conversation.

19 Q Yeah, but what I'm asking you is how do you get
20 a photograph off her telephone?

21 A You take a picture and you send it.

22 Q Okay. Was there any, uh, -- was there any
23 direct conversation between you on the telephone that
24 day?

25 A Yes, sir.

1 Q How many times had you talked to her that day?

2 A I want to say three or four. Three or four
3 times.

4 Q And then at some point, you came back to
5 Pickens that day?

6 A Yes, sir.

7 Q How did you get back?

8 A My buddy Shane Owens was working with me at the
9 time. His father's a bossman of the company.

10 Q At that time -- during the text messages and
11 phone calls, at that point in time, did you have any
12 issue in your mind about the fidelity or faithfulness or
13 Brittany cheating on you?

14 A Uh, it didn't -- I mean, it's always in the
15 back of my mind because, uh, Brittany has cheated on me
16 before.

17 MR. TOOKER: Objection, Your Honor.

18 THE COURT: Sustained.

19 MR. TOOKER: Mr. Allen, seriously?

20 THE COURT: Now, address your comments to me,
21 but I'm going to sustain that objection.

22 **BY MR. ALLEN:**

23 Q All right. So you came back to Pickens County
24 on that day, correct?

25 A Correct.

1 Q And you rode with a co-worker?

2 A Yes, sir.

3 Q And what did you do when you got back up here?

4 A Uh, he dropped me off at the front of the
5 driveway and I walked up to Brittany's house.

6 Q All right. And what did you do then?

7 A Walked to the back door and was trying to get
8 in. She was on the phone with 911. She seen that it was
9 me. She said she was on the phone -- I mean that she
10 seen me.

11 Q Was she relieved to see you?

12 A Yes, sir. She was surprised.

13 Q Was she excited to see you?

14 A Yes, sir.

15 Q Did you and her embraced when you arrived?

16 A Yes, sir.

17 Q How did you embrace?

18 A A hug and a kiss.

19 Q And then what happened?

20 A Went in the living room, started to unpack my
21 stuff, set things down, you know, get settled in the
22 house. It was very late, 10:30, 11:00. It was past our
23 bed time. We go to the bedroom and --

24 Q Hold on just a minute. What part of Florida
25 were you in?

1 **A** I want to say Clearwater, Freshwater, something
2 like that.

3 **Q** What kind of drive was that coming back? How
4 many hours?

5 **A** I'm not real positive. Three, five.

6 **Q** And you were saying that after you got there,
7 you got unpacked and then what happened?

8 **A** Yes, sir, unpacking. And then me and Brittany,
9 it was past our bedtime. So we go to the bedroom and we
10 get ready for intercourse. We have our intercourse which
11 lasted 30 to 45 minutes.

12 **Q** All right. What kind of intercourse did you
13 have? I got to ask you that?

14 **A** It was consensual intercourse. Both vaginal
15 and anal.

16 **Q** About how long did that -- about how long did
17 that last?

18 **A** It was about 30 to 45 minutes.

19 **Q** All right. And then what happened?

20 **A** Uh, I had ejaculated. I was both thirsty and
21 hot. She went to go get something to drink and to go
22 clean out. We believe she was bleeding. We didn't know
23 if she was on her period or what not. She had mentioned
24 that she was having stomach cramps and a migraine
25 headache.

1 Q And how long was -- okay.. So then what
2 happened?

3 A Uh, we got our drink, you know, we probably
4 rested for maybe 10 minutes. Then we started intercourse
5 again.

6 Q About long did that last?

7 A That was also about 30 minutes.

8 Q Okay. All right. And after that, uh, what
9 occurred?

10 A Uh, when Brittany had went to clean out last
11 time, I grabbed her phone. You know, my mind wasn't on
12 sex no longer, you know.. It was on what was going on at
13 the house. I grabbed her phone. I -- the text messages
14 had been deleted. I went to the call log. I noticed a
15 number that I wasn't familiar with. I proceeded to call
16 that person.

17 Q Did you have suspicion that that was someone
18 that Brittany was being unfaithful with?

19 A Yes, sir.

20 Q Did you know at that time who it might have
21 been?

22 A No, sir. I had an idea, but I didn't know.

23 Q So what did you do as a result of seeing that?

24 A I called it.

25 Q So was that one conversation or did y'all talk

1 more than once?

2 **A** I believe that was one conversation. We --

3 **Q** And did you -- I'm sorry?

4 **A** We had texted too.

5 **Q** What did you kind of -- did you come to a
6 determination as to that issue in your own mind?

7 **A** Yes, sir. I mean, he said that him and
8 Brittany --

9 **MR. TOOKER:** Objection, Your Honor. That's
10 hearsay.

11 **MR. ALLEN:** Well, I mean, I think that's in
12 evidence already, but --

13 **THE COURT:** Sustained.

14 **MR. ALLEN:** I'll rephrase and clean it up.

15 **BY MR. ALLEN:**

16 **Q** Based on your inquiry there by calling the
17 individual, what did you conclude?

18 **A** Excuse me?

19 **Q** Based on your conversation there with that
20 individual, what did you conclude in your own mind?

21 **A** Well, that they was -- Brittany had Jason in
22 the house before, was speaking with him or whatever. So
23 I mean, I had an idea that they was --

24 **Q** All I'm asking is did you come to a conclusion
25 that there was something going on?

1 **A** Yes, sir.

2 **Q** How did that make you feel?

3 **A** It was hurtful.

4 **Q** And did you react?

5 **A** Yes, sir.

6 **Q** And did you physically put your hands on
7 Brittany at that time? Well, before I ask you that, at
8 that point in time, how long had it been since the two
9 episodes of intercourse?

10 **A** About 10 or 15 minutes.

11 **Q** At that point, you inappropriately did what?

12 **A** Yes, sir. I grabbed Brittany by the hair of
13 her head. I struck her in her arm. And, uh, slammed her
14 head into the floor.

15 **Q** And you don't deny that?

16 **A** No, sir.

17 **Q** You don't deny any of that?

18 **A** No, sir.

19 **Q** Did, uh, uh, -- since then, has Brittany come
20 to you and approached you recently?

21 **A** Yes, sir.

22 **MR. TOOKER:** Objection, Your Honor.
23 Relevance.

24 **MR. ALLEN:** Well, Your Honor, if it was a
25 bona fide claim, they wouldn't --

1 **MR. TOOKER:** Let's approach.

2 **(WHEREUPON, a bench conference is held off the**
3 **record.)**

4 **BY MR. ALLEN:**

5 **Q** So the question I was asking, Matthew, is since
6 September 2010, has Brittany Wardlaw approached you?

7 **A** Yes, sir.

8 **Q** Has she approached numerous times?

9 **A** About three times.

10 **Q** Did she drive you somewhere in her car?

11 **A** Yes, sir.

12 **Q** Did she take you to work on one occasion?

13 **A** Two occasions.

14 **Q** She call you on the telephone at any time?

15 **A** Yes, sir. She'd call me on my house phone from
16 a private number.

17 **Q** About what period of time was this that this
18 was occurring?

19 **A** This is between April the 18th and April the
20 20th.

21 **Q** And was it friendly conversation?

22 **A** Yes, sir.

23 **Q** When you were physically with her, did she
24 embrace you?

25 **A** Yes, sir. We had kissed and hugged and I even

1 gave her a rose.

2 **MR. ALLEN:** Your Honor, if I could have just
3 a moment.

4 **THE COURT:** Yes, sir.

5 (WHEREUPON, there is a pause.)

6 **MR. ALLEN:** Your Honor, that's all the
7 questions I have for the witness.

8 **THE COURT:** Okay. Mr. Tooker.

9 **MR. TOOKER:** Thank you, Your Honor.

10 **CROSS-EXAMINATION**

11 **BY MR. TOOKER:**

12 **Q** All right. So we kind of glossed over exactly
13 what it is that you did.

14 **MR. ALLEN:** Objection, Your Honor. That's
15 not a question. That's a comment.

16 **THE COURT:** All right. Let's phrase a
17 question.

18 **MR. TOOKER:** Okay. Sure.

19 **BY MR. TOOKER:**

20 **Q** Okay. You say you grabbed her and you shook
21 her arm and you slammed her head into the floor, right?

22 **A** Not in that order.

23 **Q** What was the order?

24 **A** The order was I grabbed her by the hair on her
25 head, slung her to the floor and picked her up and struck

1 her in the arm.

2 Q Show us how you grabbed her by the hair on her
3 head.

4 A I went like this. (Demonstrating.)

5 Q She got pretty long hair?

6 A Yes, sir.

7 Q And you said you slammed her to the ground?

8 A Yes, sir.

9 Q Did you hold her there?

10 A Uh, I had her by the hair of her head, yes,
11 sir.

12 Q Was she on her back or was she on her stomach?

13 A She's on her back.

14 Q So if she's on her back, is that what explains
15 the trauma to her scalp?

16 A Yes, sir.

17 Q Now, you say you struck her arm?

18 A Yes, sir.

19 Q Where did you strike her arm?

20 A It was in her left arm with my right hand.

21 Q Okay. With a fist?

22 A Yes, sir.

23 Q And you struck her arm with a fist where in the
24 house?

25 A In the bedroom.

1 Q In the bedroom. Okay. When did you strike her
2 face?

3 A Uh, I never did strike her face.

4 Q You never did strike her face?

5 A No, sir.

6 Q So this picture, what's been marked as State's
7 9 is a pretty big knot on her face, is that right?

8 A Yes, sir.

9 Q How did she get that knot on her face?

10 A Other than if she got it from me slamming her
11 head in the floor.

12 Q Yeah, but you said you slammed the back of her
13 head against the floor, right?

14 A Correct.

15 Q So if you slammed the back of her head against
16 the floor, she'd have a knot on the back.

17 A Correct.

18 Q If you slammed the front of her head against
19 the floor, she'd have a knot on the front of her face,
20 right?

21 A Correct.

22 Q Did you slam the front of her face against the
23 ground too?

24 A No, sir. Not to my knowledge.

25 Q Not to your knowledge?

1 A Yes, sir.

2 Q Okay. So maybe sometime when you get mad, you
3 don't exactly remember what's happening?

4 A No, sir. It's, uh, -- I know it's happening.
5 I just, uh, don't know how she got that knot on her face.

6 Q When you came there, you said you got there at
7 10:30, correct?

8 A Correct.

9 Q Okay. So at 10:30, you show up, does she have
10 a knot on her face?

11 A No, sir.

12 Q Okay. But she has a knot on her face when she
13 shows up at the Easley Hospital early in the morning?

14 A Yes, sir, from what I see.

15 Q So the knot has to be a result of what happened
16 between the two of you?

17 A It could have been, but I don't think it was.

18 Q You don't think it was?

19 A No, sir.

20 Q So everything else is your fault, but not that?

21 A Correct.

22 Q So you show up at 10:30 at the back door?

23 A Yes, sir.

24 Q The back door. And you hadn't told her that
25 you were coming into town?

1 **A** Correct.

2 **Q** But you talked and texted with her over the
3 course of an entire day?

4 **A** Yes, sir.

5 **Q** And where in Florida were you working?

6 **A** I believe, I think it was Freshwaters or
7 Clearwaters. Something waters.

8 **Q** How far is that to Greenville?

9 **A** I want to say between three and five hours
10 maybe.

11 **Q** Three and five hours?

12 **A** Yes, sir.

13 **Q** You ever driven to Atlanta?

14 **A** I have.

15 **Q** How long did it take you to get to Atlanta?

16 **A** Not positive.

17 **Q** Two and a half hours?

18 **A** Maybe, somewhere around in there.

19 **Q** Now, Atlanta, that's about in the northwest
20 part of Georgia, right?

21 **A** I'm not real positive, but yes, it's Atlanta,
22 Georgia.

23 **Q** Okay. Georgia is a pretty big state?

24 **A** Yes, sir.

25 **Q** And Florida is a pretty long state?

1 A Correct.

2 Q You think it was probably more than five hours
3 down to Clearwater?

4 A No more than five hours.

5 Q No more than five hours?

6 A I would think so.

7 Q So five hours, you're texting her and calling
8 her over the course of this entire day?

9 A Yes, sir.

10 Q So you're actually in the car when you are
11 sending and receiving some of these texts?

12 A Correct.

13 Q And talking to her?

14 A Yes, sir.

15 Q Okay. And you don't tell her that you're
16 coming back?

17 A Correct.

18 Q Why don't you tell her you're coming back?

19 A Just to surprise her, you know, honey, I'm
20 home.

21 Q Okay. It wasn't because you wanted to catch
22 her cheating?

23 A Uh, I had a suspicion in my mind. But it
24 wasn't to purposely catch her cheating.

25 Q You had a suspicion that she was cheating on

1 you?

2 **A** Yes, sir. The whole time that we dated, I
3 have.

4 **Q** You just told Mr. Allen that you came back and
5 it wasn't to catch her cheating?

6 **A** Yes, it wasn't.

7 **Q** But you just said you came back because you had
8 a suspicion she was cheating?

9 **A** Correct. I had a suspicion.

10 **Q** Which is it? You came back because you had a
11 suspicion or you came back otherwise?

12 **A** I came back on good terms to surprise her.

13 **Q** Okay. Now, you told Detective Baker what
14 happened, correct?

15 **A** Correct.

16 **Q** And you were honest with him, correct?

17 **A** Correct.

18 **Q** All right. You told him that you were
19 suspicious she was cheating, correct?

20 **A** Yes, sir. That was in the back of my mind the
21 whole four years we been together.

22 **Q** Four years you're with somebody, you're
23 paranoid the whole time that they are cheating on you?

24 **A** Yes, sir.

25 **Q** And you stay with them?

1 A Yes, sir.

2 Q And the whole time you're paranoid that their
3 cheating on you, you don't beat them up?

4 A Me and her have put our hands on each other
5 before.

6 Q So you beat her up before?

7 A Yes, sir.

8 Q Okay. And -- well, let me go back. You said
9 that you got there about 10:30 and you went to the back
10 door and she was excited to see you?

11 A Correct.

12 Q And you went to the back door, but the front
13 door is where people normally go into the house, right?

14 A Correct.

15 Q And you walked up that long drive, right?

16 A Correct.

17 Q And the front door is what you get to first,
18 right?

19 A Not really. The back door is just as close as
20 the front door.

21 Q I can show you the picture of the house that we
22 have.

23 A All right.

24 Q And you tell me what looks like is closer to
25 the street.

1 A Well, if there was a picture of the driveway,
2 it would, you know, be a lot better.

3 Q This is what's been marked as State's 29. Is
4 that a picture of the outside of the residence?

5 A Yes, sir.

6 Q And what we see leading up to the residence, is
7 that the circle drive?

8 A Yes, sir. I didn't come up on this side. I
9 came up from the driveway. There's a gravel road, then
10 there's her driveway, then there's --

11 Q The driveway circles around in front of the
12 house, right?

13 A Correct.

14 Q And it circles around right in front of those
15 steps, right?

16 A Correct.

17 Q They look like new steps too. Were you all
18 there when the new steps got built?

19 A No, sir.

20 Q But the new steps were something that were
21 there when you got to the residence?

22 A Correct.

23 Q And you live there, right?

24 A Yes, sir.

25 Q You live there, but instead of going to the

1 front, you went to the back?

2 A Yes, sir.

3 Q And instead of getting in the house with a key
4 like someone who lives there, you try to break in.

5 A No, sir. Me and Brittany was always together.
6 So, you know, we didn't feel that I needed a key.

7 Q Didn't feel you needed a key?

8 A Yes.

9 Q Despite the fact that you live there?

10 A Yes.

11 Q And you brought the stuff that you took down to
12 Florida with you, right, your bag?

13 A Correct.

14 Q It's a Reebok bag, right?

15 A Yes, sir.

16 Q It's the one that -- and I'm sure Mr. Allen
17 showed you, but you seen a picture of it?

18 A Yes, sir.

19 Q And that Reebok bag, that was the bag that you
20 took with you when you left that night, right?

21 A Correct.

22 Q And that was the only thing you took with you
23 when you left that night, correct?

24 A Uh, toothbrush, stuff that I needed to make it
25 through a week of work.

1 **Q** I mean, you're leaving there for good and you
2 bring one bag?

3 **A** For good. I'm leaving there for, uh, --

4 **Q** You said you were leaving --

5 **MR. ALLEN:** Let me answer.

6 **THE COURT:** Allow him to finish his answer.

7 **THE WITNESS:** Okay. I was -- repeat that
8 question.

9 **BY MR. TOOKER:**

10 **Q** Okay. You said that you were terminating the
11 relationship and you were leaving, right?

12 **A** Uh, no, sir.

13 **Q** That's not what you said.

14 **A** Wait. Repeat that.

15 **Q** You thought she was cheating, right? Isn't
16 that what you said? You saw the phone and you thought
17 she was cheating on you. You saw the call log, right,
18 isn't that what you said?

19 **A** Correct.

20 **Q** And you called Jason?

21 **A** Correct.

22 **Q** And you texted him?

23 **A** Correct.

24 **Q** And after doing those things, it was cemented
25 in your mind she was being unfaithful, correct?

1 **A** Correct..

2 **Q** Okay. So you were leaving, correct?

3 **A** Correct.

4 **Q** So you're leaving her. You're leaving that
5 house that you both live in together and the only thing
6 you bring is one bag of clothes.

7 **A** No, sir. I had several pair of shoes there.

8 **Q** You just told us that you brought one bag of
9 clothes to the residence.

10 **A** Yes, sir.

11 **Q** And when you got picked up, you left with one
12 bag of clothes?

13 **A** Yes, sir.

14 **Q** That's it.

15 **A** I mean, I had a bag of clothes, shoes --

16 **Q** What did you bring with you?

17 **MR. ALLEN:** Your Honor, let him answer.

18 **THE COURT:** Have you concluded your answer?

19 **THE WITNESS:** Yes, ma'am.

20 **THE COURT:** All right.

21 **BY MR. TOOKER:**

22 **Q** What did you bring with you when you left?

23 When Zack Watson picked you up, what did you bring?

24 **A** When I left from where?

25 **Q** From Brittany's.

1 **A** Brittany's. Oh, what did I bring to Zack
2 Watson's house.

3 **Q** Yeah. You're leaving for good. You caught her
4 cheating. You beat her up. You're dropping her. You're
5 getting out. You're leaving and you call him to pick you
6 up, right?

7 **A** Correct.

8 **Q** Okay. And you have a bag with you, right?

9 **A** Correct.

10 **Q** You have one bag of clothes?

11 **A** I have -- Yes, sir. It's a very large bag.

12 **Q** It's that same bag of clothes that you brought
13 with you from Florida, right?

14 **A** Correct.

15 **Q** Okay. So you're saying and you're telling this
16 jury that you lived at this house with her, but when you
17 came there, you had a bag of clothes. And when you left
18 for good permanently, you had a bag of clothes?

19 **A** Yes, sir. We had a house fire not too long
20 before then. I didn't even have many clothes at all.

21 **Q** So you're saying you had no other possession or
22 possession in this residence?

23 **A** Correct, other than my boots and --

24 **Q** But you live there?

25 **A** Yes, sir.

1 Q Now, you remember talking to Anthony Raines?

2 A No, sir. I don't.

3 Q You remember what you and Brent Watts are
4 hanging out, Scott Ticknor and Anthony Raines show up and
5 served you with the warrants?

6 A Yes, sir.

7 Q Okay. Anthony Raines is the fellow with the
8 mustache. You remember him?

9 A Not really.

10 Q You remember there being two officers?

11 A Yes, sir.

12 Q Do you remember talking to one?

13 A Uh, other than, you know, uh, what am I being
14 arrested for and stuff like that.

15 Q Okay. All right. And what you told Anthony
16 Raines, and correct me if I'm wrong, is you discussed --
17 you and Brittany discussed your relationship, your issues
18 before you had sex that night, isn't that what you told
19 him?

20 A I didn't discuss anything with any of the
21 officers about this case.

22 Q You didn't talk to Anthony Raines at all?

23 A No, sir.

24 Q Okay. So you didn't tell them that you told
25 Brittany that you needed to get your priorities straight?

1 A I might have said that.

2 Q You might have said that?

3 A Yes, sir.

4 Q I thought you said you didn't talk to them?

5 A I mean, not about this case, not going into any
6 kind of type of detail or anything like that.

7 Q Okay. And you didn't tell Anthony Raines that
8 you just left after you had sex?

9 A Yes, sir. I did tell them that.

10 Q You did tell them that?

11 A Yes, sir.

12 Q You didn't tell them this whole story about how
13 you caught them cheating and then beat her up?

14 A No, sir. I didn't tell him a whole story.

15 Q All you told him was that you had sex and then
16 you left?

17 A Basically that me and Brittany had some
18 altercations. I did live there. Stuff like that.

19 Q Okay. And do you remember telling him that you
20 didn't know whether or not she was seeing somebody else?

21 A Yes, sir.

22 Q You do remember that?

23 A Yes, sir.

24 Q So you remember telling him that you didn't
25 know, but you just told this jury and this Court that you

1 were confident that she was seeing somebody else?

2 **A** No. Once I found out on her phone, I was
3 confident that she was talking to somebody. But I, you
4 know, I was confident once I found out that she was
5 talking to somebody. But no, I wasn't, uh, during the
6 whole time of us being together, I wasn't sure that she
7 was cheating on me.

8 **Q** When Anthony Raines talked to you, this is
9 after all this happened, right? This is when the
10 warrants are getting served on you?

11 **A** Correct.

12 **Q** He's talking to you after this stuff and you
13 say to him, and correct me if I'm wrong, but you did not
14 know whether she was seeing somebody else?

15 **A** Correct.

16 **Q** But what you told the jury was that after you
17 got there that night and you looked through the phone and
18 you talked to Jason, you were confident, you were sure
19 this is what you thought is that she was seeing somebody
20 else?

21 **A** Correct. Me and Brittany was together for four
22 years. So I didn't know if, uh, -- when I was talking to
23 Anthony, it was not based on that night.

24 **Q** He was just serving you with arrest warrants
25 for rape and it wasn't based on that night?

1 **A** Not when I was speaking to him about what you
2 just asked me.

3 **Q** Okay. And you told the jury that you looked
4 through the phone, right, and you saw that the text
5 messages were erased?

6 **A** Yes, sir.

7 **Q** So you don't remember then telling Anthony
8 Raines that you didn't examine her phone?

9 **A** I don't remember that. I don't recall that.

10 **Q** You don't recall that?

11 **A** No, sir.

12 **Q** You don't recall telling Anthony Raines that
13 you didn't look at her phone contacts?

14 **A** No, sir.

15 **Q** Okay. And then you don't recall telling
16 Anthony Raines that you didn't know whether she was
17 talking to somebody else?

18 **MR. ALLEN:** Objection. That's been asked and
19 answered about three times.

20 **BY MR. TOOKER:**

21 **Q** Now, you also talked to Detective Baker,
22 correct?

23 **A** Correct.

24 **Q** Okay. And, uh, what you told Detective Baker
25 is that you were suspicious that she was cheating on you

1 when you got dropped off, correct?

2 A There's a voice recorded statement.

3 Q Do what?

4 A There is a voice recorded statement. You can
5 listen to it if you'd like.

6 Q No, what I'm asking you is what you told him.
7 Do you remember what you told him?

8 A Yes, sir.

9 Q We got you in person. You're better than a
10 voice recorded statement.

11 A Correct.

12 Q You told him that you got dropped off that
13 night because you were suspicious she was cheating on
14 you.

15 A Uh, I told him that it was in the back of my
16 mind.

17 Q And you told him that that's why you didn't
18 tell her you were coming, right?

19 MR. ALLEN: Objection, Your Honor. He's
20 asking about a recorded statement. Play the
21 recorded statement. They can hear what was said.

22 THE COURT: Okay.

23 THE WITNESS: Can you repeat that question?

24 BY MR. TOOKER:

25 Q The question is you told him that the reason

1 you came back without telling Brittany you were coming
2 back is because you were suspicious she was cheating on
3 you?

4 A No, sir. I was surprised and hurt, but I told
5 Detective Baker that it was in the back of my mind that
6 she was cheating on me.

7 Q Did you tell Detective Baker that you were
8 going there to surprise her?

9 A Yeah, I told him that I was -- it was a
10 pleasant surprise, I believe.

11 Q You told him it was pleasant?

12 A Yeah.

13 Q Okay. And you said -- of course, we're just
14 reiterating, but she's on the phone with 911 when you
15 were at the back door, right?

16 A Correct.

17 Q And that's the -- we all heard that recorded
18 conversation?

19 A Correct.

20 Q That's at the back door, right?

21 A Correct.

22 Q So when it cuts off, that's not because you
23 grabbed the phone out of her hand?

24 A No, sir.

25 Q That's not why?

1 A No, sir.

2 Q And in these pictures that we've got over here,
3 you'll have to bear with me. I'm kind of slow.

4 A That's fine.

5 Q These pictures, uh, -- this is State's 24. In
6 the top two frames, that's of the back of her cell phone
7 cover, right?

8 A Yes, sir.

9 Q That's outside the back door, right?

10 A Yes, sir.

11 Q And did that fall off when you took the phone
12 out of her hand when you got there?

13 A No, sir. That was -- I had already -- like I
14 said once, me and Brittany had consensual sex both times.
15 I got the phone and walked to the back door to call
16 Jason.

17 Q Okay. And so that's why you took the back of
18 the cell phone cover off and threw it out the back door?

19 A No, sir. The back of that cell phone cover
20 wouldn't stay on very good anyways.

21 Q Okay. So it fell off when you took the phone
22 from her?

23 A Correct. I didn't take no phone from her.

24 Q You didn't take the phone from her?

25 A No, sir.

1 Q Then how did you get it to go through her
2 contacts?

3 A It was laying beside the bed on the night stand
4 or end table.

5 Q Okay. And you admit that sex happened, right?

6 A Correct.

7 Q That there was anal sex?

8 A Correct.

9 Q And there was vaginal sex?

10 A Correct. Both times.

11 Q Okay. And you admit that you hit her, right?

12 A Correct.

13 Q And you admit that you seized her by the hair,
14 right?

15 A Correct.

16 Q And you hit her on the ground, right?

17 A No, sir.

18 Q Where did you throw her down to?

19 A I throw her down beside the bed.

20 Q Yeah, that's what I mean. On the ground. I
21 mean the floor. Yeah, on the floor. Now what's been
22 marked as State's 32, does that look like Brittany's
23 hair?

24 A I reckon it does.

25 Q Okay. And does that look like there's some

1 blood in there?

2 A Yes, it does.

3 Q Now, do you think that came off of her scalp
4 when you grabbed her by the hair of the head?

5 A I can't, uh, say for sure. But I would think
6 so.

7 Q You would think so?

8 A Yes.

9 Q That was found on the bed right next to this
10 torn up piece of paper, right?

11 A Yes, sir.

12 Q This torn up piece of paper, you recognize
13 that, right?

14 A Yes, sir.

15 Q Did you tear it up?

16 A Yes, sir.

17 Q That was a poem that she had written you,
18 right?

19 A Correct.

20 Q And you torn up that poem. Where did you put
21 it?

22 A I was throwing it, scattering it across the
23 room.

24 Q Okay. Uh, good chunk of it wound up on the
25 bed?

1 A Correct.

2 Q Right next to that hair?

3 A Correct.

4 Q Now, you said you held her down. How long did
5 you hold her down by the hair of the head?

6 A Not long. It was a minute maybe.

7 Q Was she crying?

8 A Yes, sir.

9 Q She was telling you to stop?

10 A Not really. She might have mentioned, yeah,
11 stop. But not like, stop, stop, stop. You know, nothing
12 like that.

13 Q Are we talking about the sex now or are we
14 talking about when you grabbed her by the hair of the
15 head?

16 A We're talking about when I grabbed her by the
17 hair of the head.

18 Q When you grabbed her by the hair of the head,
19 you're saying that she didn't tell you to stop?

20 A No, sir. I was, uh, speaking, you know, like
21 Brittany, you know, how could you. You know, stuff like
22 that. She really didn't get to speak or she didn't
23 speak. She was upset and she was crying. She couldn't
24 speak.

25 Q Okay. You're holding her down on the ground by

1 the hair. She's crying and you don't let go?

2 A Correct.

3 Q In fact, you actually hit her head against the
4 ground?

5 A Correct.

6 Q How many times do you do that?

7 A About five times.

8 Q Okay. Now you told Detective Baker that the
9 sex that you had with Brittany is gentle and loving. Is
10 that correct?

11 A Uh, it was -- I told him that it was loving. I
12 don't know about gentle.

13 Q Did you say that, quote, you loved each other
14 and were always gentle?

15 A No, sir.

16 Q You didn't say that?

17 A I said that we loved each other and, uh, that,
18 uh, we're gentle with each other meaning that we're not,
19 uh, -- we're not freaky or nothing like that. It's, uh,
20 you know --

21 Q Yeah, in fact, you said we're not into the
22 freaky stuff, right?

23 A Correct.

24 Q That we love each other?

25 A Correct.

1 Q And when Baker asked you don't hurt each other,
2 do you? You said no, sir.

3 A Correct.

4 Q Now, you said that the first time that y'all
5 had sex, Brittany started bleeding.

6 A The first time.

7 Q You --

8 A You mean of that night?

9 Q Yeah.

10 A Yes, sir.

11 Q Yeah. That's what you told Mr. Allen, right?

12 A Yes, sir.

13 Q Okay. And that that's why she went and sat on
14 the toilet?

15 A Yes, sir. To clean out too. Me and Brittany,
16 the whole almost four years that we were with each other,
17 we was trying to have a baby.

18 Q Yeah. You were trying to have a baby, but why
19 would she clean out if you're trying to have a baby?

20 A No, cause she was bleeding.

21 Q Oh, Okay. All right. So she sits on the
22 toilet because she's bleeding after you have sex the
23 first time?

24 A Correct.

25 Q And that's why there's blood on the toilet

1 seat?

2 A Correct. She bled, uh, very often when we had
3 sex.

4 Q Was there a lot of blood on the bed?

5 A Not a lot. It was maybe one smear.

6 Q Okay. Now, you saw the pictures the same as
7 everybody else in here. Was that the blood that was on
8 the bed from that night?

9 A I believe one pile of it was. I believe one
10 pile was old blood.

11 Q What we looked at was a sheet and a comforter,
12 right, and then a mattress?

13 A Correct.

14 Q What was on the sheet and the comforter, was
15 that from that night?

16 A That was -- Yes, sir. From the mattress was
17 what I believe was old.

18 Q Okay.

19 A The spots.

20 Q But the blood that was on the sheet and the
21 comforter was the result of the first time y'all had sex?

22 A Uh, --

23 Q That night?

24 A I'm not positive. It was the first or second
25 time.

1 Q You told Mr. Allen the first time y'all had
2 sex, when y'all came back in the trailer is she bled and
3 that's why she had to go sit on the toilet.

4 A Correct.

5 Q Okay. You just said you weren't sure if that's
6 what happened?

7 A I didn't say -- I'm not sure if that blood got
8 on the sheet the first time or the second time she came
9 back.

10 Q Okay. So after she's been bleeding vaginally
11 and anally, she comes back into the bed and y'all have
12 sex again?

13 A Yes, sir.

14 Q Okay. Now, you got there at 10:30. You said
15 each sex act lasted 30 to 45 minutes?

16 A Correct.

17 Q Okay. That's -- that will put us in the
18 neighborhood of an hour to an hour and a half, right?

19 A Yes, sir.

20 Q So that's been 11:30 and midnight now, right?

21 A Like I said, it was probably 30 to 35 minutes
22 when we had sex.

23 Q Each time?

24 A Yes.

25 Q Okay. So maybe that's an hour.

1 A Yes, sir.

2 Q So an hour for both sex acts?

3 A 30 minutes, yeah. Yes, sir.

4 Q Okay. So if you get there at 10:30, maybe
5 y'all talked for 10 minutes before you have sex.

6 A Uh, no, it was probably before we had sexual
7 intercourse, it was probably at least 20 minutes, 20 to
8 30 minutes.

9 Q So 20, 30 minutes. 20 to 30 minutes of your
10 sitting with her, and you don't address these suspicions
11 that you have that she's cheating on you?

12 A No, sir.

13 Q Then you have sex. So an hour plus 20 minutes,
14 so we're at an hour and 20. An hour and 20 after 10:30
15 is what? 11:50? Before midnight?

16 A I reckon.

17 Q So before midnight, y'all finish having sex.
18 That's when you think that she's cheating on you?

19 A Repeat that.

20 Q Well, you know, you say you got the phone from
21 her and started going through the text messages after you
22 had sex, right?

23 A Correct.

24 Q Okay. And that would have been before midnight
25 because y'all had sex for about 30 minutes each time.

1 And you talked for 20 minutes before then?

2 A I'm not positive about the time period.

3 Q But that's what you just said, right?

4 A Just said what?

5 Q Didn't you just say that for 20 minutes you
6 talked and you had sex for 30 minutes and you had sex for
7 30 minutes again?

8 A Correct.

9 Q So that would be an hour and 20 minutes. That
10 would put you right at 11:50.

11 A If I got there maybe possibly around 10:30,
12 11:00.

13 Q Well, you just told the jury that you got here
14 at 10:30, right?

15 A Well, I mean, I'm not positive. It was between
16 10:30 and 11:00. Yes, it was.

17 Q So you start looking through a phone around
18 midnight. That's when you think she's cheating on you.

19 A Correct. I reckon if it was 12:00.

20 Q When do you punch her in the arm?

21 A When do I punch her in the arm?

22 Q Yeah.

23 A After I found out that she was possibly
24 cheating.

25 Q So possibly cheating and you punch her?

1 A Correct.

2 Q Okay. You punch her in the arm. How long did
3 it take you to look at the phone and see the text
4 messages in there?

5 A Uh, not long.

6 Q Not long. Five minutes?

7 A Not even.

8 Q And how long did it take you to see that she
9 had been talking to Jason on the phone?

10 A A minute.

11 Q A minute. And how long did you talk to Jason
12 on the phone?

13 A Not long. Not long at all. Maybe five
14 minutes.

15 Q Okay. And how long did it take you to send
16 those text messages to Jason from Brittany's phone?

17 A Again, not positive.

18 Q How long does it take you to send on text
19 message usually?

20 A Depending on your phone or service, but not
21 long at all. Maybe a minute for the text message to
22 arrive.

23 Q So total maybe between the time that you get
24 her phone and the time that you look at everything and
25 you talk to Jason and you text Jason, what, maybe 15

1 minutes?

2 **A** I would say so. Yeah.

3 **Q** That puts us just after midnight.

4 **A** Correct.

5 **Q** Now, you called your dad and his girlfriend

6 Tammy looking for a ride home from Brittany's that night,

7 correct?

8 **A** Correct.

9 **Q** And you were sending them texts between 11:23

10 p.m. on the 15th and 11:36 a.m. on the 16th, isn't that

11 correct?

12 **A** If that's what the phone records say, yes.

13 **Q** At 11:23, you're sending them texts saying I

14 need a ride out of here. I caught Brittany cheating.

15 That means the sex had to have occurred even before then?

16 **A** Again, those time periods are estimated.

17 **Q** Okay. So maybe you didn't have sex for 30

18 minutes.

19 **A** Correct.

20 **Q** Maybe you had sex for 15 minutes.

21 **A** Correct.

22 **Q** Now, you actually spoke to Dwight on the phone,

23 your father?

24 **A** I don't remember if I spoke to him on the phone

25 or not, but I know I did, uh, we did communicate through

1 text.

2 Q Okay. Uh, you remember sending them eight text
3 messages?

4 A It was around that number.

5 Q Telling them that you caught Brittany cheating?

6 A Correct.

7 Q Asking for a ride?

8 A Correct.

9 Q You told your father, actually, that you seen
10 her talking to another guy and became angry, isn't that
11 correct?

12 A Uh, I don't know if I had told him that or not.

13 Q Okay. So between 11:23 and 1:36, you're trying
14 to find a way out of there. So that means before 11:23,
15 you had to have had sex, gone through the phone and
16 figured out that she was cheating on you, right?

17 A That's correct.

18 Q And then at what point did you start actually
19 hitting her?

20 A I don't know what time that I had started
21 hitting her.

22 Q Okay. Did you start yelling at her before you
23 hit her?

24 A Yes, sir.

25 Q You pushed her around?

1 A Yes, sir.

2 Q Did you move around the interior of the
3 residence?

4 A It was from the back door to the back bedroom.

5 Q Back door to the back bedroom. You were never
6 on the front porch?

7 A No, sir.

8 Q Never ever?

9 A No, sir.

10 Q So if you were never on the front porch, how
11 could she have contacted anybody to get help?

12 A There's a back porch. There's a front porch.
13 We've got a neighbor beside us and the landlord in front
14 of us.

15 Q Landlord in front?

16 A Correct.

17 Q Okay. I -- okay. Now, Zack Watson, that's a
18 friend of yours too?

19 A Correct.

20 Q Okay. And he and his girlfriend, Christy, they
21 -- I guess they shared a cell phone, is that right?

22 A Yes, sir.

23 Q Now, if you wanted to get in touch with Zach,
24 you'd call Christy?

25 A Correct.

1 Q Now, you called her phone that night too.

2 A Yes, sir.

3 Q And, uh, you told Zack that you caught Brittany
4 cheating; right?

5 A Correct.

6 Q You actually told Zack that you came back from
7 Florida unexpectedly to catch Brittany cheating, isn't
8 that correct?

9 A I don't know if I told that to him or not.

10 Q Okay. Would it surprise you to find out that
11 you told him that?

12 A No, it wouldn't surprise him. Zack's very
13 open.

14 Q You recall telling Zack that you grabbed
15 Brittany's cell phone right when you opened the back
16 door?

17 A No, sir.

18 Q You don't recall saying that?

19 A No, sir.

20 Q Okay. And you don't recall telling him that
21 you started reading Brittany's cell phone right when you
22 opened the back door?

23 A No, sir.

24 Q You don't recall telling Zack that the messages
25 made you mad?

1 **A** No, sir.

2 **Q** Okay. And you wouldn't tell Zack what happened
3 at all, would you?

4 **A** I mean --

5 **Q** I mean, you guys are buddies, right?

6 **A** Correct.

7 **Q** So y'all talk about stuff?

8 **A** Correct.

9 **Q** So if Zack caught his girlfriend cheating on
10 him and he beat her up, do you think he would tell you
11 that?

12 **MR. ALLEN:** Objection.

13 **THE WITNESS:** I really don't know.

14 **THE COURT:** Sustained.

15 **THE WITNESS:** I don't know if he would tell
16 me that or not.

17 **THE COURT:** Hold on. Don't answer that
18 question. I sustain the objection. All right.

19 **BY MR. TOOKER:**

20 **Q** And after Zack picked you up, do you remember
21 just continually saying over and over that you couldn't
22 believe that you caught her cheating on you to Zack?

23 **A** I -- yes, I told Zack that I caught her
24 cheating on me and asked him to pick me up.

25 **Q** Okay. But you know, you guys are young guys,

1 buddies. You didn't mention to him that y'all had sex?

2 A No, sir. I mean, he knows that me and Brittany
3 are very sexually active.

4 Q Okay. And you said between April 18th and
5 April 20th of 2010 you saw Brittany three times?

6 A Yes, sir.

7 Q Okay. Now these charges are filed -- excuse
8 April 18th to 20th of 2011. I said 2010. I'm sorry. So
9 2011, you saw her three times?

10 A Correct.

11 Q Now, these charges, you were arrested on the
12 16th of 2010, is that right?

13 A Yes, sir.

14 Q So these charges are out there?

15 A Correct.

16 Q You are well aware that they are very serious
17 charges?

18 A Correct.

19 Q But despite that fact, you knowingly and
20 intelligently decide that you're going to hang out with
21 this person who is accusing you of this stuff?

22 A Yes, sir. She wanted to speak with me, talk.
23 I was on the house monitor. She had to come pick me up.

24 Q She had to come pick you up because you're on
25 electronic monitor?

1 **A** Yes.

2 **Q** Why can't you leave if you're on electronic
3 monitor?

4 **A** Why can't I leave? Because I had been accused
5 of something.

6 **Q** Okay. So you had to stay at your house?

7 **A** Correct.

8 **Q** So she drove over there and you willingly sat
9 down and were civil with the woman who you say was
10 claiming that you falsely raped her?

11 **A** Correct.

12 **Q** And you --

13 **MR. ALLEN:** Let him answer the question.

14 **THE COURT:** All right. You may finish your
15 answer.

16 **THE WITNESS:** Like I said, we had a rocky
17 relationship.

18 **BY MR. TOOKER:**

19 **Q** Rocky relationship?

20 **A** Correct.

21 **Q** Okay. And so you hugged and you kissed someone
22 who claims that you raped them?

23 **A** Correct. We kissed at the chicken farm. I
24 hugged her when I got in the car and gave her a rose.

25 **Q** Okay. Now, we haven't nailed this down, but

1 after you actually did start hitting her, how long were
2 you there at the residence?

3 A How long was I there at the residence?

4 Q Yeah.

5 A From maybe 10:30 til, I'm going to say around
6 2:00.

7 Q Around 2:00?

8 A Correct.

9 Q And if you figured out that she was cheating at
10 11:23 when you sent that first message asking for a ride
11 out of there. So from 11:23 to 2:00, you were either
12 physically assaulting her or yelling at her?

13 A Well, I don't know if it went all the way from
14 two o'clock. But I'm just saying it was in this time
15 period.

16 Q Well, I mean, you got picked up around 2:00,
17 right?

18 A I think so.

19 Q And you guys were done being nice to each other
20 at 11:23?

21 A Well, before I had left, I had tried to sit
22 down with Brittany and actually laid down in the bed and
23 tried to be civil with her and let her know that, okay,
24 look, I don't think we're going to -- instead of yelling
25 at her and say, look, Brittany, I don't think we're going

1 to work out any more. I can't trust you. I did try to
2 be civil about the situation before I left.

3 Q That was after you beat her up?

4 A Correct.

5 Q So after you beat her up, you then tried to
6 cuddle up with her in the bed?

7 A Correct.

8 Q Isn't that what she testified to too?

9 A Correct.

10 Q And how long did the assault occur, how long
11 did it take place?

12 A I'm not positive.

13 Q I mean, you were there, just you and she. I
14 mean, you are the only ones who are going to know. How
15 long, to the best of your recollection --

16 MR. ALLEN: Objection. That's asked and
17 answered. We're going around and around and around.

18 THE COURT: All right. I'm going to allow
19 him to answer that question.

20 THE WITNESS: How long was we --

21 BY MR. TOOKER:

22 Q Fighting? 45 minutes?

23 A 45 minutes, an hour.

24 Q 45 minutes to an hour?

25 A Somewhere around there.

1 Q Okay. And you are confining her to the bedroom
2 and the bathroom at that point?

3 A Confining her.

4 Q She's not leaving. You've had her down on the
5 ground, right?

6 A Correct.

7 Q And you are still yelling at her?

8 A Yes, sir. That was -- when she was on the
9 ground, that was probably three minutes.

10 Q Three minutes, you held her on the ground?

11 A Maybe.

12 Q Okay. And she is -- you said it started on the
13 back porch and then moved to the back of the house,
14 right?

15 A Correct.

16 Q So what I'm saying is she can't leave the back
17 of the house, right?

18 A Uh, --

19 Q You're still --

20 A She had time to leave or do or holler or stuff
21 like that when I was packing my stuff back in my Reebok
22 bag in the living room.

23 Q Okay. So you beat her up and then you leave
24 her in the bedroom and it's her fault for not getting out
25 of there while her kids are in the house?

1 A No, sir. I don't know where she was at,
2 bathroom, bedroom while I was getting my stuff.

3 Q Okay. So for an hour, you assault her inside
4 the house?

5 A Possibly.

6 Q Okay. And she can't leave?

7 A Uh, I'm not holding her against her will.

8 Q You are not holding her against her will?

9 A No.

10 Q You just said you held her down by the hair of
11 the head for three minutes.

12 A Possibly around three minutes. But I didn't
13 hold her. I slammed her head into the floor about five
14 times.

15 MR. TOOKER: No further questions.

16 THE COURT: Mr. Allen?

17 **REDIRECT EXAMINATION**

18 **BY MR. ALLEN:**

19 Q Just a few questions on followup in response to
20 cross-examination. The prosecutor asked you about
21 talking with Detective Baker about this case. You recall
22 that question, Matthew?

23 A Excuse me. Repeat that.

24 Q Well, let me -- he asked you about your
25 conversation with Detective Baker. You did, in fact,

1 have a conversation with Detective, did you not?

2 A Correct.

3 Q And, uh, let me back up a little bit. You were
4 taken into custody approximately what date?

5 A The 16th, I believe.

6 Q Okay. And when you were taken into custody,
7 where were you placed in custody?

8 A LEC in Pickens.

9 Q And a few days later, did Mr. Baker come to the
10 jail and talk to you?

11 A Yes, sir. I believe four or five days later.

12 Q And did he ask you if you were willing to talk
13 to him?

14 A Yes, he did.

15 Q Did you tell him yes, you were willing to
16 voluntarily talk to him?

17 A Yes, sir.

18 Q And did he ask you if you wanted to waive the
19 right to have an attorney there?

20 A Yes, sir.

21 Q Uh, and he also told you you didn't have to
22 talk to him without an attorney present?

23 A Correct.

24 Q But you waived all that, you gave up all that
25 and said you would talk to him voluntarily, right?

1 **A** Yes, sir.

2 **Q** And as you talked to him, did he talk to you
3 about a half an hour longer?

4 **A** Yes, sir.

5 **Q** Did he talk to you about this case?

6 **A** Yes, sir.

7 **Q** Did he talk to you very specifically about this
8 case?

9 **A** Yes, sir.

10 **Q** And to your knowledge, was it recorded in any
11 way?

12 **A** Yes, sir.

13 **Q** How was it recorded?

14 **A** There was a little recording on the thing that
15 he told me he was going to record it.

16 **Q** To your knowledge, was that, in fact, done?
17 Was it recorded?

18 **A** Yes, sir.

19 **Q** So everything was said as far as interrogation
20 of the question to Mr. Baker to you is on that recording?

21 **A** Correct.

22 **Q** I just simply ask you on that recording did you
23 maintain your --

24 **MR. TOOKER:** Objection, Your Honor. It's
25 bolstering and hearsay.

1 **THE COURT:** I'm going to allow him to answer.
2 You asked about the recording.

3 **BY MR. ALLEN:**

4 **Q** On that recording, did you maintain your
5 innocence in questions?

6 **A** Yes, sir.

7 **Q** Did he ask you very specific questions?

8 **A** Yes, sir.

9 **Q** Very specific questions about what we've been
10 talking about for three days here?

11 **A** Correct.

12 **MR. ALLEN:** Your Honor, I'd move to play the
13 tape for the jury.

14 **MR. TOOKER:** Your Honor, the State objects.

15 **(WHEREUPON, a bench conference is held off the**
16 **record.)**

17 **MR. ALLEN:** So the objection is sustained,
18 Your Honor?

19 **THE COURT:** I will, uh, sustain the
20 objection.

21 **BY MR. ALLEN:**

22 **Q** Let me ask you on another issue, and this is my
23 final question I do believe. Did you call a number of
24 people in order to get a ride to leave on that evening?

25 **A** I believe I called two people.

1. Q Okay. Was one of them your father?

2. A Yes.

3. Q Was he able to come get you?

4. A No, sir.

5. Q Okay. Thank you, sir.

6. MR. ALLEN: I don't have any more questions.
7. The prosecutor might have some.

8. MR. TOOKER: Nothing on recross, Your Honor.

9. THE COURT: Sir, you can step down.

10. Ladies and Gentlemen, we've probably come to a
11. point for a break. Let's be in recess for about 10
12. minutes.

13. (WHEREUPON, the jury exits at approximately
14. 9:55 a.m.)

15. THE BAILIFF: The jury is secure, Your Honor

16. THE COURT: All right. We're going to take a
17. 10-minute recess. Let me just say, I've seen some
18. looking back and forth between the sides here this
19. morning. There's not going to be any trouble here
20. today, period. There's not going to be any trouble
21. because if there is, this deputy over here is going
22. to take somebody into custody. All right. I just
23. want to be clear about it. All right. We'll be in
24. recess for 10 minutes.

25. MR. ALLEN: Thank you.

1 for the record please.

2 **THE WITNESS:** My name is Jennifer Nicole
3 Davis.

4 **DIRECT EXAMINATION**

5 **BY MR. ALLEN:**

6 **Q** All right. You are Ms. Davis. Do you live
7 here in Pickens County?

8 **A** Yes, sir.

9 **Q** Let me just ask about -- can I ask you how old
10 you are?

11 **A** I'm 25.

12 **Q** Okay. And you've been in Pickens County for
13 how long?

14 **A** Uh, about 16 years.

15 **Q** Are you currently employed?

16 **A** No, sir.

17 **Q** Let me just ask you about -- specifically about
18 a couple of issues here. Now, do you know Matthew
19 Hendricks?

20 **A** Yes, sir.

21 **Q** How long have you known Matthew?

22 **A** About four years.

23 **Q** Do you know a lady by the name, young lady by
24 the name of Brittany Wardlaw?

25 **A** Yes, sir.

1 Q How long had you known her?

2 A I met her my 12th grade year in high school. I
3 don't know. Maybe about ten years now.

4 Q What high school was that?

5 A Easley High.

6 Q Have you maintained a friendship with her over
7 the last, say, year or two?

8 A Yes, sir.

9 Q How would you characterize your friendship with
10 her?

11 A Brittany and I have been really good friends.

12 Q Typically, what do you have? Daily contact,
13 weekly contact, monthly contact?

14 A Well, the past few months, we hadn't really had
15 any contact. But before that, we had daily contact.

16 Q All right. I'm sorry.

17 A We used to hang out every day and do our
18 exercise routines.

19 Q All right. And then, uh, to the best of your
20 knowledge and recollection, did she come to your home
21 back in April of this year?

22 A Yes, sir.

23 Q All right. And do you recall specifically what
24 date it was?

25 A She had come over about every day that month.

1 Q One day, did she come for the purpose of using
2 your cell phone?

3 A Yes, sir.

4 Q And you had a cell phone at that time?

5 A Yes, sir.

6 Q Who was your cell phone account with?

7 A Verizon.

8 Q Some time during April, did Ms. Wardlaw come to
9 your home and use your cell phone? If I asked you
10 already, I apologize.

11 A Yes, sir, she did.

12 Q And she came to your house?

13 A Yes, sir.

14 Q And she asked for your cell phone?

15 A Yes, sir.

16 Q Did you give it to her?

17 A Yes, sir.

18 Q To your knowledge, at that time, what was the
19 purpose of her -- well, strike that, Madam Court
20 Reporter. Let me ask you this. To your knowledge, at
21 that time, did Ms. Wardlaw have a cell phone?

22 A Yes, sir. She did.

23 Q So would you tell the Court and the jury why
24 she came -- to the best of your knowledge and
25 recollection, why she came to your house to use your cell

1 phone when she had one of her own?

2 **A** She wanted to use my phone to contact Matthew
3 Hendricks.

4 **Q** All right. To your knowledge, did she do that?

5 **A** Yes, sir.

6 **Q** Did you find that to be odd?

7 **A** Yes, sir.

8 **Q** Did you find that to be odd because if she was
9 really accusing him of something this serious, she
10 wouldn't have been calling him on the phone?

11 **A** Yes, sir.

12 **Q** Thank you, ma'am. Answer any questions the
13 prosecutor may have for you.

14 **THE COURT:** Mr. Tooker?

15 **CROSS-EXAMINATION**

16 **BY MR. TOOKER:**

17 **Q** You have a boyfriend?

18 **A** I'm married.

19 **Q** Married. What's your husband's name?

20 **A** Scott Davis.

21 **Q** Scott Davis. And Scott Davis, is he friends
22 with Matthew Hendricks?

23 **A** Yes.

24 **Q** And you are well aware of these pending charges
25 and were when they happened back in September of 2010?

1 A Yes, sir.

2 Q And Brittany told you what happened?

3 A Yes, sir.

4 Q Okay.

5 A Yes, sir.

6 Q So Brittany told you that she was raped by

7 Matt?

8 A Yes.

9 Q And you say that she then came to your house in
10 April to call him from your phone?

11 A Yes, sir.

12 Q And you didn't think that maybe the police
13 would want to hear that information?

14 A Maybe.

15 Q Or maybe Matt's attorney would want to hear
16 that information at that point?

17 A Uh-huh.

18 Q That maybe the prosecutors would want to hear
19 that information?

20 A Yeah.

21 Q And did you do anything?

22 A No.

23 Q Okay. No further questions.

24 **THE COURT:** All right. Ma'am, you can step
25 down.

1 **MR. ALLEN:** Can we approach, Your Honor, just
2 quickly?

3 **THE COURT:** Yes.

4 **(WHEREUPON, a bench conference is held off the**
5 **record.)**

6 **MR. ALLEN:** Your Honor, uh, our final witness
7 would be Nathaniel Morgan.

8 **THE COURT:** All right.

9 **MR. ALLEN:** It will be short, I do believe.

10 **NATHANIEL MORGAN**

11 having first been sworn, testifies as follows:

12 **THE CLERK:** Have a seat and state your name
13 for the record please.

14 **THE WITNESS:** My name is Nathaniel Morgan,
15 Jr.

16 **DIRECT EXAMINATION**

17 **BY MR. ALLEN:**

18 **Q** All right. Mr. Morgan, are you from this area?

19 **A** No, I'm from Greenville.

20 **Q** All right. You live in Greenville county?

21 **A** Yes.

22 **Q** And, uh, how long have you lived in Greenville
23 county?

24 **A** All my life.

25 **Q** And let me ask you how old you are?

1 A 48.

2 Q How far did you go in school?

3 A To the 11th.

4 Q All right. Just to move along here, how are
5 you currently employed?

6 A I work at Columbia Farms as a supervisor, third
7 shift.

8 Q Columbia Farms over in Greenville?

9 A Yes, sir.

10 Q All right. About how long have you worked
11 there?

12 A About two and a half years.

13 Q Do you have some type of supervisory role
14 there, capacity?

15 A Yes, I'm over the hanging room at night, third
16 shift.

17 Q And earlier in the spring of this year, did
18 Matthew Hendricks work there to your knowledge?

19 A Yes, he worked there.

20 Q Did he work under your control?

21 A Yes, he hung.

22 Q So he worked under your supervision in other
23 words?

24 A Yes.

25 Q And to your knowledge, about how long did he

1 work there, do you recall?

2 A Between three and four months.

3 Q And did you, uh, -- do you know who Brittany
4 Wardlaw is?

5 A No, not at that time.

6 Q Do you know who she is now?

7 A Yes.

8 Q To your knowledge, is she in the courtroom?

9 A Yes.

10 Q Would you identify her please, sir?

11 A She's turned toward the wall.

12 Q All right. Now, in the spring of this year,
13 did you have an occasion where you observed her driving a
14 vehicle that had Matthew Hendricks in it?

15 A Yes.

16 Q How many times did you observe that?

17 A Once -- we got to be on the line at 9:45. He
18 was running late. It was 9:30 when I came out of the
19 room. I seen him in the car.

20 Q Let me interrupt you there. What -- I should
21 have asked you this. Sorry. What type of car was it?

22 A It was a gray car. I don't know the name of
23 it. But it was a gray car, a small car.

24 Q Who was driving?

25 A She was -- well, she didn't have her hair like

1 that though. She had it more up.

2 **MR. ALLEN:** Your Honor, I should say at this
3 time for the record to reflect that he's identified
4 the complainant.

5 **THE COURT:** So reflected.

6 **MR. ALLEN:** Yes, ma'am.

7 **BY MR. ALLEN:**

8 **Q** Where was Matthew seated when you saw that
9 vehicle?

10 **A** He was on the passenger side.

11 **Q** And he got out of the vehicle and did you see
12 him have any interaction with Ms. Wardlaw?

13 **A** He was leaning over when I was coming out of
14 the supply room. When I spotted him, I said you better
15 get your butt on from out that car cause you running
16 late. You know you get -- we don't get but so many --
17 they don't get but so many points. If you late on the
18 line, you get a point, a half a point.

19 **Q** Okay.

20 **A** I told him that.

21 **Q** What did you see though as far as him and Ms.
22 Wardlaw?

23 **A** He was leaning over like that there. When he
24 was getting out of the car, he was like mad at me because
25 of what I told him. I said you know if you late, you

1 know they going to point you now. Get your butt on out
2 the car. When he was getting out, she kind of licked her
3 tongue out. She had something silver on her tongue. I
4 said what she got in her mouth. He said I don't know,
5 what you mean. I said she just licked her tongue at you.

6 Q Okay. Did you see them embrace or have any
7 interaction between them?

8 A I just seen when he done like that.

9 Q All right. Thank you, sir. Answer any
10 questions the prosecutor may have for you.

11 THE COURT: Mr. Tooker?

12 CROSS-EXAMINATION

13 BY MR. ALLEN:

14 Q You promised to tell the truth and you are
15 under oath?

16 A Yes.

17 Q Uh, you got any prior criminal record in the
18 last 10 years, Mr. Morgan?

19 A Last 10 years?

20 Q Yes, sir.

21 A No.

22 Q No? Now, uh, third shift live hanging. What
23 is live hanging exactly? Explain that.

24 A That hangs the chickens so they can go through
25 the line and come through the plant.

1 Q So are they already defeathered and stuff?

2 A No. They preparing them to get -- defeather
3 them.

4 Q Okay. All right. So are the chickens dead?

5 A No, they are alive.

6 Q They are alive?

7 A Yes. That's why they call it live hanging.

8 Q Oh, that makes a lot of sense. So are their
9 feet tied together or how would you hang them?

10 A They hang them up by their feets upside down.

11 Q So then they go on like a conveyor belt or
12 something?

13 A Go through a (inaudible). Get defeathered. Go
14 through the water. Get washed.

15 Q Okay. So describe this building to me. Is it
16 like large?

17 A It's a kind of big building. You ever been to
18 a chicken farm?

19 Q No, sir.

20 A It's hard to describe if you never been to a
21 chicken farm.

22 Q Hard to describe. It's real big?

23 A Yes, it's a big farm.

24 Q On the night that we're talking about, were you
25 actually -- I mean, were you at the live hang area or

1 where were you?

2 **A** No, I was at the supply room.

3 **Q** Where is the supply room?

4 **A** It's in front. What do you call them to drop
5 peoples off right there where the office is at. The
6 guard shack here. The building is here. When you come
7 out of the supply room, you come right past the guard
8 shack. You got to drop them off at the gate. You see
9 everybody who comes in.

10 **Q** What kind of gate is it, like a chainlink gate?

11 **A** No, it's like a pole straight out where they
12 back and forth.

13 **Q** Swings like this?

14 **A** Yeah.

15 **Q** Like a pivot?

16 **A** Yes.

17 **Q** Okay. Is there like a barbed wire on the top?

18 **A** No.

19 **Q** Okay. And so --

20 **A** It's a stop sign. They supposed to stop, but
21 they bring them on in and turn around because it's one
22 way in and one way out.

23 **Q** So if I wanted to go to the chicken farm to
24 drop somebody off or something, I would stop at that
25 guard shack to let them out of the car?

1 **A** At that time, they wouldn't stop them. They
2 was letting them come in.

3 **Q** What I'm asking is give us a pretty detailed
4 description from, you know, where you are in the supply
5 room.

6 **A** If you give me a thing, I can draw it for you.

7 **Q** Well, that's not a bad idea.

8 **MR. TOOKER:** Your Honor, permission to let
9 the witness draw?

10 **THE COURT:** Any objection?

11 **MR. ALLEN:** No objection.

12 **THE WITNESS:** The building is here. This is
13 the road here. It's got a building when you turn it
14 -- it's a fruit building -- on both sides. You come
15 through here. It's a stop sign. You supposed to
16 stop. There's another company there but they come
17 straight through. You make a right. It turns down.
18 The guard shack is here. The other building is
19 here. When you come out here, this is where the
20 supply room at. When they come in the guard shack
21 and they come in here, they got to turn around here.
22 When they turn around, they coming right in front of
23 the supply room.

24 **BY MR. TOOKER:**

25 **Q** Okay.

1 **A** It's one way in and one way out.

2 **Q** I get it now. I get it now. I was sort of
3 confused. That helped me a lot. So what I want to know
4 then is it's a third shift. You already been at work for
5 an hour or so?

6 **A** I got to be there before them. Yeah.

7 **Q** Okay. All right. And, uh, as a manager, what
8 do your duties entail exactly?

9 **A** To make everything -- make sure everything is
10 set up. Make sure their supplies are ready when they
11 come in and make sure everybody have a count so if I'm
12 running short, I can ask for some help. We got to have
13 at least 10 peoples on the line to keep it running.

14 **Q** How many people actually work under your
15 supervision?

16 **A** 16.

17 **Q** 16 people?

18 **A** Yes.

19 **Q** How many other managers are there on the third
20 shift?

21 **A** In my area or just --

22 **Q** Yeah. Let's say in your area.

23 **A** My supervisor is over me and his supervisor.

24 **Q** And all those people there at the same time
25 too?

1 A Yes.

2 Q And there are people who are actually arriving
3 to show up to work too, right?

4 A They got people arriving for that time period.

5 Q Okay.

6 A You got (inaudible) coming in and you got live
7 hangers coming in.

8 Q Okay.

9 A That's the only two that got to be there
10 between 9:30 and 10:00.

11 Q Now, third shift, are there only three shifts,
12 first, second and third?

13 A Yeah.

14 Q All right. First shift, what is the time
15 frame?

16 A First shift. The come in at 9:00. We come in
17 early. We got to be there at 10:00. Before 10:00.

18 Q 10:00 at night?

19 A Yeah, before 10:00. Starting line is like
20 10:00, uh, 10:00, uh, 10:00. But we leave some time at
21 7:30 or 7:00 sometime we leave.

22 Q Now, you saying you never seen Brittany Wardlaw
23 before, right?

24 A No.

25 Q Okay.

1 **A** I didn't know who she was until --

2 **Q** When was the first time you saw her?

3 **A** That night when she brought --

4 **Q** After that night. I'm sorry. After that
5 night, when was the next time you saw her?

6 **A** Probably --

7 **Q** No, when, after that night, did you see her
8 again? Today in the courtroom or in court the other day?

9 **A** I ain't been here. This my first time here.

10 **Q** Okay. So what I'm asking you is you saw her
11 once, right?

12 **A** Yes.

13 **Q** That's the only time you ever saw her?

14 **A** Yes.

15 **Q** You say you saw her in a car. You don't
16 remember what make and model of the car that was?

17 **A** No. I wasn't looking at the car. I was
18 looking at Matt and her.

19 **Q** Okay. So you see two people in a car at ten
20 o'clock at night?

21 **A** Yes.

22 **Q** So you are looking at them at ten o'clock at
23 night in this car that you can't remember, but you
24 remember her?

25 **A** Yes.

1 Q You remember despite the fact that you seen her
2 once for what, maybe a minute?

3 A It wasn't a minute.

4 Q Wasn't even a minute, 30 seconds.

5 A At least about two or three minutes.

6 Q Oh, two or three minutes.

7 A I was joking as he was getting out of the car.
8 He leaned over.

9 Q Yeah.

10 A And when I was talking to him, he was laughing
11 about it.

12 Q But two or three minutes in April of 2011?

13 A Yes.

14 Q You saw a person that you're claiming you're
15 positive was this woman?

16 A Yes.

17 Q Okay. No further questions.

18 MR. ALLEN: I have nothing on redirect.

19 THE COURT: All right. Sir, you can step
20 down.

21 Will the attorneys approach for just a second?

22 MR. ALLEN: Yes, ma'am. Your Honor, before I
23 approach, both Ms. Davis and Mr. Morgan are under
24 subpoena. I would move to release them of their
25 duty.

1 **THE COURT:** Any objection?

2 **MR. TOOKER:** None from the State.

3 **THE COURT:** Thank you, sir and ma'am, for
4 being here.

5 (WHEREUPON, a bench conference is held off the
6 record.)

7 **THE COURT:** Anything else, Mr. Allen?

8 **MR. ALLEN:** Yes, ma'am. That would be our
9 case, Your Honor.

10 **THE COURT:** All right. Ladies and Gentlemen,
11 we need to take up a legal matter for just a moment.
12 This will be brief. But I'll ask you to step into
13 the jury room.

14 (WHEREUPON, the jury exits at approximately
15 10:35 a.m.)

16 **THE BAILIFF:** The jury is secure, Your
17 Honor.

18 **THE COURT:** I don't know how long your reply
19 witness is going to take, Mr. Tooker. But as I'm
20 looking here, if we took a break right now for a few
21 moments, you know, I just feel badly that we stop
22 and started on the jury. That's my fault. I'm the
23 one that made the decision to do it. How long do
24 you think your closing is going to be?

25 **MR. TOOKER:** My closing? Uh, probably

1 shouldn't take more than a half hour.

2 THE COURT: Mr. Allen?

3 MR. TOOKER: This witness will be real quick.
4 It shouldn't take but a couple of seconds. Then we
5 can officially stop.

6 THE COURT: Okay.

7 MR. TOOKER: 12:45.

8 THE COURT: Okay. I just hate we're sort of
9 wasting, uh, -- I guess it would be under an hour.
10 I was going to see if we couldn't argue and then I
11 charge and we come back from lunch, but I'm not sure
12 we can get it in.

13 MR. ALLEN: Just for your information, my
14 closing will be 20 to 30 minutes.

15 THE COURT: That would be -- yeah. We would
16 be cutting it close. All right. Let's be in recess
17 for five minutes.

18 MR. TOOKER: Yeah, five minutes.

19 THE COURT: Five.

20 (WHEREUPON, a recess is taken.)

21 THE COURT: Uh, you want to put your motions
22 on the record now?

23 MR. ALLEN: Yes, ma'am.

24 THE COURT: All right.

25 MR. ALLEN: I just -- I would just, uh, renew

1 that prior motion for directed verdict for the
2 record.

3 **THE COURT:** All right. Yes, sir. It's noted
4 for the record. I respectfully deny your motion.
5 Anything else before we bring the jury in?

6 **MR. TOOKER:** Nothing from the State, Your
7 Honor.

8 **(WHEREUPON, the jury enters at approximately**
9 10:44 a.m.)

10 **THE COURT:** Mr. Tooker, anything in reply?

11 **MR. TOOKER:** Uh, yes, ma'am. The State, uh,
12 would like to call Brittany Wardlaw to the stand.

13 **THE COURT:** All right.

14 **BRITTANY WARDLAW**
15 having first been sworn, testifies as follows:

16 **THE CLERK:** Have a seat and state your name
17 for the record.

18 **THE WITNESS:** Brittany Wardlaw.

19 **DIRECT EXAMINATION**

20 **BY MR. TOOKER:**

21 **Q** All right. Brittany, did, uh, you listen to
22 the defendant's testimony?

23 **A** Yes, sir.

24 **Q** And did you pay attention to everything he
25 said?

1 **A** Yes, sir.

2 **Q** Is what he said true?

3 **A** No, sir.

4 **Q** Did you see him again after this incident?

5 **A** No, sir.

6 **Q** Did you listen to the testimony of Nicole?

7 **A** Yes, sir.

8 **Q** Is what she said true?

9 **A** No, sir.

10 **Q** Did you listen to the testimony of, I believe
11 his name is Mr. Morgan?

12 **A** Yes, sir.

13 **Q** Okay. What color car do you drive?

14 **A** Gold.

15 **Q** Okay. How long have you had that car?

16 **A** For over a year.

17 **Q** And did you have that car in April of 2011?

18 **A** I did.

19 **Q** Have you ever been to the Columbia Chicken
20 Farm?

21 **A** No, sir.

22 **Q** Did you drop him off?

23 **A** No, sir.

24 **Q** No further questions.

25 **THE COURT:** Mr. Allen?

1 that's ridiculous. Anything we need to take up
2 before we bring the jury in?

3 **MR. TOOKER:** Nothing from the State.

4 **(WHEREUPON, the jury enters at approximately**
5 12:54 p.m.)

6 **THE COURT:** You first?

7 **MR. TOOKER:** No, ma'am.

8 **THE COURT:** Mr. Allen.

9 **MR. ALLEN:** Yes, ma'am. May it please the
10 Court.

11 Mr. Foreman, Ladies and Gentlemen of the jury,
12 good afternoon to you. I want to make just a few
13 closing remarks. Then the prosecutor is going to
14 make some closing remarks. All the law you got to
15 look at and listen to, and you may even be amused by
16 it at times.

17 Before I really get into any particulars,
18 there's a couple of things I need to review with you
19 that I said in opening statement if you will recall
20 back the other morning. It's pretty basic
21 information. It remains to be pretty basic
22 information. But you recall I mentioned the fact
23 that, uh, the American system of justice is
24 basically subdivided into two broad parts, one being
25 the civil justice system and one being the criminal

1 justice system. I said to you, as you well know now
2 and is very apparent, this is a criminal
3 prosecution.

4 As I said to you Monday morning, I said this is
5 a criminal prosecution brought by a governmental
6 prosecuting authority to impose a conviction on
7 Matthew Hendricks. It's obviously not a civil case.
8 It's not about money. It's not about a family
9 matter or court matter. That's what it is. The
10 reason I pointed that out and I mention it again to
11 you and you will recall as I said to you Monday
12 morning, the biggest difference in those two
13 subparts there, civil and criminal is the burden of
14 proof. The judge is going to read the law to you
15 about that. And she's going to read other
16 instructions to you when the appropriate time comes.

17 If you also recall, just comparing the two --
18 just comparing the two, in a civil case, the burden
19 of proof required is just ever so slightly. It's
20 called the greater weight of the evidence. That's
21 -- it just takes a little bit of evidence in a civil
22 case for someone to prevail or the moving party to
23 prevail. Just a little bit of evidence.

24 As you probably know already and as I said
25 Monday morning you probably knew already, in a

1 criminal case, just as the judge said, the burden of
2 proof is much different. Much different. Much
3 different. The matters are much more serious. The
4 stakes are much higher. The burden of proof
5 reflects that.

6 In a case such as this and any case like this,
7 in any courtroom, in any county, in any state,
8 anywhere in the United States, it's required when a
9 prosecuting authority brings all the government's
10 resources behind a case, all of it, all that money
11 and resources, when all that comes down on one
12 individual and all he's got is me, by the way,
13 that's the reason for that. Every part of that
14 case, of that allegation or those allegations must
15 be proven beyond a reasonable doubt. That's the law
16 of the land.

17 It's not what somebody said. It's not what he
18 heard her say or she heard him say. Every part of
19 every allegation must be proven beyond a reasonable
20 doubt. To tell you the truth, it's kind of a bedrock
21 fundamental of freedom. That's recognized by the
22 Constitution.

23 Now, let's take that a little further.
24 Sometimes people say well what's a reasonable doubt.
25 I think the prosecutor mentioned it in opening

1 statement, what's a reasonable doubt. Well, is it a
2 we know it's a reasonable doubt or a doubt that has
3 a reason, not just any doubt. But our judiciary in
4 this state a few years ago kind of helped us with
5 that. There's a good bit of debate about what's a
6 reasonable doubt.

7 Our judiciary said a little bit wordy, a little
8 bit legal wording to it, but our courts and our
9 highest court in this state said a reasonable doubt
10 is the kind of doubt that would cause a reasonable
11 person to hesitate to act. I'm going to say that
12 again. The judge is going to read it to you. She's
13 right on the law. If I vary anything with her,
14 she's right and I'm wrong.

15 Let me say it again, a reasonable doubt is the
16 kind of doubt that would cause a reasonable person
17 to hesitate to act. All right. One part's easy.
18 We know you're reasonable people because you
19 responded to a jury summons, and not everybody does
20 that, quite frankly. So we can put that away. A
21 reasonable doubt is the kind of doubt that would
22 cause a reasonable person to hesitate.

23 Hesitate. Hesitation. If there's any
24 hesitation, it fails. Whatever case it is, whatever
25 courtroom. When there's hesitation, it fails.

1 That's the end of it. When they alleged rape and
2 kidnaping, hesitation, the case fails. I suggest to
3 you and submit to you there is much hesitation here.
4 I'm going to point it out. But again, if there's any
5 hesitation, then the law and our system of justice
6 says that that individual in that case is to be
7 acquitted and ended. By the way, this is kind of
8 the end of the -- this concludes this case. By the
9 way, Matthew who took the stand, he didn't take the
10 Fifth Amendment. He waited a long time to tell his
11 side of the story other than another time that I'll
12 comment on.

13 Now, I mean this couple known one another for
14 up to four years. They've been in and out of a
15 relation -- rocky relationship. Living together.
16 Lived together with her mother. Lived together with
17 his mother, his father, apartment. It went on for
18 years. And a very -- I've got to say it -- a very
19 sexual relationship. You know, think about that in
20 the burden of proof. Lots of consensual sex in that
21 time period. Lots of it. Lots of it.

22 And then, on the day in question -- I say day
23 in question, I mean, nobody really knows the -- the
24 exact time frame on about the 15th and 16th,
25 whatever, you know it was around 10:00 or 11 o'clock

1 midnight, one o'clock. Nobody knows exactly.

2 But on the day in question, there's these
3 communications going back and forth about sex, about
4 anticipation of sex, I mean, text message, even
5 photographs, explicit photographs. Now, what is
6 that -- what is that -- what is that consenting and
7 agreeing to? I mean, that's obviously. That's
8 pretty clear. Remember, the -- any person sitting
9 at the defense table need not prove anything. It's
10 not -- there's no -- all the burden is on the
11 prosecuting authority. All of it. So it's not
12 who's got a correct account of the version of
13 events. It's whether the case is proven beyond a
14 reasonable doubt. Every respect, that's what it's
15 about.

16 All right. So back to that point, so you got
17 all these communications going back and forth.
18 Doesn't that create a question of how it would turn
19 out to be if they did exactly what they had
20 anticipated of doing in the text messages and the
21 explicit photographs? That's what I -- that's what
22 I -- they had sex now. Nobody argues that. They
23 had sex. Then they had an ongoing relationship. He
24 lived there, stayed there, whatever you call it.

25 He came to the back door because he had some

1 preconceived plan to come in like a predator. That
2 proof failed. Failed. He went to the back door and
3 surprised her. Said it was going to be a pleasant
4 surprise. They had a relationship ongoing. And she
5 did mistakenly think she may have had an intruder.

6 She called 9 -- you can hear the 911 tape.
7 They put it in. We're glad that they did put that
8 into evidence. You can listen to it again. When
9 she's on the phone and realizes it's Matthew, the
10 glee in her voice. The glee in her voice to see
11 him. That's not an intruder. That's her lover.
12 That is her lover, period.

13 Then to move forward a little bit, you got this
14 issue of a witness, expert witness, a nurse lady.
15 You know what, the fact of the matter was she
16 couldn't really say what they were trying to get her
17 to say. Did you notice the hesitation? I'm talking
18 about hesitation, did you notice the hesitation and
19 reluctance from that nurse which I might have
20 called, I might submit to you is probably the
21 attempted star witness of a prosecution, her
22 hesitation and reservation? How many times did she
23 say, yeah, it could be consensual sex? How many
24 times did she say that? It was more than once.

25 Then, on those technical issues, I had to ask

1 questions about anal intercourse. The human body is
2 not designed from that. These two young people in
3 intense situations who haven't seen -- or two
4 individuals, these individuals haven't seen each
5 other for a long while. The intensity of it makes a
6 difference, can make a difference. The frequency
7 makes a difference. Even some other issues can make
8 a difference. So that conclusion was really, was
9 never made by the witness they called themselves.

10 Like I said, nobody's ever disputed that they
11 had sex. In fact, they had sex. He came in. They
12 had sex once. They took a short break. They had
13 sex again. Then all the hubbalub started.

14 Now, they had a -- also had a history of a
15 rocky relationship. I don't mean sex. I mean
16 striking one another, hitting each other. I mean,
17 back and forth. It was so bad that a law
18 enforcement had been called before because one was
19 hitting the other. They -- it wasn't prosecuted
20 because they couldn't figure out who the aggressor
21 was. So yeah. And he admit it now. He admits that
22 when he discovered the cheating that he did what he
23 said he did. Ladies and Gentlemen, the accusation
24 is rape two times and kidnaping. That case fails
25 for lack of evidence because of hesitation. The

1 same hesitation that witness had is the kind of
2 hesitation I'm talking about.

3 Now, furthermore, all -- again, all this, well,
4 he said that to him or she said that to her, but
5 mainly Matthew. He said this to some third party.
6 He said it to another third party. He said it over
7 here to somebody else. Let me tell you, the fact of
8 the matter is I think it was four days, four days
9 after the arrest he was interrogated by law
10 enforcement. He was over there in custody in the
11 jail. He didn't have a lawyer. He didn't want a
12 lawyer. They interrogated him. They asked him to
13 waive his rights, give up his rights. He gave them
14 up.

15 Everything, every detail, every question that's
16 been talked about this week was asked in that
17 interrogation. It was rhetorical: They didn't want
18 it in evidence. They didn't want their own
19 procedure in evidence of what Matthew Hendricks
20 said. A lot closer in time than it is today, over a
21 year later. Is that -- I submit to you that's
22 hesitation, a chief piece of evidence I submit to
23 you. Maybe the most important piece of evidence and
24 they objected to keep it out. There was no lawyer
25 present for Matthew. There was nobody present for

1 Matthew. He was in custody.

2 As far as hesitation -- and I'm about to close
3 here, finish up. After-the-fact contact, I mean
4 witnesses were called and presented. The
5 complainant was in personal contact with Matthew as
6 of this spring. Now, how much -- you go ahead and
7 use good old common sense. That's what we all like
8 to do and that's what we -- how much sense does it
9 make that someone claiming that would voluntarily go
10 to that same person multiple times, multiple times.
11 Even went to the good friend, who I forget, the
12 attractive young blond friend of the complainant who
13 had known for years who had any interest in one side
14 or the other, she knew the complainant more than she
15 knew Matthew. Said she came to my house in an
16 evasive way, I submit to you, to use my cell phone,
17 even though she had one to call Matthew Hendricks.

18 Ladies and Gentlemen, beyond a reasonable
19 doubt, a doubt that would cause a reasonable person
20 to hesitate to act, that fails. They can get up
21 here with these pictures of the mobile home and the
22 front door and the back door and whatever else and
23 they can draw diagrams and they can draw all that he
24 said and she said and all that case fails. When you
25 apply the burden of proof, the case has failed.

1 You've got an unfortunate relationship that
2 developed between a 23-year-old complainant -- at
3 the time, 22 -- and a 19-year-old young man. You
4 don't bring that in here and say rape and convict
5 somebody of rape when you apply the burden of proof.
6 That fails. And again, they can do whatever they --
7 call this and put it up there and put it there,
8 whatever, the case fails.

9 This is the last stop. There's going to be an
10 acquittal, I submit to you. He didn't capture or
11 kidnap her, my goodness. On the kidnaping and
12 Criminal Sexual Conduct, this is the final stage.
13 All I ask you to do, all I submit to you and all I
14 request of you to do is apply the American Standard
15 of Proof and the rules of evidence and the rules of
16 law in a criminal prosecution of beyond a reasonable
17 doubt to the point there's no hesitation that I can
18 find that it can be said, without hesitation that
19 this young man that knew this girl for four years
20 and had sexual relations for four years and received
21 texts messages all day that day and they had sex and
22 they had a volatile relationship in years past that
23 he committed a rape and kidnaping. That's all I'm
24 going to ask you to do, apply the rule to the law.

25 The case fails. Let's stop it. It's been

1 going on since September. He was taken into
2 custody. It's gone on since September of last year.
3 Let's put a stop to it and move on. Thank you for
4 your kind attention.

5 **THE COURT:** Mr. Tooker.

6 **MR. TOOKER:** Yes, ma'am. Thank you.

7 Let me move around for a little bit before I
8 start. (Pause.)

9 Mr. Foreperson, Ladies and Gentlemen of the
10 jury, there are different types of crimes that we
11 see here in this courtroom. There are drug crimes
12 and crimes like burglary, robbery crimes, uh,
13 related to the use of automobiles, traffic crimes.
14 Those are oftentimes crimes that happen in the open.
15 They are crimes that you'll have pictures and you'll
16 have eyewitnesses and you'll have photographic
17 testimony or photographic evidence, videos and those
18 are those kinds of crimes. But there are another
19 type of crimes. Those are crimes of guilt and
20 shame. They are sex crimes. They are crimes that
21 happen behind closed doors, crimes that occur when
22 no one else is around, when its just the intimate
23 parties. This is one of those kinds of crimes.

24 Now, the judge is going to give you an
25 instruction about credibility and how you believe.

1 Ultimately, this is a case of credibility. What you
2 are examining is whether or not one person's story
3 speaks the truth or if another person's story speaks
4 the truth. The judge will tell you that you can
5 listen to one witness and conclude just based on
6 that one witness' testimony that the defendant is
7 guilty.

8 Now, you have the benefit in this case of lots
9 of witnesses. It's not just the victim saying this
10 terrible thing happened them. It's the victim
11 saying these events occurred in a specific way. And
12 they occurred in this way and then the State
13 introduces evidence showing that the way it occurred
14 is verified and validated by the facts. Now,
15 credibility, again, is key.

16 The State put up several witnesses. The
17 defense put up several witnesses. The State put up
18 the victim first. Let's talk about her credibility,
19 why you can believe her. Ultimately, one of the
20 most important decisions in determining credibility
21 is why you know that person is telling the truth.
22 What reason would they have to lie? You know, when
23 you think about it and y'all are back there in the
24 jury room deliberating and thinking that one
25 witness, is that person telling me the truth, think

1 to yourself what reason would they have to lie to
2 you. Why would they lie to you?

3 Well, Brittany got up on that stand and she
4 told you probably some of the most intimate,
5 specific, graphic and troubling things that had ever
6 happened to her. She got up in front of a group of
7 12 people or 14 people and she said these things
8 happened. She didn't waiver. She told you honestly
9 and truthfully and candidly and you saw the same
10 thing I saw. You saw how she presented herself.
11 You saw how she talked to you. Those things go to
12 credibility.

13 Now, why would she lie? Every single one of
14 y'all, when we were selecting jurors, you had to
15 come up and stand right there, right? And me and
16 Mr. Allen, we looked at y'all and we said yes, we
17 want this person on the jury. Okay. And that's
18 nerve-racking. Standing up in front of a group of
19 people that you don't know is nerve-racking. It's
20 not the kind of thing that people do voluntarily
21 because it's fun. Now, Brittany Wardlaw gets up
22 there in front of a group of strangers and tells
23 them details about her private life that she's
24 probably told very few people.

25 And as Mr. Allen said, I thought this was

1 interesting; he said, you know, there's a big
2 difference here, you know, between civil cases and
3 criminal cases. He's right. In civil cases, you
4 have a Plaintiff, a complainant, someone who's
5 saying something bad happened to me and I want
6 redress. I want money. I want damages. In a
7 criminal case, the victim gets nothing. They are
8 entitled to nothing. It is the State of South
9 Carolina attempting to seek justice on behalf of the
10 victim. But at the end of the case, she receives
11 nothing. She doesn't get paid. She doesn't get a
12 certificate. She gets nothing. She leaves this
13 courtroom today the same regardless.

14 Now, why would she lie? What reason would she
15 have to lie to you about this event. The State says
16 there is no reason. She has no reason to lie.
17 Discussing details this -- this private, this touchy
18 is not something someone does voluntarily because
19 they are spiteful or because they are angry. They
20 do it because it's the truth. They do it because
21 it's what they were called to do.

22 The State puts up several other witnesses. We
23 can divide them into two camps essentially. You
24 have those witnesses that were friends or family
25 members of Brittany and then those witnesses who

1 became involved in this case because they are
2 professionals, because its their duty, it's their
3 job. Something was given to them and they are
4 supposed to do a certain thing or things because
5 that's their job.

6 Now, with regards to the witnesses that were
7 friends of Brittany or family members of Brittany,
8 you have her mother, you have Jason White, you have
9 Trudy Honeycutt. Now, her mother got up there on
10 the stand that testified that Brittany shows up in
11 her house. Shows up at her house crying. She can
12 not stop her from crying. She's just bawling her
13 eyes out. Her mother says that they go to the
14 hospital. Brittany tells her what happened.

15 They go to the hospital. They call the police.
16 You heard the 911 tape. You heard the 911 tape as
17 they are on their way to the Easley Baptist
18 Hospital. That's what she witnessed. That's what
19 she saw, what Mrs. Gilstrap saw. Why is it that
20 she would lie? I mean, what reason would she have
21 to lie about those events? Again, she gets nothing.
22 There's nothing beneficial to her about lying. All
23 she really does is open herself up to perjury
24 charges if she does lie while she's on the stand.
25 So she gets up there and promises to tell the truth

1 because that's what's right. That's what's expected
2 and that's her duty as a witness.

3 The other day when we were talking about the
4 roles of each person in the courtroom, how it's my
5 role -- Mr. Allen's role to articulate different
6 sides of a case, how it's the judge's role to rule
7 on the facts, the laws. These are different duties
8 and how it's the jury's duty to analyze the facts
9 and to think about each single piece of evidence in
10 determining guilt. The juror's duty -- or the
11 witnesses' duty is to tell the truth.

12 That's what Brittany's mother did and Trudy
13 Honeycutt. And Trudy Honeycutt seemed like a nice
14 enough old lady. Maybe a little silly. But she got
15 up there and, uh, she told you that she got paid to
16 go clean out the trailer because no one else would
17 do it. Because no one wanted to go inside the
18 trailer because of what had happened. So she goes
19 in the trailer and cleans out the bathroom.

20 What does she say she saw? She saw blood on
21 the toilet seat and blood on the ground in the
22 bathroom and she saw blood on the bed. That's what
23 she saw. That's what she witnessed. That's why she
24 was called. Why would she lie? She doesn't have a
25 dog in the fight. She's not related to the victim.

1 She's friends with the victim's mother. Sure. But
2 would that be enough reason for her to make up a
3 story like that? No.

4 Finally, there's Jason White. Now, Jason White
5 says that he had been getting text messages from the
6 defendant on Brittany's phone. He brought those
7 messages in. You can read those messages. He said
8 that he got a call from Brittany's phone. He heard
9 Brittany call out I need help. Help. He testified
10 that he did nothing, that he didn't help. He didn't
11 call 911. He didn't do anything.

12 If that's what happened, why would he lie? If
13 he's going to lie, he's going to say, oh, I did
14 everything I could. I called 911. He could have
15 prevented this. He could have stopped it. If he
16 was going to lie, don't you think he'd say I did
17 everything I could or I didn't get a call? I didn't
18 receive any notion that she was in distress or in
19 need of help. Because ultimately, then the burden
20 falls on him for failing to do anything.

21 He says I showed up at her mom's house when she
22 got there and she was crying just like her mom said.
23 Why would he lie about that? He's got no reason.
24 No dog in the fight.

25 Now, the second group of witnesses that the

1 State called were the professionals, people like
2 Detective Baker, Nurse Simmons, Alex Levy, the
3 people from SLED, those people are professionals who
4 deal with these cases on a regular basis because
5 that's what they are paid to do. That's what their
6 job is.

7 Now, let's first talk about Nurse Simmons.
8 Nurse Simmons got up on that stand and I think it
9 was apparent that she was nervous. She told you
10 this was the first time she's ever had to testify in
11 court. She's been a nurse 20 years. She's been in
12 the ER 15 years. She's a SANE nurse. She was
13 qualified as an expert. The judge instructed you on
14 what that means.

15 She gets up on the stand and she tells you what
16 she observed. She said my role is to look at the
17 person, hear their story and see whether or not what
18 I see, the evidence that I see, the injuries that I
19 see, whether or not those things are consistent with
20 what's complained up. So she gets up there. She
21 tells you Brittany comes in and tells her her story
22 and then she examines Brittany's person. She looks
23 all over her body. She took those pictures.

24 I know y'all didn't want to see those pictures.
25 But we had to show them. She took those pictures.

1 She took the pictures of Brittany's face and arm.
2 She took the pictures of her injuries. She said to
3 you that those injuries are consistent with what she
4 complained about. That's what she was called to
5 testify to. That was her role. That's her job as a
6 SANE nurse. Collect evidence and then to testify to
7 whether or not that evidence is consistent with the
8 complaint. That's what she said..

9 Next, Alex Levy with Rape Crisis. She got up
10 there and she seemed very, very nice. She told
11 y'all that her job is to come in when anything like
12 this is reported and essentially be the advocate of
13 the victim while she is there. To sit with the
14 victim, to be with the victim. To provide the
15 victim emotional support, if she can. She said in
16 this case, she gets into the hospital and gets into
17 the SANE room and Brittany's there and she's quietly
18 weeping. She is uncomfortable. She demonstrated in
19 her chair how she couldn't sit. She kept moving
20 from one side or the other because she could not sit
21 still.

22 She testified that after seeing what had
23 happened and after being made aware of how
24 uncomfortable she was, she went and got a sitz bath,
25 the type of thing that they utilize on women after

1 women have had babies, to give her some sort of
2 comfort. Why would she lie? What reason does she
3 have to lie? She does this every day. That's her
4 job. Her job is to meet and assist victims of rape.
5 She does that every day. That is her job. She
6 wouldn't lie because she has no reason to.

7 Then we've got Mrs. Catherine Leisy with SLED,
8 the DNA expert. Right? She gets up there and she
9 says -- I'm going to try to paraphrase it. But it
10 was a lot of stuff that just went right over my
11 head. That DNA belonged to the defendant. They
12 recovered semen from inside Brittany's rectum. And
13 she can tell you to the 15th power that that DNA
14 belonged to the defendant.

15 Finally, there's Detective Baker. Detective
16 Baker investigated the entire case. He, from the
17 get-go, was involved in the investigation of this
18 case. He talked to Brittany. She told him what
19 happened. He talked to the other people who were
20 involved. He investigated. He talked to the
21 defendant. He talked to all these people and
22 arrested the defendant for CSC and rape. Why would
23 he lie? He does it every day. This is his job.

24 His job is to prosecute people, or to arrest
25 people when they have committed crimes. That's what

1 he does. He's got no reason to lie because if he
2 lied, he would not be able to do this anymore. His
3 job is to investigate arrests and then testify. He
4 does it regularly and has no reason to lie.

5 The defendant also had several people testify.
6 One of them was a young woman. I believe her name
7 was Nicole, Jennifer Nicole. And, uh, she said that
8 she and Brittany used to be friends. Up until about
9 three months ago, they were hanging out all the
10 time. Then, they haven't since. She said back in
11 April when Brittany came over to borrow her cell
12 phone to call Matt. She didn't say how she knew it
13 was Matt. She didn't say why it is that she didn't
14 tell law enforcement. She said she knew the charges
15 were pending. She said that she knew the charges
16 were pending and she failed to tell the prosecutor.
17 She failed to tell the defense.

18 This is in April. April. We are now in
19 November. This is in April that she learns of this
20 information and tells no one. What reason does she
21 have to lie? She told you. Her husband is Matt's
22 best friend. What reason does she have to lie?

23 Then there is, uh, I believe his name was Mr.
24 Morgan, from the chicken plant in Greenville county.
25 Now, Mr. Morgan doesn't have a dog in the fight.

1 He's got no reason to lie to any of y'all. Uh, but
2 Mr. Morgan's credibility is an issue, not because
3 he's a liar, but because he can not have knowledge
4 of what he claims to have knowledge of. He says he
5 works third shift. He says Matt works third shift.

6 It's ten o'clock at night. So at ten o'clock
7 at night, the car comes up. He says it's a gray
8 car. All right. It's a gray car when, in fact, her
9 car is gold. He says a gray car comes up. He sees
10 a blond woman in the car with the defendant. They
11 are talking. He tells the defendant to get out and
12 the defendant gets out. April, April of 2010.

13 He says he's never seen the victim before. He
14 then comes into court today, having never seen the
15 victim before and says he is positive that she is
16 the woman he saw. His credibility is an issue.
17 because as reasonable people, you know that is not
18 possible. Think about April of 2011. Think of
19 someone that you never seen before. Could you come
20 into a courtroom and say competently that's that
21 person I saw on that day eight months ago? No.

22 Now, uh, Mr. Allen was up here talking a lot.
23 A lot of hand gestures. It kind of reminded me of a
24 magician. You know, magicians, they use slight of
25 hand.

1 **MR. ALLEN:** Objection, Your Honor. That's
2 not an appropriate comment on defense counsel.

3 **THE COURT:** I'd move on with that.

4 **MR. TOOKER:** Okay. Uh, but the purpose of
5 course is to distract. Magicians utilize a flash of
6 light or a puff of smoke.

7 **MR. ALLEN:** Objection, Your Honor.
8 Objection.

9 **MR. TOOKER:** It's a metaphor.

10 **THE COURT:** I'm going to allow you to either
11 direct your comments to me and I'm going to ask you
12 to move on.

13 **MR. TOOKER:** Okay. All right. There are
14 several things in this case that the defense is
15 attempting to use to throw you off the trail. Red
16 herrings. Trying to making you focus on the things
17 that aren't important so that you'll be distracted.
18 You'll be looking this way when you should be
19 looking this way. You'll be zigging, when you
20 should be zagging.

21 One of those things that he mentioned, of
22 course, was the blood on the sheets. He asked
23 Lieutenant Robinson why is it that you didn't get
24 that tested, right? Uh, that's misdirection.
25 That's a red herring. Matt admitted there was blood

1 on the sheet as a result of their sex. There's no
2 question as to who that blood belonged to or where
3 that blood came from. He also -- he also brought up
4 the fact that there was a taped recording, another
5 red herring.

6 I asked Matt, and you heard him testify, I
7 said, Matt, you heard the recording. Is it better
8 to have you here now testifying or for the jury to
9 listen to the recording. What's the answer? The
10 purpose of having him testify is because that live
11 person can answer questions in real-time. They are
12 sitting here in front of you now able to answer all
13 those same questions and give those same answers.
14 You saw him do that. You saw the defense attorney
15 ask those questions. You saw me ask questions.
16 That's one of the benefits. If it's a taped
17 recording, the State isn't afforded to ask the
18 defendant questions.

19 Now, that's a red herring. He says, well,
20 there's this tape. There's this tape. Why didn't
21 they put the tape in? Why didn't they put the tape
22 in? Because the defendant testified. That's why.
23 And that's why it's a red herring.

24 Finally, the biggest red herring of all is
25 consent. Did the victim consent to this act? Matt

1 says, well, they were texting and they were sexually
2 explicit texts. That's a red herring. Why? There
3 was no relationship. They been in a relationship as
4 was testified for four years. For four years, they
5 are together in a relationship where she feels
6 comfortable enough to say that that is my fiancé.
7 And they have sex.

8 This is not relevant or pertinent as to whether
9 or not she consented to having sex with him that
10 night. Ultimately, nothing else matters. What
11 happens is what happened when he got at that
12 trailer. When he arrived there, what did he do? It
13 doesn't matter what he did five days before, five
14 months before or five years before. What matters is
15 when he arrived at that trailer, what is it that
16 happened? Those are the facts. That's what you
17 have to figure out as a jury.

18 Because if they had sex in the course of their
19 relationship, that's great. That's what people do.
20 But that doesn't negate the fact that he forced
21 himself on her, that he asserted himself into her
22 without her permission and despite her will.

23 Now, uh, I was thinking about the whole case
24 over lunch. We had a kind of long lunch break. I
25 thought of a word. And that word is cynical. I

1 looked it up because I don't have a really large
2 vocabulary. But the word cynical is defined as
3 contemptuously distrustful of human nature and
4 motives. It's easy to be cynical nowadays. Every
5 time you turn on the TV or click on the radio or
6 open the newspaper, you hear stories about
7 basketball stars like Coby Bryant and football stars
8 like Ben Roethlisberger and politicians like
9 Dominique Strass-Kahn. It's easy to become cynical,
10 you know. The victims then become the ones who are
11 under scrutiny.

12 You know, we talk about them around the water
13 pool. All of a sudden, it's not did this guy do it,
14 but hey, did you hear about her. That's what the
15 defendant wants. The defendant wants you to be
16 cynical. Why is that? Why is it that he needs to
17 rely on your cynicism? Because ultimately, there's
18 not much else. With regards to the facts of that
19 night, he's limited to what the State has
20 introduced. There's nothing other than these two
21 parties' stories and all the facts the State relied
22 on in showing that her story is the truthful story.
23 Her story is the credible story.

24 Now, in court, there are really two sort of
25 realms. There is the realm of law and the realm of

1 fact. You know, the judge, she presides over the
2 realm of law and y'all preside over the realm of
3 fact. Of course, she will correct me if I'm wrong
4 and don't take it as gospel coming out of my mouth.
5 But I have summarized the elements for each of these
6 offenses.

7 Criminal Sexual Conduct in the first degree
8 requires that there be a sexual battery. Now,
9 sexual battery is nothing more than sex. Consent is
10 irrelevant at this point. It just means that sex
11 happened. So did sex happen or did sex not happen?
12 There must be a sexual battery and either there must
13 exist aggravated force or the sexual battery must
14 have occurred during a kidnaping or a burglary or a
15 robbery or a housebreaking or a forcible confinement
16 or any other similar offense. Now, aggravated force
17 is force or violence of a high and aggravated
18 nature. That's a very broad definition. We're
19 return to that later.

20 In kidnaping, of course, in this case, there is
21 a separate indictment for Kidnaping, Kidnaping is a
22 very broad criminal offense. For kidnaping to
23 exist, the defendant must do one of these things to
24 the victim, seize her, which means take hold
25 suddenly or forcibly, confine her, which means

1 limit, restrict, enclose or shut her in, inveigle
2 her, which means lure or lead away by deceit, kidnap
3 her, which means remove against her will by unlawful
4 force, abduct her, which means carry off secretly or
5 by force or remove her. Now, those are what the
6 State needs to show. It's not that the State has to
7 show every single one of these, but just one. If
8 the State shows that one of these happened, he's
9 guilty of kidnaping.

10 Now, I'm going to return to credibility because
11 that's what it's about. Credibility is about facts.
12 The facts in this case really come from two sources.
13 They come from the State, the State's witnesses and
14 then they come from the defendant's mouth. Let's
15 first talk about what the defendant admits. The
16 defendant admitted to, on the stand, grabbing the
17 victim by the hair of her head and holding her down
18 on the ground, repeatedly hitting her head against
19 the ground. That's a seizure. He admits to that.

20 He admits to not letting her leave. She is in
21 the house. She is in the back bedroom. She is in
22 the bathroom. What is he doing from what he said
23 between 45 minutes and an hour and a half?
24 Continuing to physically assault her and verbally
25 assault her. He admits to that. Those two things,

1 one of them alone is enough, but those two things
2 constitute kidnaping. It is your duty as jurors in
3 this case to find him guilty of those offenses.

4 Now, with regards to CSC. He admits to two
5 instances of sexual conduct. He said they come and
6 they have sex once and then they do it again. Two
7 instances, two indictments. Now, the State's case
8 is supported by facts. The facts support the
9 victim. You're trying to determine who is telling
10 the truth, the defendant or the victim? Well, what
11 does the victim say and what does the facts say?
12 The victim says that she is at her trailer on the
13 night of the incident, that everybody comes to the
14 front door. But the defendant comes to the back
15 door, the back door on the rickety porch in the
16 dark. You heard the 911 tape. You heard her as she
17 thought somebody was breaking into her house. Why?
18 Because she didn't know he was coming back.

19 She says that he arrived at the back porch and
20 immediately took her cell phone. That cell phone as
21 was testified by Lieutenant Robinson was found
22 outside the back porch. We have those pieces of
23 evidence. Now, the victim says that after the
24 defendant took her phone, he started going through
25 her messages. Why was he going through her

1 messages? He was looking for evidence of her
2 unfaithfulness. What does he find? He finds
3 something that indicates to him Jason White is that
4 third party, that other man.

5 So what does he do? He repeatedly texts Jason
6 White. He sends him texts trying to figure out if
7 something's going on. When he is content -- and he
8 admits this on the stand, that he became content
9 that she was cheating on him. He was satisfied that
10 he had enough proof. When he became that satisfied,
11 he hit her. He hit her in the arm. You seen the
12 bruises, the pictures from the hospital. The
13 bruising gets worse. Where does he hit her? He
14 hits her on her arm, then he grabs her by the hair
15 on her head and he takes her into the bedroom.

16 Now, once in the bedroom, he wrecks the place.
17 He wrecks the place, grabs her by the head and
18 forces her to the ground. You seen the hair. He
19 said that is her hair. That is most likely her
20 hair. I put it in his hand. He looked at it and
21 said that is her hair. The hair was collected by
22 the bed alongside the poem that he tore up. She
23 said that he dragged her around and he forced her
24 head against the ground repeatedly. He admits to
25 that.

1 She also says that he hit her face. Now, the
2 bruises are undeniable. Now, the defendant denies
3 the hitting facts, but he also admits that she
4 wasn't bruised when he came over there. Somehow
5 that happened to her while he was there. Maybe he
6 doesn't remember. Maybe he was in a fit of rage and
7 blacked out and couldn't remember or maybe he's
8 lying. The victim's eyes were bruised. Her face is
9 swollen. The defendant doesn't know how to act.

10 Then he sexually assaults her. He sexually
11 assaults her anally and vaginally and the nurse
12 testified as to what she saw. Now, the pictures, of
13 course, are not as clear as she would have liked
14 them to have been. She told y'all that. But what
15 she said is the evidence of the anal assault shows
16 that the folds, the creases are swollen, the dye
17 that she uses to show abrasion picks up around the
18 outside because that area is actively torn. The DNA
19 was recovered from inside the rectum.

20 Now, she is bleeding in the bed. You see
21 pictures. You see pictures of her bleeding in the
22 bed and the defendant admits to that. He admits
23 that her bleeding in the bed was the result of their
24 sexual encounter.

25 Now, what did Nurse Simmons say? Nurse Simmons

1 said that Brittany's testimony, Brittany's statement
2 was consistent with the physical evidence that she
3 observed. She said the assault appeared to have
4 happened from behind because had it happened in a
5 missionary position, that region of her genitalia
6 would have been bruised or damaged. But that area
7 wasn't harmed. Why? Because she was assaulted from
8 behind.

9 She said when she first started taking
10 pictures, the blood was evident. You can see it in
11 these. She said when she examined the vaginal area,
12 there was bruising as is evident in these pictures.
13 And then finally, when she got into where the
14 bleeding was happening, she saw, at two o'clock, an
15 area on the surface that was actively bleeding. She
16 said it was not blood from menstruation. Blood from
17 menstruation would have been something out of a
18 different part of the surface. That blood came from
19 an active wound. The blood pooled at the bottom of
20 her vagina.

21 Brittany says that she laid in the bed still.
22 She got back and the defendant assaulted her. She
23 got back in the bed. And then when he was getting
24 ready to go -- and you heard him testify. He was
25 calling and texting people, trying to find a ride

1 out of there. He had to get going. He called Zack.
2 He called his dad. He wanted somebody to come get
3 him. She then went and waited in the bathroom. She
4 sat on this toilet. You can see the blood stains on
5 the toilet seat.

6 Then what did she do? She went to her mother's
7 house. She went to her mother's house because she's
8 hurt, she's upset, she's traumatized. Who did she
9 go to but her mother? She goes to her mother. Her
10 mother and Jason are there. Her mother and Jason
11 said she is unconsolable. She is crying. She will
12 not stop. Her mother says we decided to take her to
13 the hospital. Get her in the car. They call 911.
14 You heard that tape.

15 When she gets to the hospital, what happens?
16 She goes and has to put on a gown. She puts on a
17 gown and is examined for four hours. For four
18 hours, her body is poked and prodded. Evidence is
19 gathered from her person. She is in pain. She is
20 in pain and the nurse has to give her a prescription
21 medication to help her deal with that pain. She
22 consents and permits for the nurse to administer a
23 rape kit. The nurse testified that that is not
24 something that is enjoyable. That is not something
25 that you do on a whim. That is something that

1 takes time and is painful and is not enjoyable.

2 Finally, when they got a sample of the
3 defendant's DNA for comparison, that DNA did verify,
4 did prove to everyone that he was the person that
5 sexually assaulted her. Now, we've got sexual
6 battery. We've got kidnaping per the defendant's
7 own admission.

8 Now, aggravated force. What constitutes
9 aggravated force? Does holding someone by the hair
10 of the head and repeatedly hitting their head on the
11 ground constitute aggravated force? What about
12 forcibly inserting yourself into someone's vagina
13 until it looks like that, does that constitute
14 aggravated force? The State posits that it does.

15 Now, you're going to have all this evidence.
16 You can take it all back into the deliberation room
17 with you. But this, not her story, not his story,
18 this is what you're relying on. This is why you can
19 find him guilty. This is why you need to return
20 three verdicts, guilty on Criminal Sexual Conduct in
21 the first degree, guilty on Criminal Sexual Conduct
22 in the first degree and guilty of Kidnaping. Thank
23 you.

24 **THE COURT:** Mr. Tooker, can I ask you to move
25 this?

1 **(WHEREUPON,** the Court resumes at approximately
2 3:08 p.m.)

3 **THE COURT:** All right. We're back on the
4 record. We have a note from the jury. I'm not
5 entirely sure what they're asking for. We need to
6 bring them back in and find out. But they have a
7 list here. It says testimony of SANE nurse and
8 testimony of Rape Crisis nurse, hear 911 call --
9 which is easy enough. They've got those back there.
10 We can provide something to them -- and testimony of
11 B.L.W. I assume that that means -- I assume that
12 means the victim. I don't know if they mean both
13 times that she testified or the one time that she
14 testified. I'm not sure. They could be asking for
15 at transcript. They could be asking to hear it. Of
16 course, they may hear it. So I'm just going to let
17 them back in and find out.

18 **(WHEREUPON,** the jury enters at approximately
19 3:10 p.m.)

20 **THE COURT:** Mr. Foreperson, I've got a note
21 from you all. It lists several things. I assume
22 from this list that these are things that you all
23 would like in your deliberations. Let me say you
24 have asked for testimony, I'm assuming that you mean
25 the testimony in its entirety.

1 The only way that we can provide that to you
2 is, uh, by replaying it. We do have it in recorded
3 form but do not have it in transcript form. The 911
4 calls, that's no problem. You've got those CDs back
5 there and we're going to provide something for you
6 all to hear the 911 calls.

7 I'll tell you what let's do. I saw some folks
8 nodding saying no when we were talking about wanting
9 to hear the entire testimony. Why don't I do this,
10 if you feel like this is the right thing to do, Mr.
11 Foreperson, I'll send you all back in there to talk
12 about what portion you might want to hear of
13 testimony and also to listen to those 911 calls.
14 We'll just continue our business here and you just
15 let us know when you are ready to come back out.
16 Thank you so much.

17 (WHEREUPON, the jury enters at approximately
18 3:13 p.m.)

19 **THE COURT:** All right. We'll mark the note
20 as Court's Exhibit number 5. We'll be in recess in
21 this case pending information from the jury.

22 **MR. TOOKER:** Thank you, Your Honor.

23 (WHEREUPON, Court's Exhibit 5 is marked for
24 identification purposes.)

25 (WHEREUPON, the Court resumes at approximately

1 3:41 p.m.)

2 **THE COURT:** Uh, the note that has been returned
3 is Monday afternoon B.L.W. testimony. I assume that
4 means not the second testimony of the victim in this
5 case. It says first statement. Y'all got any idea
6 what that means?

7 **MR. ALLEN:** Can I take a look at that?

8 **THE COURT:** Sure.

9 **MR. TOOKER:** You know, Monday afternoon, we
10 did have a different court reporter. Do we have the
11 tapes here?

12 **MR. ALLEN:** I have no idea, Your Honor.

13 **THE COURT:** All right. Let's bring them
14 back.

15 (WHEREUPON, the jury enters at approximately

16 3:43 p.m.)

17 **THE COURT:** I've received your note. It says
18 here Monday afternoon B.L.W. testimony.

19 **THE JUROR:** Yes.

20 **THE COURT:** Then it says first statement?

21 **THE JUROR:** The first time that she
22 testified. Not today. Just the first time.

23 **THE COURT:** The first time. And you'd like
24 to hear that testimony in its entirety, is that
25 correct?

1 **THE JUROR:** Yes, ma'am.

2 **THE COURT:** And you estimate it was about how
3 long?

4 **COURT REPORTER:** I'd say it's about 55 minutes.

5 **THE COURT:** We estimate it's about 55
6 minutes. It will take us just a few minutes to get
7 that cued up. I just wanted to make sure I
8 understood your note correctly. We will have that
9 cued up for you very shortly.

10 **THE JUROR:** Yes, Your Honor.

11 **THE COURT:** All right. All right. Thank
12 you. We'll call you back out momentarily.

13 (WHEREUPON, the jury exits at approximately
14 3:44 p.m.)

15 **THE COURT:** We'll be in recess for five
16 minutes.

17 (WHEREUPON, a recess is taken from approximately
18 3:44 p.m. to 4:12 p.m.)

19 (WHEREUPON, the jury enters at approximately
20 4:12 p.m.)

21 **THE COURT:** Uh, we think we've got the
22 testimony cued. We'll play that testimony now.

23 (WHEREUPON, the testimony of Brittany Wardlaw is
24 played for the jury.)

25 **THE COURT:** All right. Ladies and Gentlemen,

1 that's the testimony you wanted. All right then.
2 I'll ask you to step back in the jury room and
3 resume your deliberation.

4 **(WHEREUPON, the jury exits at approximately**
5 4:58 p.m.)

6 **THE COURT:** All right. We'll be in recess
7 pending a verdict..

8 **MR. TOOKER:** Thank you, Your Honor.

9 **THE COURT:** Thank you.

10 **(WHEREUPON, deliberation of the jury resumes at**
11 approximately 4:59 p.m.)

12 **(WHEREUPON, the Court resumes at approximately**
13 5:57 p.m.)

14 **THE COURT:** Mr. Foreperson, it's my
15 understanding that you all have a verdict. Is that
16 correct?

17 **THE JUROR:** Yes, ma'am.

18 **THE COURT:** If you will, please hand it to
19 the bailiff.

20 **(WHEREUPON, the verdict form is passed up.)**

21 **THE COURT:** The verdict forms appear to be in
22 order.

23 **THE CLERK:** This is docket number 2011-GS-39,
24 1643, the State versus Matthew Ryan Hendricks
25 indictment for Kidnaping, the verdict is guilty.

1 Docket number 2011-GS-39-1641, the State versus
2 Matthew Ryan Hendricks indictment for Criminal
3 Sexual Conduct in the first degree, the verdict is
4 guilty. Docket number 2011-GS-39-1640, the State
5 versus Matthew Ryan Hendricks indictment for
6 Criminal Sexual Conduct first degree, the verdict is
7 guilty.

8 Is this your verdict and still your verdict so
9 say you all by raising your right hands?

10 (WHEREUPON, each juror responds.)

11 **THE CLERK:** Thank you very much.

12 **THE COURT:** Anything we need to deal with
13 from the State prior to me letting the jury go?

14 **MR. TOOKER:** No, ma'am.

15 **THE COURT:** All right. Anything from the
16 defense?

17 **MR. ALLEN:** Can we have them polled
18 individually, Your Honor?

19 **THE COURT:** All right.

20 **THE CLERK:** Ladies and Gentlemen, I've been
21 asked to poll you individually. Krista Oglesby, is
22 this your verdict and still your verdict?

23 **THE JUROR:** Yes, sir.

24 **THE CLERK:** Paula Bowens, is this your
25 verdict and still your verdict?

1 **THE JUROR:** Yes, sir.

2 **THE CLERK:** Harold Parris, is this your
3 verdict and still your verdict?

4 **THE JUROR:** Yes, sir.

5 **THE CLERK:** Timothy Mullett, is this your
6 verdict and still your verdict?

7 **THE JUROR:** Yes, sir.

8 **THE CLERK:** Michell Lusk, is this your
9 verdict and still your verdict?

10 **THE JUROR:** Yes.

11 **THE CLERK:** Patrick Plumley, is this your
12 verdict and still your verdict?

13 **THE JUROR:** Yes, sir.

14 **THE CLERK:** David Stapleton, is this your
15 verdict and still your verdict?

16 **THE JUROR:** Yes, sir, it is.

17 **THE CLERK:** Jeffrey Smith, is this your
18 verdict and still your verdict?

19 **THE JUROR:** Yes, sir, it is.

20 **THE CLERK:** Joe Moss, is this your verdict
21 and still your verdict?

22 **THE JUROR:** Yes, it is.

23 **THE CLERK:** Kimberly Land, is this your
24 verdict and still your verdict?

25 **THE JUROR:** Yes, sir.

1 **THE CLERK:** Margie Hoilman, is this your
2 verdict and still your verdict?

3 **THE JUROR:** Yes, it is.

4 **THE CLERK:** Luke Raxtor -- let's see. That's
5 all.

6 **THE COURT:** All right.

7 **THE CLERK:** Thank you very much.

8 **THE COURT:** All right. Ladies and Gentlemen,
9 I thank you so much for your service. If you will
10 just wait for just a moment, I'll come back and
11 speak to you.

12 **(WHEREUPON, the jury exits at approximately**
13 **6:01 p.m.)**

14 **THE COURT:** Before we move into sentencing,
15 I'm going to go back and speak to the jury for just
16 a moment.

17 **(WHEREUPON, a recess is taken.)**

18 **THE COURT:** All right then. Is the State
19 reading to proceed with sentencing?

20 **MR. TOOKER:** Yes, ma'am.

21 **THE COURT:** The defense?

22 **MR. ALLEN:** Yes, ma'am. Should we come
23 forward, Your Honor?

24 **THE COURT:** Yes, sir. Let me just say to the
25 folks in the gallery, I know that this is an

1 emotional case in many ways. I want to be clear
2 with you that while I certainly can understand this
3 is an emotional thing on both sides, I need to let
4 you know that any outbursts, I'm going to have to
5 deal with accordingly. The reason being is even
6 though I know this is all difficult, we're in a
7 courtroom. And I would expect both sides to act
8 accordingly.

9 All right. Yes, sir.

10 **MR. TOOKER:** I think the Victim Advocate, Ms.
11 Brittany Robinson Roper would like to address the
12 court on behalf of the victim, Brittany Wardlaw.
13 After that, the State will talk in regards to
14 sentencing.

15 **VICTIM ADVOCATE:** Yes, Your Honor. Brittany did
16 just want me to address the Court and let you know
17 that, you know, she's been here this entire week.
18 Brittany's had a rough life. Over the past year,
19 I've gotten to know her. She's got two young boys
20 at home. She just wanted the court to know that she
21 went through this, you know, just to make sure this
22 doesn't happen to anybody else and that nobody else
23 ever has to go through this and just for you to take
24 that into consideration.

25 **THE COURT:** All right. Thank you.

1 Mr. Tooker?

2 MR. TOOKER: The State feels, uh, -- Mr.
3 Hendricks does not have anything by way of any sort
4 of prior record. So the State wants to just say
5 that given that, uh, the acts were still very
6 heinous.. The evidence is certainly something that
7 was at least overwhelming to the State. We very
8 much appreciate Your Honor's taking the severity and
9 brutality of the act into consideration when
10 sentencing..

11 THE COURT: All right. And, uh, each of
12 these crimes carry up to 30 years?

13 MR. TOOKER: Yeah. 0 to 30.

14 THE COURT: All right.

15 MR. ALLEN: May it please the Court, Your
16 Honor. You've heard this for almost the entire week
17 and you've heard Matthew's testimony and you heard
18 lots of testimony. I would just point out, Your
19 Honor, for your own information, after the arrest
20 was made, he was in custody at the Pickens County
21 jail for three months. He was on house arrest even
22 after he made bond for whatever the balance that
23 would be, Your Honor. I'm not -- 10 or 11 months he
24 was under house arrest. I would also emphasize as
25 stated by the State, uh, moments ago that he's got

1 no prior record, Your Honor.

2 **THE COURT:** Does your client wish to speak?

3 **MR. HENDRICKS:** No, ma'am. I just wish that
4 some of my witnesses would have been here today.

5 **THE COURT:** I understand. I understand.

6 (Pause.)

7 I'll note for the record that these are all
8 violent offenses. The sentence of the court is
9 eight years concurrent. Best of luck to you, sir.

10 **MR. ALLEN:** Thank you, ma'am.

11 **MR. TOOKER:** Thank you, Your Honor.

12 **THE COURT:** Credit for the --

13 **MR. ALLEN:** Yes, ma'am.

14 **MR. TOOKER:** Thank you, ma'am.

15 **THE COURT:** All right. We're adjourned.

16 (WHEREUPON, the proceedings conclude at
17 approximately 6:09 p.m.)

18 (WHEREUPON, Court's Exhibits 6 and 7 are marked for
19 identification purposes.)
20

WITNESSES

Michael Andrew Baker

Pickens County Sheriff's Office

ARREST WARRANT NUMBER

DIRECT PRESENTMENT

DOB:

SSN:

TRUE BILL ACTION OF GRAND JURY

Date SEP 06 2011

James V. King
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-39-^{SBT} 1643

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 06 2011 TERM 2011

THE STATE

vs.

MATTHEW RYAN HENDRICKS

Indictment for

0095

KIDNAPPING

VIOLATION § 16-03-0910

INDICTED

355

WITNESSES

Michael Andrew Baker

Pickens County Sheriff's Office

ARREST WARRANT NUMBER

DIRECT PRESENTMENT

DOB:

SSN:

TRUE BILL ACTION OF GRAND JURY
Date SEP 06 2011

James V. King
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-39-1642
SBT
The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 06 2011 TERM 2011

THE STATE

vs.

MATTHEW RYAN HENDRICKS

Indictment for

0079

BURGLARY FIRST DEGREE

VIOLATION § 16-11-311

INDICTED

WITNESSES

Michael Andrew Baker

Pickens County Sheriff's Office

9/17/2010

ARREST WARRANT NUMBER

1677497

TRUE BILL ACTION OF GRAND JURY

SEP 06 2011

Gayne V. King
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-39-

SBT

1640

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 06 2011 TERM 2011

THE STATE

vs.

MATTHEW RYAN HENDRICKS

Indictment for

0160

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

VIOLATION § 16-03-0652

INDICTED

357

WITNESSES

Michael Andrew Baker

Pickens County Sheriff's Office

9/16/2010

ARREST WARRANT NUMBER

1677496

TRUE BILL ACTION OF GRAND JURY

Date SEP 06 2011

Jayne H. King
Foreperson of Grand Jury

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2011-GS-39-

SBT

1641

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

SEP 06 2011 TERM 2011

THE STATE

vs.

MATTHEW RYAN HENDRICKS

Indictment for

0160

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

VIOLATION § 16-03-0652

INDICTED

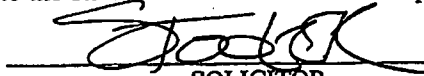
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT FIRST DEGREE

At a Court of General Sessions, convened on SEP 06 2011 the Grand Jurors of Pickens
County present upon their oath:

That MATTHEW RYAN HENDRICKS did in Pickens County, on or about the 15th day of September, 2010,
engage in sexual battery, with B.L.W. and used aggravated force to accomplish this sexual battery and/or the
Victim submitted to the sexual battery under circumstances where she was also the Victim of forcible
confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, and/or any other
similar offense or act. This is in violation of South Carolina Code of Laws Section 16-3-652 of the 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.


SOLICITOR

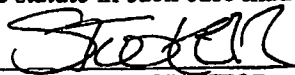
STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT FIRST DEGREE

At a Court of General Sessions, convened on SEP 06 2011 the Grand Jurors of Pickens
County present upon their oath:

That MATTHEW RYAN HENDRICKS did in Pickens County, on or about the 15th day of September, 2010, engage in sexual battery, with B.L.W., and used aggravated force to accomplish this sexual battery and/or the Victim submitted to the sexual battery under circumstances where she was also the Victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, and/or any other similar offense or act. This is in violation of South Carolina Code of Laws Section 16-3-652 of the 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.


SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

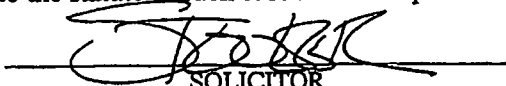
INDICTMENT FOR
BURGLARY FIRST DEGREE

At a Court of General Sessions, convened on SEP 06 2011 the Grand Jurors of Pickens

County present upon their oath:

That MATTHEW RYAN HENDRICKS did in Pickens County, on or about the 15th day of September, 2010, willfully and unlawfully enter the dwelling of B.L.W. located at , Easley, SC, without consent and with the intent to commit a crime therein, and the Defendant entered the dwelling at night and/or the Defendant assaulted the Victim while inside the dwelling. This is in violation of §16-11-311 of the 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.


SOLICITOR

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

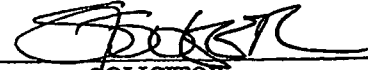
INDICTMENT FOR
KIDNAPPING

At a Court of General Sessions, convened on SEP 06 2011 the Grand Jurors of Pickens

County present upon their oath:

That MATTHEW RYAN HENDRICKS did in Pickens County, on or about the 15th day of September, 2010,
unlawfully seize, abduct, confine, inveigle, decoy or carry away B.L.W., without the authority of law. This is in
violation of §16-3-910 of the 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.



SOLICITOR

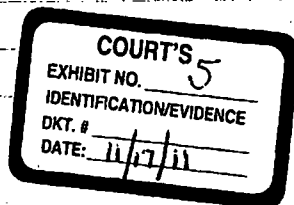
TESTIMONY OF
SANE NURSE

TESTIMONY OF
RAPE CRISES
NURSE.

HEAR

911 CALL Both

TESTIMONY OF
BLW



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 August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

August 5th, 2013



Carmen V. Ganjehsani
Appellate Defender

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

ATTORNEY FOR APPELLANT

STATE OF SOUTH CAROLINA

 ORIGINAL

IN THE COURT OF APPEALS

Appeal from Pickens County

Letitia H. Verdin, Circuit Court Judge

THE STATE,

RESPONDENT,

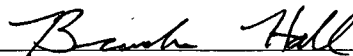
V.

MATTHEW RYAN HENDRICKS,

APPELLANT

CERTIFICATE OF SERVICE

I certify that a true copy of the Record on Appeal in the above referenced case has been served upon David Spencer, Esquire, at Rembert Dennis Building, 1000 Assembly Street, Room 519, Columbia, SC 29201, and Mr. Matthew Ryan Hendricks, at Tyger River Correctional Institution, 200 Prison Road, Enoree, SC 29355, this 5th day of August, 2013.


Brandon Hall
Administrative Specialist

SUBSCRIBED AND SWORN TO before me
this 5th day of August, 2013.


(L.S.)
Notary Public for South Carolina
My Commission Expires: July 3, 2023.

RECEIVED

AUG 05 2013

SC Court of Appeals