

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Sumter County

Honorable R. Ferrell Cothran, Circuit Court Judge

RECEIVED
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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

EDWARD EARL MCELVEEN,

APPELLANT

APPELLATE CASE NO 2018-000147

RECORD ON APPEAL

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STATE OF SOUTH CAROLINA)	
)	COURT OF GENERAL SESSIONS
COUNTY OF SUMTER)	2017-GS-43-00667
)	
)	
State of South Carolina))
)	
vs.)	TRANSCRIPT OF RECORD
)	
Edward Earl McElveen))
<u>DEFENDANT</u>)	January 22-24, 2018
		Sumter, South Carolina

B E F O R E:

THE HONORABLE R. FERRELL COTHRAN, and a jury.

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

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Attorney for the State

MICHAEL ROUTZONG, ASSISTANT PUBLIC DEFENDER
PHILLIP LITTLE, ASSISTANT PUBLIC DEFENDER
Attorneys for the Defendant

KESHIA REED
Official Court Reporter

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1 THE COURT: All right. Mr. Solicitor, you may
2 call your case.

3 MR. MEADORS: May it please the Court. The
4 State of South Carolina does call the State vs. Edward
5 Earl McElveen Sumter County true billed indictment
6 2017-GS-21-43-0667. It's an indictment for criminal
7 sexual conduct in the first degree, kidnapping and
8 possession of a weapon during the commission of a violent
9 crime. The Defendant Edward Earl McElveen sits with his
10 attorney Mr. Michael Routzong.

11 THE COURT: Okay. All right. Ladies and
12 gentlemen, if you'll give me your attention. We are about
13 to begin the case of the State vs. Edward Earl McElveen.
14 Is any member of the jury panel connected by blood or
15 marriage, close personal friends, social relations with
16 the defendant in this case Edward McElveen, if so please
17 stand? We got some new equipment that the State put in.
18 I'm going to try it again. Can you all hear me now?
19 Okay. Any member of the jury panel connected by blood or
20 marriage, close personal friends or social relations with
21 the defendant in this case Mr. Edward Earl McElveen, if so
22 please stand?

23 (WHEREUPON, there are none.)

24 THE COURT: I'm going read out a list of
25 potential witnesses in this case and I need to know the

1 same information whether you're connected by blood or
2 marriage, close personal friends or social relations with
3 these potential witnesses: Sergeant Wayne Dubose with the
4 Sumter County Sheriff's Office, Investigator Shantell
5 Ward, Corporal Ron Dodson, Donnie Vickers, and Andrew
6 Gillette, Ron Solomon, Shirlene Skipper, A.G.
7 How do you pronounce it?

8 MR. MEADORS: A.G.

9 THE COURT: A.G. Barbara Williams, Eddie
10 Richardson, Betty Richardson, Richard Bradford, Timothy
11 Adams, Rachel Posey, Special Agent Jasmine -- how do you
12 pronounce his name?

13 MR. MEADORS: Ruiz-Yi.

14 THE COURT: With the State Law Enforcement
15 Division, Special Agent Alysha Andrews, Jason Lynch, Dr.
16 Chau Bang, Keyona Bethea, Doris Yarborough.

17 THE CLERK: Please stand.

18 PROSPECTIVE JUROR: Dr. Chau Bang.

19 THE COURT: Yes.

20 PROSPECTIVE JUROR: He's my ER physician.

21 THE COURT: Okay. And the fact that he may be a
22 witness in this case would that affect your ability to be
23 fair and impartial?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Tell me your name and number please,

1 ma'am?

2 PROSPECTIVE JUROR: Shalitae White 178.

3 THE COURT: Okay. Thank you.

4 THE CLERK: One more, Judge.

5 THE COURT: Yes, sir.

6 PROSPECTIVE JUROR: Did you say Jason Lynch?

7 THE COURT: I did.

8 PROSPECTIVE JUROR: I know him. He's like --
9 his uncle is married to my aunt or whatever, you know what
10 I'm saying.

11 THE COURT: And the fact that he maybe a witness
12 in this case ---

13 PROSPECTIVE JUROR: It doesn't matter at all,
14 no, sir.

15 THE COURT: You can be fair and impartial?

16 PROSPECTIVE JUROR: There you go.

17 THE COURT: Tell me your number again?

18 PROSPECTIVE JUROR: Number two.

19 THE COURT: Okay, thank you.

20 Yes, ma'am.

21 PROSPECTIVE JUROR: 165 I know Ms. Shantell Ward
22 from church.

23 THE COURT: Okay. And would that affect your
24 ability to be fair and impartial?

25 PROSPECTIVE JUROR: No, sir.

1 THE COURT: Can you tell me your number?

2 PROSPECTIVE JUROR: 165.

3 (WHEREUPON, juror 165 name is Angel Touchberry.)

4 THE COURT: Thank you. Some other potential
5 witnesses maybe Melissa Bethea, Jean Harris, Tina Hanson,
6 John Davis, Alicia Andrews. I named her, didn't I?
7 Anybody connected by blood or marriage to any of those
8 potential witnesses, if so please stand?

9 (WHEREUPON, there are none.)

10 THE COURT: The lawyers in this case
11 representing the State is John Meadors. Representing the
12 defendant is Michael Routzong. Any members of the jury
13 panel connected by blood or marriage, close personal
14 friends, social relations or have been represented by
15 either two of these attorneys, if so please stand?

16 (WHEREUPON, there are none.)

17 THE COURT: This case allegedly occurred on or
18 about February the 21st of 2017. Any member of the jury
19 panel formed or expressed an opinion about any of the
20 issues or matters involved in this case, if so please
21 stand?

22 (WHEREUPON, there are none.)

23 THE COURT: Any member of the jury panel aware
24 of any bias or prejudice either toward the State of South
25 Carolina or this defendant, if so please stand?

1 (WHEREUPON, there are none.)

2 THE COURT: Any member of the jury panel a
3 member of the grand jury that heard this case, if so
4 please stand?

5 (WHEREUPON, there are none.)

6 THE COURT: Any member of the jury panel a
7 member or contributor to any groups law enforcement groups
8 or victims' rights groups like SADD or MADD or CAVE?
9 Anybody a member of any of those groups that support law
10 enforcement or support victims' rights or any member that
11 supports any of defenses, if so please stand?

12 (WHEREUPON, there are none.)

13 THE COURT: Any member of the jury panel have a
14 close family member or close personal friends as a member
15 of law enforcement, employed by Solicitor's office or the
16 public defender's office here in Sumter County, if so
17 please stand?

18 (WHEREUPON, there are none.)

19 THE COURT: Any member of the jury panel or
20 member of your immediate family or very close personal
21 friends ever been a victim of a sexual assault or a
22 kidnapping, if so please stand?

23 (WHEREUPON, there are none.)

24 THE COURT: Any member of the jury panel ever
25 been charged with sexual assault crime or a kidnapping, if

1 so please stand?

2 (WHEREUPON, there are none.)

3 THE COURT: Any further questions from the
4 State?

5 MR. MEADORS: May we approach?

6 THE COURT: Yes, sir.

7 (WHEREUPON, a bench conference was held in the
8 presence of the jury panel, but out of the hearing of
9 the jury panel.)

10 THE COURT: Any member of the jury panel or a
11 close family member ever been charged with a sexual
12 assault or kidnapping or a domestic violence or is any
13 member of the jury panel been a victim of domestic
14 violence, if so please stand?

15 Yes, ma'am.

16 PROSPECTIVE JUROR: I been the victim of
17 domestic violence.

18 THE COURT: Tell me your number again?

19 PROSPECTIVE JUROR: 165.

20 THE COURT: Okay. And the fact that -- and I
21 don't know whether that's an issue in this case at all,
22 but would that affect your ability to be fair and
23 impartial to both the State and the defense?

24 PROSPECTIVE JUROR: No, sir.

25 THE COURT: Okay. Thank you, ma'am.

1 Anybody else?

2 Yes, sir.

3 PROSPECTIVE JUROR: Russell Jenkins number 93.
4 I have just got out for sexual assault.

5 THE COURT: Okay. And would that affect your
6 ability to be fair and impartial in this case?

7 PROSPECTIVE JUROR: No, sir.

8 THE COURT: Thank you, sir.

9 Yes, ma'am.

10 PROSPECTIVE JUROR: Juror 119. I have a cousin
11 that was killed by domestic violence.

12 THE COURT: Okay. And how long ago did that
13 occur?

14 PROSPECTIVE JUROR: It's been 13 years ago.

15 THE COURT: And would that affect your ability
16 to be a fair and impartial juror in this case and be fair
17 to both the State and the defendant?

18 PROSPECTIVE JUROR: No, it wouldn't.

19 THE COURT: Thank you, ma'am. Your number was
20 119.

21 PROSPECTIVE JUROR: Yes, sir.

22 (WHEREUPON, juror number 119 name is Deloris
23 McCauley.)

24 THE COURT: Thank you. Anyone else?

25 Any member of the jury panel know any reason

1 whatsoever they can't give both the State of South
2 Carolina and this defendant a fair and impartial trial, if
3 so please stand?

4 (WHEREUPON, there are none.)

5 THE COURT: One other question is any member of
6 the jury panel a friend on social media to any of the
7 potential witnesses I called out or any of the parties in
8 this case, if so please stand?

9 (WHEREUPON, there are none.)

10 THE COURT: Okay. Any further questions for me
11 to decide?

12 MR. MEADORS: No, sir.

13 MR. ROUTZONG: No, sir.

14 THE COURT: All right. Mr. Clerk, if you'll
15 give me a jury.

16 THE CLERK: Yes, sir, Your Honor.

17 THE COURT: Ten and five, five and ten, I'm
18 sorry. How many alternates you my think we going to need?

19 MR. MEADORS: Two.

20 THE COURT: Two, okay.

21 MR. ROUTZONG: Yes, sir.

22 THE CLERK: May it please the Court, Your Honor.

23 THE COURT: Yes, sir.

24 THE CLERK: Ladies and gentlemen, if your name
25 is called simply come to the podium, turn around and face

1 the back of the courtroom. Please bring with you any
2 personal belongings that you may have.

3 Juror number 80 Michael Harris.

4 (WHEREUPON, a white male, comes forward.)

5 THE CLERK: What says the State?

6 MR. MEADORS: Please present the juror.

7 THE CLERK: What says the defendant?

8 MR. ROUTZONG: Please excuse the juror.

9 THE CLERK: You may return to your seat, sir.

10 Thank you.

11 Juror number 161 Henrietta Stukes.

12 (WHEREUPON, a black female, comes forward.)

13 THE CLERK: What says the State?

14 MR. MEADORS: Please present the juror.

15 THE CLERK: What says the defendant?

16 MR. ROUTZONG: Please seat Ms. Stukes.

17 THE CLERK: Please have a seat in the jury box,
18 ma'am, over here to your left.

19 Juror number 124 Linda McLane.

20 (WHEREUPON, a black female, comes forward.)

21 THE CLERK: What says the State?

22 MR. MEADORS: Please present the juror.

23 THE CLERK: What says the defendant?

24 MR. ROUTZONG: Please seat Ms. McLane.

25 THE CLERK: Please have a seat in the jury box

1 please, ma'am.

2 Juror number 181 William Wise, Jr.

3 (WHEREUPON, a white male, comes forward.)

4 THE CLERK: What says the State?

5 MR. MEADORS: Please present the juror.

6 THE CLERK: What says the defendant?

7 MR. ROUTZONG: Please seat Mr. Wise.

8 THE CLERK: Come on, Mr. Wise, have a seat over
9 here.

10 Juror number 25 Jeremy Burgess.

11 (WHEREUPON, a white male, comes forward.)

12 THE CLERK: What says the State?

13 MR. MEADORS: Please present the juror.

14 THE CLERK: What says the defendant?

15 MR. ROUTZONG: Please seat Mr. Burgess.

16 THE CLERK: Come on this way, Mr. Burgess, have
17 a seat in the jury box.

18 Juror number 12 Martin Bayless.

19 (WHEREUPON, a white male, comes forward.)

20 THE CLERK: What says the State?

21 MR. MEADORS: Please present the juror.

22 THE CLERK: What says the defendant?

23 MR. ROUTZONG: Please seat Mr. Bayless.

24 THE CLERK: Come have a seat in the jury box
25 please, sir.

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Juror number 87 Erickson Jackson.

(WHEREUPON, a black male, comes forward.)

THE CLERK: What says the State?

MR. MEADORS: Please present the juror.

THE CLERK: What says the defendant?

MR. ROUTZONG: Please seat Mr. Jackson.

THE CLERK: Please have a seat over here,
Mr. Jackson.

Juror number 24 Renee Buchanan.

(WHEREUPON, a black female, comes forward.)

THE CLERK: What says the State?

MR. MEADORS: Please present the juror.

THE CLERK: What says the defendant?

MR. ROUTZONG: Please seat Ms. Buchanan.

THE CLERK: Ms. Buchanan, come on have a seat in
the jury box.

Juror number 1 Marvin Abram.

(WHEREUPON, a black male, comes forward.)

THE CLERK: What says the State?

MR. MEADORS: Please present the juror.

THE CLERK: What says the defendant?

MR. ROUTZONG: Please excuse Mr. Abram.

THE CLERK: Please return to your seat, sir.
You been excused from this trial at this time.

Juror number 34 Portia Coles.

1 (WHEREUPON, a black female, comes forward.)

2 THE CLERK: What says the State?

3 MR. MEADORS: Please present the juror.

4 THE CLERK: What says the defendant?

5 MR. ROUTZONG: Please seat Ms. Coles.

6 THE CLERK: Please have a seat in the jury box.

7 Juror number 96 Carlton Johnson.

8 (WHEREUPON, a black male, comes forward.)

9 THE CLERK: What says the State?

10 MR. MEADORS: Please present the juror.

11 THE CLERK: What says the defendant?

12 MR. ROUTZONG: Please seat Mr. Johnson.

13 THE CLERK: Please have a seat over here,

14 Mr. Johnson, in the jury box.

15 Juror number 5 Shirley Amos.

16 (WHEREUPON, a black female, comes forward.)

17 THE CLERK: What says the State?

18 MR. MEADORS: Please present the juror.

19 THE CLERK: What says the defendant?

20 MR. ROUTZONG: Please seat Ms. Amos.

21 THE CLERK: Please have a seat over here, Ms.

22 Amos.

23 Juror number 138 Jan Prioleau.

24 (WHEREUPON, a black female, comes forward.)

25 THE CLERK: What says the State?

1 MR. MEADORS: Please present the juror.

2 THE CLERK: What says the defendant?

3 MR. ROUTZONG: Please excuse Ms. Prioleau.

4 THE CLERK: Please return to your seat, ma'am.

5 You been excused at this trial at this time.

6 Juror number 93 Russell Jenkins.

7 (WHEREUPON, a black male, comes forward.)

8 THE CLERK: What says the State?

9 MR. MEADORS: Please excuse the juror.

10 THE CLERK: Please return to your seat, sir.

11 You been excused of this trial at this time.

12 Juror number 166 Carl Vandenheuvel, Jr.

13 (WHEREUPON, a white male, comes forward.)

14 THE CLERK: What says the State?

15 MR. MEADORS: Please present the juror.

16 THE CLERK: What says the defendant?

17 MR. ROUTZONG: Please seat Mr. Vandenheuvel.

18 THE CLERK: Please have a seat in the jury box.

19 Juror number 81 Kennedy Hastie, Jr.

20 (WHEREUPON, a black male, comes forward.)

21 MR. MEADORS: What's that number I apologize?

22 THE CLERK: 81. What says the State?

23 MR. MEADORS: Please present the juror.

24 THE CLERK: What says the defendant?

25 MR. ROUTZONG: Please seat Mr. Hastie.

1 THE CLERK: Please have a seat in the jury box.

2 Juror number 147 Lutricia Rudd.

3 (WHEREUPON, a black female, comes forward.)

4 THE CLERK: What says the State?

5 MR. MEADORS: Please present the juror.

6 THE CLERK: What says the defendant?

7 MR. ROUTZONG: Please seat Ms. Rudd.

8 THE CLERK: Please have a seat in the jury box.

9 Juror number 143 Kristin Rhodes.

10 (WHEREUPON, a white female, comes forward.)

11 THE CLERK: What says the State?

12 MR. MEADORS: Please present the juror.

13 THE CLERK: What says the defendant?

14 MR. ROUTZONG: Please seat Ms. Rhodes.

15 THE CLERK: Please have a seat over here.

16 THE COURT: Are there any matters of law
17 pertaining to the selection of jurors on behalf of the
18 State?

19 MR. MEADORS: No, sir.

20 THE COURT: On behalf of the defense?

21 MR. ROUTZONG: No, sir.

22 THE COURT: Okay. Those of you who are not
23 selected to serve on this jury the clerk is going to
24 check, but I think you all got to go to the other
25 courtroom in front of Judge Cooper and see if he needs

1 you. If you hang on just a second, I'll know an answer to
2 that. Yes, you need to go down the hall to courtroom A.

3 (WHEREUPON, the jury panel is excused.)

4 THE COURT: Ladies and gentlemen of the jury, I
5 have some matters of law that I got to take up outside of
6 your presence and I'm not real sure how long it's going to
7 last and it may last the rest of the day. So instead of
8 having you sit here all day, I'm going to send you home
9 and ask you to be back at 9:30 in the morning and then we
10 will begin the testimony of this case.

11 Now, I caution you you been selected to serve on
12 this jury and it's important that everything you know
13 about his case you learn in the courtroom. So I don't
14 want you to read anything maybe in a newspaper or on TV or
15 radio or anything. I don't need you to get on the
16 internet or social media. I don't want you to Google
17 anybody. I don't want you to do any research whatsoever.
18 In the morning, I will instruct you as to what your duties
19 and responsibilities are. In the meantime, don't do any
20 research and I'll see you back at 9:30 in the morning.
21 Having said that, I need all of you to be back at 9:30 in
22 the morning. If you have some emergency overnight, you
23 need to call the clerk's office. If you can't get
24 through, you call law enforcement or 9-1-1 or somebody
25 because if you not here and we haven't heard from you, I'm

1 going to send the deputies out to look for you and bring
2 you in because I can't get started to all of you show up.
3 So I hope all you of you won't have an issue and you'll be
4 here at 9:30. If you have some emergency overnight, you
5 got to contact us, okay. I'll see you in the morning.
6 Thank you. You'll come straight to the jury room. He's
7 going to show you what room to go to and then you'll come
8 straight down. And then I'll get you out as quick as I
9 can in the morning at 9:30. Thank you so much.

10 (WHEREUPON, the jury excused for the day.)

11 THE COURT: Okay. Now, tell me what you all
12 want to do at this point. You want to go to lunch and
13 come back or you want to start. I don't care.

14 MR. MEADORS: We've discussed it and it's okay
15 with you to go to eat and come at back two and then knock
16 out the Jackson vs. Denno. And hopefully have the rest of
17 the exhibits we could agree on and couple other issues he
18 had.

19 THE COURT: Okay. Well, since it's only 12:15
20 you all want to come back at 1:30? I mean, we need that
21 long of a dinner or lunch hour?

22 MR. MEADORS: That's fine.

23 THE COURT: I don't want to rush you, but I'm
24 sitting back there twiddling my thumbs for two hours.

25 MR. MEADORS: Yes, sir, that will be fine if you

1 give us that.

2 THE COURT: We will be back -- 1:30 give you
3 enough?

4 MR. MEADORS: Yes, sir. We'll be ready.

5 THE COURT: Okay, I'll see you all at 1:30.

6 (WHEREUPON, a lunch break was taken.)

7 THE COURT: You ready?

8 MR. MEADORS: Your Honor, at this time the State
9 would call Sergeant Wayne Dubose.

10 BAILIFF: State your name please?

11 THE WITNESS: Wayne Dubose.

12 BAILIFF: Do you solemnly swear or affirm that
13 your testimony will be the truth, the whole truth and
14 nothing but the truth so help you God?

15 THE WITNESS: Yes, sir.

16 BAILIFF: Thank you very much, sir. Step around
17 please. State your name for the record and spell your
18 last name please.

19 THE WITNESS: Wayne Dubose. D-U-B-O-S-E.

20 WHEREUPON,

21 Wayne Dubose,

22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION IN-CAMERA

24 BY MR. MEADORS:

25 Q Good afternoon, Sergeant Dubose.

1 A Good afternoon.

2 Q Sergeant, you the chief investigating officer?

3 A Yes, sir.

4 Q And please tell the judge where this incident
5 happened?

6 A This occurred at [REDACTED] [REDACTED] [REDACTED]
7 [REDACTED] North going toward Rembert.

8 Q Just to give the Judge, he may know where it is. If
9 I'm leaving on [REDACTED] heading toward Rembert, where is it?
10 As the four lanes starting to come to where is it in that
11 vicinity?

12 A Just before that as soon as you go under the bypass
13 by Hill Crest School soon as you go under the bypass
14 [REDACTED] [REDACTED] is actually part of -- it's on the left and
15 then there's another part on the right. This incident
16 actually occurred on the left-hand side of I-21.

17 Q And that's actually [REDACTED] [REDACTED] [REDACTED] West?

18 A That's right.

19 Q And [REDACTED] [REDACTED] [REDACTED] East is on the other side
20 of the four lanes, correct?

21 A Correct, right.

22 Q And then is that where you initially responded to
23 [REDACTED] [REDACTED] [REDACTED] East?

24 A [REDACTED] [REDACTED] -- that's right I responded to east.

25 Q [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]?

1 A That's right.

2 Q And why did you respond there?

3 A What was that?

4 Q Why did you go there, Wayne?

5 A There was a report of a sexual assault. Patrol
6 officers were actually out with the victim Ms. A.G. at
7 that time. And I was riding there as I responded out
8 there.

9 MR. MEADORS: Is that echo bothering you?

10 THE COURT: Yeah, but, I mean, it does, but I
11 don't know what to do about it. I can hear. If I got a
12 jury in here, something's got to change before now and
13 tomorrow. The biggest problem is whether the court
14 reporter get it down. She's the one got to get it.

15 COURT REPORTER: It's hard with that noise
16 coming through.

17 (WHEREUPON, a pause in the proceedings.)

18 BY MR. MEADORS:

19 Q You responded to [REDACTED] East?

20 A Yes, sir.

21 Q Can you hear, okay?

22 A I'm getting that feedback through these hearing aids
23 too, but we're good.

24 MR. MEADORS: Investigator Dubose has a hearing
25 aid and I don't want him to not to hear.

1 THE COURT: I know. That little gray box right
2 there is flashing. Is there anyway we can -- they
3 couldn't access that and turn it down?

4 BAILIFF: When you see the timer start moving,
5 that's when the system automatically back on. They didn't
6 show us nothing about how to operate it.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MR. MEADORS:

9 Q Investigator, going back to the last, did you have
10 occasion to respond to [REDACTED] [REDACTED] [REDACTED] East
11 in Rembert?

12 A Yes, sir, I did February 22nd.

13 Q Of 2017?

14 A That's right.

15 Q Why did you go there?

16 A There was a report on sexual assault patrol officers
17 were out with the victim, Ms. A.G., at that time.

18 Q Ms. A.G. ?

19 A Yes, sir.

20 Q And did you see Ms. A.G. when you got to [REDACTED]
21 [REDACTED] east?

22 A I did. She was actually getting in the ambulance
23 when I got there.

24 Q Okay. And were you able to briefly talk with her?

25 A I did.

1 Q And did she give you a description of an individual
2 that had committed the allege assault?

3 A She did. I talk to her and took some photos of her
4 at that time.

5 Q Did she describe the person and what they were
6 wearing?

7 A She did.

8 Q And you saw her at the [REDACTED] east?

9 A She did. She described Mr. McElveen said he had a
10 turquoise shirt and tan shorts on.

11 Q And you say McElveen, did she give you his name?

12 A She did.

13 Q She knew him by name and sight?

14 A She did.

15 Q Okay. About what time was this do you know?

16 A If I look at my report, I think it was midday around
17 two.

18 Q Could it have been earlier in the day?

19 A Around lunchtime.

20 Q Okay. And when you left the mobile home park east,

21 [REDACTED] East you had the name of a
22 suspect, description of what he was wearing, correct?

23 A Yes, sir.

24 Q And what did you do then?

25 A Myself and some other officers went over to the other

1 portion of [REDACTED] West and I was actually going over
2 to take a photograph of Mr. McElveen's residence. So we
3 could get a search warrant for his residence. And at that
4 time I saw a white male wearing that clothing was walking
5 up from where the victim's residence was at. He walked
6 over to the mailbox. At that time me and other officers
7 approached him and we identified him as Mr. McElveen.

8 Q So was he wearing the same clothes that Ms. A.G.
9 had told you he was?

10 A Yes.

11 Q And is that what draw your attention to him to start
12 with?

13 A Yes.

14 Q All right. So you approached him -- where were you
15 in the mobile home park?

16 A I was actually pulling up to his residence to take a
17 photograph when I saw him walking. Actually, I would
18 describe from her residence there's a little road right in
19 front of her residence, which is a little circle in the
20 park he was walking from that direction and he stopped at
21 the mailboxes.

22 Q You may not have the numbers on you right now, but
23 are there residence -- were they living close together?

24 A Yes, probably within a 100 yards.

25 Q Okay. Tell the judge you see the defendant Edward

1 McElveen, what did he do?

2 A Well, I got out with him at that time and approached
3 him. After talking to the victim, I knew that she had
4 told me that he had a handgun on him, so I was concerned
5 about that, approached him asked him if he was
6 Mr. McElveen and he acknowledged, yes, he was. I ask him
7 at that time if he had any weapons on him, I was going to
8 pat him down. At that time I started to pat him down and
9 he did have a revolver, .22 revolver in his right front
10 pocket.

11 Q Do you remember how many bullets were in there?

12 A Two bullets.

13 Q And at this point and for these purposes, did you
14 know about his prior record?

15 A Not at that time.

16 Q Okay. Did you know whether or not he should have
17 hand a gun?

18 A I knew he was not suppose to possess it, but I had
19 not looked at his history to verify that, but I was told.

20 Q How did you know he wasn't suppose to possess it?

21 A I believe at that time -- maybe by Ms. A.G. told me
22 he was a registered sex offender, so at that time I just
23 took he was not suppose to have a gun.

24 Q You had something in your mind that you actually ask
25 him about that, right?

1 A I did.

2 Q All right. Once you've identified him and he was
3 Edward McElveen, did you have an occasion to read Miranda
4 rights to him?

5 A I did. After I secured the weapon and took it to my
6 truck, I came back and advised him of his Miranda rights
7 and I actually grabbed my recorder at that time so I would
8 have it all recorded.

9 Q And is this your body mic you're talking about?

10 A We did not have a body cam at that time. It was just
11 my digital recorder I had with me.

12 Q Okay. And who else was with you when you did -- read
13 Miranda rights to the defendant?

14 A Corporal Ron Dodson. I think Corporal Gillette and a
15 few other patrol officers were there when we approached
16 him.

17 Q Can you describe Mr. McElveen's demeanor to the
18 judge?

19 A He was calm when we approached him. He readily
20 talked to me.

21 Q When you were asking him questions like, you know,
22 who he was and if he had a gun, did he appear to
23 understand your questions?

24 A He did.

25 Q Okay. Could you understand his responses?

1 A Yes, sir.

2 Q Were they subject matter appropriate responses?

3 A Yes, sir.

4 Q And were they timely -- I mean, did you have any
5 trouble -- he had any trouble answering them?

6 A He gave me his version of what happened.

7 Q So he appeared to you to understand your questions in
8 general and could you understand his answers that he gave?

9 A Yes, sir.

10 Q Okay.

11 MR. MEADORS: Your Honor, at this point I think
12 we will mark this State's or mark it as Court's Exhibit 1
13 that be the audio of the rights that were given to Mr.
14 McElveen on February 22nd 2017 by Sergeant Dubose.

15 THE COURT: Okay.

16 (WHEREUPON, Court's Exhibit No. 1 was marked for
17 the record.)

18 (WHEREUPON, audio being played for the judge.)

19 BY MR. MEADORS:

20 Q Now, Investigator, back to when you read him your
21 rights and that was you reading the rights on there,
22 correct?

23 A That was.

24 Q After you read it, did he indicate that he understood
25 them?

1 A He did.

2 Q And after that, you said do you want to talk and was
3 his response, well, you can ask me something?

4 A I think he said you can ask me questions or something
5 of that nature.

6 Q So did he tell you I don't want to talk to you?

7 A No, he did not.

8 Q Did he request a lawyer?

9 A He did not.

10 Q And if he done so, you would have stop talking?

11 A Yes, sir.

12 Q All right. Now, any time during the reading of those
13 rights, did you threaten him or coerce him any time during
14 this process?

15 A No, sir.

16 Q How about any hope of reward in return for a
17 statement?

18 A No, sir, he was actually transported to the office to
19 give a written statement. And when he got to the office,
20 he told the officer there that he wanted an attorney so
21 they took him straight to the jail.

22 Q So he decided he didn't want to talk once he got to
23 the office, but prior to that, he had not indicated that
24 he wanted an attorney or didn't want to talk to you,
25 correct?

1 A That's correct.

2 Q Okay. And did -- you said you got the weapon?

3 A I did.

4 Q Did you know him before this Mr. McElveen, did you
5 ever meet him?

6 A No, sir.

7 Q Okay. And I certainly don't know him. Did his voice
8 sounded like -- did he appear that he been drinking or
9 under the influence or anything? I just listened to that
10 I was wondering did you detect anything? I don't know.

11 A I couldn't smell anything on him, but he did have a
12 silver flask in his pocket and it was full of liquor. But
13 at that time I couldn't tell whether he had been drinking.
14 He didn't appear to be intoxicated, but he did have that
15 liquor on him.

16 Q Okay. Did you determine there was liquor in there
17 did you smell it?

18 A We opened it up and it was filled to the top. You
19 could tell it was some type of liquor.

20 Q Okay. Did you -- I didn't hear it on there and if it
21 did, I'm sorry. Did you ask him if he had been drinking?

22 A I don't think I did.

23 Q But you understood his answers and he appeared to
24 understand your questions throughout this whole process?

25 A That's right.

1 Q And did you write down any -- did you take a written
2 statement from him at the scene?

3 A I took a recording that was it. I was gone actually
4 have another officer get a written statement when he got
5 to the office, but then he eventually lawyered up at that
6 time.

7 Q Okay. This is a true on-the-scene questioning,
8 correct?

9 A As you hear it.

10 Q And he didn't ask for anything to eat or to use the
11 bathroom, but if he had, I'm sure you would have let him,
12 correct?

13 A Yes, sir.

14 Q And was he arrested then on the weapon charges?

15 A He was arrested on the scene, yes, sir.

16 Q And is this Edward McElveen sitting to the right of
17 Mr. Little?

18 A Yes, sir, it is.

19 Q You took the statement from him on February 22nd
20 2017?

21 A Yes, sir.

22 MR. MEADORS: Thank you, Judge, that's all.

23 THE COURT: All right. You got any questions?

24 CROSS-EXAMINATION IN-CAMERA

25

1 BY MR. ROUTZONG:

2 Q Afternoon, sir.

3 A How you doing?

4 Q Can you describe for us just a second when you came
5 on scene, you saw Mr. McElveen outside?

6 A He was walking. In [REDACTED], you have his
7 residence down by the lake. It's actually several
8 trailers in there. It's like a circle. As I pulled in, I
9 was pulling up to his trailer and there's a road that goes
10 to the right which goes to the victim's residence. He was
11 actually walking down from that area and then he walked
12 over to the mailboxes.

13 Q Yes, sir. When you rolled up in your car, you didn't
14 have that recording device on, I guess, right?

15 A No, sir, it was actually in my cup holder at the
16 time.

17 Q When you got out of your car and you approached Mr.
18 McElveen, what did you talk to him about?

19 A First of all, I knew he fit the description as far as
20 clothing. Of course, he was in that mobile home park.
21 There's only 11 or 12 trailers in there I believe and I
22 got out immediately and asked him was he Mr. McElveen and
23 he said yes. And the information I got from the victim
24 that he had been armed, I went ahead -- and I was
25 identified. I believe I had my uniform on, was in an

1 unmarked vehicle. And at that time I went ahead and
2 patted him down knowing that he possibly had a weapon on
3 him.

4 Q And he asked you what was going on?

5 A At that time when I went to pat him down, I don't
6 remember if he replied what was going on, but after I
7 located the gun on him, when I took him back and secured
8 it at the truck and came back, at that time I told him
9 what's on the recording, exactly why we were there, what
10 was going on.

11 Q Before the recording was on, you told him that there
12 was an allegation against him that there was a sexual
13 assault allegation on him?

14 A I believe I told him why we were out there.

15 Q That was before the recording?

16 A Yes, sir, possibly, yes, sir.

17 MR. ROUTZONG: Okay, thank you. I don't have
18 any other questions, Your Honor.

19 THE COURT: Okay. All right.

20 MR. MEADORS: We don't have anything else. We
21 have not made the decision whether we're going to offer
22 that. Mr. Routzong has said he would not ask investigator
23 -- Sergeant Dubose about that if we didn't offer it, so we
24 thank you thank him for that. We did offer -- I think
25 there's some things he may want to redact. Until we get

1 to that point, I don't know if we need to go over that or
2 not.

3 MR. ROUTZONG: Your Honor, we can address that
4 now or we can address it if they decide to offer it. The
5 only thing that's bad about it is if he doesn't testify
6 there is that part where Investigator Dubose tells him,
7 hey, you know, you're not suppose to have a gun. Yeah, I
8 know that would obviously be the inference being he's been
9 convicted of something, that's something that would could
10 of impeach him before -- even if he decides not to
11 testify. It's only about eight seconds of the whole
12 thing.

13 THE COURT: Outside of that, you have any
14 objection to it being offered? I mean, it appears that it
15 was freely and voluntarily given. He was advised of his
16 Miranda rights. He said he understood them. He didn't
17 appear to be in custody even though the argument could be
18 made that he may not have been free to leave. It depends
19 on whether he thought he was in custody, but even if he
20 was in custody, I think his Miranda rights were given to
21 him. So do you have any issues about it being admissible
22 short of redaction?

23 MR. ROUTZONG: No, sir.

24 THE COURT: Okay. All right. So if you decide
25 to offer it, Mr. Solicitor, then we need to deal with it.

1 MR. MEADORS: I understand. We'll be prepared
2 to redact it.

3 THE COURT: Anything else? Can you all mark
4 some evidence and get some of that out of the way?

5 MR. MEADORS: We do have numerous pictures. Our
6 evidence custodian should be here momentarily. We
7 certainly can do that. I think he had a couple other
8 motions.

9 THE COURT: Oh, I'm sorry. You got anything
10 else?

11 MR. ROUTZONG: Judge, the only other thing is a
12 couple of things one of which is his prior record if he
13 decides to testify. There are some things on his record
14 that the State can impeach him with. One of them is
15 assault and battery. There's a criminal sexual conduct
16 conviction. All of those seem to fit within the ten years
17 that he's -- 609 and he's allowed to impeach him with.

18 Your Honor, I would just argue that those are
19 very close to the types of crimes that are alleged here
20 particularly the criminal sexual conduct. I think, Your
21 Honor, that doesn't really survive a 403 test. I think
22 the prejudicial nature outweighs the probative value and
23 there is the alternative of just impeaching him with a
24 statement like you were convicted of a felony on such and
25 such a date. The assault and battery is actually -- I

1 think, it's two of them. One of them is a common law
2 although it does fit the requirements of 609, it's still a
3 misdemeanor. Then there's also an assault and battery
4 first degree that I think's a felony that's under the new
5 law, so they can impeach him with all those. Assault and
6 battery is also mighty close to the circumstances in this
7 case, Your Honor.

8 THE COURT: So what's the State's position on
9 that?

10 MR. MEADORS: Judge, one second please. Judge,
11 the CSC first, kidnapping pled to CSC third and assault
12 and battery of a high and aggravated nature 2005. He got
13 ten years. We have agreed that this was after his time
14 would be within the limit seems like that was a
15 misdemeanor back then the old ABHAN a ten year
16 misdemeanor.

17 THE COURT: It was.

18 MR. MEADORS: We would like to be able to ask
19 him if he had a conviction for assault and battery of a
20 high and aggravated nature. I don't think in and of
21 itself the jury would know that it dealt with a female
22 indecent liberties, it was a of lesser included offense.
23 Obviously -- or a direct presentment I don't know how they
24 came up with it. It was out of North Charleston.
25 Obviously, the CSC third we refer to whatever Your Honor

1 rules. If not, let us go into the fact there was a CSC
2 third that at least I'm assuming that was a felony.
3 However, Your Honor would propose that we ask him about
4 it. The other one, Your Honor, is just one from -- well,
5 there's a sexual offender registry in 2011, but anyway
6 assault and battery first degree which I believe was an
7 attempted murder, but pled to assault and battery first
8 under the new law from 2012. Again, that, in and out of
9 itself doesn't indicate that it was a -- I believe he cut
10 the throat of a lady he was dating. I don't think that in
11 and of itself says he's more likely to have committed
12 these crimes but -- and, Your Honor, maybe we can think
13 about it over the next couple of days and find some more
14 cases, but we both agree that that's the extent of what
15 could be asked.

16 THE COURT: Okay.

17 MR. ROUTZONG: Your Honor, this kind -- I didn't
18 mean to interrupt your thoughts there, but a couple things
19 I wanted to ask add to it. This is really a credibility
20 case and that under State vs. Broadnax I believe if I can
21 pull that cite for you. Well, that doesn't have the cite,
22 it has the advance sheet number on it. I'll look up that
23 cite. But anyway a couple of things that you're supposed
24 to take into consideration is whether or not the
25 credibility is of the witness and the defendant in this

1 case is of a very important nature. In this case, that's
2 all we got. We have her saying one thing, him saying
3 another, so credibility when you start talking about
4 assault and battery and basically one of the things I
5 believe she will testify to is that he hit her with
6 something. May not be male or female, Your Honor, but in
7 the necessarily obvious or the obvious confirm that there
8 was against -- confirm said it was against a woman.
9 However, just the name of assault and battery that tends
10 to kind of enter into that, well, he did it once. He'll
11 do it again type of thing and he can impeach him. The
12 evidence goes both ways in this Your Honor. It's going to
13 be a credibility contest. And I just think that's kind of
14 an advantage towards the State that's not necessary. It
15 can give the defense an issue that's not really necessary.

16 THE COURT: Okay. And I understand your
17 argument. I'll be glad to read that case, but I need to
18 listen to the facts.

19 MR. MEADORS: All the acts I've got, it's a July
20 of 2015 opinion and I thought that dealt with the armed
21 robbery.

22 THE COURT: It did. That's the one from Two
23 Notch that Judge G. Thomas Cooper heard and he had prior
24 armed robberies and they decided that armed robbery was
25 not a crime of moral turpitude.

1 MR. MEADORS: It says the judge should have
2 prevented a balancing test before that.

3 THE COURT: Right or it's not a crime of
4 dishonesty because a crime of dishonesty ---

5 MR. MEADORS: Justice Hearn and Pleicones
6 conferred result I believe to armed robbery is a crime
7 involving dishonesty.

8 THE COURT: I know ---

9 MR. MEADORS: Shoplifting is a crime of
10 dishonesty.

11 THE COURT: We had that same issue. I
12 understand that's the law they set out. I don't know how
13 they reached that conclusion, but they changed the law in
14 this state when they did so I don't know.

15 MR. MEADORS: I don't think that's the issue
16 here.

17 THE COURT: No, it's not. It's a balancing
18 test here as to whether, you know, the prejudicial value
19 outweighs the probative value. And I don't know on its
20 face that just the fact he's been convicted of assault and
21 battery in the past hits close enough on this case. It's
22 different. -- CSC is a different ball game. I don't know
23 I'll think about it. I mean, you need me to rule right
24 now? I can let you know tomorrow. I mean, obviously, he
25 needs to know that before he takes the stand. And it's a

1 crime. It's within the ten years. It carries more than
2 one year, so it qualifies if the 403 qualify. So all
3 those are in place. And I'm going to let him impeach him
4 on some degree whether it's the exact words or the fact
5 he's been -- so you need to at least plan your trial
6 strategy along those lines.

7 MR. MEADORS: Of course, Your Honor, we would
8 not attempt -- whether we should have or not I don't know,
9 but we're not trying to lying on anything. So we would
10 not be going back into the facts or asking him about this.

11 THE COURT: Right. So wouldn't let any of the
12 facts in. And I don't know that assault and battery on
13 its face would create that problem especially if no facts
14 come in and he's not charged with assault and battery here
15 either. It's CSC and kidnapping and possession of a
16 weapon, so I don't know that the connection's there
17 especially with a jury. I'll let you all know. I will
18 think about it.

19 MR. MEADORS: Thank you.

20 MR. ROUTZONG: Thank you. The other thing I
21 thought we had agreed Mr. Meadors and I had agreed maybe
22 we didn't about my being able to inquire about her past
23 relationship with Mr. McElveen and specifically were they
24 involved sexually. And I think the Solicitor has some
25 concerns under 16-3-659(1)(2), but if he doesn't mind me

1 asking about that, I don't think we -- the kind of rape
2 shield type issues if he'll agree that's okay.

3 MR. MEADORS: Judge, we have two issues
4 regarding -- we have discussed and I did agree with him.
5 I think the prior relationship is relevant and I was
6 planning on bringing it out, so I don't think that will be
7 an issue.

8 THE COURT: Okay.

9 MR. MEADORS: They had been together previously
10 we're not going to try to hid that or cover it up.

11 THE COURT: All right.

12 MR. MEADORS: There's another issue the
13 defendant makes an allegation that Ms. A.G. had an
14 affair or sexual encounter with a Mr. Eddie Richardson who
15 owns the trailer park pastor in the area. Obviously,
16 that's absurd in the State's opinion, but we believe that
17 was what got Mr. McElveen upset. Mr. Richardson since he
18 owned the trailer park would come by Ms. A.G.'s trailer.
19 She was the manager there just to pick up rent once or
20 twice a month. I think he saw his truck there and got
21 upset. He actually called Mrs. Richardson, the wife of
22 Eddie Richardson, and made threatening remarks over the
23 telephone and told Mrs. Richardson that her husband had
24 been -- that her husband was sleeping with Ms. A.G. He
25 then wrote a letter to the victim in this case Ms. A.G.

1 taken to Mr. and Mrs. Richardson where there were
2 threatening -- where threats were made to Mr. Richardson.
3 As a result of that, the defendant was given a letter that
4 he have to leave the mobile home park within 30 days. We
5 believe part of that is his motive for this quite frankly.
6 This happen a few days before their 30 days were up.
7 Usually I would move to exclude any reference to a prior
8 sexual encounter with the preacher and unless I change my
9 mind overnight, it's almost sought -- woven into this.
10 It's hard to tell the story without telling it. It's one
11 of those. And I've discussed that with Mr. Routzong and
12 my intent right now Routzong unless Your Honor let me
13 sleep on it again would be that just to let it all come
14 out quite frankly.

15 THE COURT: Okay.

16 MR. MEADORS: I think the defense is not oppose
17 to that either if we decide go that route.

18 THE COURT: Okay. Is that right?

19 MR. ROUTZONG: I agree with that, Your Honor.
20 In fact, it just about has to come out. It doesn't really
21 matter whether there was such a relationship. The only
22 fact these to be presented to the jury is that there was
23 the allegation he got evicted and that caused some
24 troubles between Ms. A.G. and Mr. McElveen. That's
25 really the only thing that I'm interested in. I'm not

1 interested in whether there was -- that it was truly a
2 relationship or not; that's not important, not relevant.

3 THE COURT: Okay. So it goes to motive on both
4 sides.

5 MR. MEADORS: Exactly. I think you had another
6 motion.

7 MR. ROUTZONG: Oh, I'm sorry. Your Honor, we
8 were going to ask you to consider sequestering the
9 witnesses. It's all really about credibility. We don't
10 won't anybody changing their story to fit anybody else's
11 story and that's the basis for our motion, Your Honor.

12 MR. MEADORS: As long as it goes both ways, we
13 don't have a problem. Ms. A.G. is here with her
14 daughter who is not on the witness list. The only other
15 witness which I believe he said is okay Investigator
16 Shantell Ward. Are you okay with her staying in here?
17 This her first trial and she just wanted to observe it.

18 THE COURT: Okay.

19 MR. MEADORS: Mr. Richardson will be here. The
20 property manager Ms. Williams will be here. We'll make
21 sure they're sequestered tomorrow.

22 THE COURT: Okay.

23 MR. MEADORS: Beg the Court's indulgence.
24 Judge, as far as DNA, we will be working tomorrow. I
25 don't think it will be a dispute. I'll work with Mr.

1 Routzong to see how many of those witnesses we can
2 curtail. I do have SLED coming in Wednesday morning right
3 now. If we could finish the rest of the case tomorrow, I
4 think that will be a good time frame we definitely could
5 finish up by Wednesday. I truly believe that.

6 THE COURT: Okay. All right. Anything else?

7 MR. MEADORS: Judge, we will stay and look at
8 the pictures right now. Hopefully, we'll have those ready
9 to go in the morning.

10 THE COURT: Okay. All right. And I'm going to
11 go try to find the clerk and see if we can't have this
12 audio system fixed by tomorrow.

13 MR. MEADORS: It's your plan to go like we're
14 doing right now tomorrow?

15 THE COURT: Well, what I love to do is to use
16 the system, the old system with the P.A. system and not a
17 new system and not have all the screen through system
18 because we can control the old system. And they won't let
19 us cut it off and now it's messed up our system. I don't
20 know. And they won't let us cut it off here, but we got
21 to figure something out. You know, that's one issues if
22 they can cut it on and off in Columbia, they can also
23 listen on and off in Columbia. We'll start back at 9:30
24 in the morning. You all got anything else you want me to
25 do?

1 MR. MEADORS: That's all.

2 (WHEREUPON, the proceedings were concluded for
3 the day to be reconvened on January 23, 2018.)

4 THE COURT: All right, here's the situation, we
5 got one juror that didn't show up. They're trying to find
6 him. I can put an alternate in place and go ahead and
7 start or we can send deputy for him. What you all want to
8 do?

9 MR. MEADORS: We're ready to role whatever Your
10 Honor says.

11 THE COURT: Okay. It's not like they contacted
12 him, he overslept. He's ten minutes late. They can't
13 find him, so I'm incline to go ahead and get started.
14 We got two alternates hopefully -- unless, I hear some
15 strong objection some reason why we shouldn't do that. So
16 what's you all position?

17 MR. ROUTZONG: Your Honor, we just go ahead. We
18 don't have any objection.

19 THE COURT: All right. We ready to get started.

20 MR. MEADORS: Judge, let me finish tying my
21 shoe. Okay, thank you.

22 THE COURT: Okay. Bring me the jury. And you
23 all proceeding on all three counts, right?

24 MR. MEADORS: Judge before we ---

25 THE COURT: Hold on just a minute.

1 MR. MEADORS: Judge, the only snafu we had, we
2 had downloaded a lot of the pictures of victim's entries.
3 Mr. Miller had and spent a good bit of time on it. Some
4 of them came out different color -- just had a little bit
5 look to them that the defense objected to yesterday
6 afternoon as we were going through it. So what we decided
7 to do is just play them through -- show them through the
8 projector. We may have to, I guess, we'll mark the CD,
9 but if they want to look at them again, we may have to
10 figure out put them on a different disk by the time we got
11 to closing. Just because when they print, he objects to
12 the printed copy versus the original that shows. We just
13 going to show them straight off the CD.

14 THE COURT: But somehow I got to have something
15 to go back to the jury room or somewhere to put it in the
16 record. Maybe we can get it worked out by then or they'll
17 have to come out and look at them again.

18 MR. MEADORS: Yes, sir, okay.

19 THE COURT: Okay. Anything else before I bring
20 them in?

21 MR. MEADORS: No, sir, that's all. Thank you.

22 THE COURT: All right, sir.

23 (WHEREUPON, the jury came into open court.)

24 THE COURT: You may swear them in.

25 (WHEREUPON, the jury is sworn.)

1 THE COURT: Okay. Ladies and gentlemen, we're
2 about to begin the trial of the State of South Carolina
3 vs. Edward McElveen. And I'm going to basically give you
4 some introductory remarks to explain to you your role in
5 what you are to expect throughout this trial and explain
6 to you your job. Now, the defendant, Mr. McElveen, has
7 been charged with crimes of criminal sexual conduct in the
8 first degree, kidnapping and possession of a weapon during
9 the commission of a violent crime. The elements of these
10 crimes I will explain to you at the end of the case. I
11 will not charge you on the law at this point. This is an
12 indictment. It is simply a charge in this case. It is
13 not evidence in this case. And to these charges the
14 defendant has entered a plea of not guilty. Therefore, it
15 places the burden upon the State of South Carolina to
16 prove each and every element of this indictment to you
17 beyond a reasonable doubt.

18 Your job as jurors is to determine what the
19 facts are in this case. You are to listen to the evidence
20 that comes in in this case and determine what the facts
21 are. My job is to rule upon whatever evidence I rule
22 you're entitled to hear and to charge you on the law. I
23 cannot have an opinion about the facts and it's very
24 important that you pay close attention and get it right
25 because if you make a mistake, it is very hard to change

1 that or correct that. If I make a mistake, at some other
2 time and some other place, it will be reviewed and it can
3 be corrected. But usually it's very difficult to correct
4 your mistake, so I need each one of you to pay close
5 attention to the evidence in this case. And the evidence
6 is going to come to you in basically three forms through
7 sworn testimony from the witness stand. Witnesses will
8 come before you under oath and testify about the things
9 that they observed or that they know. And the other way
10 you may receive evidence is exhibits that the attorneys
11 put in under our rules photographs or documents. And the
12 third way that you will receive evidence is through
13 stipulations of the attorneys. The attorneys agree or
14 stipulate that they should come in as evidence, but those
15 are basically the three ways that you will receive
16 evidence.

17 Now, in a few minutes, the State is going to get
18 up and make an opening statement. Defense counsel has the
19 right to do that too even though they don't have to but
20 most of the time they do. And the lawyers are going to
21 tell you what they think the evidence is going to show in
22 this case or what the evidence is not going to show in
23 this case. Those opening statements are not law. They
24 simply going to explain to you what this case is about and
25 what they think the evidence is going to show. It is not

1 evidence in this case. Only the evidence in this case --
2 the answers from the witnesses as well as exhibits and any
3 stipulations even the questions that the attorney's ask is
4 not evidence. So your job is to determine the facts in
5 this case based on the evidence that you hear.

6 Now, I will try to stop every hour and take a
7 break every hour, hour and a half. I try not to stop in
8 the middle of a witness' testimony. I try to finish that
9 witness' testimony, but sometimes that witness is so long
10 we can't do that. Having said that, if at any time you
11 need a break, I need you to raise your hand and we're
12 going to take a break because I need each one of you to
13 pay close attention. If you're uncomfortable, you can't
14 pay attention. So if you're uncomfortable for any reason,
15 just let me know, we'll take a break and start back and
16 continue with the trial of this case. When we do take
17 those breaks, sometimes I have to send you out of the room
18 to rule on certain evidence that's admissible. And I have
19 to do it sometimes outside of your presence and then other
20 times I'll send you out during breaks.

21 When I send you out of the room, I'm going to
22 tell you you can't talk about this case. You can't talk
23 about it when you go home at night. You can't even
24 discuss it among yourselves. And you may say, well, after
25 we heard from one witness or two witnesses and we go back

1 on a break, why can't we talk about what that witness
2 said. And the reason I don't want you to do that is
3 because if you do that -- you know, after the first
4 witness if we took a break and you went back and talked
5 about the case, at the end of the case, you going to want
6 to defend their opinion you had at the beginning of the
7 case to your fellow jurors. So I don't want you to start
8 forming an opinion in sharing those with each other until
9 you've heard all the case. And as well as the law that
10 I'm going to charge you on. And then and only then will
11 it be appropriate for you to discuss the case.

12 You know our system of justice works when
13 everybody does what they suppose to. And you're a cross
14 section of the community, that's why we have 12 jurors.
15 Each one of us has certain prejudice and bias from our
16 growing up. We look at things differently. But usually
17 when you put 12 people that cancels all that out. And you
18 get what the true facts are in a case and you determine
19 what those facts are. And so that's why we have 12
20 jurors. And it's important that each one of you pay close
21 attention and each one of you express an opinion and you
22 come up with a verdict and it's an unanimous verdict that
23 all 12 of you agree on.

24 The State of South Carolina and this defendant
25 have picked you to be fair and impartial jurors and it's

1 important to both of them that you listen closely to the
2 evidence and you get it right. So in the end of the trial
3 after all the evidence is in, the attorney's going to get
4 up and make a closing argument to you. And they will
5 argue to you as to what they think the evidence shows or
6 did not show in this case. And then I'm going to charge
7 you on the law, explain the law and the elements of the
8 crime that he's charged with. And then you'll go back in
9 the jury room and deliberate and reach a verdict on the
10 facts in this case. And I'll explain to you as we break
11 for the evening I never know how long a case is going to
12 last, but based on what the attorneys tell me we should be
13 through with this case Wednesday or Thursday, but I don't
14 know. Sometimes, you know, they go faster beyond
15 anybody's control. But, you know, if you'll pay close
16 attention and listen to the attorneys they'll make an
17 opening statement. Thank you. Mr. Solicitor.

18 MR. MEADORS: May it please the Court.

19 THE COURT: Yes, sir.

20 MR. MEADORS: Mr. Routzong. Look in the barrel.
21 Look in the barrel, there's two bullets. One for you,
22 one for me. If you try anything, I'm gone kill you. I'm
23 gone kill you, then I'm gone kill myself. That's what the
24 defendant, Edward McElveen, told A.G. He
25 was gone do to her if she said anything or tried anything

1 before he sexually assaulted her and held her captive for
2 about eight hours, that's what he said to her before her
3 nightmare began on February 21st through the early morning
4 hours of February 22nd almost a year ago 2017. That's
5 what this case is about.

6 Good morning. Good morning. Thank you for
7 being here. Thank you for being here. I'm not just
8 saying that. Thank you for coming and answering a call
9 coming in to serve as jurors. As Your Honor told you,
10 there's no greater role than serving as a juror. The
11 community comes in and listens to the facts of a case and
12 decides it. His honor's the judge. He's the law. He is
13 the law. He knows as well as anybody. And he tell us
14 what the law is. He's the judge of the law, but you're
15 the judge of the facts. You decide the facts. You decide
16 what's credible, what's believable and isn't that pure.
17 Isn't that's why the system is so great. You all decide.
18 You come in listen to the facts, the judge gives you the
19 law and you decide what the truth is. And you gone do it
20 this week. And that's all we can ask of you, ask you to
21 listen, pay attention, to watch, and you'll know what the
22 truth is. And you'll come up with a verdict that reaches
23 the truth and that's all we can ask you. So thank you for
24 being here.

25 My name is John Meadors. I'm assistant

1 solicitor. I work for your elected Solicitor Ernest Chip
2 Finney, III, who was in here yesterday picking the jury
3 and was in here yesterday morning. He will be in and out
4 this week, but on behalf of Solicitor Finney, Sumter
5 Sheriff's Department with Wayne Dubose, Shantell Ward and
6 Mr. Miller, we want to thank you for being here. We
7 represent the State of South Carolina, the County of
8 Sumter if you will. Representing Ms. A.G.

9 raise your hand, the victim in this case against the
10 defendant, Mr. Edward McElveen, who is represented by Mr.
11 Little and Mr. Routzong as you have been introduced to
12 previously.

13 Judge told -- and I'm going to be brief with
14 what the defendant's charged with. He's charged with
15 criminal sexual conduct in the first degree, charge with
16 kidnapping and he's charged with possession of a firearm
17 during the commission of a violent crime. The last one is
18 kind of self explanatory. If you find that the defendant
19 is guilty of kidnapping or criminal sexual conduct in the
20 first degree and find that he did have a weapon while he
21 was doing it, that's basically the elements for count
22 three.

23 Kidnapping got a weird strange definition to it.
24 It's inveigle. It's just some words I don't even
25 understand quite frankly, but a kidnapping means you hold

1 somebody against their will. You confine them. They're
2 not allowed to leave because you want let them leave.
3 That's what a kidnapping is. Doesn't have to be in a
4 trunk or in a cooler or locked up somewhere forever. It
5 can last for a very short period of time as long as
6 someone controls and determines your movement and you're
7 not leaving because they say so and you want to leave and
8 they won't let you leave, that's kidnapping. And we
9 believe the evidence will show that there was a kidnapping
10 the evening of February 21st up until the early morning
11 hours of February 22nd.

12 Then finally the State's charged him with
13 criminal sexual conduct in the first degree. In order to
14 prove the defendant guilty of that, we must prove that the
15 defendant without consent committed a sexual battery upon
16 and with the body of Ms. A.G. and what's a sexual
17 battery. Sexual battery is sexual intercourse,
18 cunnilingus, oral sex or any intrusion however slight into
19 the body of another person. In this case, Ms. A.G.
20 without her consent. Well, what makes it first degree.
21 Well, the use of aggravated force, the threat of use of
22 aggravated force. One of the others or it's accomplished
23 during the commission of a kidnapping. I think we're
24 going to show you all three in this case maybe two, but
25 you only need one.

1 Sexual battery intrusion however slight either
2 sexual intercourse, oral sex something else with somebody
3 else's body. They didn't want it to happen. And you
4 either used force of a high and aggravated nature or you
5 threaten the use of it or the person is the victim of a
6 kidnapping when it happened. Any one of those ways can be
7 CSC first. And the judge will talk to you more in detail
8 about the law at the end and we will too, but that kind of
9 gives you a general overview of what the elements are of
10 the crimes that the State has accused the defendant of
11 committing.

12 Now, the burden on the case the State excuse me
13 -- in this case is the same burden on every prosecutor in
14 the country today thousands and thousands of cases tried
15 across the country. We must prove the defendant beyond
16 all doubt no, sir, no, ma'am. If that was the case, we
17 can -- you can close down this wonderful new courthouse.
18 We must prove the defendant guilty beyond a reasonable
19 doubt. We submit you'll find that, but that's up to you.
20 And we'll talk more about that later.

21 The judge has told you about the evidence most
22 eloquently and accurately. Direct evidence is evidence
23 that a witness perceives with one of their senses. They
24 see something. They smell something. They feel
25 something. Something happens to them they don't want to

1 happen to them and they can tell you about that. I saw
2 this. I felt this. I smell this. I touch this. That's
3 called direct evidence. You gather it and you come up
4 here, get on the stand and tell you all about it.
5 Circumstantial evidence is proof of a fact or a chain of
6 circumstances leading to another fact. Well, you didn't
7 see it, but based on this fact and this fact you know this
8 happened.

9 Judge mention some documentary evidence and
10 pictures. We gone have those. We gone have some other
11 type evidence. It's a little unusual in this case, not
12 unusual in these types of cases, but unusual in the
13 general cases. Hearsay is not admissible, makes sense
14 doesn't it. Somebody can't come in generally and say,
15 hey, so and so said this. Person has to testify to it.
16 But there's an exception in CSC cases. They use to call
17 these rapes -- I don't know when and why they changed it,
18 but it's a rape case criminal sexual conduct, but in
19 criminal sexual conduct cases, the law says limited
20 hearsay is admissible as to time and place. So you'll
21 know what I'm doing when witnesses get up here and we're
22 allowed to lead a little bit at this point. We'll say did
23 the victim tell you anything about an assault as far as it
24 relates to a time and a place. They won't be able to
25 repeat a name she said, but they'll be able to say did

1 she tell you about a time and a place. Well, yes, we
2 believe the evidence will show. She says she was
3 assaulted at [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] in two trailers
4 last night and early this morning. They'll be allowed --
5 if that's their testimony to present that to you and
6 that's sort of a hearsay that's allowed in these type
7 cases. So you'll know when that's elicited that's what's
8 going on. And you going to have to decide in every case
9 and in this case if the testimony is believable, that's
10 really -- as the judge said that's really what every case
11 comes down to and I show you in this case it will as in
12 all witnesses take the stand, put their hand on the Bible
13 and talk. And that's where all the qualities good and bad
14 we've all gathered throughout our lives and judging other
15 people and listen to other people, evaluate our children
16 and all. We gone use all those attributes to decide is
17 that person telling the truth or not, listen to them,
18 watch their body language.

19 You will determine what the truth is the
20 credibility believability. The judge will tell you you
21 can believe all of what somebody says or part of what they
22 said or none of what they said. That's up to you all what
23 they say and you'll know. It's almost common sense. You
24 didn't leave -- you didn't go to jury school for Mr.
25 Campbell when you came here how to be a juror, but you

1 been in that school your whole life. It's called living
2 and you bring those skills in here and your backgrounds
3 and you decide what the truth is and that's all we can ask
4 you.

5 What happened. Well, we gone take you back to
6 February 21st of last year. If you heading out of town on
7 ■■■, it's four lanes heading toward Rembert, heading
8 toward Camden. Everybody knows where we're going. As you
9 start to come down the hill before it turns into two lanes
10 on the left, you may see it more when you coming toward
11 Sumter than when you leaving, but on the left is the
12 ■■■ ■■■ ■■■ ■■■ ■■■. I don't know if any
13 of you know where it is or not, but we gone show you
14 pictures of it. That's where this happened. That's where
15 we going to take you in ■■■ ■■■ ■■■ ■■■ ■■■ on
16 February 21st was the -- where Ms. A.G. lived and where
17 Mr. McElveen lived. And the evidence is going to show
18 that Ms. A.G. and the Defendant Edward McElveen had
19 known each other for a period of time. I'm not really
20 sure right now, but a year or so I don't know, just can't
21 remember. But they known each other for a period of time,
22 had been in a relationship prior to this. Ms. A.G. 's
23 gone get up and tell you that in just a little bit. They
24 had been in a relationship prior to this been dating.
25 Didn't live together, but had been dating and the mobile

1 homes were very close to each other. We'll show you
2 pictures of those. At some point in February early part
3 of February, we believe the evidence will show that
4 Mr. McElveen thought Ms. A.G. was having a relationship
5 with the individual that owned the [REDACTED] [REDACTED] [REDACTED]
6 [REDACTED] a fellow name Mr. Richardson gone be here
7 this afternoon.

8 We believe the evidence will show he was
9 obsessed with it. That he called Mr. Richardson at their
10 house and professed it to Mr. Richardson's wife that your
11 husband's sleeping with my girlfriend. That he wrote a
12 note to the victim is addressed to A.G. She goes by A.G.
13 saying that basically you're sleeping with the GD
14 preacher. Mr. Richardson was a former preacher and he's
15 upset about it. As a result of that, phone calls -- the
16 phone calls from the letter to Ms. A.G., she then took
17 that to Mr. Richardson and showed it to them. Mr.
18 Richardson owned the trailer park. Ms. A.G. managed the
19 trailer park. She been out there for 40 years.

20 As a result of that, a letter telling the
21 defendant that he was no longer able to live in the
22 trailer park an eviction letter so to speak was delivered
23 to the defendant on or about February 2nd. We gone have
24 that letter and put it in evidence saying you gone have to
25 get out in 30 days. Mr. A.G. broke up with him around

1 that time period. I don't want to have anything else to
2 do with you. She's gone say these lies and these other
3 things. She's embarrassing him talking this way about
4 this other person which she will 100 percent deny. Didn't
5 want to have anything else to do with him. The clock is
6 ticking on these 30 days. The defendant we believe knows
7 he was going to have to leave. You get toward
8 February 21st and sometime that afternoon around five,
9 5:30, the defendant comes to see the victim. They're
10 still living close to each other, still were talking.
11 Relationship was over. No more relationship. It had
12 ended. She had ended the relationship because of his
13 actions. He comes over to borrow some food, she lets him
14 do it. And when you watch her, watch her, listen to her.
15 You gone be evaluating this lady's credibility and
16 believability and her heart when you watch her, watch her
17 and listen to her.

18 She gives him some food. He leaves, he comes
19 back says he wants some more food. At this point he says
20 we believe the evidence will show he says he wants to
21 use -- needs to you use the bathroom. He leaves. The
22 next thing, you know, he comes out. He takes some tape,
23 some duck tape and tapes Ms. A.G.'s hands behind her
24 back. He's in her living room and we gone show you these
25 pictures. There's a doorbell that rings. He hits her

1 with something either a gun or flashlight, knocks her down
2 on the floor, shows her a gun and says look in the barrel
3 there two bullets one for you and one for me. You say
4 anything or do anything I'm going to kill you. They stay
5 on the floor. He puts some kind of pressure on her chest
6 hits her. You gone see her injuries. One of them still
7 here from when he hit her in the face. He takes her back
8 to her room. At some point she'll testify the tape was
9 off her hands, takes her pants off and they -- he has sex
10 with her. Had a gun, told her he was gone kill her.
11 She's going to describe that to you.

12 Now, a lot of this isn't gone be easy, but she's
13 gone have to -- we have to prove intercourse. We have to
14 prove the intrusion, the battery. She's gone get up and
15 tell you about it, listen to her and watch it. That's
16 what it's all about. All you can consider is what comes
17 out of that stand. She's gone tell you -- I believe the
18 evidence will show was his penis inside of you at your
19 house, I don't know, listen to her, listen to her. Then
20 he takes her back to her residence we believe the evidence
21 will show -- to his residence, got her around her neck,
22 taking her back. Listen to her as she describes that.
23 Takes her to his house about one something in the morning.
24 Takes her back to his room, has sex with her again, was he
25 inside of you, we believe the evidence will show. She'll

1 say, yes, wearing a condom we believe the evidence will
2 show, no. Then for the next several hours they talked.
3 She talks to him, tries to talk him out of killing
4 himself, listen to her, listen to her. She tells him look
5 you find another place, I'll go with you trying to keep
6 him from hurting himself, trying to keep him from hurting
7 her. And at one --- I can't remember the exact time.
8 She'll testify sometime that morning he says, well, I'm
9 gone let you go. She said, well, I won't tell anybody
10 just let me go. Self preservation we believe it will
11 show, takes her back to her trailer, listen to her. We
12 presenting everything. She says I'll call you at four
13 o'clock to make sure you haven't killed yourself. She
14 says she calls at four o'clock. I don't know if she talks
15 to him or not, she calls him.

16 The next morning she's got a show a trailer at
17 [REDACTED] [REDACTED] [REDACTED] [REDACTED] East. I didn't know it was
18 there until I got involved in this thing. It's on the
19 other side of the road. She's showing trailers to
20 somebody. As she's leaving her apartment, she sees a
21 fellow name Richard, Richard Bradford been working there
22 forever maintenance helping with the park, listen to
23 Richard as he sees Ms. A.G. go by. We believe it's
24 testimony say Ms. A.G. something wrong with your tooth
25 and she's holding her hand up. She goes and looks -- goes

1 to the trailer park east, then sees the lady name Barbara
2 Williams. Ms. Williams looks at her says what's wrong
3 with you, what happen to you, what happen to your face.
4 She then tells Ms. Williams about time and place. I was
5 assaulted here. Then it happen last night and this
6 morning. She's gone tell you why she didn't call right
7 away. She's gone tell you what happen that day. Y'all
8 listen to her, listen to her, listen to her.

9 Police are called. Pictures are taken of her
10 face. She still got part of the tape on her hand. We
11 gone show you pictures of that. Law enforcement goes back
12 finds the tape at her house. He also put some kind of
13 tape over her mouth when that first doorbell rang, that he
14 took off. He gone see a picture of that. This man right
15 here Dubose is called. The victim is giving him a
16 description and a name. It's not an idea case. What he's
17 wearing. Dubose goes from [REDACTED] [REDACTED] [REDACTED]
18 East to [REDACTED] [REDACTED] [REDACTED] West sees the defendant
19 walking, matching the description comes up he's arrested.
20 He's got a gun on him. We believe the evidence will show
21 it's a gun that matches the description and it's got two
22 bullets in it one for her and one for him.

23 Ladies and gentlemen, that's all. Good, bad and
24 ugly, that's everything. That's what you gone hear.
25 You're gone meet Ms. A.G. in about ten to 15 minutes,

1 want be like a rickter (sic) meeting, but you gone meet
2 her through her testimony, where she's from, what she's
3 been doing in her life, and what happened this night and
4 this morning. And she's going to tell you and be subject
5 to cross-examination by Mr. Routzong. All we can ask you
6 to do is listen and use your common sense and you decide
7 if its credible. The word verdict means to speak the
8 truth. We respectfully submit after you've heard all the
9 evidence the verdict that speaks the truth is that on
10 February 21st and February 22nd, the defendant for
11 whatever reason decided he was gone to take, steal her
12 body one last time. He was gone take her whether she
13 wanted to or not and he was gone hold her as long as he
14 wanted to and determine when she could leave. And that
15 he's guilty of criminal sexual conduct in the first degree
16 and kidnapping. Thank you.

17 THE COURT: Mr. Routzong.

18 MR. ROUTZONG: Thank you, Your Honor. He said
19 she said. Mr. Meadors. No matter what anybody gets up
20 there and tells you, you know what's always going to be
21 true, ladies and gentlemen, there are two things in this
22 case and we're not disagreeing with it. I tell you what's
23 always going to be true is no matter how many witnesses
24 get up there, they are going to be relying on what two
25 people said Mr. McElveen and Ms. A.G. . They weren't

1 there and they don't know anything about this case except
2 what those two people told them. He said she said. I
3 will tell you I will narrow this down a little bit for
4 everybody. We're going to agree that Mr. McElveen was in
5 love with Ms. A.G. They had had a relationship not in
6 this dispute. I'm not going to deny that. Not going to
7 deny that he believed she was having an affair or
8 relationship with a person that's married, the preacher,
9 the boss of Ms. A.G. The person I believe that owns
10 the lot that her trailer sits on. He certainly owns the
11 trailer park, not in dispute. Not going to disagree with
12 that. Not going to disagree that he got an eviction
13 letter because when those people were informed that he
14 said you guys are having an affair. What. I'm a
15 preacher. I'm married. You're going to say that about me
16 and stay in my mobile home park, that ain't going to
17 happen. So he got an eviction notice right away.
18 Sometime around the 2nd or 3rd of February I believe last
19 year, not in dispute.

20 Not in dispute, he came to her house on the 21st
21 of February and asked her do you have any food, not in
22 dispute. She let him in the house. He got his food. He
23 left. He came back a second time. That's interesting.
24 It may come out interesting a little bit later. We'll
25 talk about that because she gone to the chicken shack,

1 gotten some food earlier in the day, had some leftovers.
2 The second time he stayed not in dispute. That was
3 according Ms. A.G. around 20 minutes after five in the
4 afternoon.

5 You know things started to kind of fall a part
6 at this point in terms of what we're disputing about, if
7 anything. What's not in dispute -- I will take that back.
8 What is in dispute we don't really know -- we have to rely
9 on Ms. A.G. with her version of this is, you know, she
10 was at her house until about ten o'clock in the evening,
11 that's about what four hours and 40 minutes later of being
12 tortured and abused. And then what's not in dispute --
13 we'll go back to what's not in dispute they leave her
14 trailer and they're seen walking along the lake towards
15 his trailers, not very far. It's a beautiful lake. Love
16 that trailer park, beautiful. Arm in arm toward his
17 house, seen by other people, a lot of people. Lord help
18 me, I'm being kidnapped. Nope. No 9-1-1 calls. And
19 she's by herself for some of this because after -- at ten
20 o'clock she's supposed to be at his house being abused and
21 tortured for about maybe another three hours and a half
22 something like that she said. And then this part's not in
23 dispute, he walks her back to the trailer everybody agrees
24 on this, make sure you set your alarm, lock the door and
25 peeks her on the cheek. And she goes to sleep and he goes

1 back to his trailer and he goes back to sleep. That part
2 of it is not in dispute.

3 Ladies and gentlemen, this is a he said she
4 said. There's other evidence that's going to be all
5 these other people talking to you from that witness stand.
6 The interesting thing or the important thing about it is
7 what they tell you about people how they acted, not just
8 what they said. None of them people were there. All
9 these time and place witnesses he's talking about relies
10 on what she says. How do they act. Do they act like
11 they're being abused. Does it make sense that it last
12 eight hours. Does that make sense. No 9-1-1 call. Has
13 an alarm system not in dispute. Think she's got a panic
14 button on the alarm not in dispute. Gets up the next
15 morning, gets dressed, gets her money together, goes over
16 to other trailer park delivered the money. I'm not
17 calling anybody, not calling 9-1-1. You know, it's just
18 almost like people got a drag it out. Well, why do you
19 look like that for, what's going on. Ladies and
20 gentlemen, I submit to you that doesn't make sense. So
21 when you're thinking about this case, think about the
22 stuff that's not in dispute and look at the surrounding
23 evidence and how people act. Then you come to your
24 determination.

25 Remember, you have to presume that he's

1 innocent, that's an interest notion. What that means is
2 you got to believe right now as you're sitting there and
3 throughout this whole trial that they're wrong. If he's
4 innocent, they're wrong. That's what that means. That's
5 how you have to view this case as you're sitting here.
6 You can't look at it. The law won't let you look at it
7 any other way. Fairness doesn't allow you to look at it
8 any other way. As you're sitting here right now, they're
9 wrong and that's the lens you have to look at this thing
10 until you go back there and deliberate and you come to the
11 conclusion what about you think is the truth. It's a he
12 said she said. My name is Michael Routzong. I represent
13 Mr. McElveen along with Mr. Little, enjoyed this
14 conversation we had and I'll be getting back to you later.

15 THE COURT: You may call your first witness.

16 MR. MEADORS: Yes, sir. May it please the
17 Court.

18 THE COURT: Yes, sir.

19 MR. MEADORS: Your Honor, the State of South
20 Carolina calls Ms. A.G. to the stand.

21 BAILIFF: Place your left hand on the Bible
22 please, raise your right hand. State your name.

23 THE WITNESS: A.G.

24 BAILIFF: Do you solemnly swear or affirm your
25 testimony shall be the truth, the whole truth, and nothing

1 but the truth so help you God?

2 THE WITNESS: I will.

3 BAILIFF: Have a seat on the witness stand.

4 State your name for the record and spell your last name
5 please.

6 THE WITNESS: A.G.

7 WHEREUPON,

8 A.G.

9 after first having been duly sworn, testified as follows:

10 DIRECT EXAMINATION

11 BY MR. MEADORS:

12 Q Ms. A.G., what do you go by?

13 A A.G.

14 Q Will you tell the ladies and gentlemen of this jury
15 about yourself, where you from, Ms. A.G. ?

16 A I'm originally from Pennsylvania. My husband was in
17 the military and we came here to live in 1968 from
18 England.

19 Q Ma'am?

20 A From England.

21 Q He was in the military?

22 A Yes.

23 Q And when you came here in 1968, where did you live?
24 Where did you and your husband live?

25 A We lived first on Frierson Road off of 441 on the

1 military base and then we moved from there into [REDACTED]

2 [REDACTED].

3 Q And how long -- when did he get out of the military?

4 A 1975. He retired.

5 Q So you went to the military base to where?

6 A Pardon.

7 Q Living wise you went from the military base to where?

8 A To [REDACTED] [REDACTED].

9 Q And then where did you live after that?

10 A All the time there until I came to [REDACTED].

11 Q And when did you come to [REDACTED]?

12 A 1987.

13 Q Okay. And do you have any children, Ms. A.G. ?

14 A I have two.

15 Q How old are they?

16 A My son is 55 and my daughter she's -- I'm not sure, I
17 think she's 58.

18 Q How many grandchildren do you have?

19 A Two grandchildren.

20 Q Now, how long did you and your husband -- how long
21 were y'all married?

22 A Fifty-seven years.

23 Q Okay. And he's deceased obviously?

24 A Yes.

25 Q When did he die?

1 A The 29th of July of 2014.

2 Q Okay. And y'all had been living at [REDACTED]

3 [REDACTED] [REDACTED] [REDACTED] since 1980 what?

4 A Seven.

5 Q Seven?

6 A Yes, sir.

7 Q Okay. Do you own that?

8 A My mobile home?

9 Q Yes, ma'am.

10 A Yes, sir.

11 Q Do you own the lot?

12 A No.

13 Q Okay. And what is your role at the mobile home park?

14 A Property manager.

15 Q Okay. And how long have you been property manager?

16 A For 31 years with three different people.

17 Q Okay. What three different people?

18 A I started out with a Mr. Ferguson and then I worked
19 for Jean Braiding. They're the ones that owned the park
20 to begin with. And then I worked for Eddie Richardson.

21 Q Okay. And how long has Mr. Richardson owned the
22 park?

23 A I think it was from 2000. I'm not positive on that.

24 Q And the [REDACTED] [REDACTED] [REDACTED] West where you live, I
25 mean, do most people own the trailers or they renting the

1 trailers?

2 A The ones down where I live are all rental and there's
3 two on the hill that own their home.

4 Q Okay. And then there's [REDACTED] East,
5 correct?

6 A That's the one on the hill, yes, sir.

7 Q And do you manage that also? Do you manage that
8 also?

9 A Oh, yes.

10 Q I'm sorry I turn my back. When did you first meet
11 Edward McElveen?

12 A December the 29th of 19 -- I mean, 2015.

13 Q 2015?

14 A Uh-huh.

15 Q Okay. And did he come to reside -- did he rent a
16 place in [REDACTED] West?

17 A Did he what?

18 Q Did he rent a mobile home there?

19 A Yes.

20 Q Can you hear me okay?

21 A Sometimes.

22 Q Okay. Do you have hearing problems?

23 A This side, yes.

24 Q I'm not trying to -- when did the defendant, Edward
25 McElveen, move into Scenic Mobile Home Park?

1 A January the 9th he signed a contract with me.

2 Q Okay. And what was that contract for? Do y'all have
3 a standard contract?

4 A Yes, sir.

5 Q What is that?

6 A It's where they fill out their name and everything on
7 it and read all the rules of the park and pay a security
8 deposit.

9 Q And that was a terrible question. I know what a
10 contract is. What's the length of time?

11 A They can chose six months or to a year and he chose a
12 year.

13 Q Okay. And what mobile home was Edward McElveen
14 residing -- what did or what mobile home did he rent?

15 A Lot number [REDACTED].

16 Q And what mobile home is yours?

17 A [REDACTED]

18 Q Okay. How far are you from [REDACTED]?

19 A About from here maybe to the back of the room here.

20 Q To the back of this room?

21 A Yeah, because there's two other mobile homes between
22 us.

23 Q So that would be what? 50 yards maybe?

24 A I don't know.

25 Q Okay. We got pictures, but for the record, 50 yards.

1 would approximately maybe more or less. Now, tell the
2 ladies and gentlemen of the jury at some point did you and
3 Edward McElveen develop a relationship as far as did you
4 start dating, seeing each other?

5 A No, not at first. I'm very friendly. I help people.
6 I help all my tenants. So I went and hung his drapes,
7 hemmed the drapes for his windows and that. And took him
8 shopping and he got -- bought drapes for the rest of the
9 house things like that.

10 Q Had you done that for other tenants?

11 A If they needed it, yes. I even gave food to my
12 tenants. I've given clothes to my tenants, anything you
13 know.

14 Q And after you had done that, did your relationship go
15 beyond that helping?

16 A Helping him?

17 Q Yes, ma'am.

18 A Yes, sir.

19 Q And how so and when did that happen, Ms. A.G., as
20 best you can remember?

21 A It wasn't immediately or anything.

22 Q Yes, ma'am.

23 A But he would fix a meal invite me down and I had a
24 meal with him. And then it just got we were back and
25 forth with each others trailers and I would fix meals have

1 him,

2 Q That's the only time in my life I can ask this. How
3 old are you?

4 A I'll be 80.

5 Q When is your birthday?

6 A [REDACTED]

7 Q And you'll be 80 this March?

8 A Uh-huh.

9 Q And how old is the defendant, do you know?

10 A I'm not positive. I think, 67 maybe now.

11 Q Okay. So as we move from the December of 2015 into
12 the year of 2016, at some point did you and Edward
13 McElveen -- I use the word date. Whatever word you want
14 to use, did y'all get close?

15 A From 2000 until?

16 Q At what point -- you said you went from drapes and
17 friends to ---

18 A I don't know things just fell together, you know... I
19 went to visit with him which he didn't have a car. I'm
20 the one had all the -- I had a car and I took him
21 different places visit his sister and visited his brother
22 before he came to live with him and things like that, took
23 him to the doctors more or less. I had him make doctor's
24 appointments because he wasn't seeing a doctor or
25 anything. He had some many things that was wrong with him

1 diabetic and several other things. So, I mean, I got
2 involved in that way, you know.

3 Q Okay. And at some point your relationship became
4 physical with him?

5 A Yes.

6 Q I'm sorry I got to ask you these, but I have to.
7 When I say physical, I mean did y'all have sex?

8 A You right, I knew what y'all meant.

9 Q And you don't want to answer that anymore than I want
10 to ask it probably, but you did have sex with him?

11 A Yes.

12 Q And that was consensual, correct?

13 A Yes.

14 Q Okay. In your relationship with the Defendant Edward
15 McElveen, your relationship I don't mean to turn my back,
16 I can't help it. Your relationship with him as far as
17 dating and that type of relationship, how long did that
18 last?

19 A It lasted a year about a year and a week.

20 Q Okay. You say it that way a year and a week, I mean,
21 what caused it to stop?

22 A I got a phone call from my boss' wife. I was in
23 Greenville with my granddaughter and her son -- I mean,
24 her husband. He's a priest and we just went up there
25 because he getting ready to graduate.

1 Q Who is we? You said we went up there?

2 A My daughter the one that's here with me.

3 Q What's her name?

4 A Cathy.

5 Q Is she here?

6 A Yes.

7 Q She's here with you. Cathy raise your hand, that's
8 your daughter?

9 A Uh-huh.

10 Q So you went up to Greenville?

11 A Yes.

12 Q You got a call from your boss or your boss' wife?

13 A Wife, yes.

14 Q As a result of that?

15 A I didn't talk to them then. They kept calling and I
16 wondered what was wrong at the park. So when I got home I
17 called and that's when they told me what he had done. He
18 called them on my phone and said very bad things to them
19 cuss words all those things, wasn't very pleasant. And
20 then it was left at that, but he also wrote a letter and
21 he left it on my bed while I was gone. And I found it
22 when I came back. When Mr. Richardson's wife contacted
23 me, I went and confront him because when I was in
24 Greenville I said I don't want to see you no more. I
25 don't want to hear from you. I don't want to do nothing.

1 And the -- Mrs. Betty then ---

2 Q Mrs. Betty Richardson?

3 A Yes.

4 Q That's Mr. Eddie Richardson's wife?

5 A That is correct.

6 Q So I said I don't want to see you no more and all
7 that and everything. And I don't remember what all he
8 said back to me. I told him it wasn't very nice for him
9 to do such a thing. And I said I don't want to see you no
10 more. And he said you're nothing but a whore anyhow and I
11 repeated back if I'm a whore you made me one. And that
12 was it, but he tried to get me. He would call my phone,
13 but I wouldn't answer. I put the answering machine on and
14 he would say, A.G., pick up, pick up now. And then he
15 would do it again. Then he say A.G. call me. But as soon
16 as I would come in the park if I had to go out on the hill
17 or if I go grocery shopping or anything, he was right at
18 my house. He would always come up, but we went grocery
19 shopping together and everything. I take him because he
20 didn't -- like I said, he didn't have a car.

21 MR. MEADORS: Beg the Court's indulgence.
22 Judge, can I approach?

23 THE COURT: Yes, sir.

24 (WHEREUPON, State's Exhibit No. 24 was marked
25 for identification only.)

1 BY MR. MEADORS:

2 Q Ms. A.G., you said earlier when you got home, you
3 found a note. Where did you find the note?

4 A It was laying on my bed.

5 Q Did he, Edward McElveen, have access to your house?

6 A Oh, yes. When we got into the relationship down the
7 line, yeah, he would come in. And then when I was out of
8 town he would feed my cat, but he did.

9 Q Okay. And I'm going show you what's marked as
10 State's 24. Do you recognize this and does it relate to
11 what you were just testifying about?

12 A Yes, sir.

13 Q Is that the note that the defendant left you?

14 A What was that question?

15 Q Is that the note the defendant left you?

16 A Yes, sir.

17 MR. MEADORS: Your Honor, State's Exhibit 24
18 without objection.

19 THE COURT: Is that correct?

20 MR. ROUTZONG: No objection, Your Honor.

21 THE COURT: It is in without objection.

22 (WHEREUPON, State's Exhibit No. 24 was admitted
23 into evidence.)

24 BY MR. MEADORS:

25 Q Can you read this?

1 A Uh-huh.

2 Q Would you mind publishing that for the jury?

3 A Okay. It say A.G. at the top. It says it hurts me
4 to be writing this, but I will try to let you know how
5 much I love you. Of all the marriages, I've never love
6 anyone -- any of my wives. When I met you, I thought I
7 had met the one that I could go to my grave loving, but
8 all good things must come to an end. When you called the
9 God -- I can say that?

10 Q Well, does it have a D after it? They'll read it.

11 A G-O-D D-A-M-N.

12 Q If you just want to say GD, you can. They can read
13 it later.

14 A When you called the G-O-D preacher and told him he
15 could text you, I know you were telling him I was
16 listening. The man you was telling the GD preacher about
17 flirting with you, you should have told me about. Before
18 I forget, I want you to know that you love Eddie and a
19 friend of his has houses in Aswalgo and then keeps -- that
20 keeps a whore in, but you kept -- I don't know what that
21 word is. Kept on, oh, boy F'ing the GD preacher. I
22 would say I am sorry. You and only you know you are F'ing
23 Eddie Richardson. My bad Mr. R have a happy live
24 together. I will be posting all this on the internet,
25 have a happy GD life.

1 Q Now, when you got this, did you make notation on here
2 when you got it?

3 A Yes. I did -- I received it on my bed. I came home
4 from Greenville February the 1st visiting my
5 granddaughter, Mandy, and Zach, the priest.

6 Q Now, what did you do with this State's Exhibit 24?

7 A I made a copy of it after Mrs. Betty made that call
8 to me to tell me what he had called on my telephone to
9 their house and I made a copy of what I found and I gave
10 it to them.

11 Q So at that point when you got back from Greenville,
12 did you learn of the substance of the phone call that the
13 defendant had made to the Richardson?

14 A When I got back from them, yes.

15 Q And at that point then, you took State's Exhibit 24
16 to them also?

17 A Yes.

18 Q Did you want the preacher to know he was being
19 threatened too?

20 A You mean, in there or otherwise?

21 Q Did you want to show -- why did you take the letter
22 to them?

23 A Because I thought they should know, you know. I
24 mean, I didn't care what he was saying to me, but it was
25 interfering with them, you know.

1 Q And you said are otherwise, what are you talking
2 about? Had he threatened the preacher?

3 A Well, I found out that he has threatened, but I think
4 it will come up later with one of the witnesses. I don't
5 know, I wasn't there when it was...

6 Q Well, don't say it if you weren't there. When did
7 your relationship and physical relationship with the
8 defendant end?

9 A Well, towards the end things were -- I wasn't having
10 anything to do with him. He was wondering why I wouldn't
11 come to back his trailer. I never went back too much
12 there, only maybe to pick him up to take him to the doctor
13 or help him bring his groceries in after we went shopping
14 or I would take his trash out.

15 Q Did it end after this letter and the phone call you
16 testified to earlier? Is that when you broke it off with
17 him?

18 A Yes.

19 Q So was this the time period when you broke up not
20 dating him any more?

21 A Right, yes.

22 Q Are you trying to testify you still saw him after
23 that?

24 A Not in his house or anything, but, yeah, he came up
25 and sat on my porch -- on my deck and wanted me to come

1 out and have coffee with him. He was sitting there crying
2 that one day and I wouldn't do it. I said, no, go home.

3 Q So you had broken up with the defendant after this
4 phone call and this letter?

5 A Yes.

6 Q Okay. Was it your intent to ever get back with him?

7 A No.

8 Q Was it your intent to ever have relations with him
9 again?

10 A No.

11 Q Sexual or otherwise?

12 A Nothing period.

13 Q Did you tell him that?

14 A No, we never had the conversation of it.

15 Q But you tell him you broke up with him?

16 A Yes, he knew I did.

17 Q Okay. Did he get -- you're manager of the park
18 there, right?

19 A Yes.

20 Q I don't know how many years. Was he evicted -- I
21 mean, did he get a letter that said you need to leave?

22 A I didn't know about that at all. They didn't tell me
23 that he was being evicted.

24 Q And at some point did you learn he was being evicted?

25 A He mentioned that the night that he -- after the

1 episode that he beat me up and hit me. He told me that
2 had to move and all I could say, well, you go ahead and
3 move, that's when I went into the story and told him to go
4 ahead and move and find a nice place and I would follow
5 him, that I did love him and everything. I was trying to
6 talk him down, but he said to me he said, A.G., I don't
7 believe a thing you're saying.

8 Q As far as you gone move when he moves and be with
9 him?

10 A Uh-huh.

11 Q Well, get to that. You jumped ahead a little bit.

12 A Oh.

13 Q That's okay. You said that's when you were trying to
14 talk him down?

15 A Yes.

16 Q All right.

17 A For not shooting because every time I said a word, he
18 say I'm going to shoot you. I be telling him to go ahead
19 and do it I don't care.

20 Q And that's when he had the gun?

21 A Yeah. He always had the gun except when he laid it
22 on the coffee table and he turned around and said, oh,
23 that was silly thing to do and he hurried up and picked it
24 up.

25 Q Okay. Well, let's get to it. After this incident,

1 the phone call and this and your testimony you broke up
2 with him. Between then -- and this letter is dated --
3 would you disagree with me that you put February 1st on
4 here?

5 A I did put it there, that's my writing.

6 Q So between there and February 21st while we're all
7 here, your testimony is you had no sexual relations with
8 him?

9 A No.

10 Q Okay. Broke up with him?

11 A Uh-huh.

12 Q But would you still see him?

13 A Yeah -- well, I go past there, yeah, of course. And
14 I went down there one day I don't remember what that was
15 for. I wash or clean my car out and he had the door open
16 and he says I want to see how clean you got your car. And
17 I said it's clean and he said could he get in with me in
18 the car and I said, no, and I slam the door shut. And I
19 took off headed home.

20 Q And when was that?

21 A I don't remember the date on that.

22 Q Okay. Well, ma'am, if you would please go to
23 February 21st of the 2017 now. What do you remember about
24 -- can you tell them -- I mean, that's why we're here, Ms.

25 A.G., can you tell them what happened? That day ---

1 A Oh, that day that this all -- oh, yeah. I was at
2 home I had gone to the Chicken Shack and I got me some
3 shrimp fried rice and I was going to eat it for dinner
4 that evening. And next thing I know he's out there. I
5 walked past -- I keep my screen door locked. I have a
6 lock and I always lock it. And he was sitting out there
7 on the porch and he asked me do you have any food and I
8 says why. He says -- I said you got food at your house.
9 He said, no, all I had was tomatoes and something else. I
10 don't know what it was, but I know he had food. And so I
11 say, well, I'll get you something. So I went and got him
12 some of my food, took it to him and I open the door. He
13 got up. I handed it to him. He sat back down in the
14 chair and I said, oh, no, no, you take that and you go
15 home. This is around four o'clock, 20 minutes after four
16 really.

17 Q How do you know that it was 20 minutes after four?

18 A Because I have a clock right there. I have three
19 clocks in my house in the living room, kitchen.

20 Q Okay.

21 A And so he did, he got up and he wobble. I think he
22 must have been drinking, which he does all the time. So
23 he got up, he went home.

24 Q Why did you give him some food?

25 A Because he said he was hungry and he said he didn't

1 have nothing but tomatoes, you know. I would still give
2 it to anybody, so that's why I gave it to him.

3 Q He leaves?

4 A He left.

5 Q Okay. What happened after that?

6 A About 20 minutes after five he come back again and he
7 yelled at me do you have any more food left and I yelled
8 out, yes, I do. I said I have some. I says wait I'll
9 get it for you or I'll throw it out probably. So I went
10 to the door with him and it was still in the styrofoam
11 thing that they put it in. I went to the door. I opened
12 the door. As soon as I open the door, he got up out of
13 the chair and he grabbed the door and came he in my house.
14 He wasn't invited.

15 Q You said he got up out of the chair?

16 A Yeah, he was sitting down when he asked me for the
17 second time 20 after five for the food.

18 Q Where was he sitting?

19 A On my front deck there where you go in the screen
20 door. He was sitting in one of my chairs there. So he
21 sat the food down on my coffee table and he sat down in
22 the lounge that was sitting there. And I have a cat she
23 snow white and he liked her. He was petting her and he
24 was saying, well, at least somebody loves me. And then he
25 stop petting Angel, that's my cat's name. She went on and

1 he didn't say much. Then all of a sudden he says can I
2 use the bathroom and I'm sitting on my love seat. And I
3 pointed like that, yeah, go ahead. It's down the hall,
4 which he knew where it was, so that was okay, use that
5 one, came back, sat down in the chair again. We hardly
6 had any words. The next thing he got up again. And he
7 went to the back -- to the bathroom at least that's where
8 I thought that's where he was going. And it was a long
9 time it seem maybe five minutes whatever. I said, I
10 yelled I never got up. I yelled I said, boy it's taking
11 you a long time back there. Then I heard the commode
12 flush. Next thing I know he's coming out, pushes my front
13 door shut. He locks it. And I says you might as well set
14 the alarm too. He said, no, somebody told me you changed
15 your numbers on it or whatever. And ---

16 Q Had you?

17 A No.

18 Q Okay.

19 A So he reached in his pocket. He had shorts on and he
20 pulled out this duck tape. And he started tearing it in
21 little strips I mean about like that. And I'm sitting
22 there and I'm thinking what is he going to tape in my
23 house. There's nothing needs done. I didn't say it out
24 loud. So he said put your hands behind your back. I said
25 what for? He said I'm telling you to put your hands

1 behind your back or I'll shoot you. He pulled the gun
2 out. He says I'll shoot you and he pointed the gun and
3 then I'll shoot myself. So I put out my hand. The next
4 thing he pulled out my packaging tape that I wrapped to
5 send packages out. He tore one piece put it across my
6 mouth like it wasn't long enough. He tore another one and
7 put that one on my mouth. Now, next thing I know my
8 doorbell rang and he put me on the floor. He put his knee
9 in my side. He had his two thumbs in my neck. Then all
10 of a sudden I must have raised my head or something and
11 wham I got hit up across my face. I got a scar there,
12 that's where you'll see it on the pictures. And I don't
13 know if it was the gun or flashlight or what it was how he
14 hit me -- what he hit me with, but I seen stars when he
15 was -- so I pretend I was passed out and then he told me
16 to get up.

17 Q Where were you in your house?

18 A In my living room at the love seat.

19 Q Did he still have the gun on you then?

20 A Yes. He didn't have it on me, but he had the gun
21 because I think it was in his hand. I still think that's
22 what he hit me with and so we sat there for a little bit

23 ---

24 Q You said doorbell ring -- did he say to be quiet when
25 the doorbell rang?

1 A Pardon.

2 Q What did he say?

3 A He told me if you say anything I'll shoot you. It
4 was always shoot me. I said go ahead and shoot me I don't
5 care.

6 Q Why did you say that?

7 A I don't know because Ed was a joker with me a lot of
8 times. And up to a certain stage, I thought it was a joke
9 until he hit me.

10 Q Was that a joke when he hit you?

11 A No, it was not a joke because he never laid a hand on
12 me. He was very very nice.

13 Q So was it a joke when he put his fingers in your
14 throat, was he joking then?

15 A No. No, I know he wasn't because he was there to
16 kill me. So he got me up off of the floor then, put me
17 back on the love seat.

18 Q Did the person ever come in the house?

19 A No, that was one of my little tenants that I didn't
20 know until the next day. He told my daughter.

21 Q Well, object to -- well, go ahead.

22 A Well, he was one of my little tenants he come to pay
23 his rent because he was moving out of state.

24 Q Did you ever answer the door?

25 A No.

1 Q Okay. And you didn't see him there?

2 A No.

3 Q And he didn't see you as far as you know?

4 A No.

5 Q Okay. What happened after that?

6 A Okay. After that, we was there sitting.

7 Q And what happened you said -- what happened to your
8 -- you said he did something to you?

9 A When I was on the floor, he put his knee into my --
10 because I was choking then I could hardly talk. And when
11 I would go to talk, I would start coughing. It was real
12 bad.

13 Q At this point did you have tape over your mouth and
14 your arm?

15 A I know my hands were still back, but I must have been
16 talking to him.

17 Q Okay.

18 MR. MEADORS: Your Honor, if I could just ask
19 her to stand up for just a second.

20 THE COURT: Okay.

21 BY MR. MEADORS:

22 Q If you don't mind me touching you and getting next to
23 you. You said then we gone show you the tape and all that
24 in a minute, but how did he have your hands taped?

25 A Back that way. That's the way it felt like. I don't

1 know how he taped them, but I ended up with tape on this
2 hand.

3 Q But were your hands behind you where you couldn't
4 separate them?

5 A I couldn't separate them, no.

6 Q Well, had you wanted him to do that?

7 A Well, no.

8 Q And where was the tape? Was the tape on your mouth
9 at this point also?

10 A I don't remember. Like I -- that's one thing I can't
11 remember when the tape was taken off. I can't remember
12 when he took the tape off of my mouth. I don't remember
13 none of that.

14 Q But when he hit you with whatever he hit you with,
15 were your hands behind your back?

16 A Yes.

17 Q Okay. All right. Have a seat.

18 A In the meantime, my little phone rang. It was on the
19 arm of my love seat. And he said don't answer that, but I
20 looked and it was Ms. Barbara calling.

21 Q Okay. Now, they don't know who Ms. Barbara is.
22 Who's Ms. Barbara?

23 A She's the other one -- the other property manager,
24 the another park. They have a whole bunch of mobile homes
25 over the area.

1 Q They being the Richardson's?

2 A Yes.

3 Q Obviously, did you answer the phone?

4 A He said don't you answer that phone. I didn't of
5 course.

6 Q Now, this assault or when you were hit took place in
7 your living room?

8 A Yes.

9 Q What happened next?

10 A Okay. It was coming on ten o'clock and he said get
11 up, so I stood up. He put me in -- we went into my
12 bedroom, that's what happened next after that. But in the
13 meantime while we were still in the living room when he
14 got me up, there was drapes -- my drapes were open after
15 the young boy rang the doorbell and the drapes were open.
16 And he had the gun in his hand and he said I'm going to
17 shut those drapes. If you try anything, I'll shoot you.
18 I said go ahead and shoot me I don't care. And so he shut
19 the drapes, but when he came around the coffee table and
20 my hands back here all I had or I would use my hands
21 evidently they were still tied up, I took my feet and I
22 kicked him. He went back across my coffee table. He got
23 up and he said to me if you kick me again in the balls, he
24 says I'll shoot. Go ahead and shoot me, I don't care.

25 Q Had you kicked him in the groin area?

1 A Yes, I did.

2 Q And why did you do that?

3 A I was getting mad at him now because he wasn't joking
4 to me. I mean, I knew it wasn't a joke anymore when he
5 put me on the floor. So I thought, well, if I can do
6 something, but I couldn't get out the front door, I
7 couldn't get to my security system. There was nothing. I
8 didn't have anything to defend myself.

9 Q After you had kicked him and he drawn the drapes what
10 happened?

11 A Well, he came then and he sit down a little bit and
12 then it was about ten o'clock and he said stand up, so I
13 got up. He put me in a chokehold and took me to my
14 bedroom. And he took my slacks down and took them and he
15 folded them up laid them on the floor. And then he
16 started undressing. I don't know where the gun was. I
17 have no idea if he laid it down on the floor or what he
18 done, but when he unbutton his T-shirt or his shirt that
19 he had on, didn't have his shorts off yet, I took my feet
20 again because he put me on the bed when he brought me in
21 the room on the edge of the bed and I took my feet again
22 and I kicked him. He fell back into my TV between my TV
23 and my cedar chest is sitting there. And all I could
24 think of I didn't hurt him, but I busted my TV. I was
25 worried more about my TV then anything, I guess. So we

1 got up out of there, he done had sex, of course.

2 Q Now, wait a minute. First of all, show me how he had
3 you around your neck when you went back to your room?

4 A Chokehold same thing.

5 Q Okay. Did you go back to your room -- did you want
6 to go back to your room with him?

7 A No, of course, I didn't. No.

8 Q And had he shown you -- when did he show you the
9 bullets in the gun?

10 A That was still in the living room when everything
11 first started. I said something to him, that was before I
12 was taped up. And he said -- when he had the gun before
13 he taped my mouth and he said he would shoot me. And the
14 gun wasn't very big. All I can remember it was black and
15 white. And so he said, well, look at these bullets. And
16 I looked in and I says, well, they're awfully small. They
17 were gold color. He says, but they'll do the job.

18 Q They will do the job?

19 A Yeah.

20 Q Did he say whether he kill you or himself?

21 A Yes.

22 Q What did he say?

23 A He was going to kill me and then he was going to kill
24 himself.

25 Q Okay. We're back in your bedroom. At what point did

1 the tape come off your hands, Ms. A.G. ?

2 A I have no idea. I still don't know. I can't
3 remember that at all.

4 Q We're in your bedroom now, okay. And I have to ask
5 you some questions and I apologize. You said he took your
6 pants off?

7 A Yes.

8 Q What happened after that?

9 A Well, he undressed and that's when I kicked him and
10 everything. And he got up and then...

11 Q We got to do more than that I apologize. What
12 happened in the bedroom after you kicked him, your TV was
13 off. Did he -- you tell me what happened?

14 A He tried to have sex with me. I don't know if he did
15 or not.

16 Q And I know what you mean, but what do you mean?

17 A That he inserted himself into me, if that's....

18 Q Did he put his penis inside of you?

19 A I don't know. It felt like he did, but I'm not sure
20 if he was able to because he would spit on his hands and
21 rubbed his penis. So I don't know on that one.

22 Q Okay. Had he done anything else to your body that
23 you did not -- and did you want him to do that in there?

24 A Well, no.

25 Q Well, tell these folks did you want that to happen in

1 your bedroom?

2 A No.

3 Q Did you want him to try to put his penis inside of
4 you?

5 A No.

6 Q Okay. Did he do anything else to your body?

7 A No, not then.

8 Q Okay. But you were naked?

9 A Not completely. I still had my top on.

10 Q Oh, I'm sorry. What happened after that?

11 A After that, he took me back out of there.

12 Q Out of your where, your bedroom?

13 A Out of my bedroom, I'm sorry. Took me back out, sat
14 down on the love seat for a little while. And then he
15 said get up. He put me in a chokehold. And I thought,
16 oh, God he's taking me back to the bedroom again. We went
17 to the back door. He opened the back door and he started
18 walking me down the ramp and took me down the hill near
19 the lake. You have to go down a grade to get out from my
20 back door down, took me towards the lake. And then I
21 thought, oh, mercy he's going to shoot me or whatever, you
22 know.

23 Q Did he have his gun with him?

24 A Yes, oh, yes, the gun was still on him somewhere one
25 of his pockets.

1 Q Can you show me how you were walking from your mobile
2 home to his? Can you show me how he had you? Will you
3 stand up? If I'm you, how did he have you?

4 A He had me like this, this arm was over here, but he
5 had me real tight up around there. He says if you make --
6 well, after I heard the metal, he heard the metal too.

7 Q What are you talking?

8 A My tenant next door came home and this. He had
9 stepped on a piece of metal because he's a central air
10 person. He puts ---

11 Q This was your other tenant you're talking about?

12 A Yes, yes, next door. And the mother and daughter and
13 the daughter was -- they seen us. And when he heard that
14 metal, he still had his arm around me. And he said if you
15 make any noise, I'll break your neck right now.

16 Q Is that the residence of a Melissa Bethea?

17 A Yes, yeah.

18 Q And is her daughter Keyona Bethea?

19 A Keyona Bethea is her daughter. And she said look
20 mama, Mr. Ed's hugging Ms. A.G. in which it was chokehold.
21 He wasn't hugging me that's for sure and he took me over
22 to his house then.

23 Q All right. I want to show you some now just go
24 through these pictures ---

25 MR. MEADORS: Your Honor, for the record, I

1 believe this is two through 23 without objection.

2 THE COURT: Is that correct?

3 MR. ROUTZONG: That's correct, Your Honor.

4 THE COURT: Okay. Thank you. They're in
5 without objection.

6 (WHEREUPON, State's Exhibits Nos. 2-23 were
7 admitted into evidence.)

8 BY MR. MEADORS:

9 Q Can you see back there?

10 A Uh-huh.

11 Q Say yes?

12 A Yes, sir. I can see back there.

13 Q State's Exhibit 2?

14 A That's the outside of my house, that's the wind chime
15 in the yard, that's my front door.

16 Q State's Number 3?

17 A That's my yard.

18 Q You testified earlier that, I believe, the second
19 time the defendant came over he was sitting out?

20 A Yeah, he was sitting in this chair right here.

21 Q Which one?

22 A This one here closer to the wind chime.

23 Q Point to it again. Strike that.

24 A That one there.

25 Q All right. State's 4 that's also your house trailer?

1 A Yes, sir.

2 Q This is State's Number 5?

3 A That is this my living room and that's my kitchen.

4 Q Okay. Now, you had testified that when a doorbell
5 rang, you were taped and he pushed you on the floor. Can
6 you show where that happened in State's 5?

7 A The loveseat is not shown. Right here though in
8 front of this loveseat.

9 Q Okay. You're talking about right in here?

10 A Uh-huh.

11 Q Okay. Let's look at State's 6. Can you see clearly
12 in State's 6?

13 A No, that's my -- yeah, that's my sofa. The loveseats
14 over here.

15 Q So you loveseats on this side?

16 A Yes, right there. That's where I was at right there
17 on the floor, that's the coffee table. That window is
18 over here with the drapes, coffee table.

19 Q What's that?

20 A That's in the -- the print underneath the -- that's
21 in the scarf underneath the glass on there.

22 Q That -- can you tell what that is?

23 A Yeah, that's built into my scarf that's on the table.
24 It's under glass.

25 Q All right. Let me show you State's Number 7. What

1 is that?

2 A That's the duck tape he brought out of the room and
3 that's a newspaper that he put there. He was putting his
4 cigarette ashes on that.

5 Q So what you were pointing out earlier is the little
6 lace there was under the glass?

7 A Pardon. I know...

8 Q That's fine. That's my fault. State's Number -- is
9 this the duck tape that you put on your arms excuse me --
10 your hand?

11 A Yes. You can see where he tore it off.

12 Q State's Number 8?

13 A There's the other tape that I package and he put on
14 my mouth.

15 Q That's the clear package of tape?

16 A Uh-huh, yeah.

17 Q Do you usually keep those in your den?

18 A No.

19 Q Where are those kept?

20 A They are in the back bedroom where my husband's tools
21 and all that was.

22 Q Did you ever bring these out? Did you bring them
23 out?

24 A I didn't bring these out.

25 Q Who brought those out. Who brought them into the

1 room?

2 A He did Mr. McElveen.

3 Q And you said back on State's Number 7 you could see
4 where he tore it out off. What are you talking about?

5 A You see how it's coming down around?

6 Q Yes, ma'am. This is State's 9, Ms. A.G., what is
7 this?

8 A I have know -- it's upside down.

9 Q Let me take this -- sometimes technology -- let me
10 show it to you. Let me show you State's 9. Do you
11 recognize State's Number 9?

12 A Those are my clothes that I had on.

13 Q You testified -- okay. When did you take these
14 clothes off?

15 A I took them off about two o'clock that morning after
16 everything happened after he assaulted me.

17 Q State's Number 10 can you tell me what that is?
18 What's that?

19 A Pardon.

20 Q What's State's Number 10?

21 A What's what?

22 Q What's that number 10? Excuse me number 13 -- no it
23 is 10. What is that?

24 A Number 10 that's my kitchen, that's my thing where I
25 have all my glass stuff in.

1 Q Do you need to be excused or something?

2 A Uh-huh.

3 Q Okay. Now, Ms. A.G., you testified you left your
4 house and he took you to his house?

5 A Yes.

6 Q Okay. And wait a minute.

7 MR. MEADORS: I apologize I thought these had
8 been marked. Court's indulgence.

9 (WHEREUPON, a pause in the proceedings.)

10 MR. MEADORS: Your Honor, this is State's 25,
11 26, 27 and 28 without objection.

12 THE COURT: That right?

13 MR. ROUTZONG: That's correct, Your Honor.

14 THE COURT: In without objection.

15 (WHEREUPON, State's Exhibits Nos. 25, 26, 27 and
16 28 were admitted into evidence.)

17 BY MR. MEADORS:

18 Q Ms. A.G., what is State's 25?

19 A That is my bedroom.

20 Q And are 26, 27 and 28 the same?

21 A Yes.

22 Q Okay. Now, is this your testimony is that the first
23 assault you told this jury about was in your bedroom?

24 A Yes, sir.

25 Q Okay. And you testified that a TV was not knocked

1 over?

2 A Yes.

3 Q Can you see that in 26?

4 A Yes.

5 Q And is that the TV -- how did that TV get knocked
6 over?

7 A I kicked Mr. McElveen and he went back into it. It
8 didn't break. The only thing that broke was the plug that
9 went in the wall because it jerked it out.

10 Q And how did the TV get put back?

11 A Mr. McElveen set it up.

12 Q Okay. God knows as much as we've talked about it,
13 but are you -- I hate to ask you are you a pretty neat
14 person as far as your house?

15 A I try to be, yes.

16 Q And State's 28 -- let me put this -- State's Exhibit
17 28, Ms. A.G. , are you a creature of habit?

18 A Yes.

19 Q I mean, you do generally the same -- I mean, for the
20 most part, you do things the same way when you clean up
21 and all?

22 A Oh, yes.

23 Q And you mention you have a cat, right?

24 A Yes.

25 Q What's this blanket here in 28?

1 A At the foot of the bed?

2 Q Yes, ma'am.

3 A Well, she sleeps on that at night.

4 Q Okay. After this assault, how did the blanket get
5 the way it is now in State's 28?

6 A I have no idea.

7 Q Is that the way you usually make up your ---

8 A No.

9 Q What do you do when you put the blanket up?

10 A I fold it. This isn't showing. It's all white
11 showing.

12 Q You fold it where the bottom part is not showing?

13 A That is correct.

14 Q So that bottom part would be up and it would be flush
15 on the bed?

16 A Yes, and it would be all white.

17 Q All right. So who put it back in this condition?

18 A I don't know.

19 Q Okay. But law enforcement took or ---

20 A But then it could have gone down too with my cat
21 because she does these things.

22 Q Okay. Now, let's go -- you've told us about your
23 trip from your trailer to his -- you're number ■ and he's
24 number ■ Mr. McElveen, correct?

25 A Uh-huh.

1 Q Is that a yes? You have to say yes. I'm sorry.

2 A Yes.

3 Q All right. The trailer park [REDACTED] [REDACTED]
4 [REDACTED] [REDACTED] is in Sumter County, correct?

5 A Yes, sir.

6 Q Okay. Tell us what happened when you get to lot [REDACTED]
7 of [REDACTED] [REDACTED] [REDACTED] the home of the Defendant
8 Edward McElveen? What happens when you get to [REDACTED]?

9 A [REDACTED] he takes me, unlocks the door, he takes me
10 in, sets me down on the sofa.

11 Q Did you go in the front door or the back door?

12 A That's the back door really, the sliding glass door.

13 Q Did you want to go from your -- tell these ladies and
14 gentlemen look at them and tell them, Ms. McElveen (sic),
15 did you want to go from number [REDACTED] to your house, to his
16 house, what time of morning was it?

17 A That was around ten o'clock when he took me down
18 there. No, I did not want him to take me there.

19 Q Did you go against your will? Did you go against
20 your will from your home to his home?

21 A Yes.

22 Q Okay. What happened when you got inside lot [REDACTED]?

23 A Well, he sat me down on the -- told me to go sit down
24 on the sofa. And then he asked me if I wanted something
25 to drink and I said, no, at first. And then said, yes,

1 I'll have a cup of coffee because I could see where he was
2 -- the coffee pot was and I saw him putting the milk in
3 it because I drink it with milk, I thought maybe he would
4 drug me. So I said, yes. I had it and it wasn't drug
5 because I seen every move he made.

6 Q Did you have some coffee?

7 A Yes.

8 Q All right. And what happened after that?

9 A Well, he sat down on the couch then for a while. And
10 he was talking and then he started showing me movies of
11 other girls and...

12 Q How? How was he showing you this?

13 A Off of his telephone. And their legs was in the air
14 and all different directions. They were all kind -- I
15 thought they came out of one of these shows where men go
16 to, I don't know.

17 Q Did he say why he was showing you that?

18 A No. I asked him if any of those was his friends and
19 he said no. So I don't know if they were real or not.

20 Q What happened next?

21 A Then he played me music on his telephone because I
22 like country and western and he does too. And he started
23 playing the love songs music, but I don't remember which
24 ones they were.

25 Q How long did that go on?

1 A That went on up until about 12 o'clock and he said it
2 won't be long now. And I thought, oh, boy, he picked the
3 time he's going to shoot us now and so I waited awhile.

4 Q What time was it when he said it won't be long now?

5 A It was five minutes to 12.

6 Q On February 21st of 2017?

7 A It was the 22nd.

8 Q Became the 22nd. Was the day before the 21st?

9 A No.

10 Q It was five to 12. What happened after that?

11 A Let's see after that I had, oh, to go to the bathroom
12 and he got me up, grabbed ahold of me, and went with me to
13 the bathroom. And I said I got to go to the bathroom and
14 so he finally stepped outside, but he stood right outside
15 the bathroom door. Then he went and got a wash clothe and
16 he says wash the blood off of your face.

17 Q So you had blood on your face?

18 A Oh, yes. It was even in my hair.

19 Q Where did that come from?

20 A From when he hit me at my house with whatever flash
21 light or the gun.

22 Q And did you use the wash clothe?

23 A Yes. And I still had it in my hand. I was holding
24 it.

25 (WHEREUPON, a pause in the proceedings.)

1 BY MR. MEADORS:

2 Q I'm going to show you what's marked State's 29. Does
3 that appear to be a white clothe?

4 A Yes.

5 Q Does that appear to be consistent with the one that
6 you used?

7 A Yes.

8 MR. MEADORS: State's Exhibit 29, Your Honor,
9 without objection.

10 MR. ROUTZONG: Without objection, Your Honor.

11 THE COURT: Okay. It's in without objection.

12 (WHEREUPON, State's Exhibit No. 29 was admitted
13 into evidence.)

14 BY MR. MEADORS:

15 Q Where did you use this white clothe?

16 A At his place in the bathroom.

17 Q What happened after that? I'm sorry to pry any more,
18 but did you have to use the bathroom?

19 A Yes, I did, yeah.

20 Q And you did use the bathroom?

21 A Yeah.

22 Q What happened after that?

23 A Well, he brought me back out after I was done and sat
24 me back on the couch for a while. And then went from
25 there it was about -- it was after 12 then and he said I

1 got to have some couchee (sic) one more time. So he got
2 me up and ---

3 Q Do you know what he was talking about?

4 A I didn't know what couchee, I haven't heard that. I
5 thought, well, maybe it was sex that he wanted. So we got
6 up and I says where to. He has two bedrooms and he went
7 back to his bedroom.

8 Q We been in here about an hour. You getting tired?

9 A No.

10 Q The way you're talking about this, you know, we get
11 up, you said he said I want some couchee. We go back
12 there. I mean, it's real what you're going through, isn't
13 it?

14 A Yes, it's real.

15 Q I'm tired here. But did you want to go back to his
16 room?

17 A Well, no, I wanted to go home.

18 Q Why did you go back to his room?

19 A He still had the gun somewhere and I didn't know if
20 he was going to hit me or whatever. I don't know maybe he
21 had the knives like he promised he was going to cut me up
22 with my own knives at home.

23 Q When did that happen?

24 A He said that at my house.

25 Q What did he say?

1 A He said take all those knives and he could cut me up
2 and he knew what to do with me. And I thought, well, oh,
3 my he's going to cut me up and throw me in the lake.

4 Q You took him to be serious. You said earlier
5 sometime he's joking, but did you think he was serious
6 when he said he was going to cut you up?

7 A Yes.

8 Q Okay. Were there knives there?

9 A Oh, yeah, I had a lot of knives, but he kept drinking
10 out of his flask that he had in his pocket. He kept
11 drinking alcohol. I don't know if it was alcohol.

12 Q Was he drinking this night?

13 A Yes.

14 Q In your opinion, you been around him for a while.

15 Had a relationship with him -- was he under the influence?
16 Was he under the influence?

17 A He was under the influence of something, something.

18 Q And what type of -- was he drinking out of a what?

19 A A silver flask and he had it in his pocket and he
20 would take it out and drink.

21 Q When he said I want some couchee, where did you go?

22 A To his bedroom.

23 Q And again did you go back there willingly, freely,
24 wantingly, did you want to go back there?

25 A I didn't want to go back there, but I walk back

1 there.

2 Q Okay. And had he threatened you with a gun
3 previously?

4 A He didn't threaten me then, no.

5 Q And I said previously?

6 A Oh, yes, yes.

7 Q Did you feel like you -- listen to me please, ma'am,
8 did you feel like you had any choice whether you had to go
9 back there or not?

10 A I didn't have no choice, I didn't think so.

11 Q All right. You're back in his bedroom. What happens
12 now?

13 A Undress again.

14 Q How do you get undress?

15 A He pulled those down, took my shoes first and lined
16 them up against the wall and then he took my slacks. I
17 don't know if he folded them up at that time or not and
18 then I had to sit up on the bed. It's real high. And I
19 had back surgery. And it's kind of hard getting on his
20 bed.

21 Q I'm going to show you what's State's 18. Do you
22 recognize that?

23 A That's his bedroom.

24 Q What's that up there at the top?

25 A That's the wash cloth that I carried it in there and

1 I put it up there.

2 Q That's the wash clothe he told you to wipe the blood
3 off?

4 A Yes, because it was wet and I didn't want to lay it
5 on his bed.

6 Q You get on the bed that's depicted -- what happened
7 in this bedroom?

8 A That's when we had sex again.

9 Q All right. And for the record she's got to take
10 this down and they have to hear this. We got to prove
11 this. Did the defendant, Edward McElveen, put his -- and
12 I'm sorry, but did he put his penis inside of you?

13 A Yes.

14 Q Are you sure?

15 A Yes.

16 Q Did you want Edward McElveen, Ms. A.G. to put
17 his penis inside of your body?

18 A No, not under these circumstances.

19 Q And what circumstances were those?

20 A Being under the cruelty that he was doing. He wasn't
21 the same man he was a year prior.

22 Q You did not -- did you give him consent to get in
23 your body?

24 A No.

25 Q Did you want him inside of you?

1 A No.

2 MR. ROUTZONG: Your Honor, I object. He's
3 asking the same questions and he's getting the same
4 answers. It's cumulative, Your Honor.

5 THE COURT: Okay. I'll allow it, but you can
6 move on, Mr. Meadors.

7 BY MR. MEADORS:

8 Q So that was no?

9 A No.

10 Q And did the defendant finish -- did he ejaculate
11 inside of you?

12 A Yes.

13 Q Okay. What happened after that?

14 A Okay. He helped me put my slacks on. And then I
15 said, well, I can pull my own pants, so I finish pulling
16 my slacks up, but I had no underwear. I don't know where
17 they went. They disappeared. All I had was my slacks.

18 Q Had you had underwear on earlier?

19 A Yeah, I had them on all day.

20 Q What time is it getting to be?

21 A At that time it was getting to be about 20 minutes
22 after one.

23 Q What time do you usually go to bed?

24 A Well, that could be any time for me. Sometimes I go
25 at ten o'clock. Sometimes I go at 12. Sometimes at two.

1 It depends.

2 Q And it was getting to be what time of night?

3 A Around 1:20 in that area and that's when he told me
4 that I could go. That he was going to let me go because I
5 talked more less.

6 Q Explain to them what you mean when you said you talk
7 him down tell them?

8 A Okay. When we was sitting on the sofa on his --
9 after we looked at the telephone thing, the music and all
10 that stuff and I'm stilling choking. I'm trying to talk
11 to him, Mr. McElveen. You don't need to shoot yourself or
12 shoot me. I said -- that's when he told me prior to that
13 he had to move. He got evicted. And I says, well, you go
14 find you a nice place and I'll follow you. And I said I
15 do love you. And I said you go find and I will come. And
16 he says, A.G., I don't believe a thing you're telling me,
17 but he said -- after a while then he said -- waited, he
18 was so quiet. And then he says I'm going to let you go.
19 I said really? Yeah, you can go. I says, well, don't
20 shoot yourself. So I said I'll call you at four o'clock
21 in the morning and I wanted to check on him to see if he
22 did kill hisself. And so he got up, he said take the
23 money with you.

24 Q Where had the money come from?

25 A He took it from my mobile home. He was going to burn

1 it. It belong to -- all the money over \$6,000 that I had
2 already collected from my tenants and he was going to burn
3 this money.

4 Q Why was he going to do that?

5 A I have no idea why he was going to burn it. I think
6 because it might have belong to Mr. Richardson. I don't
7 know what was going through his head.

8 MR. ROUTZONG: Your Honor, objection that is
9 kind of speculative.

10 BY MR. MEADORS:

11 Q Had he told you he was going to burn it?

12 A He was going to burn it.

13 Q Where had he gotten it from?

14 A He got it -- he says, A.G., where's the money when we
15 were still in my trailer. A.G. where's the money. I said
16 what money and more less you know what I'm talking about.
17 He went and looked around because he knew how I worked my
18 books and where I kept stuff. So I says, oh, I already
19 banked it. And he says, no, you didn't. I was trying to
20 act like I didn't have any money there. So he found the
21 money. And it was where I normally kept it. And he put
22 it in a Dollar General bag.

23 Q So he took that from your trailer to his trailer?

24 A To his trailer, uh-huh. And then when he told me I
25 was to take the money when I left. He took it out of the

1 Dollar General bag and sat it on top of some cigarettes or
2 something that was sitting there, just the plain money.
3 So I picked up the money and I started towards the door
4 and he said no -- he says I'm going to walk you home.
5 Well, he did. He got ahold of me and we walked up around
6 the normal way like we normally would walk and this is
7 almost two o'clock in the morning when we finally get up
8 there and then we're locked out. We had no keys. He had
9 locked the doors. So we tried to break in, he did. He
10 hit my glass window, which it isn't glass in the back
11 door. It's double Plexiglass that my husband did when we
12 brought a new door. He had it done different with more
13 stuff in it not glass. So he found that out. So we went
14 around the front of my house to get in and he pulled on
15 the screen door, busted the handle off. We couldn't get
16 in there because it was locked inside because I always
17 kept it lock and then he lock the big doors. So I said
18 wait a minute, I don't think my cars locked because I
19 usually lock it early and I didn't get a chance to lock my
20 car up. So I went got in my car and got a little thing
21 out. I don't know what it is. It wasn't the thing that
22 you change to take your tires off. It wasn't one of
23 those. It was something else because -- it's a Nissan car
24 now, so it must have been something. So I got it, but he
25 took it from me right away. And we went to the door and

1 he started prying in and I held the white part back. And
2 when he put this little black thing in, it unlock the
3 screen door in. And then I said don't bust my door down
4 it's a new door. I have salted glass in my door. So we
5 got in. I said, oh, wait a minute. I says I have a set
6 of keys hid out here. So I went and got my keys and we
7 got in the door. He still held onto the door, put it
8 back, held on it too. He says now he said you lock your
9 doors, and you set your alarm and you get some rest. And
10 he started to go out. He gave me a peck on the lip. And
11 he said I'm sorry I done this to you. And then he left.

12 Q Ms. A.G., when you were back in his trailer and you
13 were telling -- you testified that you go find a place and
14 I'll go out there with you and I'll meet you. Why were
15 you telling him that?

16 A I said I would go with him, that I love him and
17 everything and I would go with him.

18 Q Why did you tell him that?

19 A Because I thought if I could believe him that he
20 would believe that I would go with him and do all this
21 because he still cared for me, but I was doing it to help
22 me maybe. He could have still shot me. He could have
23 done anything to me. I don't know.

24 Q But is that when you were referring to you talked him
25 down, is that what you meant?

1 A Yeah, to see if I could get away from him.

2 Q And after that is that when he gave you the money
3 back too?

4 A Yes.

5 Q Okay. But you testified he said I know you're lying.
6 Were you really going to go with him if he ---

7 A Oh, my gosh, no, that's why I got out of there. And
8 I never thought because I told him that -- I didn't call
9 9-1-1 when he put me in the house I didn't even take a
10 shower.

11 Q Why didn't you call 9-1-1?

12 A Huh?

13 Q Why didn't you call 9-1-1?

14 A I have no idea, but I didn't want to lie to him. I
15 didn't want him to know and he lives there and he still
16 has a gun. I don't live very far. He could have come up
17 and checked on me, you know. It was just a thing. I
18 didn't want to lie to him. I wanted him to believe what I
19 was telling him all along.

20 Q And when you got back you said that you would call
21 him later to make sure he hadn't killed himself. Did you
22 call him?

23 A Yes, I did.

24 Q Okay. And about what time was that?

25 A A little after four.

1 Q Did you talk to him?

2 A No.

3 Q Okay. Did you have plans the next morning?

4 A Yes, I was to rent two trailers up on the hill on the
5 east side.

6 Q Are you pretty efficient in your job? Do you like to
7 be where you're supposed to be? Do you like to be where
8 you're supposed to be and on time?

9 A Oh, yes. I am always on time wherever I go.

10 Q Did you make arrangements and did you go with the
11 intent of showing these places on the east side?

12 A Uh-huh.

13 Q Would that be a yes? You have to say, yes, for the
14 record.

15 A Yes, oh, I'm sorry. Yes.

16 Q Tell us -- tell these folks when you left your --
17 what time did you leave your house that next morning?

18 A I'm not sure what time. It must have been going on
19 eight, 8:30 somewhere around in there. I'm not positive
20 on that. All I wanted to do was get out of there. I
21 grabbed my money. I grabbed my books and I had already
22 put my clean clothes on, no shower. I just dressed in
23 clean clothes, took like I said my books, the money and I
24 jumped in my car and I turned around and went back that
25 way so he couldn't see me.

1 Q And, again, I don't know if I apologize or not. Why
2 didn't you shower?

3 A Huh?

4 Q Why didn't you shower?

5 A Why didn't I? I have no idea. I just wanted to get
6 out of there.

7 Q And as you're leaving then what, if anything, do you
8 see anybody as you're leaving the mobile home park?

9 A Yes.

10 Q Who do you see?

11 A My maintenance man, Richard Bradford. And I went
12 down that way I had two maintenance men working for me.
13 And Richard looked at me says, Ms. A.G., I had my hand up

14 ---

15 MR. ROUTZONG: Objection, Your Honor.

16 A --- so he couldn't see it.

17 THE COURT: Okay. Hold on just a minute.

18 A And I said ---

19 THE COURT: Hold on just a minute.

20 MR. MEADORS: Just hold on.

21 THE COURT: Tell me your objection again?

22 MR. ROUTZONG: Hearsay, Your Honor. She's
23 telling everybody what the maintenance man said.

24 THE COURT: You can't say what the maintenance
25 man said, okay.

1 THE WITNESS: Okay.

2 THE COURT: Thank you.

3 BY MR. MEADORS:

4 Q When you saw -- did you see Mr. Richardson? Did you
5 see -- when you saw him where was your hand on your face?
6 Were you covering your face?

7 A Yes.

8 Q Why were you covering your face?

9 A Because my lip was all swell. Everything was swelled
10 up. My nose was swelled up. And he thought it was my
11 tooth.

12 Q Forget what he talking about. Why were you trying to
13 hide it?

14 A I didn't want them to know about it.

15 Q Why?

16 A I don't know. I don't want to be look at like that.

17 Q Where did you go after that?

18 A I went up on the hill after I passed Richard and
19 them, I went up on the hill east side.

20 Q Okay. Do you cross the four lanes of 521 to go to
21 the east side?

22 A Yes, sir.

23 Q And where did you go on the east side?

24 A I went up and was going down to number 36 is the
25 first trailer I was to show Ms. Barbara Williams was

1 there and I stepped out of the car.

2 Q Did she see your injuries?

3 A Yes.

4 Q Okay. And as a result of -- did you tell her as far
5 as a time and a place what happened to you?

6 A No.

7 Q That you had been assaulted at the trailer park?

8 A She asked me if Mr. McElveen done this to me.

9 MR. ROUTZONG: Objection, Your Honor, hearsay.

10 MR. MEADORS: I was trying to direct her to
11 that.

12 THE COURT: I understand. I understand.

13 BY MR. MEADORS:

14 Q As far as a time and a place without saying who, did
15 you tell her you been assaulted in the trailer park?

16 A Yes.

17 Q Okay.

18 MR. MEADORS: And for the record, Your Honor, I
19 don't think that was necessarily an issue in this case, so
20 I apologize, but I was trying to direct her to
21 specifically the time and place.

22 THE COURT: I understand.

23 BY MR. MEADORS:

24 Q Okay. Was law enforcement called after that? Did
25 police come?

1 A Yes.

2 Q And did you talk -- not saying go into it, but just
3 yes or no, did you talk to this man at the scene Dubose?

4 A Yes.

5 Q Do you remember talking to Shantell Ward?

6 A Yes.

7 Q Tell them what happened? Did you tell them --
8 without saying it now did you tell them what happened?

9 A Yes.

10 Q Did you give a statement there at the scene of [REDACTED]
11 [REDACTED] East?

12 A Yes.

13 Q Okay. Did you -- where did you go after that?

14 A In the ambulance.

15 Q Okay. And where did they take you?

16 A They took me to Tuomey hospital.

17 Q And did you see Investigator Ward you remember
18 talking to her there?

19 A Yes.

20 Q Did you tell her what happened?

21 A Yes.

22 Q And what happened at Tuomey?

23 A Well, they put me through everything. They took
24 blood, tested me for AIDS, things you do in a rape case.

25 Q And did you tell them what happened?

1 A Yes.

2 Q Okay. And did they look at your body?

3 A Yes.

4 Q Did they take samples from your body?

5 A Yes.

6 Q Did they stick stuff in your body?

7 A Yes.

8 Q Okay. Was that pleasant?

9 A No.

10 Q Did you want that to happen to you?

11 A No.

12 Q But you did, correct?

13 A Yes.

14 Q You let them examine you?

15 A Yes.

16 Q And were pictures taken of you at the hospital or do
17 you know?

18 A Yeah, they took an MRI or whatever they did. Those
19 kind they did x-rays.

20 Q Okay.

21 MR. MEADORS: Your Honor, it's going to make a
22 small sound while I log in.

23 THE COURT: Okay.

24 MR. MEADORS: Your Honor, this is what we
25 discussed previously that we have printed, but we're

1 offering both pictures off the disk and put them in some
2 format to give to the jury at a later point.

3 THE COURT: Okay.

4 MR. MEADORS: Your Honor, I think we're going to
5 offer these next series check with the court reporter with
6 her permission and your permission as State's Exhibit 30.
7 These will be on a disk later for the record.

8 THE COURT: Any objection?

9 MR. ROUTZONG: No, sir.

10 THE COURT: Okay. They're in without objection.

11 (WHEREUPON, State's Exhibit No. 30 A through M
12 was admitted into evidence.)

13 BY MR. MEADORS:

14 Q Ms. A.G., again if the judge doesn't mind, who is
15 that right there?

16 A Me.

17 Q Okay. And where are you when that's taken?

18 A In the ambulance.

19 Q Could it be at the hospital?

20 A It could be.

21 Q Can you show to the jury where you said he hit you
22 with something a gun or a flashlight or something you
23 said. Where was that on your face?

24 A Right here.

25 Q On State's 30, the first on State's 30?

1 A Right here.

2 Q Do where?

3 A Right on my upper lip.

4 Q Okay. Was that there prior to this day?

5 A No.

6 Q Okay. Was that caused by the defendant?

7 A Yes.

8 Q Okay. And is that a little closer up of that?

9 A Yes.

10 Q Okay. Is that a side view? That's still you,
11 correct?

12 A Yes.

13 Q Okay. How many times did he hit you?

14 A Once.

15 Q Okay. What is that?

16 A That's where he -- that's where the call came up the
17 way that I was hit somehow I don't know.

18 Q Okay. Next what's that?

19 A That's where he was choking me.

20 Q Can you see the redness there?

21 A (Inaudible).

22 Q Ma'am, I'm sorry I can't understand you. What is
23 that?

24 A That's the side of my neck where the thumb prints
25 went in.

1 Q Okay. What is that?

2 A That is my arm there and that's where a piece of the
3 tape was left on me.

4 Q Okay. And up toward the front of your wrist is that
5 where you talking about the piece of tape was left?

6 A Yeah.

7 Q The next one please. What does that depict,

8 Ms. A.G. ? What that show?

9 A I guess that's my arm.

10 Q Next please. And were all those taken at the
11 hospital by this lady right here as far as you know?

12 A Yes.

13 Q Okay.

14 MR. MEADORS: Your Honor, these will continue to
15 be on State's 30. I'll have them on one disk. I don't
16 know how else to do it.

17 THE COURT: Any objection to these?

18 MR. ROUTZONG: No, sir.

19 BY MR. MEADORS:

20 Q Are those your hands, Ms. A.G. ?

21 A Yes.

22 Q Okay. In the back right back up here what is that?

23 A That's tape around.

24 Q At the top of your left wrist?

25 A Yes.

1 Q Was that still on you that morning?

2 A Yes.

3 Q Okay. And what had happened to the rest of it?

4 A I don't know.

5 Q Okay. Was it at your house?

6 A No.

7 Q Okay. Do you know what happened to the rest of it?

8 A No, I don't.

9 Q And continuing on in State's 30 is that the tape that
10 was still on your arm? That's the tape you're talking
11 about the defendant taped on your wrist?

12 A That's the tape that he tore into small strips.

13 Q And you left that on your hands?

14 A Yes.

15 Q You know why?

16 A No.

17 Q But when you saw law enforcement was that still on
18 your arm, still on your wrists?

19 A Yes.

20 MR. MEADORS: And State's 31 without objection,
21 Your Honor.

22 THE COURT: Okay.

23 (WHEREUPON, State's Exhibit No. 31 was admitted
24 into evidence.)

25

1 BY MR. MEADORS:

2 Q Is that you?

3 A Yes.

4 Q And is this a picture of you prior to this what you
5 testified attacked?

6 A Yes.

7 Q Did you have that marked on your lip then?

8 A No.

9 Q Okay. Was this you on the scene, Ms. A.G. ? That's
10 a terrible question. Was this you at [REDACTED] [REDACTED]

11 [REDACTED] [REDACTED] East when you saw Ms. Williams?

12 A Yes.

13 Q Okay. Ms. A.G. , you just seen a picture of State's
14 30. The disk with all the pictures on it of some tape.

15 When you met law enforcement, did they take that tape from
16 you? Did they actually take it off of you?

17 A I don't know who took it off.

18 Q Okay. And I wasn't asking you that. I apologize.
19 Did somebody take it off?

20 A Somebody, yeah.

21 Q Did law enforcement get it?

22 A I guess so, somebody had to.

23 Q And is that appear to be the tape that law
24 enforcement -- that somebody took off of you that was on
25 your wrist?

1 A Yes. Yes.

2 Q Okay. Now, you've testified that the defendant,
3 Edward McElveen, had a gun and that he pointed it at you?

4 A Yes.

5 Q Threaten to kill you?

6 A Yes.

7 Q And himself?

8 A Yes.

9 Q Okay. I'm gone ask you to look at State's 32. Do
10 you recognize that?

11 A Yes, that's the gun.

12 Q That's the gun?

13 A Uh-huh. I thought his was bigger.

14 Q Does that appear to be the gun he had?

15 A Appears to be.

16 Q Okay. And how many bullets are in here?

17 A Two.

18 MR. MEADORS: Your Honor, State's 33 and State's
19 32.

20 THE COURT: Any objection?

21 MR. ROUTZONG: No, sir.

22 THE COURT: Okay. It's in without objection.

23 (WHEREUPON, State's Exhibit No. 32 and 33 were
24 admitted into evidence.)

25

1 BY MR. MEADORS:

2 Q When he told you to look in there and look at the two
3 bullets you testified earlier, could you see the bullets
4 in the gun?

5 A Just the tip ends of it.

6 Q Okay. But you could actually see them?

7 A Yes.

8 Q Okay. And how many bullets were in there?

9 A Two. I said they're gold. They want do much. And
10 he said they will. They'll do the job.

11 Q They're gold?

12 A That's what I thought I seen gold.

13 (WHEREUPON, a pause in the proceedings.)

14 (WHEREUPON, State's Exhibit No. 34 and 36 was
15 marked for identification only.)

16 BY MR. MEADORS:

17 Q This is for identification only, okay. State's 34
18 for ID. Is that your signature down there, Ms. A.G. ?

19 A Yes.

20 Q And is this a statement you gave to law enforcement
21 on February 2nd of 2017?

22 A Yes.

23 Q Okay. Four pages?

24 A Yes.

25 Q Okay.

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

2 THE COURT: Okay.

3 (WHEREUPON, a pause in the proceedings.)

4 BY MR. MEADORS:

5 Q Ms. A.G., this is State's 35. Those appear to be
6 your clothes that you were wearing?

7 A Yes, that is some slacks.

8 MR. MEADORS: Your Honor, 35 without objection.

9 THE COURT: Is that correct?

10 MR. ROUTZONG: No objection, Your Honor.

11 THE COURT: All right. It's in without
12 objection.

13 (WHEREUPON, State's Exhibit No. 35 was admitted
14 into evidence.)

15 BY MR. MEADORS:

16 Q Ms. A.G., what is that, this is State's 20?

17 A Mr. McElveen's mobile home.

18 Q And when you went it's got a 26 out front? Does that
19 say 26 out front?

20 A Yes.

21 Q Okay. What door did y'all enter when he took you
22 from your mobile home to his?

23 A The back door, the sliding glass doors.

24 Q Is that depicted right here?

25 A Yes, sir.

1 Q Okay. State's 21 is that also his mobile home?

2 A Yes.

3 Q Is that the same back door you went in?

4 A Yes.

5 Q State's 22?

6 A Yes.

7 Q Yes, would be for the record the door you entered
8 in -- that he took you from your mobile home to his mobile
9 home 22 depicts a sliding door that you entered in his
10 residence?

11 A Yes.

12 Q And what's State's Exhibit 23?

13 A Pardon.

14 Q What is that do you know?

15 A That's a blanket on the back of his sofa.

16 Q Okay. Now, when they -- when law enforcement -- did
17 they look in your house?

18 A Yes.

19 Q They looked in his house?

20 A Yes.

21 Q Okay. There was a trash can on State's 15 with a
22 plate over it. Do you remember that?

23 A Yes.

24 Q Okay. And was that plate covered in the trash can?

25 A Yes.

1 Q Okay. And why was that plate covered in the trash
2 can?

3 A It was just sitting there decoration.

4 Q Okay. And State's -- did something happen to that
5 plate?

6 A Yes, Mr. McElveen burn a hole in it. It was sitting
7 on my stove. I decorate with plates and stuff. He didn't
8 know he did it until I told him.

9 Q And law enforcement takes pictures of your house, his
10 house. It got them everywhere, but they took pictures,
11 correct?

12 A Yes.

13 Q Now, inside of this trash can right here State's 13
14 were there a couple of sex toys?

15 A Yes.

16 Q Okay. And do they have anything to do with this
17 incident this night?

18 A No.

19 Q Okay. As a matter of fact how -- and I'll show you a
20 picture right here State's 14. Is that what was inside
21 the trash can?

22 A Yes.

23 Q Okay. How did these get over in your house, did you
24 buy them?

25 A He ordered them from Leonard's magazine book.

1 Q I didn't understand that last thing you said?

2 A I said he ordered them from Leonard's. It's a book
3 that comes in the mail on my phone.

4 Q Had you -- did these have anything to do with this
5 assault this day, this night?

6 A No.

7 Q Okay. Tell it all had he asked you to use these
8 before?

9 A Pardon.

10 Q How did they get to your house?

11 A He brought them there.

12 Q And had he used any of these on you before?

13 A No.

14 Q Did he ask you if he could use them?

15 A No.

16 Q No what?

17 A He didn't ask me if he could use them on me.

18 Q Did he try to use them on you?

19 A Yes.

20 Q Okay. Maybe I'm not being clear in my questions. I
21 hate asking this stuff, but when was that? When was that?

22 A That was way before this incident happened.

23 Q And what did you say when he used it on you?

24 A I scream. I said get that out of there. I said it
25 hurts. I don't want it in. He said, well, try it. I

1 said, no, I don't want to use them.

2 Q But you tried it to please him and then said it hurt?

3 A Yes.

4 Q And what happened to them after that?

5 A They were laying on my floor when I found them.

6 Q Okay. And when did you find them?

7 A Wasn't too long after. I mean, it was before all
8 this mess, but I picked them up off the floor. I was
9 getting ready to vacuum and I couldn't figure out what
10 that was laying there and it was them. So I put them in
11 that bag and I threw them in the trash can. I was going
12 to take them to the trash.

13 Q And where did you find them?

14 A In my bedroom by the bed.

15 Q And you put them in the trash can?

16 A Yes.

17 Q And your intent was to throw them away?

18 A Exactly, yes.

19 Q Okay. But that has nothing to do with this incident?

20 A No, sir.

21 Q Finally I think ---

22 MR. MEADORS: Your Honor, I'm gone have to ask
23 her to come down ask if somebody could... I will be brief
24 with this.

25 THE COURT: Because I was going to say if you're

1 going to be much longer we going to take a break.

2 MR. MEADORS: Yes, sir, I'm sorry. I apologize
3 to everybody if I can finish with this.

4 THE COURT: Okay. Is this the last thing? I'm
5 not cutting you off. We can take a break and come back.
6 I just want to know because if you --- we been doing this
7 over two hours. And I don't know if the jury needs a
8 break, but I sure do. If it's going to be five minutes,
9 that's fine. If you going to be 30 minutes, we going to
10 ---

11 MR. MEADORS: Maybe, I should double check and
12 make sure I hadn't left any picture out. So if we could
13 and I'll be short when we come back then, that's fine.

14 THE COURT: Okay. We will take a ten minute
15 break. Don't discuss the case yet.

16 (WHEREUPON, the jury retire to the jury room.)

17 (WHEREUPON, a break was taken.)

18 MR. MEADORS: Your Honor, if you instruct her,
19 she can use the bathroom.

20 THE COURT: If you need to go down and take a
21 little break, you can. You just can't talk about your
22 testimony to the lawyers, okay. Thank you, ma'am.

23 All right. I'll take a short break and then we
24 need to discuss lunch.

25 MR. MEADORS: Well, this will be obviously the

1 longest witness, Judge.

2 THE COURT: Right. I don't know how long you
3 plan on crossing her. If it's going to be short, that's
4 one thing. If you want to take an hour or two, we got to
5 work around lunch. It may be better to go to lunch and
6 let you cross after lunch. I found out if we don't go to
7 lunch by one o'clock, it doesn't work, so -- or shortly
8 thereafter. If we can get ---

9 MR. ROUTZONG: I notice one juror beginning to
10 nod a little bit, Your Honor, so it might be good to take
11 a break.

12 MR. MEADORS: That's fine.

13 THE COURT: So you want to finish the State's
14 before we go to lunch? I don't know how long you going to
15 be. If you going to be ten minutes, we can finish you.

16 MR. MEADORS: Let me finish, that's fine.

17 THE COURT: State finish there as we go to
18 lunch, come back and do cross after lunch.

19 MR. ROUTZONG: That would be wonderful.

20 MR. MEADORS: Okay. I won't be more than ten
21 minutes. We'll take a short break. We come back and
22 finish and then we'll break for lunch.

23 (WHEREUPON, a break was taken.)

24 THE COURT: Now, assume we gone finish in the
25 next five or ten minutes do you all want to come back at

1 two or 2:30?

2 MR. MEADORS: Not matter to the State.

3 THE COURT: Well, if we get out of here by
4 12:30, an hour and a half is usually what I give them, so
5 we ought to be able to start up about two.

6 MR. MEADORS: I got the next witness, I don't
7 know about cross. I got them line up, so we're fine.
8 We'll see how we do. I'm not going to be long at all.

9 THE COURT: Okay. Bring in the jury.

10 (WHEREUPON, the jury came into open court.)

11 THE COURT: Okay. Mr. Solicitor.

12 MR. MEADORS: May it please the Court.

13 BY MR. MEADORS:

14 Q I just have a few questions. With the judge's
15 permission and if you'll promise to speak up, will you
16 come down here please. If you stand over here so the
17 court reporter can see you. I don't have many questions.
18 This is State's Number 1. Do you recognize this aerial
19 photo?

20 A That's the area where I live at [REDACTED]
21 [REDACTED] West.

22 Q In Sumter County?

23 A Sumter County.

24 MR. MEADORS: Your Honor, we offer State's 1.

25 THE COURT: Any objection?

1 MR. ROUTZONG: No, sir.

2 THE COURT: Okay. It's in without objection.

3 (WHEREUPON, State's Exhibit No. 1 was admitted
4 into evidence.)

5 BY MR. MEADORS:

6 Q Can you show the ladies and gentlemen of this jury --
7 can you point out where you are -- where your house is?

8 A Right here.

9 Q How do you recognize that as your house?

10 A A red Ford Escort and I'm right in the middle of
11 everybody.

12 Q Okay. And that's number ■?

13 A Yes.

14 Q Can you show them where the defendant, Edward
15 McElveen, was living in February of last year?

16 A This way.

17 Q Is it this one or this one. Is there one here also?

18 A Yes.

19 Q Is it hard to see that because of the aerial?

20 A Yeah. You can't hardly see his. It's the same
21 color as these. It's a light on.

22 Q But just so there's no question is that photo you
23 picked out in here? I don't even have it now. That's the
24 same one you identified through one of the photos?

25 A Yes.

1 Q And just very briefly will you show the jury when you
2 said he took you from your trailer to his trailer, can you
3 show them, you can use this your finger, the route you
4 took?

5 A Here he took me out my back ---

6 Q Speak up please, ma'am.

7 A He took me out the back and down the hill to get to
8 his place. It was this way, this way. I can't tell with
9 this thing. That's me.

10 Q Is that your red car?

11 A You sure this thing ain't up side down. There's the
12 lake. It is goes this way. He took me down the hill this
13 way around here and brought me over to here.

14 Q Okay. Show that again?

15 A From here out the back -- my back door, took me
16 down -- this goes down in a slant. We're on hills more or
17 less. He took me down that over the bank, down on this
18 road and then brought me around this way into his place.

19 Q Okay. So when you said the back door, is this the
20 front door your place?

21 A Yes.

22 Q Okay. So he took you out the back door.

23 A Back door and down the ramp and I have steps there.

24 Q Show the jury the different ways you can get in and
25 out of [REDACTED] West?

1 A Okay. This is coming off of 521 coming in. You can
2 go up so far and you can come around there it is, yeah.
3 You come in this way and go the downhill and around the
4 bin and it will bring you down here. It's like a Y. If
5 you go this way, then it comes back up around to meet this
6 part here. This thing's up side down. I'm not good with
7 maps.

8 Q Can you also come in from 521 and take a left?

9 A You take a left, yeah.

10 Q Is this an entrance right here coming in this way off
11 521?

12 A No, that's going back toward the lagoon. This is
13 number [REDACTED]. I don't think that's his trailer there.

14 Q But he walked you back to his trailer?

15 A Yes.

16 Q And this is the mobile home park?

17 A Yes. I'm there and I know he's down here.

18 Q Okay. Down here?

19 A Yeah.

20 Q Okay. All right. We gone have other folks testify
21 to the location, but this is clearly where this happened,
22 right?

23 A Yes, that aerial is wrong.

24 Q Okay, sorry. Now, I just got one or two more
25 questions. For the record, how do you pronounce your

1 first name? How do you pronounce your first name?

2 A Who's first name?

3 Q Your first name.

4 A A.G.

5 Q Ms. A.G. ?

6 A Yes.

7 Q For this record, for this court reporter to take down
8 and for this jury to hear, is the person in this courtroom
9 who entered your body with their penis without your
10 consent on or about February 21st or 22nd of 2017 is that
11 person in this courtroom?

12 A Yes.

13 Q And is the person in this courtroom who held you
14 against your will seven or eight hours is that person in
15 this courtroom?

16 A Yes.

17 Q Can you please point out that person for the ladies
18 and gentlemen of the jury and for the court reporter?

19 A He's the gentleman sitting over there.

20 Q Mr. Edward McElveen?

21 A Edward McElveen, yes.

22 Q By Mr. Little there? Raise your hand, Mr. Little.
23 Thank you, Mr. Little.

24 MR. MEADORS: Your Honor, that's all we have.

25 Thank you very much.

1 THE COURT: Okay. Ladies and gentlemen, we
2 going to break for lunch and I ask you to be back in the
3 jury room at two o'clock. Don't discuss this case, allow
4 them to discuss it with you. I need you all back at two.
5 If you have an emergency, you need to call us, okay. I'll
6 see you at two o'clock.

7 (WHEREUPON, the jury excused for lunch.)

8 THE COURT: You can step down. You just can't
9 discuss your testimony over lunch, okay. I'll see you
10 back at two o'clock. Thank you, ma'am.

11 MR. MEADORS: Judge, I didn't really never took
12 a break, so I never got to make that -- get in touch with
13 my boss. Did you find out that information you needed?

14 THE COURT: No. I been in here with you the
15 whole time. Bring me that juror in here.

16 (WHEREUPON, juror number 96 Carlton Johnson came
17 into the courtroom.)

18 THE COURT: All right. Tell me how come you
19 weren't here this morning?

20 JUROR: Huh?

21 THE COURT: How come you weren't here at 9:30?

22 JUROR: I was at work. I was trying to leave
23 early. I couldn't leave early.

24 THE COURT: What you mean you couldn't leave
25 early?

1 JUROR: They wouldn't let me.

2 THE COURT: How come you mean they wouldn't let
3 you?

4 JUROR: I was on third shift. They don't care
5 about -- they won't you to be there on time. It's Pride
6 Gold Kist. They don't care. I tried to leave early.

7 THE COURT: You didn't explain to them you were
8 on jury duty?

9 JUROR: Yeah, I did. I told them ahead of time
10 I had jury duty. They still don't care. They got a
11 little point system thing. I'm a new trainee, so they
12 don't care about -- I don't know what the big problem is.
13 I try to leave early.

14 THE COURT: Who is your supervisor that told you
15 that?

16 JUROR: His name is Brandon?

17 THE COURT: Brandon what?

18 JUROR: I don't know his last name. Like I
19 said, I just started. I just been a new hire.

20 THE COURT: Were you at Pilgrim Pride?

21 JUROR: Uh-huh.

22 THE COURT: And what time did you get off?

23 JUROR: I left at 9:30.

24 THE COURT: Okay.

25 JUROR: I try to get here at 9:30. I try to

1 leave nine o'clock, but I couldn't leave nine o'clock on
2 the line.

3 THE COURT: All right. And what time did you go
4 in last night?

5 JUROR: What time I went in last night?

6 THE COURT: Yeah.

7 JUROR: Four o'clock this morning.

8 THE COURT: All right. When you go back -- I'm
9 going to excuse you because I went ahead and start this
10 jury. So you going to have to call back when the jury
11 does, but I need you to find out Brandon's last name and
12 call the clerk's office and tell them.

13 JUROR: Okay.

14 THE COURT: All right.

15 JUROR: All right.

16 THE COURT: You call back -- what is the
17 message they would call back tomorrow night?

18 BAILIFF: The message said this afternoon.

19 THE COURT: What time?

20 BAILIFF: After six.

21 THE COURT: All right. So you got to call back
22 after six o'clock tonight. When you find out Brandon's
23 last name, I need you to call the clerk's office and give
24 it to them.

25 JUROR: You want me to come back tomorrow?

1 THE COURT: The phone message will tell you when
2 you got to be back. Okay. Thank you.

3 BAILIFF: I'll give him a little further
4 instruction, Your Honor.

5 THE COURT: Okay. Anything before we break for
6 lunch?

7 MR. MEADORS: No, sir.

8 THE COURT: I'll see you all at two o'clock.

9 (WHEREUPON, a lunch break was taken.)

10 THE COURT: We ready for the jury. Bring us the
11 jury.

12 (WHEREUPON, the jury came into open court.)

13 THE COURT: Okay.

14 MR. ROUTZONG: Thank you, Your Honor.

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q Good afternoon, Ms. A.G.

18 A Huh. Thank you. You too.

19 Q I want to kind of make sure I got a couple things
20 right in my understanding. Your relationship with
21 Mr. McElveen it was about a year long type thing?

22 A Uh-huh.

23 Q You've known him for about a year?

24 A Uh-huh.

25 Q And your position now it had -- there were times when

1 you became intimate?

2 A Uh-huh.

3 Q You're not denying that?

4 A No. No.

5 Q Can you tell me about your relationship with
6 Mr. Richardson in a sense -- I'm not going to ask you
7 about whether there was an affair or anything. I just
8 mean you been with him for how many years again?

9 A I think with him since 2000 he bought the park, but I
10 knew him prior to that him and his wife.

11 Q He's a pastor of a church?

12 A Yes, Baptist Temple.

13 Q Baptist Temple, okay. He's your employer, right?

14 A Yes, sir.

15 Q Okay. Your husband passed away in 2014?

16 A Yes, sir.

17 Q You get social security?

18 A Yes.

19 Q So this is kind of like a supplement for your income
20 what he pays you?

21 A Yeah, I'm on his social security.

22 Q And you get paid by Mr. Richardson?

23 A Yes.

24 Q To manage the park?

25 A Yes.

1 Q Okay. You done that for how many years?

2 A Not for him -- but I've had the job for 31 years. I
3 worked under three different people.

4 Q And the lot that your trailer lives on -- I'm sorry
5 not lives on. The lot that your trailer is on that
6 belongs to him?

7 A Yes.

8 Q You have a good relationship with his wife?

9 A Yes.

10 Q And Ms. Barbara Williams that's his sister, isn't it?

11 A Yes.

12 Q Okay. And she works over in the other trailer park?

13 A She runs the others more than another -- Laney
14 Trailer Park and there's another one. I have both Scenic
15 Lakes.

16 Q You manage both of them?

17 A Yeah, she helps me every now and then if I need help
18 on the other side as I call it on the east side. I run
19 both of them 35 trailers all together.

20 Q You probably characterize your relationship with all
21 three of these folks as your friends?

22 A Friends.

23 Q Been friends for many years?

24 A Yes.

25 Q Fair enough. Now, there came a time sometime

1 probably in January or maybe before January when you
2 became aware that Mr. McElveen had the idea that you were
3 having an affair with this pastor?

4 A Through his mouth, yes.

5 Q Was that in January or was it before that?

6 A Yes, I guess, it was maybe January. I'm not positive
7 on that.

8 Q Yes, ma'am. But certainly the letter was left on
9 your bed one's been entered into evidence as ---

10 A February.

11 Q I guess, it's State's Number 24. That was in January
12 or February?

13 A February.

14 Q Did you become aware of a phone call from
15 Mr. McElveen to Pastor Richardson in January sometime
16 around that period of time?

17 A It was when I was in Greenville with my granddaughter
18 and grandson. They tried to reach me, but I never
19 answered the phone. When I got home, I contacted them to
20 see what they wanted with me and then they told me that
21 Mr. McElveen made this awful phone call, terrible and said
22 that I was having -- well, he didn't call it an affair.
23 He said a whole bunch of other stuff with her husband. He
24 had this obsession in there. I don't know why.

25 Q Yes, ma'am. You don't deny when you say you don't

1 know why you don't deny that he had pretty strong feelings
2 for you. He really cared about you. You wouldn't deny
3 that would you?

4 A From what he said.

5 Q In your experience?

6 A He did.

7 Q Because I think somewhere -- I know you gave so many
8 interviews, but in one of those interviews, you mentioned
9 that he was with you almost 24 hours a day?

10 A Just about.

11 Q So you guys were close?

12 A Yeah. Well, I mean, he would come up and visit and
13 then he go home.

14 Q Right. He's not staying over night all the time?

15 A No.

16 Q But he's with you frequently?

17 A Yes.

18 Q Okay. He cared about you and you cared about him?

19 A Yes.

20 Q Okay. And then there's a shocking phone call that
21 sometime in January where he's making these really
22 terrible allegations, that are very hurtful not only to
23 you but hurtful to these folks that you're very close
24 friends with?

25 A Exactly.

1 Q I think your testimony was at that point in time that
2 was just about it for you. That's when you said, well, no
3 we're breaking it off basically. And for about three
4 weeks, I think, your testimony was, you'll correct me if
5 I'm wrong, about three weeks -- and I believe in one of
6 your interviews you said you were on the outs with him,
7 means you guys weren't really seeing each other then?

8 A Right.

9 Q Except just casually you might see him at the park?

10 A Yeah, that's true.

11 Q So then we come to February 21st of last year. I
12 know your testimony is around four o'clock maybe you're
13 at home. Mr. McElveen drops by and he asks you if you had
14 some food?

15 A He sat on my porch and then ask me if I had any food
16 for him and I said, well, you got food at home. He said,
17 no, all I have is tomatoes and something else. And I knew
18 he had more than that. And I said, well, I been to the
19 Chicken Shake and I said I got some shrimp fried rice. So
20 I went and got it for him, brought it to the door. He got
21 it, sat back down in the chair. I lock my screen door and
22 he was going to eat there. And I said, no, no, no, you go
23 home. He got up. He went home. About 20 after five he
24 comes back again and he asks me do you have any more food.
25 And I says, well, I have some left. I says I'll give it

1 to you or I'll throw it out. So my screen door was
2 locked. I walked to the door with it. When I walked to
3 the door, open my door, he grab the door and he came in
4 with the food in his hand, put it on the coffee table.
5 And then he sat down in my lounge and that's where he sat
6 there for a while. He didn't say anything. And he got up
7 ask me if he could use my bathroom. And I went like that
8 because he's been in there before down the hall. So he
9 went and use the bathroom, came back sat in the chair,
10 talk to my cat said somebody loves me, you love me.

11 Q What's your cat name?

12 A Angel, a snow white one. She liked him. Then he
13 automatically after about maybe five minutes or so, he got
14 up again and went back down the hallway. I thought he was
15 going to use the bathroom. And then I waited a while.
16 Didn't hear nothing and I yelled at him. I said, boy
17 you're taking a long time back there. Then I heard the
18 flush. He came back in then. When he came in, he stood
19 there for a while. He reach in his pocket, in his shorts.
20 He pulled out this or duck tape. He started tearing it
21 off in little strips and I thought to myself what he's
22 going to do with that. I have nothing in here that needs
23 tape. Next thing I knew he told me to put my hands behind
24 my back.

25 Q Can I stop you right there for just a second because

1 I think you testified to something earlier it's very
2 interesting to me. You know, he comes over to your house
3 and you're on the outs with him, that's -- you're not
4 afraid to admit that. And you have reason to let's face
5 it he upset a lot of folks that you care about. And so
6 you let him come in the house and you're not so mad at him
7 at least?

8 A I didn't let him come in, sir.

9 Q I'm sorry let me correct that. Your testimony is
10 that he came in without your permission I'm sorry I'll
11 correct that. And he comes in the house and everything
12 that you just testified to happened. And then we're at
13 that point where you said he's tearing off strips of tape.
14 I'm trying to reconcile something in my mind here. He's
15 coming into your house uninvited. You're mad at him. You
16 don't want a relationship with him any more. You
17 testified that at this point you still thought he was
18 joking with you; is that correct?

19 A Yes.

20 Q Go ahead you can continue.

21 A And made me lose my thought.

22 Q We were actually at the point where he was tearing
23 the tape off.

24 A So he told me to put my hand behinds my back and
25 that's when he tape me up. He pulled out the other tape,

1 the one you mail packages with clear. He pulled a strip
2 about like that. He put it on my mouth, that didn't seem
3 big enough for him. He pulled a wider one off, put that
4 one on. So I had two pieces on my face. When he was done
5 with that, then he showed me the gun.

6 Q Yes, ma'am.

7 A And he said if you try anything I'll shoot you.

8 Q Let me stop you right there. So now you got two
9 pieces of tape on you and your hands are taped behind your
10 back. Now, you know it's not a joke, that will be your
11 testimony. You're convinced he's serious at this point?

12 A Not yet I wasn't.

13 Q Oh, my, okay.

14 A Because he always joked things with me and I thought
15 maybe he was playing a game or something, no. It just
16 didn't hit me that -- the way he was he was a very lovely
17 man, I mean, a nice man for a whole year, wouldn't
18 expected anything like that out of him. So I thought
19 because he use to do things to me like jokes and stuff,
20 you know.

21 Q Yes, ma'am. May I interrupt you just for a second.
22 You mention the gun. When you testified it reminded me of
23 something that you told one of the folks that you were
24 interviewing or interviewed you one of the law enforcement
25 people. You said that that gun only took two bullets?

1 A That is correct.

2 Q That's correct?

3 A He made me look in them.

4 Q And you told law enforcement it took two?

5 A Exactly.

6 Q Yes, ma'am. And you said to law enforcement on one
7 of those interviews that his niece had spoke to you and
8 you came to find out based on that conversation that he
9 was looking to get some more bullets?

10 A Yes, he asked her. She told me when she come to
11 visit me because she sitting there to tell me another
12 story, okay.

13 Q I won't trouble that, but you knew for a long time
14 that he had a gun around?

15 A No, no, no. She come to me after this incident,
16 after everything was done.

17 Q Oh, she came afterwards?

18 A Yes, yes, yes.

19 Q Well, I think the question is still relevant. You
20 knew for a long time that he had a gun?

21 A No, I did not.

22 Q You didn't?

23 A No, I never knew he had a gun. He tried to get me to
24 buy a gun. We even looked at them and I said I'm scared
25 of guns. I said, no, but he wanted me to get a gun. And

1 then I was putting two and two together, that's probably
2 why he wanted a gun so he could take care me and blame it
3 on me.

4 Q Well, that's makes me wonder a little bit because the
5 interview with law enforcement didn't they all take place
6 on the 22nd?

7 A 22nd..

8 Q And you had spoken to his niece it was after that,
9 right?

10 A After the beat up, yeah.

11 Q And after the interview?

12 A Uh-huh.

13 Q How could you tell them during the interview that she
14 had told you that?

15 A I never told them up there because I didn't -- she
16 never to come my house then. She came after.

17 Q But in the interview you told them that?

18 A Told them what about her and the bullet?

19 Q Yes, ma'am.

20 A That's when she come to visit me at my house after he
21 did this to me. And she was sitting in the lounge and I
22 said about the gun that he had a gun. She said he called
23 her and asked if she had any bullets.

24 Q After all the interviews were over, she came to talk
25 to you?

1 A Yes.

2 MR. ROUTZONG: Your Honor, at this point I think
3 we might have a matter of law. She may need to refresh
4 her memory.

5 THE COURT: All right. Come here and tell me
6 about it.

7 (WHEREUPON, a bench conference was held in the
8 presence of the jury, but out of the hearing of the
9 jury.)

10 THE COURT: Ladies and gentlemen, I need to send
11 you to the jury room while I take up a matter of law
12 outside your presence. Don't discuss the case. I'll get
13 you back out here as quick as I can. And one thing you
14 all can do while you're back there is a pick a foreperson.
15 It needs to be out of the original 12. Well, you don't do
16 that yet because I have to put an alternate in place.
17 We'll do that next time you take a break.

18 (WHEREUPON, the jury retire to the jury room.)

19 THE COURT: I instructed the clerk's office or
20 the bailiff to randomly draw an alternate to take the slot
21 of the juror that didn't show up, okay.

22 MR. MEADORS: Yes, sir.

23 THE COURT: The rules in criminal court require
24 a random drawing of the alternate and civil court it's the
25 next one up. Now, we can ---

1 MR. ROUTZONG: Your Honor, this is a recorded
2 statement that you made to the sheriff's office. It's not
3 the whole thing, but I think it's the pertinent part and
4 you let me know if you can hear it.

5 (WHEREUPON, audio being played for the Court.)

6 A But she wasn't at my house. She came after that.

7 MR. MEADORS: Your Honor, I don't know what his
8 question was.

9 MR. ROUTZONG: Well, she's had her memory
10 refreshed now. She remembers that -- she mentioned the
11 niece and the bullets on the day she got interviewed. And
12 her testimony is it was the 22nd. That's what we were
13 asking.

14 THE COURT: Okay. I understand what you're
15 saying, but what is your question of her? What are you
16 asking her?

17 MR. ROUTZONG: Did she know about the gun before
18 it was pointed at her on the 21st slash 22nd?

19 A 21st because it didn't happen on the 21st. I was at
20 the beauty parlor on the 21st. It was on the 22nd that
21 this started and ended on 23rd in the morning. I had a
22 hair appointment at ten o'clock. And he come up there
23 Tuesday morning.

24 MR. ROUTZONG: Your Honor, one of the things
25 about the State's case is that there's a lot of

1 consistencies sometime they one to one consistency with
2 something she says to a piece of evidence. This is one of
3 those pieces. I even know how many bullets were in the
4 gun because I was looking down the barrel of it. One
5 explanation as Your Honor knows is in a revolver you can
6 look and you can see there's a bullet. There's a bullet.
7 You can't see what's behind the cone, behind the barrel
8 you can't see that one, but you can see the ones that are
9 there. So that's one explanation. The other explanation
10 is he had a gun, had been carrying it around and she knows
11 that it only had two bullets because she seen it before.
12 And that's why I think it's important for the jury to hear
13 that she discussed this gun and bullets with the niece on
14 some occasion prior to her interview. That's my only
15 problem.

16 THE COURT: Okay.

17 A He told me had two bullets one for him and one for me
18 when he pulled that gun out of there -- out of his pocket.
19 She didn't tell me that, that was after this accident
20 happened because he made a phone call to tell her to come
21 and tell me that he had AIDS. I need to be tested and he
22 also said that he had AIDS, and I needed to be tested. And
23 he also said he had colon cancer, he was in the forth
24 stage. She was assaulted at one time, so she started
25 telling me these things. And I said what about the gun,

1 he showed me the gun. And he said it had two bullets in
2 it and he made me look in the barrel. I don't know if it
3 was any more behind it. I'm only going on what he told me
4 was in there.

5 THE COURT: Okay. When did you have this
6 conversation with his niece?

7 THE WITNESS: I don't remember, sir, Your Honor.

8 THE COURT: Okay.

9 MR. MEADORS: Judge, I can clear it up now, but
10 I rather do it in front of the jury.

11 THE COURT: Okay. I understand you asking the
12 question. You listen to the statement and you want me to
13 bring the jury back out and you can continue.

14 MR. ROUTZONG: That's correct, Your Honor.

15 THE COURT: All right.

16 THE WITNESS: He knows what he said to me.

17 BAILIFF: The name I drew, Your Honor, is
18 Christine Rhodes.

19 THE COURT: Okay.

20 (WHEREUPON, the jury came into open court.)

21 THE COURT: And you draw number 143 Ms. Rhodes?

22 BAILIFF: Yes, Your Honor.

23 THE COURT: Okay. Ms. Rhodes, you been
24 selected -- I lost one juror, so I had two alternates. We
25 randomly drew, so you got selected. So you on the full

1 panel now, okay. Thank you. All right. Yes, sir, we can
2 proceed.

3 MR. ROUTZONG: Thank you, Your Honor.

4 BY MR. ROUTZONG:

5 Q Ms. A.G., now that you had a chance to refresh your
6 memory, you told law enforcement that you became aware of
7 the fact that Mr. McElveen was seeking bullets from a
8 niece on the day that you were interviewed that that was
9 on the 22nd I think you testified to; is that correct?

10 A That he was seeking them. She told ---

11 Q You became aware ---

12 A I don't remember telling them that. I might have
13 been mixed up then because I did not see her until after
14 the accident of him beating me up.

15 Q Yes, ma'am. But you'll agree with me that you
16 discussed that issue with law enforcement on the day you
17 were interviewed?

18 A I can't say I did and I can't say I didn't. I don't
19 remember that. There was a lot of things I don't remember
20 on that.

21 Q Okay. Just to -- I won't ask you bother you about
22 it, but just make sure you listen to the interview that
23 portion I played for you. And you'll agree with me that
24 you asked a law enforcement person or you told the law
25 enforcement person that Mr. McElveen's niece had contacted

1 you about him getting some more bullets, that's what you
2 heard on your interview that I just played for you?

3 A Maybe it happen then.

4 MR. MEADORS: Your Honor, we don't know the date
5 of that interview. How many objections -- because she
6 gave three or four different interviews, so I don't know
7 what date he's saying that occurred on.

8 A Why don't you get her here she'll tell you -- it's
9 the only time she visited me. And I didn't talk to her on
10 the phone, she just called and asked me if she could come
11 over. She had a message from him on the AIDS part and for
12 me to get tested.

13 Q We won't go into all that.

14 A Well, I'm -- that's when I talk to her she come to my
15 home.

16 Q Yes, ma'am.

17 MR. ROUTZONG: Your Honor, I like that remark
18 stricken from the record about ---

19 MR. MEADORS: Your Honor, I didn't object. He
20 elicited that from her talking -- she talking about
21 conversation she had with his relative and she said that
22 was a conversation.

23 MR. ROUTZONG: My question was restricted
24 completely to the gun, Your Honor.

25 THE COURT: Okay. I'll -- it wasn't responsive

1 to the question. I'll order it stricken.

2 MR. ROUTZONG: I'm sorry, Your Honor.

3 THE COURT: I'll order it stricken. I'll
4 sustain the objection.

5 MR. ROUTZONG: Thank you, Your Honor.

6 BY MR. ROUTZONG:

7 Q Ms. A.G., we'll move on from that issue. You were,
8 telling the narrative of the story again of what happened
9 and you mentioned he pulled out a gun. You've already got
10 tape over your mouth two of them you testified to, right?

11 A Well, he pulled the gun out before he had the tape on
12 me. He had that out.

13 Q Yes, ma'am. So your mouth's taped twice. There's a
14 gun and then I think your testimony is at least sometime
15 later the doorbell ring?

16 A That is correct.

17 Q And you believe it's about six o'clock when that
18 happened?

19 A I'm not sure of the time when -- he was coming there
20 to pay me rent because he was moving.

21 Q You didn't see who was at this door?

22 A No, I did not.

23 Q So you're not really sure who was there?

24 A Well, not then, but he talked to my daughter the next
25 day and told her that he was there at the door.

1 Q Well --

2 A I don't know, I didn't see him and I didn't talk to
3 him, so I didn't know.

4 Q Yes, ma'am. I think it's about at that time your
5 testimony was that Mr. McElveen shoved you on the ground?

6 A On the floor.

7 Q On the floor, I'm sorry. That's correct?

8 A Yes, put his knee in my side, that's why my voice was
9 sounding so funny on that tape because I was coughing and
10 choking and he knows it. And he put his two fingers in my
11 neck was choking me.

12 Q Yes, ma'am. I guess he told you don't say anything.
13 And he actually during this period of time not long after
14 that as a matter of fact I think your testimony is he said
15 I'm going to shoot you and you said go ahead?

16 A Yeah, I did. I said go ahead and shoot me I don't
17 care because he was threatening me. So if he wanted to
18 shoot me, I didn't care.

19 Q Yes, ma'am. I think sometime along the way you
20 testify that when Mr. McElveen came back and you had given
21 him that food he had placed the food on your coffee table?

22 A That is correct. He forced his way in.

23 Q What was in the box?

24 A Friday rice and shrimp.

25 Q And that's sitting on the coffee table?

1 A Yes.

2 Q And then your testimony somewhere along the line you
3 might want to pick up the narrative again, but somewhere
4 along the line you got both of your legs and you kicked
5 him?

6 A That is correct.

7 Q He went over the coffee table?

8 A Yes, over the corner of the coffee table and he fell
9 onto my sofa, the edge of my sofa.

10 Q Yes, ma'am.

11 A Yes.

12 Q And then he got back up?

13 A Yes.

14 Q Okay. So your -- basically, I know that you told law
15 enforcement this basically this was a fight at this point?

16 A It was what?

17 Q A fight. You weren't going to just go down. You
18 knew he wasn't joking. You're putting up a fight at this
19 point that's not unfair to say?

20 A Well, that's the only thing I could do.

21 Q Yes, ma'am. And I think it was even actually a
22 couple times he got kick. One time was in the -- and he
23 hit the television you said, wasn't that right? Is that
24 television in your bedroom or is that in the living room?

25 A Bedroom.

1 Q Okay. And did he knock the TV completely off?

2 A Uh-huh.

3 Q And then he put it back up there for you?

4 A Uh-huh.

5 Q Okay. This whole time your hands are bound behind
6 your back. Let's face it there's no opportunity for you
7 to call 9-1-1?

8 A No.

9 Q There's no opportunity to get any help. If it's
10 going to be anybody, it's you that helps yourself. Is
11 that fair to say?

12 A Right.

13 Q So a fight's on and I know you mention that at some
14 point in time he hit you with you're not sure what?

15 A No, it was either a gun or a flashlight. I don't
16 know which flashlight it would have been.

17 Q Did you have a flashlight in your house?

18 A Well, yeah.

19 Q Okay. Well, you're saying he did have a gun in his
20 possession. It could have been the gun?

21 A It could have been the gun.

22 Q And when he hit you, I believe, your testimony was
23 that blood splattered up your face and into your hair?

24 A It was, yes.

25 Q Yes, ma'am, I know that you told law enforcement in

1 one of those interviews that he gave you a wet rag and you
2 wiped your face off?

3 A He did down at his place.

4 Q And I think you actually told them probably both
5 times it was one time at your place that there was a wet
6 rag. And I think you also ---

7 A No, no, not at my house. He didn't -- nothing was
8 ever washed off of me at my house whatsoever. It was his
9 house. And he gave me a white wash clothe.

10 Q I have the portion of that interview. Would
11 listening to that help you refresh your memory?

12 A I could, but I didn't wash my face off at my trailer.

13 MR. ROUTZONG: Your Honor, we probably have a
14 similar situation where we need to ask the jury to leave
15 so I can help her refresh her memory.

16 A Why?

17 THE COURT: Okay. Ladies and gentlemen, I ask
18 you to go back out one more time. Do not discuss the
19 case.

20 (WHEREUPON, the jury retire to the jury room.)

21 DIRECT EXAMINATION IN-CAMERA

22 BY MR. MEADORS:

23 Q Ms. A.G., what I'm getting ready to play for you is
24 the statement you at Tuomey, that's what the State has on
25 there. Let me know if you can't hear it.

1 (WHEREUPON, audio played for the witness.)

2 A That was in his bathroom. We never went in my
3 bathroom whatsoever.

4 Q No, ma'am, I will be glad to play it for you again
5 because ---

6 A I know, but that's not true. I never went in my
7 bathroom to get -- and I don't think I have even a white
8 wash clothe. I have a brown, tan, pink, peach color,
9 blue-green.

10 Q Let me see if we can't agree on that, Ms. A.G.
11 You'll agree with me that's what you told law enforcement?

12 A It's on there.

13 Q You agree the residence that you were referring to
14 was your residence? You said your love seat, your bedroom
15 and he went in the bathroom. You might disagree with it
16 now ---

17 A I didn't go in my bathroom at all.

18 Q You might disagree with it now, but you'll agree with
19 me that's what you told law enforcement in other words?

20 A I don't think so. I don't think so.

21 MR. MEADORS: Judge, I think we ought to play
22 the whole tape. Let me them hear the whole thing. I
23 don't like the fact he's questioning and doing this. I
24 rather do this in the presence of the jury.

25 A Because I know I wasn't in my bathroom and he knows

1 too. The only place I was in his bathroom. I didn't even
2 go to the bathroom in my own home.

3 MR. ROUTZONG: I would disagree with playing the
4 whole tape, Your Honor, you know.

5 A Well, you probably would have been mixed up too.

6 THE COURT: Both of you can't talk at the same
7 time.

8 MR. MEADORS: Let the judge speak please, ma'am.

9 THE COURT: My court reporter's got to get it
10 all down and she can't get it with both of you talking.
11 All right. Go ahead.

12 MR. ROUTZONG: Your Honor, there's things on
13 there that's no doubt I can't be specific because I wasn't
14 planning on the State trying to enter the whole interview
15 in. If I had a chance to redact it, if any redactions are
16 necessary, that might be different. Your Honor, I don't
17 know frankly why it's objectionable for me to ask a
18 question that she is mistaken about. I play it for her.
19 Clearly context shows that it's in her house. She still
20 disagrees with me. I don't know why that's objectionable
21 on my part. I can ask her this question. It's a relevant
22 question. It's one of those pieces of evidence that we
23 have right here potentially, arguably.

24 THE COURT: I understand. I'm not -- you
25 certainly can ask the question. Normally, the rule on a

1 prior inconsistent statement if she agrees she said it,
2 that's it, but if she denies she said it, you have a right
3 to put the extrinsic evidence in. Question is do you want
4 to put it in?

5 MR. ROUTZONG: I would certainly not want to put
6 the whole thing in.

7 THE COURT: Well, then what portion, if any, do
8 you want to put in?

9 MR. ROUTZONG: Frankly, Your Honor, if I ask her
10 if that's what she told law enforcement, she can say, yes,
11 but that was mistaken and that takes care of it. There's
12 nothing else I can say.

13 THE COURT: I understand that, but that's not
14 what she said. I understand if she said, no, I didn't,
15 you know, the problem is I understand where do we go from
16 here. If she says, no, I didn't tell law enforcement
17 that, and you got a tape that she's telling law
18 enforcement that, the normal remedy is to play that. It's
19 admissible at that point.

20 MR. ROUTZONG: I don't agree that we need to
21 play the whole thing, but if Mr. Meadors and I can agree
22 on what's -- you know, what this is. It's only probably
23 what 20 seconds long.

24 MR. MEADORS: Well, in fairness if he's going to
25 call into question some of those, I want to -- I think, I

1 should be allowed to go back and show her consistent
2 statements and explain this, that she's clearly confused
3 about this. She never went in the house. I mean, she's
4 got a right to explain it I think her answer.

5 THE COURT: She does. I mean, she's got a right
6 to explain it. How far we go, I mean, if you all can --
7 if you going to play a prior inconsistent statement --
8 it's a case on point on that. Whatever you all can agree
9 of how much it answers that question or not.

10 MR. ROUTZONG: Yes, sir.

11 THE COURT: Hang on a minute.

12 (WHEREUPON, a pause in the proceedings.)

13 MR. MEADORS: Judge, Rule 613.

14 THE COURT: Yea, I'm looking at that. The
15 question is -- and we had this issue -- it's a case on
16 point that whether an entire statement comes in or just
17 that portion that's inconsistent.

18 MR. MEADORS: You're not talking about what ---

19 THE COURT: You find the case.

20 MR. MEADORS: You're not talking about Gaylock
21 or Glaylock, are you? 591 Southeastern Second 632 and
22 there's a Carmack.

23 THE COURT: And what are the holdings on those
24 cases?

25 MR. MEADORS: I think it's Glaylock.

1 THE COURT: King case was the telephone.

2 MR. MEADORS: Extrinsic evidence of a prior
3 inconsistent statement is admissible if the witness is
4 advised of a substance time and place ---

5 THE COURT: That's the Carmack. It's clearly
6 that the statement is admissible. The question is whether
7 the entire statement is admissible or whether -- how long
8 is this statement and what ---

9 MR. ROUTZONG: Thirty-minutes, Your Honor, I'm
10 told.

11 THE COURT: Okay.

12 MR. MEADORS: Your Honor, the investigator who
13 was there -- this one took place in the hospital, I think.

14 INVESTIGATOR: On the 22nd I met her at the
15 hospital.

16 THE COURT: These statements been transcribed?

17 MR. MEADORS: No, sir.

18 INVESTIGATOR: No, sir.

19 THE COURT: Okay.

20 MR. MEADORS: They're all on the disk. That one
21 was taken the 22nd at the hospital. The doctor would come
22 in. They stop talking. So it's not a total 37, but it
23 runs 37. The previous statement they're talking about is
24 on a different day, which I'll clear up later I think. It
25 wasn't on that same day. I think it was -- it was

1 actually on the 23rd, but anyway you're talking about
2 different statements at different times which is another
3 thing that concerns me is not just -- I'll clear that up
4 obviously, but he's just saying when you made a statement
5 and not telling her when, which I think you have to tell
6 her when, where ---

7 THE COURT: Right, but you got to lay the
8 foundation. And he's kind -- he asked about law a
9 enforcement statement -- yes, sir.

10 MR. ROUTZONG: I think I mentioned to her. I
11 just said initially, I just said law enforcement. When I
12 went up there a second ago, I said we already listen to
13 testimony that she spoken to law enforcement on the 22nd.
14 And then I told her it was at Tuomey. I don't know that I
15 ever knew until today.

16 THE COURT: How much is -- well, how much is --
17 can you all -- is the situation you all can agree or what
18 portions you can play or we're going to play the whole 37
19 minutes. Is it relevant?

20 MR. ROUTZONG: The answer to that question is,
21 yes, Your Honor.

22 THE COURT: I know it's relevant on your end,
23 but is the other stuff is it all relevant?

24 MR. ROUTZONG: It's pretty much a rehash. I
25 listen to it several times.

1 THE COURT: Of what she testified to?

2 MR. ROUTZONG: Yes, sir, but I'm not 100 percent
3 sure. For example, a minute ago she mentioned an
4 allegation that Mr. McElveen had AIDS, that's not good. I
5 don't know, I don't recall wasn't looking for those kind
6 of things. If there's those kind of things in there, I
7 wouldn't want it to be played in front of the jury. Go
8 ahead.

9 MR. LITTLE: Your Honor, I've done a little more
10 work with the case than Mr. Russell has and there are
11 parts in there also where she talks about his past
12 criminal history.

13 MR. MEADORS: We certainly wouldn't be trying to
14 go into that, Judge.

15 MR. ROUTZONG: The simplest thing I think to do
16 would be just agree on that small portion perhaps that I
17 just played and the jury make of it what they will.

18 THE COURT: Okay. In State vs. Kelsey, the
19 Court ruled generally where a portion of the witness'
20 prior inconsistent statement has been reduced to impeach
21 that witness. The entire statement is admissible to rebut
22 or to explain the inconsistency. Out of the mere mention
23 of a conversation or statement, does not automatically
24 entitle the opponent to bring out the part, parts that
25 aren't relevant on material to explaining the

1 inconsistencies. So basically it appears to me that the
2 law is -- if you put in a portion of inconsistency, the
3 State has a right to put in any of the rest of that
4 portion that's relevant and material to explain the
5 inconsistencies. So the entire tape could come in, but
6 the portions about his prior record and all that won't
7 come in. So if you all can agree on what you're trying to
8 induce is inconsistencies, he has a right to rebut the
9 inconsistencies in there. Now, whether that means the
10 entire tape minus those parts that are not relevant and
11 not material, but then we in a situation trying to redact
12 it versus we had a written statement it be easier.

13 MR. ROUTZONG: Judge, may I respond, Your Honor.
14 It seems kind of self-explanatory to me. She's talking
15 about what happened at her house. You know, we can start
16 at the beginning where it says -- I don't mind going
17 through the whole narrative again and so that -- you know,
18 from it came in and this, that and the other thing. You
19 know, all the way until they leave the house that doesn't
20 matter as long as, you know, the fact is there's this
21 other wet rag she talks about and that's one of those
22 little corresponding consistent things with her statement.

23 THE COURT: Okay.

24 MR. MEADORS: Judge, I was raised on the law.
25 We were always taught that if some comes in and put the

1 consistent part in here and I don't know them in just that
2 one, which I think she can explain and did so a minute
3 ago. And then just hear that little part when the rest of
4 it is inconsistent. That does concern me that they're
5 just going to pick and chose and hear this one little
6 thing.

7 THE COURT: You got a right to put it in
8 rebuttal. I mean, it's a situation he's got a right to
9 put it in in rebuttal. I mean, it's the situation he's
10 got a right to put in what he thinks is important. And
11 you got to a right to play the rest of it as long as it's
12 material and relevant to the issue. The problem we have
13 is you're telling me there's parts in this statement that
14 aren't admissible because of the statements of prior
15 records or whatever. So my question is normally we play
16 the whole thing, but if there's parts the jury can't hear
17 and, you know, if it's parts of the statement have nothing
18 to do with this, then it may not be relevant. But the
19 parts of the statement I assume is where they are, when
20 the rag was brought out or how many wash clothes were
21 used, when she was in the bathroom, when she wasn't in the
22 bathroom.

23 MR. MEADORS: What's a little bit -- this is the
24 first interview she gives at the hospital. She's in the
25 middle of doing a rape protocol. They're pausing when the

1 doctors are coming in and out. She's telling the story as
2 best she can. She then gives another statement the next
3 day, which he's already brought into, which I got to go
4 back into that because I can explain that when that
5 conversation took with the sister. I believe she can
6 explain that excuse me. But there were series of
7 different statements and the other statement he's already
8 asked her about. That occurred the 23rd which was the day
9 after this. Then the final interview on the 24th. They
10 did a series -- and as, Your Honor, knows things are
11 remember a little more recollect a little more after
12 you've gone through something like this, which is exactly
13 what happened. She added a little bit, but this was the
14 first interview and I just hate for the first interview --
15 I feel like -- if he's gone play that, I need to come back
16 and clear up something.

17 THE COURT: I understand. And under the rules I
18 think you can if it's relevant and admissible. My problem
19 is you all are telling me now there's parts that are not
20 in that. So if all this had been typed out, it would be
21 easier to look and say, okay, you can publish this page to
22 the jury and this paragraph, and this paragraph. The
23 problem is you all have it all on tape. So unless
24 somebody's going to sit down and redact those portions,
25 it's not admissible, that's what we got to do. He's got a

1 right to put in that. You got a right to put in the rest
2 of the statement is relevant which explain the
3 inconsistency.

4 MR. MEADORS: I don't think it's records at
5 Tuomey not in -- disagree with Mr. Little, but we don't
6 think that's necessarily true, but obviously we need to
7 check real quick.

8 THE COURT: Okay. So what do you all want to do
9 at this point?

10 MR. ROUTZONG: My suggestion would be to play
11 the part that refers to the question that I asked where
12 are you ---

13 THE COURT: You have a right -- you have a right
14 assuming he object, you have a right to do that. Then
15 he's got a right to rebut and play the rest of the
16 statement as long as it's...

17 MR. ROUTZONG: I guess my point was if the
18 Solicitor would just agree that we'll play this -- I know
19 he may not want to do it. I understand that that would be
20 a -- seems to be ---

21 THE COURT: It will be a faster way to deal with
22 it no question about it. You all can do that great. If
23 you can't, we will do it ---

24 MR. MEADORS: Just asking her if it's on there,
25 but you disagree with it without playing it. Is that what

1 you said?

2 MR. ROUTZONG: Play that portion where it's
3 clear that what she's telling law enforcement is -- I'm
4 in my house and these things happen and then end it. I
5 don't care -- I don't see any reason -- we told this
6 narrative ---

7 MR. MEADORS: The reason is because you're
8 saying because and you'll say it Thursday because she did
9 that, you can't believe the rest of it. So I want them to
10 hear the rest because where she was consistent. So, no, I
11 can't agree to that respectfully.

12 THE COURT: Okay. So from a practical matter,
13 he plays the portions that he thinks is inconsistent.
14 Then you get to play the portions consistent. My only
15 thing is the portion you want to play redacted? I mean,
16 how long is it going to take you? What I don't want to do
17 is start playing this and get into something that's going
18 to get us in a mistrial. And I didn't know whether
19 there's anything on there that's going to get us there,
20 but if it is, you all need to let me hear it before it's
21 played.

22 MR. MEADORS: Mr. Little I just conferred with
23 him it looks like it's at the first part of it actually.

24 THE COURT: So if you all can agree to that and
25 take out the portion that clearly doesn't come in, you can

1 play his portion. You can play the rest of it as long as
2 we don't get into that scenario, okay. Is that
3 satisfactory to everybody?

4 MR. MEADORS: And, Judge, as far as the other
5 statement where he called into question that she had
6 talked to the sister or whoever prior to this statement, I
7 feel it ---

8 THE COURT: Well, you got a right to rebut
9 whatever you can and deal with it. I mean, I don't know,
10 that's one of the problems with taking statements.

11 MR. MEADORS: And one other question I don't
12 know how many more of these we have, but if this is
13 several more, then obviously...

14 MR. ROUTZONG: With all respect to Ms. A.G., I
15 don't know how many times she's going to say something
16 inconsistent, so -- demonstratively inconsistent.

17 THE COURT: Okay. How many -- just how many
18 tapes are there? How many interviews and tapes are there
19 of her?

20 MR. MEADORS: Four. One's brief.

21 INVESTIGATOR: Ones a video and then there's two
22 audio.

23 THE COURT: Okay.

24 MR. MEADORS: And we provided them all.

25 THE COURT: Okay.

1 MR. MEADORS: Two relative short and two long to
2 answer your question.

3 THE COURT: Okay. We'll have to deal with it, I
4 guess. You ready to bring the jury back in.

5 MR. MEADORS: Yes, sir.

6 THE COURT: Okay.

7 MR. ROUTZONG: Your Honor, if we can have just a
8 second.

9 THE COURT: Hold on just a minute.

10 MR. ROUTZONG: I'm kind of confused about
11 something.

12 THE COURT: Well, tell me about this redaction.
13 You said it was at the first. Is the only thing in it
14 that needs to be redacted is his criminal past?

15 MR. ROUTZONG: Your Honor, I listen to it
16 several times, but I can't tell you that specifically. I
17 have to listen to it with that context in mind.

18 THE COURT: So you're saying we got to listen to
19 37 minutes. Is all four 37 or I got four of them 37?

20 MR. ROUTZONG: There's various lengths, Your
21 Honor. They're not all that long. I think they're
22 relatively short.

23 MR. MEADORS: Judge, we'll see how it plays out.
24 I mean, if you want to go ahead and then we break.

25 THE COURT: Okay. We can ---

1 MR. MEADORS: The last time he didn't play it.
2 He just asked her in front of the jury, so I didn't know
3 if he was just gone ask her now or play this. It affects
4 my decision what we do. I don't know, but if you hear her
5 voice in saying something inconsistent I feel compelled to
6 play it.

7 THE COURT: I understand. So are you not -- you
8 not going to play anything, that's going to be an issue,
9 are you? It's only the State.

10 MR. ROUTZONG: That's correct. It would be
11 inadvertent if I didn't.

12 THE COURT: Okay. So you're in the position to
13 finish your cross-examination of her and play whatever.
14 And then we take a break and the State does its redirect
15 because it depends on what comes out as to how much they
16 going to do.

17 MR. MEADORS: That's true.

18 MR. ROUTZONG: I don't know maybe I'm dense,
19 Your Honor, but it seems relatively simple to me. This is
20 -- I won't belabor the point. If she's saying something
21 inconsistent, I just wanted to say something she's not
22 willing to do. That's what she told him. I could move on
23 at that point. If that's what she said seems pretty clear
24 to me that's what she said since she's recorded it and she
25 heard, but that's not what she wants to do. I agree.

1 THE COURT: I think the hang up is the bathroom.

2 MR. ROUTZONG: I'm sorry, sir.

3 THE COURT: It appears to me that the hangs up
4 the bathroom and not the wash clothe.

5 MR. ROUTZONG: I think it's the wash clothe.

6 THE COURT: I know that's on your issue, but I
7 didn't think her disagreement was where she went into the
8 bathroom in her house and she said she only went to the
9 bathroom in his house.

10 MR. ROUTZONG: Well, I can't help what she told
11 -- that's just the context, but that's fine if she wants
12 to admit that, yes, she wiped her face off with the clothe
13 at her house.

14 THE COURT: You want to try this one more time
15 without the presence of the jury and see where we end up
16 or you want to bring the jury in and do it?

17 MR. ROUTZONG: Well, I can try it one more time,
18 Your Honor.

19 THE COURT: Okay. Try that and then maybe we'll
20 clear up this matter. If we don't, you do it in front of
21 the jury. We play the tape, and then we take a break and
22 he figures out what he's going to do, what needs to be
23 redacted. Okay. Go head.

24 CROSS-EXAMINATION IN-CAMERA

25

1 BY MR. ROUTZONG:

2 Q Ms. A.G., I apologize for all this confusion, but
3 my simple question is do you recall telling law
4 enforcement -- you in fact did tell law enforcement that
5 your face was whipped off in your room. You heard the
6 tape just a second ago and you said it was your love seat
7 and your bedroom. If you disagree that you went in the
8 bathroom, that's a different issue. That's fine. You can
9 disagree with that. But I just want to know are you
10 willing to say is it your testimony that you did in fact
11 whip your face off with a white clothe at your home, is
12 that what you told ---

13 A With the white clothe?

14 Q Yes, ma'am.

15 A You have two of them on hand?

16 Q I do not, no, ma'am.

17 A I only whipped my face off once and that was at Mr.
18 McElveen's house because it was all bloody. He told me to
19 wash it off. So why would I wash it off at his house if
20 I've already washed it off at my house.

21 Q Therefore, the answer to my question is you deny that
22 you whipped it off at your house ---

23 A That is correct. I deny it.

24 Q --- is not what you told law enforcement?

25 THE COURT: Okay. So now what do you want to

1 do?

2 MR. MEADORS: Can I ask her a question?

3 THE COURT: You have any objection to him asking
4 her a question?

5 MR. ROUTZONG: No, sir.

6 MR. MEADORS: I don't know if it's allowed or
7 not.

8 THE COURT: Go ahead.

9 EXAMINATION IN-CAMERA

10 BY MR. MEADORS:

11 Q Do you deny that you may have told that to law
12 enforcement?

13 A That I may have told who?

14 Q Do you remember if you told law enforcement that it
15 might have -- that instance may have happened at your
16 house?

17 A I don't know. I really don't know. I really don't
18 know.

19 CROSS-EXAMINATION IN-CAMERA

20 BY MR. ROUTZONG:

21 Q Ms. A.G. If I may, Your Honor.

22 A Do you want me to lie?

23 Q No, ma'am.

24 A I mean, I know I didn't wash it off at my house. Why
25 would I wash it off at his house if I didn't it at mine.

1 It would have been whipped off.

2 Q Just to make sure we understand and Mr. Meadors will
3 be glad to talk to you ---

4 A Could they may have made a mistake?

5 Q We have the recordings.

6 A I know.

7 Q We know that that's what you told law enforcement,
8 but you're also able -- I don't want to stand in
9 Mr. Meadors place. He's able to cross-examine you and you
10 can explain it and say I was mistaken or whatever it is if
11 that's the truth. But the question is we have a recording
12 of you telling law enforcement that that happen in your
13 house. And the question is do you ---

14 A Well, the beating happened in my house. I mean, that
15 happen there.

16 Q Well, the question is what you told law enforcement?

17 A I don't know.

18 Q And you heard the recording?

19 A Yes, I did.

20 Q You don't disagree that that's your voice?

21 A That was my voice.

22 Q And that's you on there saying to law enforcement
23 that a wet wash clothe was used to whip my face in my
24 house?

25 A Did you find it in my house anybody?

1 Q No, ma'am, let's be clear, that's not the question.
2 The only question is did you tell law enforcement?

3 A I don't remember telling them that, sir. I really
4 don't.

5 Q But you agree that that's your voice and that's a
6 recording of you?

7 A Yes, that my voice.

8 Q You don't have to remember. I don't remember what I
9 did yesterday hardly, but you don't disagree that's you
10 told them?

11 A No.

12 Q And are you willing to tell the jury that and my
13 question to you will simply be did you tell law
14 enforcement that you whipped ---

15 A I don't remember telling law enforcement.

16 Q Well, you've heard your recording?

17 A Yes, I heard that, but there is things that I still
18 don't remember. I didn't remember when the tape was taken
19 off none of that stuff, so I'm not lying to that when...

20 Q Well, it's always possible to be mistaken, but the
21 only question -- and like I said Mr. Meadors is going to
22 have the opportunity to explain -- you know, to ask you
23 questions so that it can be explained, but the point is
24 that you don't disagree that that was your voice, that's
25 what you told?

1 A I'm not. I said that was my voice.

2 Q And so that's what you told them. And that will be
3 my question for you. And you're going to be able say what
4 when I ask you did you tell law enforcement you wiped off
5 your face at your house as well as his house your answer
6 will be ---

7 MR. MEADORS: That wasn't his original question.

8 MR. ROUTZONG: I asked it so many ways I'm not
9 sure. We can ---

10 A I know I didn't do it.

11 THE COURT: Well, I think she testified earlier
12 that it happen at his house. The statement she gave law
13 enforcement she says it happen at her house. Now, you
14 hadn't gone into the rest of the statement whether she
15 says it happen at both houses because I haven't heard
16 anything but what you played, but in that she says it
17 happen at her house. She wiped her face off at her house.
18 When she testified on direct, she said it happen at his
19 house; isn't that correct? You all want to disagree with
20 that?

21 MR. MEADORS: I don't know of anywhere where she
22 says it's whipped off twice, that's the question I
23 objected to.

24 THE COURT: Right.

25 MR. ROUTZONG: Except that's what she told law

1 enforcement.

2 THE COURT: She didn't tell law enforcement it
3 was whipped of twice?

4 MR. ROUTZONG: No, sir.

5 THE COURT: That it happen at her house.

6 MR. ROUTZONG: And she's also said happen at his
7 house.

8 THE COURT: But she didn't tell law enforcement
9 it happen at both places, did she?

10 MR. ROUTZONG: There are statements that -- we
11 have that statement and she also, I think, even in a
12 written statement she says ---

13 MR. MEADORS: It happened at his house, which I
14 think it did happen as she testified. This was the first
15 statement she gave during a rape protocol. And she's
16 obviously confused when she's given the statement. She
17 comes in the next day or the day after or a day after and
18 actually hear I need to give a restatement. It's clear
19 and she goes through, but she's never said it happened in
20 both. She's only said it happened one time. Her
21 statement is this house, but not that it was that house or
22 was that house.

23 THE COURT: Right.

24 MR. MEADORS: And I just respectfully think he's
25 mischaracterizing that because these incidents she only

1 wiped it off one time.

2 THE COURT: Right. And we only have one rag in
3 evidence.

4 MR. ROUTZONG: Right. That's from the other
5 house.

6 THE COURT: Right. Your question is did she
7 tell law enforcement it happen at her house.

8 MR. ROUTZONG: That's the question.

9 THE COURT: Right. And if she say, yes, I did
10 and then she can say she was mistaken or not, right?

11 MR. MEADORS: And that's what I got, okay.

12 That's what I'm searching for. We can move on.

13 THE COURT: When we bring the jury in is that --
14 you understand that?

15 THE WITNESS: Yes, sir. Yes, your Honor, I'm
16 sorry.

17 THE COURT: That's okay. We just trying to get
18 it straight to the jury.

19 THE WITNESS: I know I already said it one time.

20 THE COURT: Okay. You all ready for them?

21 MR. MEADORS: Yes, sir.

22 (WHEREUPON, the jury came into open court.)

23 CROSS-EXAMINATION CONTINUED

24 BY MR. ROUTZONG:

25 Q Ms. A.G. , we were talking about the things that

1 happened in your house and we had gotten to the point I
2 think where you were telling us about how Mr. McElveen had
3 hit you in the head with a gun or something. You're not
4 sure what, blood splattered up into your hair, on your
5 face. Was it bleeding a lot?

6 A This did, that bleed a lot.

7 Q It dripped?

8 A I don't think so. It was just all in my face because
9 I was trying to wipe my face and it was everywhere there.
10 It's really swelled up real bad and it kept bleeding. It
11 wasn't -- first it was real fast like when it went.

12 Q Okay. And I asked you a question more less I'm not
13 sure exactly how I asked you, but I asked you do you
14 recall telling law enforcement at Tuomey hospital that you
15 gave an interview at Tuomey, right?

16 A Yes, I guess so.

17 Q And that was on the 22nd of February?

18 A It was through -- this happened on the 22nd went into
19 the 23rd, so it was after 11 o'clock on the 23rd.

20 Q There came a time when you were talking to the law
21 enforcement folks at Tuomey and you gave an interview.
22 And during that interview you actually told them that you
23 had wiped the blood off your face with a clothe at your
24 house, that's what you told law enforcement?

25 A I don't remember telling them that.

1 MR. ROUTZONG: Your Honor, I like to at this
2 time to play that little snippet.

3 THE COURT: Okay.

4 BY MR. ROUTZONG:

5 Q You can't hear you let me know?

6 A I will.

7 (WHEREUPON, audio being played.)

8 A That was at his house. That was the only time I went
9 to the bathroom.

10 Q And, Ms. A.G., so we're still at your house, okay.
11 I'm going to be asking you questions about the things that
12 happened in your house, that's what I'm doing right now.
13 So there came a time you been hit. Your hair is bloody.
14 Your face is bloody. And you said you're still bleeding
15 quite a bit, but it's still some. It's my understanding
16 your testimony was that at some point in time he pretty
17 much made you go on your bed; is that correct? And I
18 think he disrobed you. And your testimony was that you
19 attempted to have sex or you actually did. You're not
20 sure whether everything -- whether there was penetration
21 or not. I think your testimony was you're not real clear
22 on that, but you were on your bed, that's clear?

23 A Uh-huh.

24 Q Okay. I think your testimony is that at some point
25 in time is this started about 5:20 in the afternoon, so

1 somewhere up to ten o'clock, right?

2 A Uh-huh.

3 Q That's about four hours and 40 minutes. All this is
4 happening in your house. And somewhere around that time I
5 think your testimony is that you left your house with Mr.
6 McElveen?

7 A Not by choice.

8 Q You guys left and I think you showed on this map.
9 You came down here ---

10 A There's a little red car by it.

11 Q -- walking down here by the water. Were your arms
12 still taped up at that point?

13 A I don't know. I really don't know. Like I said, I
14 don't remember when the tape was taken off or my hands
15 untied.

16 Q Yes, ma'am. You got to his house, both of you got
17 there together. And there was more conversation. This
18 would have been sometime around ten, right?

19 A It was still ten in my house. He took me -- left my
20 house at ten.

21 Q Going behind your house that's kind of a steep little
22 hill; isn't it?

23 A It is in the dark.

24 Q It goes toward the lake?

25 A Yes.

1 Q And it's real dark out there.

2 A Yeah.

3 Q I notice that a lot of the trailers are real close
4 together?

5 A 25-foot a part, sir. There's none real close in my
6 backyard, no, we're not that close. I have a big yard,
7 yes.

8 Q It's kind of steep with roots going down towards the
9 lake?

10 A Yes.

11 Q And it's dark and I have to say it's pretty quiet
12 back there?

13 A It's quiet the whole park.

14 Q Yes, ma'am. While you guys are walking and you get
15 to his house and, I guess, more conversation took place.
16 At one point in time you even asked for a cup of coffee I
17 think you said.

18 A He asked me if I wanted something to drink and I said
19 I'll have a cup of coffee, yes.

20 Q Was that before or after the other alleged sexual
21 encounter, that was before the ---

22 A At his place, right.

23 Q And it pretty much goes the same way. Did you do
24 much fighting over there?

25 A No.

1 Q Was your face still bloody?

2 A Yes.

3 Q And that's why you had to have it wiped off with a
4 rag?

5 A He said wash my face. He got me a wash clothe right
6 after I went to the bathroom. He told me to wash the
7 blood off and he got me a white wash clothe and told me to
8 wash it off. I kept that in my hand. I rinsed it out.
9 He asked me why I was washing it out, but it's the thing
10 to do when you use somebody things. I wash mine and I
11 just kept it in my hand.

12 Q That was after you guys had sex, right?

13 A No. The wash clothe was before, yes. Because I
14 carried the wash cloth in and I put it on the head of the
15 bed.

16 Q Do they continue bleeding after?

17 A I don't know. I didn't look in no mirrors. There
18 was none in there. I wasn't in where there was a mirror.
19 I don't know.

20 Q Fair enough. There came a point in time similar
21 between ten o'clock and 1:30, I guess, you went back to
22 your house. And Mr. McElveen walked you over there?

23 A Yes. He told me that I could go after all the
24 talking I was talking to him. Like I call down, not to
25 shoot himself and not to shoot me. That I would go with

1 him wherever he wanted me to go stuff like that.

2 Q Yes, ma'am. And you were concerned that he actually
3 might carry out his threat to shoot himself or you, that's
4 your testimony?

5 A Uh-huh.

6 Q I notice from earlier in your testimony you said
7 you're a very caring person.

8 A I am.

9 Q You try to help a lot of folks.

10 A I help all of them, anybody.

11 Q That's one of reasons why you were -- you actually
12 had known Mr. McElveen for a long time. You have to say
13 you did care a little bit about him at that point in time
14 because you were worried about he was going to at least
15 kill himself?

16 A I didn't care about him for what?

17 Q Let me say that again. You had been with him for a
18 long time?

19 A Yes.

20 Q You were on the outs at this point, but you were
21 willing to give him some food?

22 A Well, of course.

23 Q You cared a little bit as another person not as a
24 boyfriend or ---

25 A Just as another tenant.

1 Q Just as another tenant. And he walks you back and
2 you were concerned at that point in time that he might
3 kill himself. You even offered to call about four o'clock
4 in the morning?

5 A I did call. I made the call.

6 Q And the reason is you were trying to find out did he
7 actually shoot himself?

8 A Right, but he didn't answer the phone.

9 Q He didn't. Did you to go bed then or were you -- had
10 you already gone to bed?

11 A No, I went to bed as soon as he told me to lock up my
12 door and set my alarm. And he gave me a peck or kiss on
13 the lips and I said I'm sorry I done this to you -- no, he
14 said I'm sorry I hurt you and then he left. And I locked
15 up my door and set my alarm and I went to bed and that was
16 about two o'clock I went to bed. At four o'clock my cat
17 she's very protective. She knows ten words on command.
18 She's like a dog guarding me. She gave out the longest
19 scream you ever heard and I hollered, Angel, what's wrong
20 with you and I went to the door. She stood between my
21 door and my back door. And I turned the light on and
22 tried to look out and see if anybody was on my porch,
23 which I couldn't see around the corner. I wasn't
24 unlocking my door, but that was about it on that. I
25 thought maybe he came back up. The dead bolt wasn't

1 locked. The bottom was locked.

2 Q But you didn't see anybody?

3 A Well, I couldn't. There was nobody in front of me.

4 I have a big deck back there.

5 Q Yes, ma'am. Let's go a little bit forward. Did you
6 go back to sleep after your cat woke you up?

7 A No.

8 Q So you were up. What did you start doing then?

9 A When did I start getting up at that time?

10 Q No, ma'am. Your cat woke you up and I wondered what
11 did you start doing then were you watching television?

12 A Television or just sitting there or doing cross word
13 books because that's what I do to keep calm.

14 Q Yes, ma'am. I think your testimony was at some point
15 in time you started doing your books?

16 A Yeah.

17 Q Gathering up money?

18 A Oh, well, yeah, gathering up the money he took from
19 my house that he was going to burn over \$6,000 and he had
20 me to bring it back. He said the money wasn't involved in
21 this. It had nothing to do with it, but he took it. And
22 he gave it back to me before he walk me home told me to
23 take the money and take it back, so I did, because I had
24 to pay back because the tenants already gave that money.
25 And no doubt I wasn't working my books. I picked up my

1 books to take them with me and picked up my money and my
2 purse. I change clothes first because I didn't change. I
3 just laid down in the bed and went to sleep because I been
4 up the night before. And I was tired so I just layed down
5 until my cat hollered and then I got up of course. And
6 then I got -- I changed my clothes and I picked up my
7 purse. It was getting around then by the time I left it
8 was around eight o'clock because I was to show two
9 trailers on the hill up on the east side. And I picked up
10 the books, picked up the money and I went and got in my
11 car and I turned around backwards and went down that way
12 and out to go up the hill, instead of going this way to
13 the mailboxes. I went the other way.

14 Q Where did you go?

15 A Up on the east side up to the other mobile homes up
16 by -- 521 cuts our park in half.

17 Q Let me ask you something, I think you said you
18 encountered one of your maintenance people?

19 A I did. My one maintenance man that works for me and
20 I had my hand up because I was going out and he said, oh,
21 Ms. A.G., you better take care of the tooth. He thought
22 it was my tooth. And I said don't worry Richard I'm going
23 to take care of it. That was all I said and I left and
24 went up.

25 Q What did you have in your other hand?

1 A Huh?

2 Q What were you holding in your other hand?

3 A The steering wheel.

4 Q Oh, you were still in your car?

5 A Yes, I never got out of it.

6 Q You must be right handed?

7 A I am.

8 Q Okay. Where did you go next?

9 A Up on the hill -- oh, where did I go from there?

10 Q Yes, ma'am.

11 A I didn't go anywhere. The ambulance took me out of
12 there.

13 Q Did you talk to anybody else while you were up there?

14 A The policemen.

15 Q Did you talk to anybody before the police?

16 A Well, before the policemen and that showed up, yeah,
17 Ms. Barbara Williams. She's the other property manager of
18 the other mobile homes down on the Old Camden Highway and
19 all through -- they had more places.

20 Q That's Mr. Richardson's sister?

21 A Sister, that is correct. Well, I got out of my car
22 and I had the books and that. And she came early to show
23 the trailers because my phone rang when all this was going
24 on and he wouldn't let me answer the phone. My phone rang
25 and it happen to be her. So he said don't you dare answer

1 that phone, so I didn't get no message. So she went up
2 and that's why I caught her up there. I called her after
3 I got everything together in my car. And I says, Ms.
4 Barbara where are you. She says I'm on the hill. And I
5 said stay there I'm on my way, so I went up there. I got
6 out of my car. She said that he -- Mr. McElveen do this
7 to you and I said yes. And then the cops were called.
8 And the ambulance came. And there was quite a few of
9 them.

10 Q You know there's something that I wanted to ask you
11 back in the trailer because it's pertinent to what you
12 just said you were just talking about going to see
13 Ms. Williams. When he was in the his trailer and you were
14 there with him, I think your testimony was that he showed
15 you pictures of naked women?

16 A He did.

17 Q What was your impression of why he did that?

18 A I don't know. I thought because the way he like sex
19 from what I've heard. They were just pictures. I don't
20 know. And I asked him if he had sex with them, so I don't
21 know.

22 MR. MEADORS: Your Honor, I object.

23 THE COURT: I'm sorry hold on just a minute.

24 MR. MEADORS: I don't think he can ask what his
25 impression was.

1 MR. ROUTZONG: I asked her what her impression
2 was, Your Honor. I think she can testify to what her
3 impressions are.

4 A I didn't know if they were real people or who they
5 were.

6 Q Did you think he was trying to hurt you by doing
7 that?

8 A I guess so. He was going to hurt me. There was no
9 doubt about that. You find out later on.

10 Q Did you think he was trying to make you feel bad like
11 I don't need you. I can get other women?

12 A I don't know if that's why. I didn't think that.
13 They were dirty pictures to me. I don't look at that
14 stuff. And then he started playing love music western. I
15 like western music, but he start playing that and he likes
16 it too. So he was playing all those lovely things.

17 Q Well, there came a time when he basically said to you
18 he wasn't going to let go of this situation. He was going
19 to get -- keep pursuing this with the preacher and he was
20 going to expose that, right?

21 A He didn't tell me he was going to let it go.

22 Q Right. He said he wasn't going to let it go. He let
23 you know that ---

24 A He wasn't going to let it go.

25 Q That's correct?

1 A He never told me that.

2 Q Did he mention the preacher at all while he was at
3 his house, while you guys were together at his house?

4 A Not at his house I don't think so, but he would
5 mention that to me at my house many of time.

6 Q Threaten to make sure that this came out about the
7 preacher?

8 A Uh-huh.

9 Q He said threatened to do that on this particular
10 night as well?

11 A I don't know if he expected to do that that night or
12 not. He didn't tell me that.

13 Q All right. Excuse me, Ms. A.G.

14 A He lies like a...

15 MR. ROUTZONG: Thank you, Ms. A.G. I don't
16 have any more questions.

17 REDIRECT EXAMINATION

18 BY MR. MEADORS:

19 Q Did you have sex with the preacher?

20 A No, sir. I would never and he never asked me to have
21 sex with him. He came to my house to pick up the money
22 when we would go over our books. We sat at the kitchen
23 table and that's all that was done. Take us about an hour
24 and sometime it would take more by the time we count the
25 money and we separate it and whatever.

1 Q How many men you been with in your life?

2 A Pardon.

3 Q How many men have you been with in your life?

4 A None. My husband 57 years of it and then Mr.
5 McElveen.

6 Q No question about that, is it?

7 A No.

8 Q He ask you about a relative of the defendant's who
9 had talked to you about some bullets that the defendant
10 asked about?

11 A Uh-huh, his niece.

12 Q Was that after he was arrested?

13 A Yes.

14 Q Okay. Was it shortly after he was arrested?

15 A It wasn't too long after he was arrested because
16 after he had the test or something done is when he called
17 her and told her that he needed to come -- she needed to
18 come and tell me that I should be tested for AIDS.

19 MR. ROUTZONG: Objection, Your Honor.

20 MR. MEADORS: That's what he had asked her about
21 that phone conversation with his sister. I'll move on.

22 THE COURT: I'll sustain the objection.

23 BY MR. MEADORS:

24 Q Based on what he asked you that sister ---

25 A Niece.

1 Q Niece said he was asking about bullet, right?

2 A Uh-huh.

3 Q You need to say yes please.

4 A Yes, yes, sir.

5 Q Was that shortly after this incident, this incident
6 where you were assaulted?

7 A It wasn't too long after that.

8 Q And you gave a series of statement to law
9 enforcement, correct?

10 A I did what?

11 Q You gave a series of statements -- you gave a number
12 of statements to law enforcement, correct?

13 A Yes.

14 Q You gave a statement at the scene did you to Wayne
15 Dubose? Did you tell Wayne Dubose what happened?

16 A I don't remember. That was that first day that I
17 talked to him.

18 Q Okay. And the part of the tape that the defense
19 attorney played for you. Were you at the hospital then
20 when you were given that -- when Investigator Ward was
21 recorded, were you in the hospital?

22 A Yes.

23 Q Were you undergoing a rape protocol.

24 A Yes.

25 Q And that's when you were being taped in this part?

1 A Yes.

2 Q And where was the wash clothe and who's house was it
3 that you whipped yourself off with the wash clothe?

4 A In McElveen because he went and got it for me.

5 Q And is there any question about that?

6 A No.

7 Q How many wash clothes were there?

8 A One.

9 Q And what did you do with the wash cloth?

10 A I held it in my hand until he took me to the bedroom
11 and I put it on the back of the bed.

12 Q Is there a picture showing ---

13 A There is a picture I seen it.

14 Q So was there ever a wash clothe in your house that
15 you used?

16 A No. I never even been in my bathroom that night.

17 Q Okay. So you didn't go in your bathroom that night?

18 A No, neither one of them.

19 Q The only bathroom you went into was his?

20 A Mr. McElveen's.

21 Q So when you were describing that incident you were
22 describing him -- the incident in his house?

23 A That is correct.

24 Q Could you have been confused on the tape about where
25 the towel was?

1 A Towel?

2 Q The wash cloth whatever it is?

3 A Oh, okay.

4 Q Where did you use this?

5 A At his place.

6 Q No question about it?

7 A No question. I don't have any solid white ones.

8 Q Now, you gave a statement or did you give a statement
9 at the scene that day? The scene where it was happening
10 when the police came did you give a statement that day.
11 Did you tell people what happened?

12 A Yes.

13 Q And you gave a statement to the hospital, correct?

14 A At the hospital. I think talk to Sergeant Dubose on
15 the ambulance. I don't know what he asked me. I can't
16 remember all that now.

17 Q That's what I call the scene. So you talked to him
18 at the ambulance -- in the ambulance?

19 A Uh-huh.

20 MR. MEADORS: Investigator Ward, raise your
21 hand.

22 BY MR. MEADORS:

23 Q Do you remember talking to her several times?

24 A Yes. Yes, in the room.

25 Q In the hospital room.

1 A In the hospital also.

2 Q Did you also go to the sheriff's department?

3 A Yes.

4 Q Did you talk to her then?

5 A Yes.

6 Q Did you talk to her several times at the sheriff's
7 department or a couple of times?

8 A I think so, yes.

9 Q And this statement 34 is dated February 24th,
10 correct?

11 A Yes.

12 Q 2017?

13 A Yes.

14 Q Two days after the incident?

15 A Yes.

16 Q Now, you've testified this incident happened on the
17 21st and 22nd of February of 2017, correct? You said
18 earlier the 22nd and 23rd?

19 A 22nd and 23rd.

20 Q Could it be the 21st and 22nd.

21 A No, I was at the beauty parlor on the 21st.

22 Q But whatever day this happened you gave these
23 statements after that, correct?

24 A Yes.

25 Q All right. When you left your house the morning

1 after this incident, you said saw Mr. Richard, correct?

2 A I seen him up on the hill. I didn't talk to him
3 though.

4 Q Mr. Richard Bradford?

5 A Oh. Yes, that was down in my side of the park, my
6 maintenance man, yes.

7 Q And did you also tell Mr. Routzong that you talk to
8 Ms. Williams on the phone?

9 A Yes, that I was coming up on the hill.

10 Q Okay. Did she know something was wrong with you
11 then?

12 A Because when they make calls to me either one of us
13 we called back if we miss the call to see what they want
14 and I didn't call back. And she told me then when she
15 seen me on the hill, she said I had a funny feeling there
16 was something wrong with Ms. A.G. because she always
17 returns my calls.

18 Q Did you talk to Ms. Williams on the phone before you
19 got to east, did you actually talk to her on the phone?

20 A Before I went up on the east side?

21 Q Yes.

22 A Yes, because I called her and asked her where she was
23 and she said she was on the hill showing the trailers that
24 I was suppose to show.

25 Q Were you upset when you made that call?

1. A Was I upset with her?

2. Q No, ma'am. Were you upset?

3. A Yes, I was still upset because this just happened,
4. you know, that night.

5. Q And she could tell that by your phone call, correct?

6. A Oh, yeah. As soon as I stepped out of my car, she
7. knew why I didn't make a call back to her.

8. MR. MEADORS: Beg the Court's indulgence. I
9. request a quick short recess for some guidance.

10. THE COURT: Okay. Is this the recess you need
11. me to send the jury out?

12. MR. MEADORS: Yes, sir.

13. THE COURT: All right. Ladies and gentlemen, go
14. out one more time. Don't discuss the case.

15. (WHEREUPON, the jury retire to the jury room.)

16. MR. MEADORS: Beg the Court's indulgence.

17. (WHEREUPON, a break was taken.)

18. THE COURT: Where are we now?

19. MR. MEADORS: I want to offer the written
20. statement.

21. THE COURT: All right. What's the defense
22. situation? Is it the same statement that we been dealing
23. with?

24. MR. MEADORS: Well, this first question was to
25. law enforcement. We generally said ---

1 THE COURT: Okay. I mean, you ---

2 MR. MEADORS: I'm trying to streamline it to
3 tell you the truth.

4 THE COURT: Okay. What's your position -- I
5 mean -- you know, you played the prior inconsistent
6 statement to them. They got a right to put the rest of
7 the statement in assuming it's relevant and some in and
8 it's not admissible. Now, is this statement consistent
9 with that?

10 MR. ROUTZONG: I don't think I ever questioned
11 that statement, both of the statements I asked her about
12 were recorded statements. I agree with the Solicitor
13 though I wasn't specific on the first one ---

14 THE COURT: You right.

15 MR. ROUTZONG: --- I said law enforcement.

16 THE COURT: Is there anything in that statement
17 though that's not admissible?

18 MR. ROUTZONG: I read it several times, Your
19 Honor, but if I can just sit down one more time just to
20 make sure with Mr. Little.

21 (WHEREUPON, a pause in the proceedings.)

22 THE COURT: From a scheduling standpoint how
23 many ---

24 MR. MEADORS: We got four or five waiting in the
25 witness room, but obviously they come back.

1 THE COURT: If you got some ---

2 MR. MEADORS: We got some short ones I rather do
3 today if we could.

4 THE COURT: I mean, I like to try to finish five
5 or 5:30.

6 MR. MEADORS: We can definitely do that.

7 THE COURT: At least let the jury go home ---

8 MR. MEADORS: We let the nurse go home and she's
9 going to be here in the morning along with SLED. I think
10 we might get close to that.

11 THE COURT: Okay. Is your SLED agent here?

12 MR. MEADORS: In the morning, I would put them
13 up if they were here.

14 (WHEREUPON, a pause in the proceedings.)

15 MR. MEADORS: Your Honor, I think we're going to
16 object and we gone offer it. I'd like to do that in front
17 of the jury in fairness if nothing else because they
18 claiming part of that.

19 THE COURT: All right. Well, tell me what
20 you're objecting?

21 MR. RUTZONG: Your Honor, I never questioned
22 anything about the written statement. I do agree with the
23 Solicitor I wasn't specific, but then, you know, I think
24 if they want to come back and redact and play the relevant
25 portions and material portions of the video recording,

1 that's fine. It's basically a rehash of what she's
2 already testified to. I never really questioned anything
3 on this. I think his -- if I understand Mr. Meadors, I
4 don't want to speak for him, but sounds like he wants to
5 put everything in.

6 MR. MEADORS: It would be preface to put it all
7 and quite frankly trying to save efficient not with the
8 tapes and redacting. I thought this would accomplish that
9 and it's audio not video. You actually said video.
10 There's no video.

11 THE COURT: Okay. Well, the problem is my
12 understanding of the rule is prior inconsistent
13 statements. You question her about a prior inconsistent
14 statement. She denies it admitting that came in. She
15 denied it and you played it. Now, he has a right to
16 finish that prior inconsistent statement assuming its
17 relevant to the issues and it's admissible. So my
18 problem -- this seems to complicate it more -- if that is
19 a written statement of the recorded -- in the same in it's
20 recording statement, then maybe he has a right to
21 introduce it. If it's totally different, he doesn't. And
22 I don't know ---

23 MR. MEADORS: It be the final interview of a
24 four-step process. It's not totally inconsistent at all
25 includes a lot of the things, includes some more. This is

1 when she first -- shows her consistent for everything when
2 he is attacked.

3 THE COURT: So normally we don't have but one
4 statement, it is easy, but the real issue is if prior
5 inconsistent statement that you played to her -- if it's
6 basically the same thing he has, that's fine. If it's
7 different, then we got to play the whole thing. So my
8 understanding he was trying to do something quicker. If
9 you're telling me it's things in there that are not in
10 your statement, it's totally different then that's ---

11 MR. ROUTZONG: I think that's fair to say
12 because I was in the very narrow ---

13 THE COURT: I know, but my understanding of the
14 rule in the case law is under that case that cite Kelsey
15 or whatever. Once you put it in, he has a right to put
16 the entire statement in assuming that -- and the caveat in
17 that is he can't put in portions that don't have anything
18 to do with it, that are not relevant to the issues
19 involved or criminal record of a defendant or something
20 like that, but under the case law, he has a right to put
21 the whole statement in. What's happening is my question
22 is it a different statement. If you're questioning the
23 one statement and you put part of it, he has a right to
24 put the rest of it in. And if that is the rest of it from
25 a practical matter, it's easier than playing the whole

1 tape to the jury for 37 minutes. That's what I'm trying
2 to find out.

3 MR. ROUTZONG: I think -- I don't believe it has
4 any of the issues in there not really that I try to
5 address, but I don't disagree its pretty much the same
6 statement. It's just in written statement formula. Her
7 story, her narrative doesn't vary very much.

8 MR. MEADORS: The part of it, Judge, that has in
9 here that she took a towel or the wash clothe was given to
10 her at his house, which would be inconsistent with her
11 testimony. It's got the rest of her -- I think, I can go
12 back and ask her now actually, okay, you gave this
13 statement, did you tell them this, did you tell them,
14 which is what I usually do.

15 THE COURT: And you can, but I think under the
16 rules once you put in the prior statement, entire prior
17 statement can come in assuming that it's something in it
18 that's not admissible of its own. So my question is do
19 you want -- I would let the entire statement come in
20 because I think under the rules he's entitled to it once
21 you put it in. The question is whether you want that one
22 in or we gone send him and play the whole tape to the
23 jury.

24 MR. ROUTZONG: Judge, what we plan -- I mean,
25 obviously I don't want to rush justice for either side and

1 don't want to stall or take needless time either from the
2 court. Our initial thought was, okay, let's just hold off
3 and we'll listen to the evident statement and redact it if
4 we can. And then I thought this might be a compromise and
5 I still like to listen to that other tape see if it's
6 redacted a little bit. At this time this is what we're
7 offering in reply ---

8 THE COURT: Okay.

9 MR. MEADORS: --- answer your question, unless
10 something else comes up.

11 THE COURT: And what is your objection?

12 MR. ROUTZONG: You're not going to try to put in
13 any of the tapes, audio tapes, I guess.

14 MR. MEADORS: Initially, we talked about
15 listening to them and redacting and coming back to that
16 later to save time, but beg the Court's indulgence.

17 THE COURT: Okay.

18 (WHEREUPON, a pause in the proceedings.)

19 MR. MEADORS: Your Honor, the other alternative
20 is to offer all of them.

21 THE COURT: I understand that.

22 MR. MEADORS: Not playing them now, but just
23 offering them and then redacting, I guess, that would be
24 the other...

25 THE COURT: Well, I mean, under the rule none of

1 them would be admissible but for what he put in the prior
2 inconsistent statement, so none of them would be
3 admissible. So I don't think I can let all of them in
4 that aren't responsive to what he asked and be able to
5 tell the whole story unless he agrees. Now, we can either
6 play it and redact it if he agrees that that is basically
7 the same thing that's on the tape and we can let that in
8 simply because it's simple and easier for the jury to
9 read. But if it's different, I don't think you can let
10 all of them in unless counsel agrees because we got one
11 prior inconsistent statement that he's put in. And you
12 got a right to put the rest of that statement in. The way
13 I read State vs. Kelsey and the Rule. It doesn't deal
14 with multiple statements unless he ask her about everyone
15 and found inconsistencies in four different statements,
16 then you can put all four of them in.

17 MR. MEADORS: Okay, we ready.

18 THE COURT: Bring me the jury.

19 (WHEREUPON, the jury came into open court.)

20 THE COURT: All right, Mr. Solicitor.

21 REDIRECT EXAMINATION CONTINUED

22 BY MR. MEADORS:

23 Q State's 34 for ID that's your statement?

24 A Yes, sir.

25 Q You signed it?

1 A Yes, sir.

2 MR. MEADORS: Your Honor, we offer State's
3 Exhibit 34.

4 THE COURT: Okay. What says the defense?

5 MR. ROUTZONG: No objection, Your Honor.

6 THE COURT: Okay. It's in without objection.

7 (WHEREUPON, State's Exhibit No. 34 was admitted
8 into evidence.)

9 BY MR. MEADORS:

10 Q Final question, did you consent to have sex with him?

11 A No, I did not.

12 Q Did you want to?

13 A No, sir.

14 Q Did he hold you against his will -- against your
15 will? Did he hold you against your will?

16 A For what sex or any time?

17 Q Yes, ma'am.

18 A Yes.

19 Q At his house and at your house?

20 A At my house and his house.

21 MR. MEADORS: That's all. Thank you.

22 THE COURT: You can step down. Thank you,
23 ma'am. You can step down.

24 (WHEREUPON, the witness leaves the witness
25 stand.)

1 MR. MEADORS: Andrew Gillette.

2 THE COURT: Okay.

3 BAILIFF: Do you solemnly swear or affirm your
4 testimony to the court shall be, the whole truth, and
5 nothing but the truth so help you God?

6 THE WITNESS: Yes, sir.

7 BAILIFF: State your name for the record and
8 spell your last name please.

9 THE WITNESS: Andrew Gillette G-I-L-L-E-T-T-E.

10 WHEREUPON,

11 Andrew Gillette,

12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. MEADORS:

15 Q Good afternoon.

16 A Yes, sir.

17 Q What's your rank?

18 A Corporal.

19 Q How long you been with the Sumter County Sheriff's
20 Office?

21 A A little over seven years between reserve time and
22 full time.

23 Q Okay. And what's your job now? What area do you
24 work?

25 A Well, right now I just transferred over from the

1 warrant division where I'm serving papers, but I was
2 working patrol for the majority of that time.

3 Q Back in February of 2017, you were on patrol?

4 A Yes, sir.

5 Q Are y'all assign to different regions?

6 A Yes, sir.

7 Q Y'all law enforcement?

8 A Yes, sir. I work mostly on the west side of the
9 county.

10 Q On February 22nd of last year of 2017, did you have
11 an occasion to respond to [REDACTED] [REDACTED] [REDACTED]
12 East?

13 A Yes, sir.

14 Q Okay. And why did you do that?

15 A We received a call to service in reference to an
16 incident that had occurred.

17 Q Okay. And were you the first law enforcement officer
18 to respond?

19 A Yes, sir.

20 Q Okay. And, sir, when you responded what did you
21 observe? Did you have occasion to see Ms. A.G. back
22 there?

23 A Yes, sir, I did. When I arrived on scene, she was
24 visibly upset. She had cuts and swelling beginning to
25 form on her face and bruising. And she had silver duck

1 tape wrapped around her left wrist.

2 Q And did you actually see that?

3 A Yes, sir.

4 Q And in a minute when we get this hooked up, we're
5 going to show some pictures that are already been in
6 evidence. You said she was visibly upset?

7 A Yes, sir.

8 Q Did you talk to her?

9 A Yes, sir.

10 Q Okay. And did you get her name -- when you first get
11 there, you trying to identify somebody? What's your job
12 when you first get to the scene?

13 A When you first arrive on something like that, you got
14 to, okay, figure out who the parties are that are involved
15 whether, okay, is this a witness, is this a victim just
16 get -- start to get everybody's information, start to get
17 an idea of what occurred.

18 Q And this will be a yes or no answer which I think
19 will help follow the rules. Were you able to get a
20 statement from her as to what happened to her?

21 A Yes, sir.

22 Q Okay. And did you make notes of that?

23 A Yes, sir.

24 Q And when you make notes how do you do it?

25 A I write it down on a note pad and so I can eventually

1 include them into the report.

2 Q Okay. And just for these -- I'm going to show you
3 what's marked State's ID only and you got a copy up here.
4 Those your notes that you took of the incident?

5 A Yes, sir.

6 Q Okay. And is that to help you later on when you come
7 to court like you doing right now?

8 A Yes, sir.

9 Q And was that included in the file that's supplied to
10 the defendant as far as you know?

11 A As far as I know it was.

12 Q Okay. Did Ms. A.G. tell you specifically as to
13 time and place whether or not she had been assaulted?

14 A Yes, sir.

15 Q Without going into details, what did she say?

16 A She said approximately 5:20 in afternoon the day
17 prior on 21 of February.

18 Q Okay. She tell you she been assaulted and where she
19 been assaulted?

20 A Yes, sir.

21 Q Okay. And that's what you reflected in your notes?

22 A Yes, sir.

23 Q Okay. She gave you much more detail, but as far as
24 the rules we're under she told you time and place?

25 A Yes, sir.

1 Q And what was the place she told you?

2 A Start over her -- initially started over her
3 apartment excuse me -- her lot on lot 11.

4 Q And then did it continue somewhere else after that?
5 Did she tell you another place just as to a lot? Did she
6 give you another lot?

7 A Yes, sir, I believe it was lot 26.

8 Q Okay. I think these were under State's 30 if my
9 memories correct, these pictures. I'm going to show --
10 can you see that?

11 A Yes, sir, I got a screen.

12 Q You've testified you saw some tape on her hands. Is
13 that's what's depicted on the picture in State's 30?

14 A Yes, sir, what would be her left wrist.

15 Q And did you take that tape off of her or did someone
16 else?

17 A No, I believe it would have either been EMS or one of
18 the investigators. I didn't want to potentially
19 contaminate anything.

20 Q Do you have -- here's another picture included in
21 State's 30. Is that the Ms. A.G. you saw?

22 A Yes, sir.

23 Q Is that depict the injury you saw or above her lip?

24 A Yes, sir.

25 Q You're a true first responder, correct?

1 A Yes, sir.

2 Q And you were in this case as a first responder?

3 A Yes, sir.

4 Q Were there other individuals there also beside

5 Ms. A.G. when you got there?

6 A Mr. Richardson was there with her as well.

7 Q And was anybody else there that you know of?

8 A There was another lady who's name has escape me right
9 now, but she was there.

10 MR. MEADORS: All right. Beg the Court's
11 indulgence.

12 THE COURT: Yes, sir.

13 (WHEREUPON, a pause in the proceedings.)

14 MR. MEADORS: Thank you, that's all.

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q Good afternoon, sir.

18 A Good afternoon, sir.

19 Q You got a 9-1-1 call, right, in responding to that?

20 A Dispatch gave it out as a nonactive incident. I
21 don't know what the -- whoever reported it called it as.
22 I don't know whether they called 9-1-1 or the nonemergency
23 number.

24 Q They didn't tell you about what you were going to
25 look at?

1 A They -- when it was given out initially, it was given
2 out initially as an incident that had occurred the day
3 before. So it wasn't -- they didn't give it out that it
4 was as urgent as it could be. It's like the telephone
5 game. One person calls it in and then it gets sent to
6 another and then it gets sent to another before we finally
7 get there.

8 Q Your testimony was it wasn't reported as criminal
9 domestic violence situation?

10 A I don't recall exactly what it was given out as. I
11 do recall that the way they gave it out was that it had
12 the day prior.

13 Q Okay.

14 MR. ROUTZONG: I don't have any other questions,
15 Your Honor. Thank you.

16 THE COURT: Anything further of this witness?

17 MR. MEADORS: No, sir.

18 THE COURT: You can step down. Thank you, sir.

19 (WHEREUPON, the witness leaves the witness
20 stand.)

21 MR. MEADORS: State of South Carolina calls
22 Richard Bradford to the stand.

23 THE COURT: All right, sir, if you could come
24 around please, sir. Place your left hand on the Bible and
25 raise your right.

1 BAILIFF: Do you solemnly swear or affirm your
2 testimony to the court will be the truth, the whole truth,
3 and nothing but the truth so help you God?

4 THE WITNESS: Nothing but the truth.

5 BAILIFF: Thank you, sir, step around please.
6 State your name for the record and spell your last name.

7 THE WITNESS: My name is Richard J. Bradford.

8 WHEREUPON,

9 Richard Bradford,

10 after first having been duly sworn, testified as follows:

11 DIRECT EXAMINATION

12 BY MR. MEADORS:

13 Q B-R-A-D-F-O-R-D, Mr. Bradford?

14 A Yes, sir.

15 Q And, Mr. Bradford, if you would -- just be sure and
16 talk in that. I would appreciate it, sir. Would you let
17 the ladies and gentlemen of this jury know a little bit
18 about Richard Bradford? Where are you from?

19 A I'm from right here Dalzell -- Rembert, South
20 Carolina anyway?

21 Q Were you born there?

22 A Yes, sir, I was born in Rockingham, North Carolina,
23 but I move back down here when I was a baby with my mama.
24 We move back down to the south.

25 Q When was that Mr. Bradford?

1 A I was a baby when I came down, but I was here all my
2 life. I was living in Sumter, South Carolina all my life.
3 I was raised -- I been born in North Carolina I was a
4 baby, but she come back and we live on the farm and we
5 work the farm all my life.

6 Q Yes, sir. And where did you go to high school?

7 A Hill Crest and Ebenizer (sic).

8 Q And when did you get out?

9 A I graduated from Hillcrest in 1978.

10 Q '78. And what did you do after high school?

11 A I went to Dupont to work.

12 Q In Camden?

13 A Yes, sir. Left from Dupont to come back to Shaw Air
14 base work out there several years.

15 Q And where did you work after that?

16 A To Gold Kist and I left from Gold Kist and I went to
17 work for Ms. Ann. She was my boss. I been with her about
18 28 years. I been working for Ms. Ann.

19 Q You been working your whole life?

20 A Whole life.

21 Q And where do you live now, Mr. Bradford?

22 A I live right there [REDACTED]

23 [REDACTED]

24 Q Yes, sir.

25 A In [REDACTED]

1 Q You say [REDACTED] is that [REDACTED] [REDACTED]

2 [REDACTED] East?

3 A Yes, sir.

4 Q And you say Ms. A.G. you talking about Ms. A.G.
5 back here?

6 A Yes, sir, that's her.

7 Q Okay. How long you been working with Ms. A.G. ?

8 A I been working for her for I say pretty close to 30
9 years. I quit the last job did with her 28 years that's
10 when -- I ain't finish quit working yet, but the work be
11 kind of short and so when things get back up and then I go
12 on back to work. But I been there for 28 years.

13 Q Okay. In February of last year 2017, were you
14 working there at Scenic Mobile Home Park?

15 A Yes, sir.

16 Q And you do a little bit of everything there?

17 A Yes, sir.

18 Q Okay. Do you know the Defendant Edward McElveen?

19 A Yes, sir, I didn't know him, but I seen him a few
20 days when I was up there working since he move up there.
21 But just know him, I didn't know him that good, you know.
22 We talk, but we speak and then I speak to him that was
23 about it.

24 Q You seen him around the park?

25 A Yes, sir.

1 Q But fair to say y'all weren't that close then?

2 A No.

3 Q Okay. I'm going to take you back to the date of this
4 -- prior to this incident we are all here about, Mr.
5 Bradford, the day prior to this did you have an occasion
6 to see the defendant that day?

7 A Yes, sir.

8 Q Where did you see him?

9 A He came on the back this house I was putting up with
10 gas and he came over there and just start talking.

11 Q And was he upset?

12 A Yeah, he was upset a little bit. He come up to me
13 and start explaining.

14 MR. ROUTZONG: Objection, Your Honor. He's
15 talking about whether he's upset. He can have an
16 impression, his own impression. He can't really testify
17 to whether or not he was upset or not.

18 BY MR. MEADORS:

19 Q What did he appear like to you?

20 A Well, he just come up there saying if I see the black
21 truck -- I didn't know what he was talking about because
22 Ms. A.G. she always did been a good woman, but I don't
23 know what the deal been about. He tell me if I see the
24 black truck come back through there, he be in the house,
25 come and knock on his door and let him know, he come

1 running. He said I'll F him up.

2 Q I'll F him up?

3 A Yes, sir.

4 Q Did you know what he was referring to about the black
5 truck?

6 A I had -- I think about it I didn't know what he was
7 gone do, but he started telling me what he gone do, so I
8 just left it like that. I went on back to work because I
9 didn't know what he gone do. But I thought he was cutting
10 the fool one time, but come to find out he wasn't.

11 Q But my question is did you know who he was referring
12 to to tell you to come tell him if you saw that black
13 truck again? Did you know what he was talking about?

14 A Yes, sir. Yes, sir.

15 Q Who was he talking?

16 A He was talking about the boss Mr. Richardson.

17 Q Okay. And the boss man, Mr. Richardson, he owns the
18 trailer park?

19 A Yes, sir.

20 Q Okay. Now, the day after that, Mr. Bradford, did you
21 have an occasion the morning after that to see Ms. A.G.?

22 A Yes, sir.

23 Q Did you see her leaving the trailer park?

24 A When I was coming up to open up my shed, she was in
25 her car backing out. Her had her hand up. I ask her I

1 said, Ms. A.G., you got a toothache. And she didn't say
2 nothing back off. She said, Richard, I'll be back. I got
3 to make a run, but I didn't -- when she said, no, but she
4 didn't tell me nothing, but I see her face been all swell
5 up and I see she been holding her jaw like this. So I
6 just ask her I said you got a toothache, Ms. A.G. She
7 said no. So she said, no, so she say I'll be back and she
8 just pull off and left.

9 Q So how did her face appear to you, Mr. Richard
10 Bradford, how did it look to you her face?

11 A Well, it look swell, sir.

12 Q Sir.

13 A It look swell her holding her jaw, so it been all
14 bruised. It been red look like her fall or something like
15 that, but that the way it look swell up.

16 Q Did you see the defendant, Edward McElveen, after
17 that morning?

18 A Yeah, he came up that morning when I was cutting
19 around the lake. That the last time I seen him.

20 Q Did you talk to him that morning the same morning
21 when you see Ms. A.G.? Mr. McElveen did you see him again

22 ---

23 A Yes, sir.

24 Q Did you talk to him?

25 A That's the last time I seen him.

1 Q I'm sorry I wasn't following you. Did you get close
2 to him? Did you talk to him then?

3 A Yeah, we was close.

4 Q Could you tell whether or not he been drinking?

5 A Well, he had a red cup with beer in it. I don't know
6 what else, but he sure was drinking because I had to hold
7 him up at the lake, he about to fall in the lake. I had
8 to hold him up a little bit. I had to catch him.

9 Q When was that?

10 A In the park where I been working at. He come been
11 talking to me, but he stumble. He like to fall in the
12 lake, so I just grabbed him. And he just went walking
13 back to his house. He tell me again if I see the black
14 truck to let him know, but he -- Mr. Richardson he ain't
15 never did come out there that day, that morning he had
16 told me that. I didn't think nothing of it. I went just
17 home when I get off, but the next morning I came back I
18 seen Ms. A.G. her face and all messed up. And then when I
19 got home from work from up there, some sheriff's officer
20 they been up there where I lived at they been questioning
21 people and asking what happened and stuff like and that's
22 how I found out he did that to Ms. A.G.

23 Q Okay. Is this Mr. McElveen that you were talking
24 about next to ---

25 A Yes, sir, that's him.

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

2 THE COURT: Yes, sir.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. MEADORS: Mr. Bradford, I appreciate you
5 coming here today. Thank you very much.

6 THE COURT: Wait just a minute. I'm going to
7 see if this other lawyer want to ask you a question, okay.

8 MR. ROUTZONG: No questions, Your Honor.

9 THE COURT: All right. I stopped you too quick.
10 You can go.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 MR. MEADORS: Your Honor, we're under
14 sequestration, so the witness will be here in 30 seconds.

15 THE COURT: Okay.

16 BAILIFF: Do you solemnly swear or affirm your
17 testimony to the court shall be the truth, the whole
18 truth, and nothing but the truth so help you God?

19 THE WITNESS: I do.

20 BAILIFF: Step around please. Can I get you to
21 state your name for the record and spell your last name
22 please.

23 THE WITNESS: Barbara Williams W-I-L-L-I-A-M-S.

24 WHEREUPON,

25 Barbara Williams,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MEADORS:

4 Q Good afternoon, Ms. Williams.

5 A Good afternoon.

6 Q As I do with every witness, I like you to please tell
7 this ladies and gentlemen of this jury a little bit about
8 yourself. Where are you from?

9 A I'm from Sumter.

10 Q Born and raised?

11 A Born and raised.

12 Q Where did you go to school?

13 A Edmonds High.

14 Q And what did you do after that?

15 A Work for a dental office, work secretary, work for
16 doctors mainly, work for Tuomey Hospital, work for Flora
17 Daniel, work for Santee Print, retired Santee Print?

18 Q How long were you at Santee Print?

19 A Twelve years.

20 Q Okay. How long were you at Flora Daniel?

21 A Four years. I worked at the training center in
22 Columbia, but they move back to Greenville and I didn't
23 go. Then I went to work for a dental office and I work
24 there 12 years. And Santee Print I work there for 12
25 years. I'm retired now. I work for Mr. Richardson some

1 with the mobile homes.

2 Q You doing that now?

3 A Yes.

4 Q Okay. And Mr. Richardson is your brother?

5 A Yes.

6 Q Okay. The famous Richardson is kin to your brother,
7 kin to you Bobby Richardson y'all cousins?

8 A Yeah.

9 Q Okay. How long you been working for Mr. Richardson?

10 A Probably 16, 17 years.

11 Q And what do you do for him?

12 A I rent mobile homes and collect rent.

13 Q Okay. As far as [REDACTED] [REDACTED] [REDACTED] West
14 and East what is your job in relation to those two, if
15 any?

16 A Ms. A.G. is the property manager for [REDACTED]. If
17 somebody calls and needs a mobile home or place to stay or
18 whatever, I'll call her and everything. Then, you know,
19 if she has problems with tenant collecting money and
20 everything, I told them I was the mean guy would always go
21 and help.

22 Q And so you have assisted with all those at times?

23 A Yes.

24 Q Okay. Specifically -- well, so you known her for how
25 long?

1 A Ms. A.G. probably close to 17 to 18 years.

2 Q Now, do you know the defendant, Edward McElveen.

3 A I do not know him, I've seen him, but I don't know
4 him.

5 Q Now, getting right to this incident please, ma'am, on
6 February 22nd, I guess, of 2017. Did you have an occasion
7 to go to [REDACTED] [REDACTED] East sometime that
8 morning?

9 A Yes. I did. I was going up there I was going to
10 help do some collection on some people or find out why
11 they hadn't paid or whatever.

12 Q And was Ms. A.G. to meet you there?

13 A I had called Ms. A.G. And when I called Ms. A.G.
14 she was upset and she was crying. I said, well, what's
15 wrong and she started telling me she says I been molested,
16 I been beaten and I been raped.

17 MR. ROUTZONG: Objection, Your Honor.

18 BY MR. MEADORS:

19 Q To time and place, did she tell you that she been
20 assaulted or raped?

21 A Yes.

22 THE COURT: Okay.

23 MR. MEADORS: Time and place witness, Your
24 Honor.

25 THE COURT: That's okay. I'll overrule it.

1 A That was that morning.

2 Q Where did you see her?

3 A Up at [REDACTED] East.

4 Q Okay. Is there any place specific there you saw her?

5 I mean, were y'all meeting at a certain house?

6 A It was a certain house, but I can't think of -- I

7 don't know the number of it right now 36, 37 maybe

8 something like that. One of those because I know its

9 toward the end of it.

10 Q When you saw her, can you describe her demeanor to
11 these folks?

12 A Yes. Well, when I talk to her on the phone, she said

13 she would come. I said, well, Ms. A.G. I'll come down

14 because I could tell she was upset. I said I'll come

15 down. She says, no, don't come down here. She said I'll

16 come up there to you. And I said, okay. So when she came

17 up there, that's when I saw her and she was crying. Her

18 mouth busted and she was bruised up and everything. And

19 that's when she started telling me what had happened to

20 her.

21 Q Okay. And again did she tell you about a time and a
22 place of a sexual assault?

23 A Yes, that night -- the night before.

24 Q Okay. And did she tell you where?

25 A At her house -- she said from her house to his house.

1 Q Okay. And did you see her face?

2 A I did. I took pictures of her mouth and everything
3 when she was sitting in the car.

4 Q And did you see her hands?

5 A The tape, yes.

6 Q My next question was there tape on her hands?

7 A Yes.

8 Q Okay. You got this -- she's told you this. You've
9 seen her demeanor. You said she was upset?

10 A Yes, she was upset. And when she told me what
11 happened, I said Ms. A.G. you call the police and she
12 says, no, she didn't want me to call. I said, well,
13 somebody needs to call the police and she didn't want me
14 to call the police because she said she was scared. And I
15 said, well, I said the owner needs to know, so I called
16 brother. And I told him what happened that she been
17 beaten and raped. And he said, well, I'll be up there
18 whatever. And I think on his way up there, he called the
19 police. And when the police got there they saw Ms. A.G.
20 and they called the ambulance.

21 Q And you say brother you mean Eddie Richardson?

22 A Eddie Richardson, yes.

23 Q Okay. And you said her initial reaction was don't
24 call I'm scared?

25 A Yeah, exactly right. And she wouldn't let me come

1 down to her house because she was scared.

2 MR. MEADORS: Beg the Court's indulgence.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. MEADORS: Judge, I asked you a couple times.
5 Can I approach this witness?

6 THE COURT: Yes, sir.

7 MR. MEADORS: Thank you.

8 BY MR. MEADORS:

9 Q I'm going to show you what's marked State's 37 and
10 State's Exhibit 38. Do you recognize these?

11 A I do.

12 Q Now, it's got your name down there Barbara Williams.
13 Did you -- were you aware of this was happening, were you
14 involve in this?

15 A No, sir, I knew it was happening.

16 Q Okay.

17 MR. MEADORS: That's State's 37 and State's
18 Exhibit 38, Your Honor. I believe without objection.

19 MR. ROUTZONG: No objection, Your Honor.

20 THE COURT: Okay. They're in without objection.

21 (WHEREUPON, State's Exhibits No. 37 and 38 were
22 admitted into evidence.)

23 BY MR. MEADORS:

24 Q Okay. What is -- looks like one's got a copy with
25 some other stuff on it. What is State's 37? What is

1 this?

2 A This is -- just asking him to move.

3 Q Okay.

4 A Inform him to move that his 30 days was up and that
5 he needs to get out.

6 Q Okay. And it's addressed to who?

7 A Mr. Ed McElveen.

8 Q And it's signed Barbara because part of your job,
9 well, you said you the mean one. Are you the one name
10 goes on the evictions?

11 A I am.

12 Q Okay. And I did not mean that disrespectfully?

13 A No, I understand that.

14 Q But your name's on these, but did you take part in
15 this?

16 A I did. I'm the one that mailed this and this is
17 where I had it -- what is it...

18 Q Certified?

19 A Certified, yes.

20 Q That's State's 38?

21 A Yeah.

22 Q Is State's 37 just a blank copy of it with no
23 certification on it?

24 A Yes.

25 Q That's just a blank don't have certification?

1 A Yes, yes.

2 Q Did you take that to him personally to serve?

3 A I did not.

4 Q You were not there that day?

5 A No, I did not. I mailed it.

6 Q Okay. And can you publish that, read that what that
7 says State's 37 please?

8 A This is to inform that you have 30 days to move.
9 Your lease has expired due to severe false accusation on
10 January 31st of 2017 and accusations in the past. We feel
11 it is in the best interest and safety of management for
12 you to make other living arrangements.

13 Q And so the 30 days would have been the end of
14 February, right?

15 A Right.

16 Q Approximately. And did you ever have to begin
17 eviction proceedings in this case?

18 A I did not.

19 Q Because he was arrested?

20 A Yes.

21 Q That's the defendant we're referring, correct?

22 A I was going to, but he was arrested and I didn't do
23 it.

24 Q And is this Mr. McElveen over here to the left?

25 A Yes.

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

2 THE COURT: Yes, sir.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. MEADORS: That's all I have Ms. Williams.

5 Thank you.

6 THE COURT: Any questions?

7 MR. ROUTZONG: No, sir.

8 THE COURT: Thank you, ma'am. You can be
9 excused.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 MR. MEADORS: Eddie Richardson.

13 BAILIFF: Left hand on the Bible and raise your
14 right hand. Do you solemnly swear or affirm your
15 testimony to the court shall be the truth, the whole
16 truth, and nothing but the truth so help you God?

17 THE WITNESS: I do.

18 BAILIFF: State your name for the record and
19 spell your last name please.

20 THE WITNESS: Eddie Richardson

21 R-I-C-H-A-R-D-S-O-N.

22 WHEREUPON,

23 Eddie Richardson,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MEADORS:

2 Q Good afternoon, Mr. Richardson. No disrespect you
3 have a hard time hearing?

4 A I do.

5 MR. MEADORS: With the Court's permission can I
6 stand up here?

7 THE COURT: Certainly.

8 BY MR. MEADORS:

9 Q Mr. Richardson, I ask every witness this. Will you
10 tell these folks about yourself, you know, where you're
11 from, kind of your and what you done in life?

12 A Yes, sir. I'm Eddie Richardson. I'm 70 going on 71.
13 I grew up in Sumter. When I was 17, I joined the Navy. I
14 was in the Navy for six years. And after the Navy, went
15 to Bible college. I graduated from there and then I went
16 to West Virginia for one year as an assistant pastor.
17 Then I moved here and started the Sumter County Baptist
18 Temple and pastored it for 35 years. I retired about six
19 years ago and seven now. And that's it.

20 Q And you married?

21 A I am.

22 Q Mrs. Betty Richardson?

23 A Yeah.

24 Q And y'all have any children?

25 A We do not.

1 Q And, Mr. Richardson, after you got through pastoring,
2 know that's a life-long process, but at some point did you
3 get in the business of owning mobile homes or parks.

4 Could you tell us how that came about?

5 A You know, when I was at preacher's conference down in
6 Augusta and when they -- I'll try to make this short. One
7 day in the afternoon the host pastor and I we were walking
8 around and he was showing me this property. And I said --
9 he had some mobile homes. He had some log cabins. They
10 had a team camp during the summer. And I ask him I said
11 does your church own all of this. He said, no, I own it.
12 And I said, you mean, you're church let you own stuff like
13 that. And he said, yeah. And he spoke to me a little
14 bit about not burning your talents. Make a long story
15 short, I came back to the church, I asked the deacons if
16 it would be all right if I invested in some mobile homes.
17 And they said, yes, as long as it didn't interfere with
18 the pastoring. And so I got involved in it and over time
19 I bought some mobile homes and owned a couple of mobile
20 home parks.

21 Q So it's kind of your retirement?

22 A It is.

23 Q Preparing for your retirement, I guess?

24 A It was. That was what I told them when I originally
25 started. It got larger than that, but it's been a

1 blessing from the Lord.

2 Q Do you have different people that manage the
3 different parks, different trailers?

4 A I do.

5 Q And is one of them Ms. Barbara Williams?

6 A She is. She's the office manager. She's my sister
7 and she oversees the -- Ms. A.G. who manages [REDACTED]
8 [REDACTED] and she is dispatched for our maintenance
9 people to go out and work.

10 Q And Ms. A.G. how long has she been working for you?

11 A Well, I got [REDACTED] [REDACTED] [REDACTED] [REDACTED] in 2005. I
12 owned a few mobile homes in that park before that time.
13 And I think Ms. A.G. actually managed those for me.
14 Although someone else owned the park at that time. So I
15 would say probably 15 years, about 15 years maybe.

16 Q Do some folks own mobile homes in your park and rent
17 the land or do some of them just rent. Do you have both
18 of those?

19 A Yeah, I have a couple of people that own their own
20 mobile home and rent the lot in [REDACTED] [REDACTED]

21 [REDACTED].

22 Q Okay. Now, do you know the defendant, Edward
23 McElveen, Mr. Richardson?

24 A Just know him as a tenant and met him there at the
25 park maybe a time or two.

1 Q And at some point did he call your house making
2 threatening phone calls or accusations?

3 A Well, he called one evening. I was actually taking a
4 nap and spoke to my wife. And when I woke up or either my
5 wife woke me up, she had told me about the phone call. I
6 ended up calling back to Mr. McElveen as I recall. And we
7 conversed a little bit and the conversation wasn't very
8 long.

9 Q Okay. And those were accusations that he was making
10 about you and Ms. Aldy, right Ms. A.G. excuse me?

11 A He may have said something to my wife about it.
12 Whenever I called him back, I don't think we got into
13 that. I think that was later that -- that was done at
14 least with me whenever Ms. A.G. had shown my wife a letter
15 I think it was the next day.

16 Q I'm going to show you what's marked State's -- this
17 is already in evidence, so you can talk about it. I'm
18 going to show what State's 24. Is that what you're
19 talking about?

20 A Yeah.

21 Q Okay. And how did you see that letter?

22 A How did I see it?

23 Q Yes, sir. Who brought it to you? You said it I'm
24 sorry.

25 A I think Ms. A.G. gave it to my wife and maybe my wife

1 and maybe my wife and me the next day. I think my wife
2 that night when we got the phone call we were real concern
3 because of the phone call. So Ms. A.G. was out of town.
4 We tried to get with her. We could not and so we did call
5 the police that night and they made their rounds through
6 the park. And then the next morning, I think, was when
7 that was produced. Once we got that, we did call the
8 police. And we felt that it was important that we go and
9 speak to Mr. McElveen. I may not be right on the day.
10 All of it was around that period of time and went and
11 spoke to Mr. McElveen, told him we thought it would be
12 better if he moved from the park because of accusations,
13 but also sent a registered letter to him asking him to do
14 that. And it was one other thing I was going to say this.
15 By going to see him, it was an opportunity for me also too
16 with my wife there and the police officer. We met to say
17 to Mr. McElveen that what he had accused me of none of it
18 was true. And I think in the letter it said something
19 about he had a video or whatever and I just, you know, if
20 you can produce anything or prove it fine. But anyway we
21 had a good conversation, but that was about the extent of
22 it.

23 Q The first time when you said that y'all had called
24 and asked a deputy to ride through, were y'all concerned
25 about Ms. A.G. at that point?

1 A At that time in getting the deputy to meet us ---

2 Q The time before that you said a deputy rode through?

3 I may have misheard you.

4 A That night before whenever we got the phone call and
5 we gotten up with someone from law enforcement. And they

6 had gone to Ms. A.G.'s house and never could get her

7 because she wasn't home. So they did I think circle

8 through the park a couple of times that night, because we

9 were concern that because of his -- what he had said on

10 the phone her coming back that she might be in some

11 danger.

12 Q Was that when she was in Greenville or do you know?

13 If you don't know, that's fine?

14 A I'm sorry, I didn't hear the question.

15 Q Do you know where she was then?

16 A I think it was maybe Greenville she'd gone to see
17 someone. And she was actually I think in the process of
18 coming back that evening and we couldn't get her on the
19 phone.

20 Q And, Mr. Richardson, I'm going to show you what's
21 already in evidence. And I know you've seen these State's
22 Exhibit 37 and State's Exhibit 38. State's Exhibit 37 is
23 a letter to Mr. McElveen saying he got 30 days to leave.
24 Did you present this to him when you went to the mobile
25 home park with a deputy?

1 A I'm not sure if I did or not at the time that I went
2 to the -- to see him at his home. I almost want to say
3 that I did not. I don't think I had it at that time. I'm
4 not sure, but I did want to follow up with the registered
5 letter.

6 Q Which is marked State's 38. Is that the same date
7 February 2nd?

8 A Right. This is correct. The only thing would be
9 wrong on this, if anything, would be the date of the
10 letter like February the 2nd that I may have made a
11 mistake. Of course, this from the post office these are
12 correct.

13 Q So when you went to see him that day, you said your
14 wife was there?

15 A Yeah.

16 Q And the deputy?

17 A Right.

18 Q At that point -- was that shortly after you'd seen
19 this ---

20 A Was that what?

21 Q Was that -- I'm sorry?

22 A No, that's fine.

23 Q It's my fault, no, sir. Was that after you'd seen
24 this letter?

25 A Yes, as I recall, it was after we saw the letter,

1 that was the -- what really energized us going to see him
2 that letter.

3 Q If you said it again, I'm sorry I'm just tired. When
4 you went to see him, did you tell him it's time to leave.
5 We think it's better to leave you gone need to move out
6 whether or not you had this with him is that what you told
7 him?

8 A Yeah.

9 Q Okay. And then this was mailed certified to him?

10 A Right.

11 Q Okay. I know you don't need to do this, but if I was
12 sitting in your position, I want somebody to ask me. Your
13 wife's in the courtroom. Did you have an affair with Ms.

14 A.G.?

15 A No.

16 Q Okay.

17 A I would like to add to that that during the time that
18 I've known Ms. A.G. I've never had any kind of
19 relationship no hug, kiss or anything like that. I say no
20 hug, I did her at her husband's funeral. At the funeral I
21 may have hugged her, but I never did anything.

22 Q And did you ever have any bad blood with Mr.
23 McElveen? Did you ever have disagreements with Mr.
24 McElveen?

25 A No.

1 Q Okay. Now, when you got -- how did you become aware
2 of this incident?

3 A My sister called me. Barbara she called me one
4 morning and she told me that Ms. A.G. was out there at
5 one of the mobile homes. And I can't remember everything
6 she said, but I said I'll be out there in a little bit.
7 And I went and then I was told that what Ms. A.G. I'm sure
8 has said that Mr. McElveen had done to her.

9 Q You can say a time and a place, but go ahead. Did
10 you call 9-1-1?

11 A Yes, sir, I did.

12 Q Okay. So you asked law enforcement to come out
13 there?

14 A I did.

15 Q And did law enforcement come out?

16 A They did.

17 Q Okay. And so you were out there. Did you see Ms.
18 A.G. out there that day in her appearance?

19 A I did.

20 Q Okay. Did you see her demeanor?

21 A I did.

22 Q How would you describe her, Mr. Richardson?

23 A She was -- looked very tired. She was cut on the
24 lip, maybe had a bruise on her eye. She had tape as I
25 recall on both wrists and she related the story to us.

1 And she was nervous, scared and so forth and that's what I
2 remember. So once I saw that, I called 9-1-1.

3 MR. MEADORS: Beg the Court's indulgence.

4 (WHEREUPON, a pause in the proceedings.)

5 MR. MEADORS: Mr. Richardson, I don't have
6 anything else. Defense counsel may have some questions
7 for you. Thank you.

8 CROSS-EXAMINATION

9 BY MR. ROUTZONG:

10 Q Good afternoon, sir. When you called 9-1-1, you
11 reported it as a domestic violence situation; is that
12 correct?

13 A I just told them what I knew briefly that somebody
14 needed to come because a lady had been abused.

15 Q You referred to it as a domestic violence situation?

16 A I can't remember.

17 Q All right, sir. The only thing you know about this
18 incident is from what other folks have told you ---

19 A I'm sorry, I can't hear very well.

20 Q I'm sorry, sir. The only thing you know about this
21 incident is this alleged, this alleged incident you been
22 told by other folks. You didn't witness any of it
23 yourself?

24 A That's correct.

25 Q I'm talking about the alleged incident where she said

1 she was sexually assaulted. You didn't see any of that?

2 A That's correct.

3 Q All you know about that you learned from her?

4 A Yes, sir.

5 MR. ROUTZONG: Thank you very much, sir.

6 THE COURT: Anything further?

7 MR. MEADORS: No, sir, that's it. Thank you,
8 sir.

9 THE COURT: Thank you sir.

10 (WHEREUPON, the witness leaves the witness
11 stand.)

12 MR. ROUTZONG: Judge, we made some good time
13 this afternoon. I do think we'll finish tomorrow. We
14 request a rest -- not rest excuse me, to break at this
15 point.

16 THE COURT: Okay. Ladies and gentlemen, we gone
17 stop for the day. And, you know, you still can't discuss
18 this case yet. And when you get home tonight, your family
19 is going to want to know what you been doing all day. And
20 if your family is anything like my family, they going to
21 have an opinion as to what you ought to do, so I don't
22 want to get their opinion until after you decided this
23 case. So please don't discuss it because you're the only
24 one been in this courtroom. It is important for y'all to
25 decide the facts in this case, so don't discuss it yet.

1 And I need you all back in the morning. And if you got an
2 emergency call, but if not, I expect you to be here at
3 9:30. You have a great evening. Thank you so much.

4 (WHEREUPON, the jury retired to the jury room.)

5 THE COURT: Anything before we break for the
6 evening?

7 MR. MEADORS: May we approach?

8 THE COURT: Sure.

9 (WHEREUPON, a bench conference was held.)

10 THE COURT: All right. Court will be in recess
11 until 9:30.

12 (WHEREUPON, the proceedings were concluded for
13 the day to be reconvened on January 23, 2018.)

14 (WHEREUPON, State's Exhibits Nos. 39, 40, 41, 42
15 and 43 were marked for identification.)

16 (WHEREUPON, Defendant's Exhibits Nos. 1-8 were
17 marked for identification only.)

18 THE COURT: Have you all thought anymore about
19 charging?

20 (WHEREUPON, a pause in the proceedings.)

21 MR. MEADORS: Judge, you want to talk about the
22 charges now?

23 THE COURT: Yeah.

24 MR. MEADORS: Okay, I'm sorry. I misunderstood
25 you.

1 THE COURT: Okay. And so tell me what you all
2 think you want charged as appropriate?

3 MR. MEADORS: CSC second and CSC third.

4 THE COURT: Okay. What is the defense position?

5 MR. MEADORS: I will let you speak.

6 THE COURT: Okay.

7 MR. MEADORS: A and B first.

8 THE COURT: Yeah.

9 MR. ROUTZONG: The evidence seems to support all
10 those, Your Honor. And I would submit, Your Honor, that
11 it also supports A and B second and third, so if you're
12 going to charge first should be second and third.

13 THE COURT: What's the State's position on that?

14 MR. MEADORS: Okay. I guess a second -- does
15 that mean automatically the third comes in. I'm not a big
16 fan of lesser included.

17 THE COURT: I understand. The legislature
18 created this.

19 MR. MEADORS: Whatever, Your Honor decides, I
20 certainly understand.

21 THE COURT: Well, first, I mean, this evidence
22 that probably support a charge A and B first. A and B
23 second, there's no moderate bodily injury. I mean, he
24 could have, but you got B non-consensual touching. And
25 then third is just the injury. Yes, sir.

1 MR. ROUTZONG: Your Honor, moderate bodily is
2 defined in the statute as in part ---

3 THE COURT: I know and it's -- it doesn't fit
4 the facts of this case, don't fit moderate bodily injury I
5 don't think. No, under B though, that involves
6 non-consensual touching of private parts.

7 MR. ROUTZONG: May I make a counter argument?

8 THE COURT: Sure.

9 MR. ROUTZONG: This is a case, Your Honor, where
10 everybody could believe that she has an injury. Clearly,
11 under the second degree, it includes a disfigurement
12 that's temporary. There's a mark on her face.

13 THE COURT: Okay.

14 MR. ROUTZONG: Temporary or moderate
15 disfigurement. So they might believe, Your Honor, that he
16 hit her. They might just believe everything else:

17 THE COURT: Okay. Are you looking at
18 16-33-600(d)(1) looking? You looking at the actually
19 statute. See my charge ---

20 MR. ROUTZONG: It's define in A2 moderate bodily
21 injury.

22 THE COURT: But it's not in my charge book,
23 that's why I'm saying that. Disfigurement is not in the
24 charge. So is the statute put disfigurement in. You
25 looking at the statute itself ---

1 MR. ROUTZONG: Yes, sir.

2 THE COURT: --- because mine doesn't show that.
3 It just talks about moderate bodily, but it doesn't say
4 anything about disfigurement.

5 MR. ROUTZONG: You have to go up to where that's
6 defined moderate bodily injury, that's in section A2.

7 THE COURT: Okay. For whatever reason, they
8 didn't put it in our charge this way. Of course, it's in
9 the statute. All right. It's in the statute, it's in the
10 charge. I mean, they define moderate bodily injury in my
11 charge, but that don't put that in there. So maybe they
12 did the charge before they changed the statute. So what
13 else? So you take the position it's A and B first and
14 second and CSC first, second and third?

15 MR. ROUTZONG: I don't disagree. Your Honor,
16 the only other thing that's second it could be a third
17 would be they may not find disfigurement. I don't think
18 it's any harm in charging a third because, you know, if
19 they get down that low, they may just acquit. They may
20 just believe everything.

21 THE COURT: Okay. All right. The State got a
22 position on that?

23 MR. MEADORS: Hope, it's not true what he just
24 said number one, but second, I guess, if you gone do them,
25 you probably ought to do them all.

1 THE COURT: Okay.

2 MR. MEADORS: Judge, can you define on CSC third
3 force or coercion without aggravating circumstances.

4 THE COURT: Okay. Force or coercion means to
5 make the victim to follow a prescribed and dictated course
6 to inflict or impose or to force one's will on someone,
7 that's what the charge -- defines that versus aggravated
8 force.

9 MR. MEADORS: So, Judge, we gone do CSC force
10 which is use of aggravated force. The victim is the
11 victim of confinement, kidnapping, et cetera.

12 THE COURT: Right.

13 MR. MEADORS: CSC second sexual battery
14 accompanies aggravated was coercion. You want to define
15 coercion. It's the use of force of a high and aggravated
16 nature overcome the victim. The victim reasonably
17 believes they had the present ability to carry it out.

18 THE COURT: Aggravated coercion means that the
19 defendant threatened to use force or violence or violence
20 of a high and aggravated nature to overcome the victim or
21 another person if the victim reasonably believes that the
22 defendant had the present ability to carry out the threat
23 aggravated course may also exist if the defendant
24 threatened to retaliate in the future by the infliction of
25 physical harm, kidnapping extortion or any other

1 circumstances of aggravation against the victim.

2 MR. MEADORS: CSC third A and B first degree
3 non-consensual touching occurred during the kidnapping.

4 THE COURT: Right. Third is when there's no
5 aggravated force or aggravated coercion.

6 MR. MEADORS: First...

7 THE COURT: That's third.

8 MR. MEADORS: Yes, sir.

9 THE COURT: Okay. We ready to start?

10 MR. MEADORS: Yes, sir.

11 MR. ROUTZONG: Yes, sir.

12 THE COURT: Okay. Bring in the jury. (

13 (WHEREUPON, the jury came into open court.)

14 THE COURT: Good morning. You may call your
15 next witness.

16 MR. MEADORS: May it please the Court, the State
17 now calls Keyona Bethea.

18 BAILIFF: Place your left hand on the Bible,
19 raise your right hand. Do you solemnly swear or affirm
20 your testimony to the court shall be the truth, the whole
21 truth, and nothing but the truth so help you God?

22 THE WITNESS: I do.

23 BAILIFF: State your name for the record and
24 spell your last name.

25 THE WITNESS: Keyona Bethea B-E-T-H-E-A.

1 WHEREUPON,

2 Keyona Bethea,

3 after first having been duly sworn, testified as follows:

4 DIRECT EXAMINATION

5 BY MR. MEADORS:

6 Q Good morning, Ms. Bethea.

7 A Good morning.

8 Q If you just please speak into the microphone phone,
9 so the court reporter can take everything down and the
10 ladies and gentlemen of this jury can hear you please.

11 Where you from?

12 A Sumter.

13 Q You born and raised?

14 A Yes, sir.

15 Q Where did you go to school?

16 A Elementary, middle?

17 Q You can start there if you want to.

18 A Charville.

19 Q Okay. And where did you go?

20 A Lakewood.

21 Q When did you get out of Lakewood?

22 A 2008.

23 Q 2008?

24 A Uh-huh.

25 Q Ms. Bethea, what did you do after that?

- 1 A Started working.
- 2 Q Okay. Where did you work?
- 3 A Big Lots.
- 4 Q And how long were you at Big Lots?
- 5 A Four years.
- 6 Q Four years?
- 7 A Yes, sir.
- 8 Q What did you do after that?
- 9 A Went to another job ---
- 10 Q Did what now?
- 11 A Went to another job.
- 12 Q Where was that?
- 13 A Shell's Gas Station.
- 14 Q And you did that for a while?
- 15 A Uh-huh.
- 16 Q And then what did you do after that?
- 17 A Start working again went to another job.
- 18 Q Ma'am?
- 19 A Went to another job.
- 20 Q Okay. And what was that?
- 21 A McEntire.
- 22 Q Okay. How long were you there?
- 23 A Three months.
- 24 Q Where are you now?
- 25 A McEntire.

1 Q You still there?

2 A Yeah.

3 THE COURT: Can you all hear her? Okay. Is
4 that mic on?

5 BAILIFF: Yes, sir, it's on.

6 BY MR. MEADORS:

7 Q So you been at McEntire three months?

8 A Yes, sir.

9 Q Okay. Who's your mother?

10 A Melissa Bethea.

11 Q And where does Melissa Bethea live?

12 A [REDACTED]

13 Q [REDACTED] [REDACTED]?

14 A Yes, sir.

15 Q Okay. And how long has she been living there?

16 A I'm not sure. I say about three and a half years.

17 Q Have you ever lived there?

18 A Yeah.

19 Q Okay. How long did you live there?

20 A A year and a half probably.

21 Q And where do you live now?

22 A I live in Charville.

23 COURT REPORTER: Can you repeat that?

24 A Charville.

25

1 Q Did you ---

2 A With my grandmother.

3 Q Do you still have an occasion to go back and visit
4 your mama at [REDACTED] [REDACTED]?

5 A Yes.

6 Q And do you remember what trailer or mobile home
7 number hers is?

8 A [REDACTED].

9 Q [REDACTED]?

10 A Uh-huh.

11 Q Now, during the time you were out there maybe since I
12 don't know, do you know Ms. A.G. ?

13 A Yes, sir.

14 Q Ms. A.G. ?

15 A Yes, sir.

16 Q What do you know her by?

17 A Ms. A.G.

18 Q Okay. And how long have you known Ms. A.G. ?

19 A Since my mom staying out there.

20 Q Okay. And same question as far as either the time
21 you were there since then, do you know the defendant
22 Edward McElveen?

23 A I've seen him before, yeah.

24 Q Okay. You seen him, but do you know him that well?

25 A No.

1 Q Okay. Now, I'm going to take you back to
2 February 21st of last year 2017. Did you have an occasion
3 to visit your mama at [REDACTED]?

4 A Yes, sir.

5 Q Not checking on you, but how often you go see your
6 mama?

7 A About every day.

8 Q And you stay with your grandma?

9 A Yes.

10 Q So on this particular day, where were you working
11 then in February of last year?

12 A Shell's Gas Station.

13 Q And how long did you visit with your mama on
14 February 21st of last year?

15 A I was there until that morning, until that night when
16 I left.

17 Q And approximately best you can remember, what time
18 did you leave?

19 A Between eight or nine.

20 Q Eight or nine o'clock?

21 A Yes, sir.

22 Q Okay. What kind of car do you drive?

23 A Hyundai Elantra.

24 Q You by yourself visiting your mom that night?

25 A No, me and my kids.

1 Q Okay. Tell me about your kids how old are they?

2 A Nine and three.

3 Q Okay. When you left your mama's trailer, mobile home
4 that night number...

5 A [REDACTED].

6 Q [REDACTED]. Tell the ladies and gentlemen of the jury what
7 did you do when you left her home?

8 A Went home.

9 Q Okay. That was a crazy question. When you left her
10 mobile home specifically and you were heading back to your
11 car, did you see anything or did you see anybody?

12 A Yes.

13 Q Okay. Tell these folks who you saw?

14 A I seen Ms. A.G. and I'm not sure of his name.

15 Q Okay. Mr. McElveen?

16 A Mr. McElveen.

17 Q And where were they in relation to you? Is there a
18 lake out there?

19 A Yeah.

20 Q Okay. Where were they in relation to the lake?

21 A They were walking towards his house.

22 Q Towards his house?

23 A Yes.

24 Q Okay. And it was at night?

25 A Yeah.

1 Q Was it dark?

2 A Uh-huh.

3 Q And can you tell the ladies and gentlemen of the jury
4 how were they walking?

5 A Well, she was towards the lake and he was on the
6 other side of her with his arm around her neck.

7 Q Around her neck?

8 A Yeah.

9 Q And was anything obstructing your view? I mean,
10 could you see them both?

11 A I could see him but not her.

12 Q Can I approach?

13 A Yes, sir.

14 MR. MEADORS: Your Honor, can I ask her to stand
15 up if you don't mind?

16 THE COURT: Yes, sir.

17 BY MR. MEADORS:

18 Q If I'm Ms. A.G. and you're the other person, she was
19 near the lake?

20 A Yes, sir.

21 Q Put me where she was?

22 A They were like this.

23 Q Okay. I'm going to squat down. Can you show the
24 jury how?

25 A Like this.

1 Q Had his arm around her neck?

2 A Yes, sir.

3 Q Okay. You can sit back down. Now, how far were you
4 from them?

5 A Not far, not far.

6 Q Can you stop me when you...

7 A About there.

8 Q About right there?

9 A Yeah.

10 Q So what's this 20 feet?

11 A Yeah.

12 Q Okay. And did you know where Mr. McElveen's trailer
13 was?

14 A Yes.

15 Q And it's your testimony that appear where they were
16 headed?

17 A Yes, sir.

18 Q Okay. Had you seen them walking before?

19 A Yeah.

20 Q And had you ever seen them walking that way before?

21 A No.

22 Q Did you ever see him with his arm around her neck
23 like that before?

24 A No.

25 Q Ma'am?

1 A No, sir. They usually hold hands.

2 Q Okay. Now, how long had you known Ms. A.G.?

3 A Since, my mom was staying out there.

4 Q Okay. When you see Ms. A.G. or when she sees you, do
5 y'all usually speak to each other?

6 A Yes, sir.

7 Q Do you always speak?

8 A Yes.

9 Q Okay. What did Ms. A.G. say to you this night when
10 you saw her?

11 A Nothing.

12 Q You didn't hear anything?

13 A No.

14 MR. MEADORS: Beg the Court's indulgence.

15 (WHEREUPON, a pause in the proceedings.)

16 BY MR. MEADORS:

17 Q You got to work today?

18 A Yes, sir.

19 Q All right. I just got one other question. It won't
20 take but a second. Would you come down please? Ms.

21 Bethea, I know you got a soft voice. Would you come over

22 here next to Mr. Miller so the court reporter can read

23 your lips. Back that up a little bit too. This is

24 State's 1, Ms. Bethea. Do you recognize this?

25 A Yes, sir.

1 Q Okay. And what is this appear to be to you?

2 A The trailer park.

3 Q Okay. If I were to tell you this is Ms. A.G.'s
4 with her car, where is your mama's in relation to that?

5 A Right here.

6 Q Right here?

7 A Yes, sir.

8 Q And where do you usually park when you visit your
9 mama?

10 A Right in here end of driveway.

11 Q And where were you and where did you see you
12 testified was Mr. McElveen and you believe was Ms. A.G.,
13 where were they?

14 A They were here going toward his house.

15 Q And you were in this direction?

16 A Yes, sir.

17 MR. MEADORS: Thank you. That's all I have.
18 You can sit back down. Ms. Bethea, thank you for coming
19 today. Mr. Routzong may have some questions for you.

20 CROSS-EXAMINATION

21 BY MR. ROUTZONG:

22 Q Good morning, Ms. Bethea.

23 A Good morning.

24 Q Tell these folks what you saw that night, did it
25 cause you any concern whatsoever?

1 A No.

2 Q You didn't think anything was wrong?

3 A No, sir.

4 Q Seem perfectly normal to you?

5 A Yeah.

6 MR. ROUTZONG: I don't have any other questions.

7 Thank you.

8 THE COURT: Anything from the State?

9 MR. MEADORS: No, sir.

10 THE COURT: You can come down. Thank you,

11 ma'am.

12 (WHEREUPON, the witness leaves the witness
13 stand.)

14 MR. MEADORS: Investigator Shantell Ward.

15 BAILIFF: State your name?

16 THE WITNESS: Shantell Ward.

17 BAILIFF: Do you solemnly swear or affirm that
18 your testimony to the court shall be the truth, the whole
19 truth, and nothing but the truth so help you God?

20 THE WITNESS: I do.

21 BAILIFF: Thank you very much, step around
22 please. Spell your last name -- repeat your name and
23 spell your last name for the record please.

24 THE WITNESS: Shantell Ward W-A-R-D.

25 WHEREUPON,

1 Shantell Ward,
2 after first having been duly sworn, testified as follows:

3 DIRECT EXAMINATION

4 BY MR. MEADORS:

5 Q Good morning, Investigator.

6 A Good morning.

7 Q Please tell these ladies and gentlemen about you
8 where you're from, your background, your training and your
9 training particularly in law enforcement and what you're
10 doing now please?

11 A I'm Shantell Ward. I was born in Colorado Springs,
12 Colorado, moved out here approximately three years ago. I
13 was in law enforcement for three years in Colorado,
14 attended two police academies and one here as well. I
15 been to investigation schools as well as arson school with
16 our South Carolina Criminal Justice Academy.

17 Q And you talked so fast I missed it there sorry. How
18 long you been?

19 A I been here for approximately three years.

20 Q Okay. And what's your -- you work for Sheriff
21 Dennis?

22 A Yes, sir.

23 Q What do you do specifically for the sheriff?

24 A I'm an investigator for the sheriff.

25 Q Are you assign to any particular region or any type

1 crimes?

2 A Mostly property crimes, but when we're on call, we
3 respond to any type of crime that as long as an
4 investigator is needed.

5 Q Do you have children?

6 A I do.

7 Q How many?

8 A One right now.

9 Q You have one on the way?

10 A I do.

11 Q Investigator, how did you get involved in this case?

12 A I was on call with Sergeant Dubose and he had
13 responded to the scene and he had called me and asked to
14 go to Tuomey to meet with the victim.

15 Q And that is A.G. , correct?

16 A Yes, Ms. A.G.

17 Q And had you ever met or known Ms. A.G. before this
18 day?

19 A Never.

20 Q Okay. So you arrived at Tuomey, what day did you go
21 to Tuomey?

22 A I arrive at Tuomey on February 22nd of 2017
23 approximately 11:58, 11:59ish.

24 Q Okay. And what were your first observations of Ms.
25 A.G. when you saw her?

1 A She appeared to me frightened. She was very slow to
2 speak at first. She was scared at the time. She wasn't
3 exactly sure how to respond to questions. Once I got her
4 talking, I started the interview.

5 Q And you started the interview right there?

6 A I did.

7 Q In the hospital?

8 A In the hospital, in between the doctors coming in.

9 Q And so were you there when -- was the examination of
10 Ms. A.G. 's body going on during this process too?

11 A I stepped out in between, but the doctors would come
12 in and take vitals and ask her questions, get her
13 registered at the hospital.

14 Q And did you make any observations or what were your
15 observations of Ms. A.G. 's body? Did you see any
16 injuries?

17 A I did. I first noticed her face and upper lip was
18 swelling. She had a laceration above her left lip. She
19 also had some red marks on her neck and on her chest bone
20 and a scratch underneath her left ear.

21 MR. MEADORS: Judge, as we stated prior to the
22 coming in jury for the record and for the jury's
23 edification, what was shown yesterday and marked as
24 State's 30 through the disk we have made pictures out of
25 those and for the record they are 30A through 30M, which

1 would be the same pictures that we showed on the disk.

2 And we now offer these.

3 THE COURT: Any objection?

4 MR. ROUTZONG: No, sir.

5 THE COURT: Okay. They're in.

6 (WHEREUPON, State's Exhibit No. 30A through 30M
7 were admitted into evidence.)

8 MR. MEADORS: If I may approach?

9 THE COURT: Yes.

10 BY MR. MEADORS:

11 Q I'm going to show you what's 30C. You talked about
12 some injuries you observed to Ms. A.G. Is that one of
13 the ones you referring to?

14 A Yes.

15 Q And also 30...

16 A That would be the laceration and swelling of the
17 upper lip on the left hand said.

18 Q This is 30D and 30C I'm showing you, correct?

19 A Yes, sir.

20 Q Okay. You also mentioned something about a neck or
21 an ear?

22 A Yes, there was a scratch mark right below her left
23 ear.

24 Q Showing you what's marked 30E. Is that what you're
25 talking about?

1 A Yes, that is.

2 Q And as part of your job as an investigator, are you
3 suppose look at a victim and document what the injuries
4 are?

5 A Yes, it's our practice that normally in cases like
6 these we take pictures of date and time of the incident as
7 reported and a couple days after to show progression of
8 injuries.

9 Q That's what you're taught to do?

10 A Yes.

11 Q You did that in this case?

12 A Yes, sir.

13 Q And then I think you mentioned another picture of the
14 neck you observed. Is that what you're talking about?

15 A Yes, there was markings on the neck.

16 Q And you saw those with your own eyes?

17 A I did.

18 Q And that's 30F, correct?

19 A Yes, sir.

20 Q Okay. How long were you with Ms. A.G. this first
21 day on February 22nd of 2017?

22 A Close to an hour before the same nurse came in.

23 Q So that would be the first statement if you will that
24 you took from Ms. A.G. ?

25 A That was my first encounter with her, yes.

1 Q Okay. When is the next time that you saw Ms. A.G.
2 to the best of your memory?

3 A She came to the sheriff's office to fill out victim
4 advocate paperwork on the 23rd, which would be the next
5 day. She requested to speak with either myself or
6 Sergeant Dubose regarding she was starting to remember
7 more details about the incident and she wanted to get that
8 information to us. I met with her in the victim's
9 advocate's office and took a recorded statement at that
10 time and she was still remembering a lot of the details
11 coming back to her at that time.

12 Q And that's where?

13 A That was at the sheriff's office 1281 North Main.

14 Q And based on your training and experience in dealing
15 with victims is that unusual for them to talk and add some
16 more details?

17 A No, the longer away from the incident especially in
18 very large -- when they're under a lot of stress, they'll
19 start remembering details about incidents.

20 MR. ROUTZONG: Objection, Your Honor. She
21 hasn't been qualified as an expert on -- things that
22 happens to victims. She can testify about what she saw in
23 this case I understand that. I don't think it's proper
24 for her to testify about what happens to other victims. I
25 think that's a little bit more prejudicial than it is

1 probative.

2 THE COURT: Okay. She can testify about what
3 she did and why she did it, but she hadn't been qualified
4 as an expert.

5 BY MR. MEADORS:

6 Q Now, will this be the second statement you took from
7 her?

8 A This is the second recorded statement, yes.

9 Q And how many times did you talk to her at the
10 sheriff's office?

11 A Two times at the sheriff's office. On the 24th, we
12 did a written statement. She came and provided a written
13 statement to us where we made -- we also asked additional
14 questions regarding the incident to clarify a few things.

15 Q And I think State's 24 is already in evidence. Is
16 this State's 24 is this the statement you're referring to?

17 A It is.

18 Q And where was that taken?

19 A At the sheriff's office 1281 North Main.

20 Q So this is a written. Was it also audio?

21 A Yes, it is.

22 Q And this is a one, two, three, four page statement?

23 A Yes.

24 Q Is your name on here?

25 A It is. I signed as a witness.

1 Q Who's handwriting is this?

2 A Ms. A.G. 's.

3 Q So she actually wrote this?

4 A She did.

5 Q Okay. So in total how many times did you talk to Ms.

6 A.G. ?

7 A Three times of -- as a statement. She had called --

8 I had called her a few times to check on her.

9 Q Hospital?

10 A The hospital.

11 Q Sheriff's department?

12 A Sheriff department's in the victim advocate office.

13 Q And that was the 22nd and 23rd?

14 A Yes, sir.

15 Q Hospital 22nd, Victim advocate office sheriff 23rd.

16 A 23rd. And then the 24th she came in for an
17 additional written statement.

18 Q Okay. Now, you had mentioned previously that you're
19 taught and trained to take pictures at the time and maybe
20 a little -- a day or so later or sometime later?

21 A Yes, sir.

22 Q I'm going to show you what's marked 39, 40, 41, 42,
23 and 43. Do you recognize those and do they relate to your
24 testimony?

25 A I do. I did take these photos at the sheriff's

1 office.

2 Q Okay. And what day did you take these?

3 A On the 24th, the day of the written statement she
4 provided.

5 MR. MEADORS: Your Honor, State's 39 through 43
6 without objection.

7 THE COURT: Okay. That's correct?

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

9 THE COURT: They're in without objection.

10 (WHEREUPON, State's Exhibit Nos. 39, 40, 41, 42
11 and 43 were admitted into evidence.)

12 MR. MEADORS: Can I ask the witness to come down
13 here please?

14 THE COURT: Yes, sir.

15 BY MR. MEADORS:

16 Q You took these?

17 A I did.

18 Q This is State's 43. Why did you take these pictures?

19 A Because I had -- at the hospital she had injuries on
20 her face and we showed progression of injury after -- a
21 few days afterwards.

22 Q State's Exhibit 39.

23 A She had bruising on the chest. We had redness the
24 day of at Tuomey and it showed bruising.

25 Q This is State's 40. What is that?

1 A That's a close up of the bruise on her chest.

2 Q So State's 40 is a close up of State's 39?

3 A Yes.

4 Q State's 41?

5 A She showed bruising inside of her left ear.

6 Q This is what you do as an investigator?

7 A It is.

8 Q And State's Exhibit 42?

9 A That was behind her ear.

10 Q Thank you, ma'am. You can have a seat.

11 MR. MEADORS: Beg the Court's indulgence.

12 (WHEREUPON, a pause in the proceedings.)

13 BY MR. MEADORS:

14 Q And that's Ms. A.G. who you dealt with?

15 A It is, yes.

16 Q And that was your primary role in this case to talk
17 to her and get a statement from her. /

18 A Yes, she was comfortable with me, so I continued the
19 interviews at that point.

20 MR. MEADORS: I think that's all I have. Thank
21 you.

22 CROSS-EXAMINATION

23 BY MR. ROUTZONG:

24 Q Investigator Ward, you weren't at trailer number ■
25 or trailer number ■ on February 21st in the evening or

1 early in the morning on the 22nd when these events
2 allegedly happened, you weren't there, were you?

3 A No, sir.

4 MR. ROUTZONG: I don't have any other questions,
5 Your Honor.

6 THE COURT: Any other questions from the State?

7 MR. MEADORS: No, sir.

8 THE COURT: You can step down. Thank you.

9 (WHEREUPON, the witness leaves the witness
10 stand.)

11 MR. MEADORS: Your Honor, the State would call
12 Rachel Posey.

13 THE COURT: Okay.

14 BAILIFF: Put your left hand on the Bible and
15 raise your right hand please. Do you solemnly swear or
16 affirm your testimony to the court shall be the truth, the
17 whole truth, and nothing but the truth so help you God?

18 THE WITNESS: Yes, I do.

19 BAILIFF: Step around please. State your name
20 for the record and spell your last name.

21 THE WITNESS: Rachel Posey P-O-S-E-Y.

22 WHEREUPON,

23 Rachel Posey,

24 after first having been duly sworn, testified as follows:

25 DIRECT EXAMINATION

1 BY MR. MEADORS:

2 Q You're Rachel Posey?

3 A I am.

4 Q Ms. Posey, please tell these ladies and gentlemen
5 about Rachel Posey. Where you from?

6 A I'm from Sumter.

7 Q Born and raised?

8 A I am.

9 Q And a little bit about your background and education
10 and training especially in the field that you're
11 testifying about today please, ma'am?

12 A I graduated from University of South Carolina
13 originally in 1994 with a degree in criminal justice.
14 Worked in prevention for a while. Then many years later,
15 decided that I needed a career change. Went to Central
16 Carolina got my nursing degree and last year went back and
17 got my BSN in nursing as well.

18 Q From USC?

19 A USC upstate.

20 Q And where are you working now?

21 A I'm what they call a critical care flex nurse, so I
22 am assign to critical care areas like the ER, the ICU and
23 telemetry.

24 Q What's that last one?

25 A Telemetry.

1 Q On February 22nd of last year, were you working at
2 Tuomey Hospital?

3 A I was.

4 Q In what role?

5 A I was in the emergency room that day.

6 Q Did you have an occasion come in contact --

7 Ms. A.G. stand up please? Did you come into contact?

8 A I did.

9 Q Okay. And how did that come about? Where did you
10 see her?

11 A Where did I see her. I saw her in one of my assigned
12 rooms. I had an open room. She was brought in and that's
13 where I first met her.

14 Q Okay. And did you then begin to examine the body of
15 look at Ms. A.G. ?

16 A Yes, I did.

17 Q Okay. Can you tell the ladies and gentlemen of the
18 jury what you did or in as part of your examination what
19 did you do?

20 A We just do head to toe assessment initially asking
21 the patient, you know, why they're there? What their
22 injuries are or what their pain is and do just a physical
23 assessment. When I first encountered her, her face was
24 swollen, her nose, her mouth. She had some redness to her
25 neck. She was tender across her anterior chest especially

1 on the left side. I didn't see any bruising, but she was
2 tender.

3 Q I know what tender means but ---

4 A I palpate her chest with my hand. She responded with
5 pain.

6 Q Okay.

7 A She had an abrasion and a contusion to her lip, left
8 upper lip. She had had some bleeding at one point, but
9 her nose was not any longer bleeding. But it was swollen
10 the bridge of her nose, redness to her neck. Her wrists
11 were red and that was all I saw at the initial onset.

12 Q Okay. This is State's Exhibit 30G. Would that be
13 consistent with what your observation of Ms. A.G. ?

14 A Yeah.

15 Q Okay. 30D?

16 A Yes.

17 Q That also consistent with what you just described?

18 A Yes, sir.

19 Q 30C?

20 A Yes, sir.

21 Q Ms. Posey, can you tell these folks about her
22 demeanor just your observations?

23 A She was embarrassed. I remember her saying, you
24 know, she was embarrassed this has happened to her.

25 MR. ROUTZONG: Objection, Your Honor. You can't

1 say what she said to her. She can testify to what she
2 appear to be.

3 THE COURT: Okay. If you just say what you
4 observed, not what she told you, okay.

5 A She was tearful at times. She never broke down, but
6 she was tearful at times. She appeared embarrassed
7 because she would put her hand over her mouth at times
8 when she spoke a little reserved.

9 Q Had you ever met her before?

10 A No.

11 Q Okay. Now, does SLED provide what's called sexual
12 assault examination protocol, a kit?

13 A Yes.

14 Q Okay. And I'm going to show you what's been marked
15 44, Ms. Posey sexual evidence collection kit. Now, on the
16 back does your name appear?

17 A Yes.

18 Q February 22nd 2017?

19 A That's correct.

20 Q Does it have a time there?

21 A Looks like 1720.

22 Q Which is?

23 A 5:20 in the afternoon.

24 MR. MEADORS: Your Honor, State's 44 I believe
25 without objection.

1 THE COURT: Is that correct?

2 MR. ROUTZONG: That's correct, Your Honor.

3 THE COURT: It's in without objection.

4 (WHEREUPON, State's Exhibit No. 44 was admitted
5 into evidence.)

6 BY MR. MEADORS:

7 Q Tell these folks how you -- did you examine the
8 exterior of Ms. A.G.'s body?

9 A Yes.

10 Q Did you look at her body?

11 A I did.

12 Q Okay. And she have to get naked?

13 A She did get undressed and got into a gown, yes.

14 Q A more professional way to say it. And then you
15 looked at her body?

16 A Yes.

17 Q And did you use the form provided by SLED as you went
18 over to talk to her?

19 A Yes.

20 Q And did you check to see the injuries and also what
21 she told you apart of this form?

22 A Yes, sir.

23 Q That's kind of standard form that's used?

24 A Yes, sir.

25 Q In sexual assault cases?

1 A Yes, sir.

2 Q Okay. And as apart of this, I guess, for today
3 without going into, do you get history of what happened?
4 Do you ask her what happened?

5 A Yes.

6 Q Okay. And do you put that on the form?

7 A I put brief description of what happened.

8 Q As time and place, did she tell you where she had
9 been assaulted and when?

10 A She did. She said that it approximately ---

11 MR. ROUTZONG: Your Honor, objection.

12 MR. MEADORS: Your Honor, this is another time
13 and place witness.

14 THE COURT: She's testifying to time and place.

15 MR. ROUTZONG: Yes, Your Honor. I got a feeling
16 -- I guess, I should have waited, but I think she's
17 getting ready to say what she actually said other than
18 time and place. It might have been a little bit too
19 early, Your Honor.

20 MR. MEADORS: Your Honor, I been over this with
21 her. She's a professional.

22 THE COURT: Go ahead.

23 A She reported to me that it took place at her home
24 initially at about five in the afternoon. And that it
25 lasted until about --- initial assault until 2200, which is

1 about ten o'clock at night.

2 Q Did she say it happened anywhere else?

3 A She was taken to his home and then was allowed to
4 return later.

5 Q Okay. And you documented that?

6 A Yes.

7 Q Okay. You didn't know her before this day?

8 A No.

9 Q Okay. I don't know if I can ask you this or not.
10 Did she appear embarrassed when you were looking at her?

11 A I would say so.

12 Q Okay. Now, were you present in the room when -- it's
13 part of a sexual protocol kit. Are samples taken from in
14 this case, Ms. A.G.'s vagina?

15 A Yes.

16 Q And were samples taken in this case?

17 A Yes.

18 Q And was there -- what's a PA?

19 A A physician's assistant.

20 Q Okay. Who else was in the room with you?

21 A At the time of that just the two of us.

22 Q Okay. At the time the sample was taken?

23 A As far as I can remember just the two of us.

24 Q You and of who?

25 A Myself and Meredith.

1 Q Meredith who?

2 A Provost who was the physician's assistant.

3 Q And so you were there when the sample was taken from
4 Ms. A.G. ?

5 A Yes.

6 Q And is that sample then turned over to law
7 enforcement?

8 A Yes.

9 Q Okay. How long does this -- may not be a fair
10 question if you need to look. How long does it take --
11 and it may not be a set time, but to do the kit and...

12 A It takes a long time into consideration a long time.
13 I can't tell you exact time, but it takes quite a while.

14 Q Okay. I know every case is different, but this isn't
15 something that's in and out drive through?

16 A No, sir.

17 (WHEREUPON, State's Exhibit No. 45 was marked
18 for identification only.)

19 BY MR. MEADORS:

20 Q Ms. Posey, I'm going to show you State's 45 and this
21 is for identification only. We're not allowed to
22 introduce it, but is this the sexual assault protocol
23 formed that you used in examining Ms. A.G. ?

24 A Yes.

25 Q And this consist of approximately eight pages?

1 A Yes.

2 Q Okay. In addition to the summary you put in here,
3 you also check her body and check that off, correct?

4 A Right.

5 Q And ask her questions about the -- specifically about
6 the assault?

7 A Yes, sir.

8 Q Okay. That's noted in here as well as her demeanor?

9 A Yes, to the best of my recollection, yes, it is.

10 MR. MEADORS: Beg the Court's indulgence.

11 (WHEREUPON, a pause in the proceedings.)

12 MR. MEADORS: That's all. Thank you, Ms. Posey.

13 CROSS-EXAMINATION

14 BY MR. ROUTZONG:

15 Q Good morning, Ms. Posey, how are you?

16 A I'm good. How are you?

17 Q I'm fine. The Solicitor I think asked you about the
18 sexual assault examination protocol. He mentioned there
19 were several boxes that you can check off, that's true?

20 A There's many boxes.

21 Q It talks about whether the person urinated?

22 A Correct.

23 Q Defecated, has used genital or body wipes?

24 A Correct.

25 Q Took a bath or a shower?

1 A Yes, sir.

2 Q Do you remember what she answered on all those?

3 A Not specifically on every one. Just generally I
4 remember she did not report taking a bath. She had
5 urinated. She had defecated. She did not report to my
6 recollection that she used any type of cleansing clothe.
7 She only changed her clothes.

8 Q Would it help you if I let you look at this I'll just
9 have it marked for identification purposes.

10 (WHEREUPON, Defendant's Exhibit No. 9 was marked
11 for identification only.)

12 BY MR. ROUTZONG:

13 Q Do you know what that is, that look like your writing
14 and the one that ---

15 A That's my writing.

16 Q Okay. Where it says whether or not she took a bath,
17 does it reflect that she did take a shower or bath?

18 A It's marked yes.

19 Q And it also reflects that she used some kind of
20 wipes. It doesn't say how many times, but it just says
21 she used them?

22 A Yes, it does.

23 Q Okay. Thank you very much. Were you anywhere around
24 [REDACTED] [REDACTED] on February 21st in the evening
25 about five to let's say 1:30 in the morning?

1 A No, sir, I don't even know where that's at.

2 Q Were you there after midnight on the 22nd?

3 A No, sir.

4 Q Okay. I notice that you -- I guess, it was you took
5 some medical records; is that correct? Took a history,
6 medical history?

7 A Yes.

8 Q Okay. Your history it reflects that she has
9 Meniere's disease that includes a person -- that's
10 vertigo. You get vertigo. It's kind of an inner ear
11 thing and you lose your balance; is that correct?

12 A It is a ringing in the ear. You can lose balance,
13 yes, sir.

14 Q And you can fall down easily?

15 A You can.

16 MR. ROUTZONG: I don't have any questions, Your
17 Honor.

18 THE COURT: Anything from the State?

19 REDIRECT EXAMINATION

20 BY MR. MEADORS:

21 Q You notice her having any trouble standing up when
22 you saw her?

23 A No, sir.

24 MR. MEADORS: That's all. Thank you.

25 THE COURT: Thank you, ma'am. You can step

1 down.

2 (WHEREUPON, the witness leaves the witness
3 stand.)

4 MR. MEADORS: Your Honor, this might be a good
5 time to take a break so we can finalize our last...

6 THE COURT: Okay. Ladies and gentlemen, we will
7 take a short break, but while you're back there, I need
8 you to do something for me. I need you to select a
9 foreperson. And we have one alternate I see the one --
10 who's the alternate? You not the alternate anymore.
11 You're one of the original 12 jurors.

12 BAILIFF: 147, Your Honor.

13 THE COURT: Okay, right. Rudd is that you?

14 JUROR: Yes, sir.

15 THE COURT: Then I need somebody else -- I only
16 need you in case somebody gets sick, so you need to stay
17 with me the whole trial, but out the other 12 I need for
18 you to select a foreperson and you can sit down. The
19 foreperson doesn't have any greater vote than anyone else.
20 They'll simply preside over the deliberation and sign the
21 verdict form that I'm going to give you and explain to
22 you. So while you're back there on break, I don't know
23 any of you. And you all been together a day or two, so
24 you all need to select someone in your ranks to be the
25 foreperson. When you come back out, that person will sit

1 in that first seat. So if you'll do that, I'll get you
2 back out just as soon as I can. Other than a selected
3 foreperson, you can't talk about the case yet. I'll see
4 you in a few minutes.

5 (WHEREUPON, the jury retire to the jury room.)

6 THE COURT: Okay. We'll be in recess 10 to 15
7 recess.

8 (WHEREUPON, a break was taken.)

9 THE COURT: We at a point we ready for the jury?
10 Defense ready? All right. Bring me the jury.

11 (WHEREUPON, the jury came into open court.)

12 THE COURT: Okay. Mr. Solicitor.

13 MR. MEADORS: May it please the Court, the State
14 would now call Alysha J. Andrews.

15 THE COURT: Okay.

16 BAILIFF: Do you solemnly swear or affirm your
17 testimony to the court shall be the truth, the whole
18 truth, and nothing but the truth so help you God?

19 THE WITNESS: I do.

20 BAILIFF: Step around please, watch your step.
21 State your name for the record and spell your last name
22 please.

23 THE WITNESS: Alysha Andrews A-N-D-R-E-W-S.

24 WHEREUPON,

25 Alysha J. Andrews,

1 after first having been duly sworn, testified as follows:

2 DIRECT EXAMINATION

3 BY MR. MEADORS:

4 Q Good morning, Ms. Andrews.

5 A Good morning.

6 Q You are a special agent with the South Carolina Law
7 Enforcement Division?

8 A That is correct.

9 Q Would you please tell the ladies and gentlemen of
10 this jury about Special Agent Alysha Andrews, your
11 background, where you from, your background, your training
12 and then in particular after that your training in the
13 field of expertise I've asked you to testify about today
14 please?

15 A Like I said, my name is Alysha Andrews. I'm from
16 Pennsylvania. I am a forensic scientist in the DNA case
17 work department at SLED. I been there for just over two
18 and a half years. It is part of my job duties to generate
19 DNA profiles from evidence that are submitted from local
20 law enforcement agencies across the State of South
21 Carolina. I will compare those evidence profiles to DNA
22 profiles from known standards from people associated with
23 the cases and then I will generate a report with my
24 findings.

25 Q What is DNA?

1 A DNA stands for deoxyribonucleic acid. It is a
2 chemical found within all cells of your body except for
3 red blood cells. It is responsible for telling your body
4 how to function as well as look. You receive half of your
5 DNA half from your mother and half from your father. And
6 with the exception of identical twins, each person has a
7 unique DNA profile.

8 Q With the exception of identical twins?

9 A Identical twins or triplets, quadruplets et cetra.

10 Q And where is your laboratory?

11 A We're located in Columbia, South Carolina.

12 Q So local agencies in this case the Sumter County
13 Sheriff's Department, they reach out to SLED and provided
14 these items of potential evidence to you for your
15 analysis?

16 A That's correct.

17 Q How many comparisons or analysis have you done?

18 A Today I probably done around 200 cases.

19 MR. MEADORS: Your Honor, at this time we would
20 offer Special Agent Alysha Andrews as an expert in the
21 field of forensic DNA.

22 MR. ROUTZONG: I don't object, Your Honor.

23 THE COURT: Okay, so find.

24 BY MR. MEADORS:

25 Q Are you familiar with the process when a victim of a

1 sexual assault comes forward what's known as a kit, sexual
2 assault evidence collection kit?

3 A Yes.

4 Q Okay. And in this case were you -- tell the ladies
5 and gentlemen of this jury what particularly items did you
6 have for examination?

7 A It is okay if I refer to my notes?

8 THE COURT: Yes.

9 A Usually with sexual assault kits, they're just
10 standardized kits that contain envelopes for swabs for
11 various parts of the body. And based on the same report
12 that comes with each individual kit, we figure out where
13 on the body and what swabs are collected from that
14 particular individual for that case.

15 Q So did you have a swab what you were informed came
16 from one Ms. A.G. ?

17 A Yes.

18 Q Okay. And that was a swab from her vagina?

19 A Yes, one of the items I did test was vaginal swabs.

20 Q Did you also have another item that was submitted to
21 you from a suspect Edward McElveen?

22 A I did, yes.

23 Q And tell us about that? Was that a swab also that
24 you received from Mr. McElveen?

25 A Yes, any time we're given nonstandards from a person,

1 typically they're collected from swabbing the inner cheek
2 of their mouth.

3 Q Looking at Ms. A.G.'s sample, what could you
4 determine as a result of a swab from Ms. A.G. ?

5 A Would you like to read -- can I read my results?

6 Q I want you to do where you're most comfortable.

7 A Okay. For the vaginal swabs?

8 Q Yes, ma'am.

9 A The DNA profile from the semen matches the DNA
10 profile of Edward McElveen. The probability of randomly
11 selecting an unrelated individual having a DNA profile
12 matching the semen on this item is approximately 1 and 190
13 octillion.

14 Q What does that mean?

15 A I was able to develop a profile from the vaginal
16 swabs that was foreign to the victim in this case. And
17 when I compared that evidence profile to the nonstandard
18 of the defendant, I determine that it was a match.

19 Q So you found semen in the swab taken from Ms.

20 A.G.'s body?

21 A I personally didn't identify semen, that was the
22 serologist in this case, but, yes, she did identify semen.

23 Q Then it's forwarded to you?

24 A Yes.

25 Q For you to compare the samples?

1 A Yes.

2 Q Known versus this, correct? In this case, you had
3 two known, right?

4 A That is correct.

5 Q You developed the sample from Ms. A.G.'s swab that
6 there was some semen, SLED did, right?

7 A Uh-huh.

8 Q You then compared that to the sample that you were
9 provided from Mr. McElveen, correct?

10 A That is correct.

11 Q And did you determine that that semen in Ms. A.G.
12 came from Mr. McElveen?

13 A Yes, I did match it to him.

14 Q One and 190 octillion?

15 A That is correct.

16 Q What is an octillion?

17 A It's kind of hard to think about, but if you would
18 just break it down looking at the number itself, there is
19 about 27 zeros after the number.

20 Q So in your opinion, expert opinion, that semen was
21 put in Ms. A.G. by the defendant Mr. McElveen?

22 MR. ROUTZONG: Objection, Your Honor. She can't
23 testify to that.

24 MR. MEADORS: Your Honor, I think she can.

25 She's an expert in forensic DNA.

1 MR. ROUTZONG: She can't testify as to how it
2 got there, Your Honor.

3 THE COURT: Right. She can only testify, but
4 she can't tell how it got there.

5 MR. MEADORS: Did I ask that?

6 BY MR. MEADORS:

7 Q Who's semen is inside Ms. A.G. ?

8 A The DNA that I detected matched the DNA profile of
9 Edward McElveen.

10 Q One and 190 Octillion?

11 A Correct.

12 Q Do you know either of these parties?

13 A I do not.

14 Q So in the laboratory, it's pure basically. You got
15 samples that you're comparing and you don't know any of
16 the parties involved, correct?

17 A Yes, that is correct.

18 Q This is pure scientific?

19 A Yes.

20 MR. MEADORS: That's all. Thank you. Thank you
21 for being here.

22 CROSS-EXAMINATION

23 BY MR. ROUTZONG:

24 Q Good morning.

25 A Good morning.

1 Q I guess you testified so far to vaginal swabs?

2 A Yes.

3 Q Did I miss anything -- you didn't testify to a
4 sanitary pad?

5 A I also worked suspected saliva swabs and a cutting
6 from a sanitary pad in this case.

7 Q What is a sanitary pad? What was it you were
8 testing?

9 A I personally did not see the entirety of the sanitary
10 pad. I'm assuming Jasmine, it was the serologist, she's
11 the one that handled this item more direct. Sanitary pad
12 I would assume is something more like a tampon, pad, a
13 feminine product sort of thing or a even a Depend.

14 Q And you also tested the saliva swabs?

15 A Yes, I did.

16 Q Okay. It appears to be a mixture of at least three
17 different people from the sanitary pad and the saliva
18 swabs?

19 A Do you want me to focus on one of those first?

20 Q Just take your time whichever one you want.

21 A Well, for the suspected saliva swabs, I determined
22 that the profile was a mixture of at least two
23 individuals. A DNA profile foreign to A.G. was
24 developed. The partial foreign DNA profile matches the
25 DNA profiled of Edward McElveen. The probability of

1 randomly selecting an unrelated individual having a DNA
2 profile mating the foreign contributor to this mixture is
3 approximately 1.45 quintillion. DNA attributable to
4 A.G. is also present in this mixture. And a DNA
5 type not attributable to A.G. or Edward McElveen
6 is also present in this mixture.

7 Q And the same saying is true for the sanitary pad?

8 A Correct. With the sanitary pad, I performed a
9 differential extraction which we normally do on semen
10 samples, that's just so that we can isolate the male donor
11 of the semen from the victim's DNA and the sample.

12 Q Did you also test underwear?

13 A No underwear was forward to me for DNA in this case.

14 MR. ROUTZONG: Thank you very much.

15 MR. MEADORS: Very briefly.

16 REDIRECT EXAMINATION

17 BY MR. MEADORS:

18 Q You said you didn't see it, but you said this could
19 have been Depends also?

20 A Correct. It's a very generic term.

21 Q And as far as the saliva swabs he talked to you
22 about, those were swabs that you had been given from
23 non-suspects, correct? Nonsubjects?

24 A The buccle swabs are the nonstandards in this case.
25 However, in the sexual assault kit, there was suspected

1 saliva swabs which a nurse would have swabbed from the
2 body of the victim.

3 Q And as far as the pad or the depends or whatever it
4 is, was there any -- was only one semen found in all of
5 this? One semen sample that you found?

6 A Throughout my case, I had originally started with an
7 unidentified male individual and after receiving the
8 standard from the defendant, I was able to match that
9 unknown profile to Edward McElveen.

10 Q That's only the semen you found, correct? Profile
11 that was developed in here from semen was one that was
12 attributed to Mr. McElveen, correct?

13 A I wasn't able to -- or I hadn't or I didn't attribute
14 of any the DNA in this case to anyone else outside of the
15 suspect and the victim listed.

16 Q Just so there's no confusion, there can be other DNA
17 from like sanitary or Depends. Can there be other DNA for
18 anybody's just touched it like a nurse or somebody else,
19 could there be other DNA present?

20 A Yeah, it's possible.

21 Q Okay. And getting back to the suspect saliva swabs
22 that the defense counsel asked you about. Partial foreign
23 DNA matches the DNA profile of Edward McElveen?

24 A Yes.

25 Q And that's a saliva swab from?

1 A From the sexual assault kit.

2 Q In case there's any confusion, in your expert opinion
3 was there just one depositor of semen?

4 A Correct.

5 MR. MEADORS: Thank you. That's all we have.
6 We asked that she be excused.

7 THE COURT: Thank you, ma'am. You can step
8 down.

9 (WHEREUPON, the witness leaves the witness
10 stand.)

11 MR. MEADORS: Investigator Wayne Dubose.

12 THE COURT: Okay.

13 THE CLERK: Do you solemnly swear or affirm your
14 testimony to the court shall be the truth, the whole
15 truth, and nothing but the truth so help you God?

16 THE WITNESS: Yes, sir.

17 BAILIFF: Step around, watch your step. State
18 your name for the record and spell your last name please.

19 THE WITNESS: Wayne Dubose D-U-B-O-S-E.

20 WHEREUPON,

21 Wayne Dubose,

22 after first having been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MR. MEADORS:

25 Q Investigators, tell these folks about yourself please

1 ladies and gentlemen of this jury where you're from, your
2 background, your training, and particularly your training
3 in law enforcement please?

4 A My name is Wayne Dubose. I was born and raised here
5 in Sumter. I attended Furman High School. I actually
6 went to work with the Sumter fire department for a few
7 years, came to the sheriff's office in '96. I went to the
8 criminal justice academy. And at this time I am currently
9 a sergeant in the investigation division.

10 Q Were you the chief investigating officer in this
11 case?

12 A Yes, sir.

13 Q Where's the first place? What did you do first?
14 Where did you go?

15 A I originally responded to the scene. Patrol officers
16 were on the scene at [REDACTED] East.
17 They were out with the victim and I responded there.

18 Q What did you do when you got there?

19 A When I arrived there, I noticed the officers were
20 talking to Ms. A.G. the victim. And I was briefed by
21 the patrol officers on the scene basically what had
22 occurred. At that time I started speaking to the victim
23 and also took some photographs.

24 Q Okay. What did you take pictures of? I'm going to
25 show you what's marked State's Exhibit 301?

1 A Yes, sir, I took that.

2 Q You took this. Why did you take 30I?

3 A Ms. A.G. had gave me information that she had been
4 sexually assaulted and she had been taped up using duck
5 tape. And I noticed that she did have duck tape on her
6 left wrist, so I actually photographed that and then I
7 also collected it.

8 Q Okay. What's been entered as State's 33 is this the
9 duck tape that you collected?

10 A Yes, sir.

11 Q Okay. And describe what did Ms. A.G. look like to
12 you, Investigator, when you saw her?

13 A When I first arrived, she was visibly upset. She was
14 actually shaken. I got out and started to speak to her.
15 They were trying to encourage her to go to the hospital at
16 that time to be checked out. Initially, she did not want
17 to go. And I explain to her the importance of getting
18 down there and at least getting her checked.

19 Q So she went?

20 A She did.

21 Q Okay. And did you take these other pictures of
22 Ms. A.G. this is 30L at the scene?

23 A Yes, sir.

24 Q Okay. Why did you take these?

25 A It shows the visible injuries on her face. She did

1 have a cut on her lip. She had some bruising on her neck,
2 red marks, and then also would be the duck tape on her
3 left hand.

4 Q Okay. So would this be the first time you talked
5 with her on the scene?

6 A It was.

7 Q Okay. Was she, Ms. A.G., able to give you a
8 description or the name of anybody?

9 A She was. She provided me with the name of the
10 individual who did this and she also gave a physical
11 description of the clothing and what he was wearing.

12 Q Okay. And I think we all know what she told you
13 about a time and place witness that you would have been
14 also where this happened?

15 A She did.

16 Q Okay. So you gathered -- you got this information
17 from, Investigator, you said you are east [REDACTED] [REDACTED]
18 [REDACTED] [REDACTED] East. What did you go?

19 A There were several other officers there with me at
20 the time. I actually got a recorded statement from her at
21 that time, got information on the possible suspect. Me
22 and several other officers were going to go over to [REDACTED]
23 [REDACTED] [REDACTED] West which is just right across [REDACTED].
24 And my intention at that time was to get a photograph of
25 the suspect's residence and we were going to obtain a

1 search warrant. And if we encountered him we were going
2 to at least secure and secure the residence.

3 Q When you left east and go to [REDACTED] West, what
4 did you observe when you went into what's depicted on
5 State's 1, is this [REDACTED] West?

6 A Yes, sir.

7 Q Okay. Where did you go in here?

8 A You want me to come down and show you?

9 Q Sure. As with everybody if you'll face the court
10 reporter please so she can hear and see you. This is
11 State's 1 for the record.

12 A Yes, sir. This is actually the west side of the
13 mobile home park across 521 over in this area is going to
14 be east, that's where we originally at. We came across
15 myself and other officers came in the entrance here. I
16 drove down here right here in this area is a set of the
17 big square mailboxes you usually see in the mobile home
18 park. They were here. As I drove in, I was looking for
19 lot 26, which is here Mr. McElveen's residence. As I
20 turned in, I observed a white male wearing the exact same
21 clothing that she describe.

22 Q What was that clothing?

23 A She described tan shorts and turquoise looking
24 shirt and he was wearing tan shorts and a turquoise and
25 white stripped looking shirt. He was actually walking

1 down the road way. There's a road here that circles
2 around it, but he was talking from her -- from the
3 direction of her residence when I come by. As I drove by,
4 I saw him coming down the road. I circled and let other
5 officers know that was possibly the suspect. By the time
6 I got back around, he had approached the mailboxes, was
7 standing at the mailboxes and myself and other officers
8 approached him.

9 Q You can have a seat back please. If you would listen
10 to my question closely please, Investigator. Did you
11 verify he was Edward McElveen?

12 A Yes, sir, I did.

13 Q Had you had that name that he was the individual that
14 who done this to Ms. A.G. ?

15 A Yes, sir.

16 Q And did you find anything about his person?

17 A When I identified myself, I approached him. I knew
18 from the victim that she had stated that he did have a
19 handgun on him, so that was my main concern. We did a pat
20 down and I did locate a .22 caliber handgun in his right
21 pocket.

22 Q This is State's 32. Is this the handgun you got from
23 the defendant's right pocket?

24 A Yes, sir.

25 Q Okay. Now, also included in here are two bullets.

1 Were these bullets like they are now or where were these
2 bullets when you got the gun from Mr. McElveen?

3 A They were loaded in the firearm. Actually, I took
4 the firearm from him. I took it back to my vehicle and
5 cleared it. And I immediately noticed that there was only
6 two bullets in there just as the victim had described.

7 Q Could you see the two bullets from looking at the gun
8 from the barrel?

9 A If you were to look down the barrel here, you could
10 see in the front of the cylinder if there were bullets
11 inside and I did notice that they were two bullets in
12 there.

13 Q And how many bullets is this gun hold?

14 A I believe five.

15 Q And what type of gun is this?

16 A A .22 caliber.

17 Q You said five?

18 A I believe so, yes, sir.

19 Q Okay. And is that Mr. McElveen did you arrest him
20 that day?

21 A Yes, sir.

22 Q And is this the individual you arrested in Scenic
23 Mobile Home Park on February 22nd with a gun in his
24 pocket?

25 A Yes, sir.

1 Q Mr. Edward McElveen. Now, did you look at
2 Ms. A.G. 's trailer?

3 A We did. Before she left the -- before she was
4 transported by EMS, she provided a key to her residence
5 and/also the alarm code and we went back to her house with
6 consent to look through her residence.

7 Q So she gave you consent to look through her
8 residence?

9 A Yes, sir.

10 Q And we introduced numerous pictures. You familiar
11 with all these pictures?

12 A Yes, sir, I took those photos.

13 Q So you took all these?

14 A Yes, sir.

15 Q Okay. What's depicted in State's Number 3 what is
16 that?

17 A That would be the front of Ms. A.G. 's residence.

18 Q Okay. And State's Number 5?

19 A Standing at the front door as soon as we walk that
20 would be a photo of her living room.

21 Q Okay. State's Number 6 also?

22 A Same her living room just from a different angle.

23 Q Now, looking at State's Number 7, it's State's Number
24 7 depicted in State's 6, Wayne?

25 A It is.

1 Q Can you show us where?

2 A That roll of duck tape is sitting on top of the
3 coffee table there.

4 Q So seven is a close up of six?

5 A Yes, sir.

6 Q And what was -- what is this in State's 7?

7 A A roll of silver duck tape and actually if you
8 actually look at it's torn in small trips as it was on her
9 arms.

10 Q Okay. In State's Number 8 depicted in State's 6 ---

11 A Yes, sir.

12 Q --- can you put ---

13 A There on the bottom of the coffee table here is
14 actually that packing tape.

15 Q So State's 8 is a close up of the bottom of State's 6
16 that table, correct?

17 A Yes, sir.

18 Q Okay. And were these items taken back and checked
19 for fingerprints?

20 A Yes, sir. The tape was taken back and it was
21 checked, but it did not produce any prints.

22 Q Is that surprising?

23 A It's possible. A lot of times it's not like TV, we
24 don't get prints off everything.

25 Q But you tried?

1 A We did.

2 Q Okay. Now, did you have an occasion to go to the
3 defendant's house?

4 A Yes.

5 Q How?

6 A While I was at the scene, I contacted Investigator
7 Ward and I believe she typed up a search warrant for us.
8 And then that search warrant was brought out to the
9 residence and we executed it on his residence.

10 Q So when I say how y'all executed a search warrant?

11 A Yes, sir.

12 Q Which is what you must do unless you have consent,
13 correct?

14 A Yes, sir.

15 Q Okay. And then you went in and made observations and
16 took pictures inside of the defendant's home; is that
17 correct?

18 A Yes, sir.

19 Q Okay. And State's 18 what is that?

20 A This would be the bed in the -- Mr. McElveen's
21 residence in the bedroom.

22 Q At the top of the bed there appears to be something,
23 you know what that is?

24 A That was rag. We executed the first search warrant
25 on the residence, took photographs. The rag didn't mean

1 anything to me at the time. Mr. A.G. had not told me
2 about the rag. She actually was at the office or at the
3 office or at the hospital talking to Investigator Ward,
4 that information was disclosed later and we actually got a
5 second search warrant and went back and got that rag.

6 Q So after you learned about -- this is in his bedroom,
7 the defendant's bedroom?

8 A Yes, sir.

9 Q Okay. After you got this additional information, you
10 got another search warrant and went back?

11 A Yes, sir.

12 Q Did you collect that rag?

13 A Yes, sir.

14 Q Okay. This is State's 29, Investigator Dubose, does
15 that appear to be the same rag that you collected and is
16 depicted on State's 18?

17 A Yes, sir.

18 Q Is that yes?

19 A Yes, sir.

20 Q Okay. And 26 what's that a picture of?

21 A That's a photo from the backside of Mr. McElveen's
22 residence lot number 26.

23 Q And State's 23 what is this a picture of?

24 A I believe it's a bed spread. I believe it's on the
25 back of a couch. It appeared to be blood on it.

1 Q Okay. And finally State's 28 is that at Ms. A.G.'s

2 ---

3 A Yes, sir.

4 Q --- bedroom?

5 A Yes, sir.

6 Q Okay. I think I just have a couple more questions
7 please. As the chief investigator officer did, Ms. A.G.
8 give a statement to Andrew Gillette the first officer
9 there?

10 A Yes, sir.

11 Q Give a statement to you?

12 A Yes, sir.

13 Q Statement to the same nurse or the nurse, excuse me?

14 A Yes, sir.

15 Q Statement to Investigator Shantell Ward?

16 A Yes, sir.

17 Q At the hospital?

18 A Yes, sir, and at the office.

19 Q And at the office. And did she also give a written
20 statement which is State's 24?

21 A Yes, sir.

22 Q Okay. Were Ms. A.G.'s clothes also collected?

23 A They were -- it was a photo in one of the photos you
24 showed me those are her clothes.

25 Q State's 35?

1 A That's the clothes she identified that she had on
2 that night.

3 Q And she's previously identified those I believe?

4 A Yes, sir.

5 MR. MEADORS: Beg the Court's indulgence.

6 THE COURT: Yes, sir.

7 (WHEREUPON, a pause in the proceedings.)

8 BY MR. MEADORS:

9 Q Did you see a flask with the defendant?

10 A Yes, sir. When we arrested Mr. McElveen, he did have
11 a silver flask and it was full of an alcoholic beverage.
12 I'm assuming it was liquor.

13 MR. MEADORS: Thank you, that's all.

14 THE COURT: Yes, sir.

15 CROSS-EXAMINATION

16 BY MR. ROUTZONG:

17 Q Good morning, sir. How are you?

18 A Good morning.

19 Q Okay. Investigator Dubose, let me show you what's
20 been admitted as State's Number 8 and State's Number 7?

21 A Yes, sir. These are the two rolls of tape, the duck
22 tape and the clear packing tape.

23 Q Your testimony was that you tested this stuff for
24 fingerprints?

25 A I didn't. I submitted it to our evidence guy, Mike

1 McMacauley, and he actually attempted to get prints. It
2 was no prints located.

3 Q Okay. And that's plastic, right?

4 A Yes, sir. Yeah, I would say plastic.

5 Q You actual -- sometimes you guys use stuff like that
6 to take prints up, right?

7 A We use stuff like that to do what?

8 Q Like tape like that when you spray something down you
9 get fingerprints on it?

10 A It's similar to that, yes, sir.

11 Q Okay. Well, you heard testimony that in fact
12 somebody can touch stuff like that and you can swab it and
13 maybe even get DNA profile off of it?

14 A It's possible. Not all the time, but it's possible.

15 Q Did you do that this time?

16 A No, sir.

17 Q Okay. Let me show you State's 11 has been admitted
18 as State's Exhibit 1.

19 A Yes, sir. That's gone be the -- it's just another
20 angle from inside the residence. The first picture was
21 taken from the door. This is just another angle showing
22 the -- and you actually have markers up here now showing
23 the duck tape and the packing tape.

24 Q Do you remember how many coffee tables are in the
25 house?

1 A I believe just that one in the living room.

2 Q And you heard testimony from Ms. A.G. that this is
3 where there was a little bit of a struggle -- a great
4 struggle. She said she even vomited blood. You remember
5 her testifying to that?

6 A I don't remember her saying she vomited blood. I'm
7 saying she kicked Mr. McElveen over the table.

8 Q Do you remember she testified that she spit up blood?

9 A I don't recall hearing that.

10 Q Okay. Let me ask you, do you remember when she said
11 it was in this area that she got struck with a -- some
12 object that could have been a flash light, could have been
13 a gun. And she got hit so hard that blood splattered she
14 said up her face and all the way into her hair. Do you
15 remember that?

16 A Yes, sir. I don't remember her testifying to that,
17 but I do remember her telling me that she was hit with an
18 object and it did cause her face to bleed.

19 Q Okay. Let me show you that ones that are marked and
20 been admitted as State's Number 23, Number 25, Number 26
21 and Number 28.

22 A Yes, sir, I believe that's gone be the bed spread --
23 I believe this is at Ms. A.G.'s residence. This is
24 trash can on the floor at her residence. This is just an
25 overall view of her bedroom, another angle from her

1 bedroom, another angle.

2 Q This is the same bedroom that she testified that she
3 was forced to have sex in?

4 A Yes, sir.

5 Q Against her will?

6 A Yes, sir.

7 Q Struggling. Did you find any blood in here on the
8 floor or on the bed spread, on the sheets?

9 A No, sir.

10 Q Actually, it looks like it's pretty well made?

11 A It is.

12 Q Okay. Here's another angle, did you take any of the
13 sheets off this bed?

14 A No, sir, we didn't.

15 Q And this is where that sexual assault was suppose to
16 have occurred; is that correct?

17 A Yes, sir.

18 Q Okay. And is at the -- I guess it looks look like a
19 comforter or something that has what you testified
20 appeared to be blood on it?

21 A It appeared to be. We wasn't sure after looking at
22 it we wasn't certain it was blood, but it was on that
23 sheet in the residence.

24 Q Normally what you do when you are not sure about
25 something is you submit it and have it tested, right?

1 A Yes, sir.

2 Q Okay. Let me show you what's been admitted as
3 State's Number 29.

4 A Yes, sir. This would be the wash clothe that was
5 obtained during the second search warrant from
6 Mr. McElveen's headboard in his bedroom.

7 Q Did you submit this for any testing at all?

8 A No, sir, that was not never sent off after it was
9 turned in.

10 Q So the only testimony we really have about this is
11 Ms. A.G. said it was blood from her, but you didn't have
12 it tested, so we don't know; is that correct?

13 A Yes, sir.

14 Q Were you aware or did anybody ever tell you that she
15 had been diagnosed with the condition that causes vertigo,
16 that she loses her balance and could fall down on. On top
17 of that, she's a lady almost 80 years old. Did anybody
18 ever tell you that Meniere's disease issue?

19 A Mr. McElveen brought it up the day I first approached
20 him and told him why we were there getting and was getting
21 details from him and he did bring up that she had vertigo.

22 Q Okay. You didn't ask her about it?

23 A I did not. I believe Investigator Ward did.

24 Q Okay. Were you aware that before she was interviewed
25 on the 22nd, she had made statements about someone having

1 contacted her or she contacted someone, I can't remember
2 which, about I believe she said it was Mr. McElveen's
3 niece about bullets for the gun? Were you aware of that
4 conversation? That would have been on the 22nd. That was
5 the day all these interviews took place?

6 A I spoke to her that initially that morning on the
7 scene. She never give me that information. She was
8 transported to the hospital where she spoke to
9 Investigator Ward. That was the same day that Mr.
10 McElveen was arrested. I believe the information or she
11 actually spoke to Investigator Ward that day and then she
12 came back and met with her another day, but I do not
13 recall her saying anything on the 22nd about...

14 Q Well, you heard testimony that she'd been around him
15 for about a year or so?

16 A She did. She said they were in a relationship about
17 a year.

18 Q Well, she said with some exceptions almost 24 hours a
19 day, that was just probably an exaggeration, but
20 frequently enough?

21 A Yes, sir.

22 Q Okay. You didn't find any other bullets in the
23 house, did you?

24 A No, sir.

25 Q Okay. Investigator Ward some of the stuff that was

1 submitted DNA one of the items was a sanitary pad. It
2 says in the DNA report. What was that?

3 A I do not -- that could have been in the sexual
4 assault kit. I do not know what that is because the kit
5 is sealed up when we get it. So I do not know what was in
6 that kit when it was given to me because it was sealed up.

7 Q Okay. Excuse me for just a minute I got to find
8 exhibit number 35 in this. Let me show you what's been
9 previously marked as marked as State's Number 35?

10 A Yes, sir, this would have been -- it's actually in
11 one of the photos a pair of blue pants I believe they were
12 or slacks. They were on the ironing board in another room
13 at Ms. A.G.'s residence, that's the clothing that she
14 said she had on the night of the incident, so I did take
15 those.

16 Q Did you submit any of these things for testing any
17 where?

18 A No, sir, we do not submit those as stuff that was
19 submitted would have been what she had on the morning she
20 was transported to the hospital.

21 Q Okay. Why isn't this in evidence? Isn't this what
22 she was supposed to be wearing when the assault took
23 place?

24 A Yes, sir.

25 Q Okay. So in her testimony was she didn't have any

1 underwear on?

2 A That's correct.

3 Q So if anything for a lack of a better way of saying
4 it, the gravity takes hold and there's sperm or something
5 it would be on these clothes if she put these clothes on
6 afterwards, right?

7 A You could look at it that way, but we took those
8 items because that's what she was wearing that night. But
9 when she went to the hospital, if she did have biological
10 fluid on her or in her at the time, whatever she wore to
11 the hospital is what they would have taken samples of and
12 I believe that's what they did. We did take those, but
13 they were not sent off to be tested.

14 Q So we don't know if there's blood or anything on
15 here, no semen, no blood we don't know?

16 A No, sir.

17 MR. ROUTZONG: Thank you, Sergeant Dubose.

18 MR. MEADORS: Very briefly.

19 REDIRECT EXAMINATION.

20 BY MR. MEADORS:

21 Q The conversation with the same relative with the
22 defendant that he ask you about. You don't know when that
23 took place between Ms. A.G. and this relative, correct?

24 A When what took place?

25 Q The conversation he referenced about some bullets

1 between -- I don't even know who it is a relative of the
2 defendant and Ms. A.G. ?

3 A I'm assuming it was after he was arrested, but I
4 don't know.

5 Q And he was arrest on the 22nd?

6 A Yes, sir.

7 Q You talk to him the 22nd -- to her?

8 A Yes, sir, just before I spoke to him.

9 Q And the conversations that this young lady had with
10 Ms. A.G. happen on the next day, correct?

11 A Happen later day at the -- Tuomey and then the next
12 two days, yes, sir.

13 Q The next two days at the sheriff's department?

14 A Yes, sir.

15 Q Okay. After he been arrested, correct?

16 A That's correct.

17 Q Okay. And the conversation at the sheriff's
18 department where the bullets came up correct between the
19 defendant excuse me -- the victim and Ms. Shantell Ward,
20 correct?

21 A That's my understanding.

22 MR. MEADORS: Thank you. That's all.

23 THE COURT: You can step down.

24 (WHEREUPON, the witness leaves the witness
25 stand.)

1 MR. MEADORS: Beg you one minute.

2 THE COURT: Yes, sir.

3 (WHEREUPON, a pause in the proceedings.)

4 MR. MEADORS: Your Honor, the State of South
5 Carolina rests.

6 THE COURT: Okay. Can I talk to both of you all
7 real quick about a scheduling issue before we go?

8 (WHEREUPON, a bench conference was held in the
9 presence of the jury, but out of the hearing of the
10 jury.)

11 THE COURT: Ladies and gentlemen, we -- I was
12 conferring with the lawyers about scheduling. We reached
13 a good point to stop for lunch. So I'm going to send
14 y'all to lunch ask you not to discuss this case, allow
15 anyone to discuss it with you. If you'll be back in the
16 jury room at two o'clock, we should be able to finish this
17 case. So I'll see you at two o'clock. If you have some
18 emergency, call us cause I won't be able to do anything
19 until all of you get back. I'll see you at two. Thank
20 you.

21 (WHEREUPON, the jury excuse for lunch.)

22 THE COURT: Anything further?

23 MR. ROUTZONG: Not from the defense, Your Honor.

24 THE COURT: Okay. You want me to discuss your
25 clients rights with him at this time?

1 MR. ROUTZONG: I thought you were gone take
2 motions after lunch, Your Honor.

3 THE COURT: No, I'm sorry I was going to take
4 them before lunch and then do argue and charge after, if
5 it's okay. If you want to wait until after lunch, I at
6 least was gone advise him of his rights before lunch. We
7 have at least lunch to think about it. You want me do
8 that?

9 MR. ROUTZONG: Yes, sir.

10 THE COURT: Mr. McElveen, if you would please,
11 sir, stand up and raise your right hand. Do you solemnly
12 swear the testimony you're going to give me is the truth,
13 the whole truth, and nothing but the truth so help you
14 God?

15 THE DEFENDANT: I do.

16 THE COURT: Thank you. You can put your hand
17 down. Mr. McElveen, we've reached a point in this trial
18 where the State has rested and you have a right to put up
19 evidence. You have a right to call witnesses on your
20 behalf. And you have a right to testify in this case. If
21 you choose not to testify, I will instruct the jury that
22 they can't hold that against you in any way. They can't
23 even discuss that in the jury room. If you choose to
24 testify, you will be subject to cross-examination and
25 impeachment by the State like any other witnesses. I was

1 informed earlier that you have a criminal record, that
2 some of that may come in against you if you decide to
3 testify. You can talk to your lawyers about trial
4 strategy and decisions whether you going to testify or not
5 to testify, but it is ultimately your decision. They can
6 advise you as what they think you should do or what you
7 should not do, but ultimately it is your decision whether
8 you want to testify or not. You understand that?

9 THE DEFENDANT: Yes, sir.

10 THE COURT: Okay. So you can talk to him over
11 lunch and decide whether that's what you want to do or
12 whether you don't want to do that, but when you have a
13 right not to testify and I'll instruct them if you choose
14 not to, they can't consider that in anyway. You
15 understand that?

16 THE DEFENDANT: Yes, sir.

17 THE COURT: You got any questions you want to
18 ask me concerning your rights?

19 THE DEFENDANT: No, sir.

20 THE COURT: Okay. Thank you, sir.

21 MR. ROUTZONG: Your Honor, you want to at this
22 time hear the motion for directed verdict?

23 THE COURT: I can.

24 MR. ROUTZONG: Your Honor, at this time we move
25 for a directed verdict. I do not believe that the State

1 has given the finder of fact viewing the evidence in the
2 like most favorable to them that there's enough direct,
3 substantial direct or substantial circumstantial evidence
4 for the finder of fact to consider, Your Honor.

5 THE COURT: Okay. I will respectfully deny
6 your motion. I think there is sufficient evidence in this
7 record that can go to the jury and what weight the jury
8 gives that evidence I don't know, but I think it's
9 sufficient evidence in the record that they could in fact
10 support a verdict in this case. So I will deny your
11 motion.

12 MR. ROUTZONG: Thank you, Your Honor.

13 THE COURT: Okay. I'll see you all at two
14 o'clock.

15 MR. MEADORS: Thank you, Your Honor.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: Okay. Let me ask you all a legal
18 question. Do you all agree or disagree that the jury
19 could find him guilty of Count 1, 2 and 3 and assault and
20 battery -- one of the assault and batteries? Because if
21 CSC -- let's say if I'm guilty of CSC first, kidnapping
22 and possession of a weapon during a violent crime and I'm
23 charging them on assault and battery first, second and
24 third based on the facts, they could find him guilty of
25 the top three and assault because of the injuries. Or you

1 all disagree with that? See it's not indicted for that.
2 If I give it to the jury, are they limited they can't find
3 him guilty of one of the assaults and the CSC? Because I
4 got to tell them that one way or the other.

5 If there was no injury and allegedly he held a
6 gun on her and raped her, that be CSC first. But if he
7 holds the gun on her and rapes her and beats her up, he
8 could be guilty of those and the assault. The problem is
9 the State didn't indict him for assault, but you're asking
10 him for a charge of lesser included, so it's on the
11 sentence sheet. So then the jury gets to that point, are
12 they suppose to stop or are they suppose to consider one
13 of the assaults. You all understand my dilemma? You all
14 discuss it and let me see if you can't figure out ask
15 when.

16 (WHEREUPON, a pause in the proceedings.)

17 MR. MEADORS: Judge, what do you think?

18 THE COURT: I don't know. I'm not sure that any
19 of the assaults now are lesser-include offenses of CSC.
20 There's some cases in 2004 State vs. White. A number of
21 cases that says that ABHAN is a lesser included offense of
22 CSC first, but they've changed the definition of ABHAN
23 and so now if you look at the definition of ABHAN as well
24 as the assaults, the elements are not there. And the
25 lesser's got to include that -- got to include all the

1 elements in lesser and none of them are there now because
2 they've changed the assault statute, even though the old
3 case law says ABHAN is. The definition of ABHAN has
4 changed?

5 MR. MEADORS: I agree ABHAN is not.

6 THE COURT: If ABHAN is not, how is assault and
7 battery -- assault and battery first is a lesser included
8 of ABHAN. If ABHAN is not, how is assault and battery
9 first?

10 MR. MEADORS: I don't think it necessarily is
11 anymore. And I'm just going by this sheet they give us
12 from the Prosecution Commission. On the print out, it's
13 got lesser included assault and battery offenses. I'm
14 not saying it's right.

15 THE COURT: And they saying that assault and
16 battery offenses are lesser included of CSC?

17 MR. MEADORS: That's what this -- our notebook
18 says.

19 THE COURT: Because they use to be now -- and
20 what cases are they quoting? See all the cases they've
21 given us all quote 2004 pre-changes in the law. So if you
22 look at strict definition since they change the
23 definitions -- because see even on first ---

24 MR. MEADORS: Injury on another person in the
25 act involves nonconsensual touching of the private parts

1 ---

2 THE COURT: But there's no sexual battery there.

3 MR. MEADORS: --- either above -- under or above
4 clothing, that's right.

5 THE COURT: So there's no sexual battery there,
6 so it's not included. So, I mean, if you look at the
7 definition of what a lesser included suppose to be, it
8 doesn't fit anymore even though an ABHAN was different.
9 The common law ten-year ABHAN ---

10 MR. MEADORS: Even though that was just indecent
11 liberty too basically.

12 THE COURT: Right. But see first requires an
13 injury under -- which we have here. I'm just asking you
14 all this question. You all would agree at this point to
15 charge it. If I charge it, it's on the sentencing sheet,
16 can -- does the jury stop if they find him guilty of CSC
17 and kidnapping? Do they not even consider that the
18 assault and batteries or do they consider assault and
19 batteries in conjunction to that. I mean, clearly if they
20 find him not guilty based on you all charging him of
21 kidnapping or CSC first or possession of a weapon, can
22 they go based on the facts to assault. But can they find
23 him guilty of all the above and one of the assaults. And
24 I got to tell them that.

25 MR. ROUTZONG: What happens on a DVHAN case

1 where they also charge lesser included, what happens with
2 those? It's the same situation, isn't it?

3 THE COURT: No, because at least my difference
4 between the DV is if they find that -- they didn't live
5 together. They don't have a child in common or none of
6 those factors, it's just an assault, then they can do
7 that, but you can't be guilty of both in my opinion. You
8 can't be guilty of a DV and assault because it's the same.
9 You can't be guilty of both of those. Say if you injure
10 the victim and the victim's beat up, either the issue is
11 they live together or one is the criteria of domestic
12 violence is there, but it's still beat up.

13 In this situation, you can commit a rape without
14 assaulting anybody, without hurting them. You can hold a
15 gun to their head and rape them and be guilty of CSC first
16 and not injure them, but if you do all that and injure
17 them and understanding I think you clearly can do both.
18 And if they put that in the indictment, they could have
19 charged with injuries just like murder. They could have
20 charged murder in there. They didn't put it in the
21 indictment, but now it's on the sentencing sheet. So the
22 question is can the jury -- since, it's not in the
23 indictment, can the jury find him guilty of what's in the
24 indictment and the other charge?

25 MR. MEADORS: Judge, you got me rethinking the

1 whole A and B now.

2 THE COURT: That A and B is giving me huge
3 trouble and I've talked to a number of the legislature. I
4 said you all got a mess because the way it falls out --
5 and I don't know the answer to that. And I haven't talked
6 to any other person -- that's one of the things we
7 discussed in our conferences how does this fall out. And
8 I can't get an answer from any other judge or any other
9 lawyer I've talked to.

10 MR. MEADORS: If we go back to when we started,
11 it was the element test. So under that test, this
12 wouldn't fit.

13 THE COURT: I know. And that's still the law.
14 I mean, when you look at the elements of lesser included
15 ---

16 MR. MEADORS: I do not want assault and
17 batteries charged now, Your Honor, after listening to Your
18 Honor's and reflecting, I don't think it should be
19 charged.

20 THE COURT: Okay.

21 MR. ROUTZONG: If it is a lesser included, if
22 it's a lesser included, then it would not for example
23 under the CDVHAN then there's a lesser included. I know
24 there's different elements, but if all those things were
25 on the verdict sheet, how do you stop them from doing that

1 every time. In other words, they can say, oh, yeah, he's
2 guilty of that. Oh, yeah, he's guilty of that.

3 THE COURT: I understand your argument, but in
4 this situation, they could have clearly indicted him for
5 assault and battery as well. And he could have been
6 guilty of both. My dilemma is where they didn't indict
7 him, but now I'm putting it on the sheet. And so normally
8 when you put it on the sheet it's a lesser included. And
9 if it's a lesser included, they can't find a greater and
10 the lesser.

11 MR. ROUTZONG: That's correct.

12 THE COURT: But ---

13 MR. ROUTZONG: You're just simply saying it's
14 not a lesser included.

15 THE COURT: The test that have always given us
16 State vs. McFadden and State vs. Bland the test is
17 determine when a crime is a lesser included offense of the
18 crime charged is whether the greater of the two offenses
19 include all of the elements of the lesser offense. The
20 problem is CSC first does not include all of the elements
21 of the lesser cause CSC first requires a sexual battery
22 and that's not necessarily a requirement in first now.
23 Because they put this -- it use to be it was nonconsensual
24 in ABHAN.

25 Now, they put this injury or attempted injury in

1 there and so that's what's messed all this up. If they
2 left ABHAN like it was, then it is a lesser included, but
3 the way it's worded now, I don't know. I mean, I been
4 struggling with this for months now. And every time I get
5 around any other judge and I ask that question and nobody
6 knows.

7 And until the Supreme Court figures what the
8 legislature intended, I don't know the answer to this, but
9 now I'm in a dilemma when I'm sitting here going over this
10 charge and looking at this verdict form and a jury. And I
11 got to tell the jury, well, if it's a lesser included --
12 if you find a greater, you don't go to the lesser, but if
13 it's not a lesser included because -- you know you got an
14 argument, we shouldn't have to face charges we hadn't been
15 indicted for. It is not a lesser included. So if they
16 can find him guilty of CSC first and assault, then that
17 puts you in a quandary because he got convicted of
18 something he wasn't even indicted for. So he can't be
19 convicted of both. Either we got to treat them as lesser
20 included -- and if they don't find that, they can do the
21 lesser, but I don't think you can do it as both because it
22 puts you in a real tough situation if that happens. And
23 the question is whether it's a lesser included or not a
24 lesser included and I do not know the answer to that.

25 MR. MEADORS: I'm becoming more convinced that

1 it's not. This for the record this prosecution manual is
2 wrong.

3 THE COURT: Well, I understand that. And I had
4 come up with that conclusion as well because when I read I
5 don't think it's a lesser included, but nobody else seem
6 to have thought about it. And when I've asked that
7 question, the first response I get, yeah, it is. I say,
8 okay, look at it. And then they say, well, I don't know
9 now. So I'm just -- we're here. I was gone charge what
10 you all ask me to charge, but if we gone treat it as a
11 lesser, then they can't find the lesser.

12 MR. MEADORS: Then I would request it not be
13 charged, Your Honor.

14 THE COURT: I know and I understand. - Now, the
15 question is, if I don't charge it, what happens.

16 MR. MEADORS: Just basically because there isn't
17 a battery, in the lesser.

18 THE COURT: Right. It's a jury, but it's not a
19 battery and it's not -- you know, and that part about the
20 touching, you know, to have a battery you got have an
21 intrusion.

22 MR. MEADORS: I think he would still like a few
23 minutes to it look up.

24 THE COURT: Yeah, I mean, I'm just telling the
25 dilemma I been in that I don't know the answer to and I

1 don't know other than letting the Supreme Court -- and
2 I've asked them to resolve that issue. Until we send them
3 something, they not going to resolve it.

4 (WHEREUPON, a pause in the proceedings.)

5 MR. MEADORS: Judge, if we had charged him with
6 some of the others, it might be lesser included, but since
7 we didn't...

8 THE COURT: Okay. I understand. In State vs.
9 Green, the State Supreme Court said that ABHAN wasn't a
10 lesser included offense of attempted CSC. And they even
11 say in the language that even though technically it is not
12 -- does not contain all of the elements the same thing I
13 just had as ABHAN, you should charge it. That's State vs.
14 Green April the 4th 2012 and that came out after the law
15 changed. So they saying even though technically it
16 doesn't fit their prior definition in that, it does not
17 contain all of the elements that the judge erred in not
18 charging it.

19 MR. MEADORS: That was an attempted CSC.

20 THE COURT: Yeah, that's the difference, it's an
21 attempted CSC, but attempted ---

22 MR. MEADORS: Is that State vs. Pressley?

23 THE COURT: No, Green.

24 MR. MEADORS: I got a Green from '97.

25 THE COURT: It's 2012 State vs. Green. See

1 because the law changed in '10.

2 MR. MEADORS: Right.

3 THE COURT: And so all the stuff we had before
4 that was pre-'10 and I don't know how -- it's like in
5 Bouknight some of the other decisions doesn't seem to make
6 sense, even though it say technically all the elements
7 aren't there. The judge should have charged it. You want
8 to come look at it on the computer.

9 MR. MEADORS: I see after ---

10 THE COURT: Let me ask you something did the
11 2012 case deal with factual situations that were pre-'10
12 even though Green is 2012. I need to know when the crime
13 occurred. Because if the crime occurred prior to 2010,
14 Green's silent on the old law. The factual basis in Green
15 was back under the old law and not under the new
16 definition. So I don't know if their decision would be
17 different.

18 MR. MEADORS: If every bit of law we have in
19 this handout, which is a very good handout cites pre
20 everything is pre.

21 THE COURT: Everything we have is pre and, you
22 know, this is the second or third time I've had this issue
23 come up.

24 MR. MEADORS: Judge, the ABHAN -- it says ABHAN
25 after six two, but then right under it says pre six two

1 ten ABHAN and AHAN were lesser included crimes of assault
2 with intent to commit CSC with a minor, that was State vs.
3 Clarkson. But ABHAN was only proper if there was evidence
4 the defendant committed on the on the lesser offense,
5 which kind of implies to me that if there was a battery,
6 it wouldn't apply, that's State vs. Foreman. That's back
7 in '88.

8 THE COURT: Right. I mean, I think it's fact
9 specific and there was no injury. I mean, I don't think
10 it would apply, but the fact that she's got a busted lip
11 and he hit her, it may. I mean, I don't -- it's almost
12 like you -- it's not always a lesser included offense.
13 It's got to be fact specific. You know, and it could cut
14 both ways. There was a case that I didn't preside over in
15 another county a few months back and they charged assault
16 and battery. And the jury did not find him guilty of the
17 CSC, but found him guilty of assault and battery and the
18 factual basis was a kiss.

19 MR. MEADORS: What degree of assault and
20 battery?

21 THE COURT: First, I think -- first on a kiss
22 and that doesn't fit the definition because it
23 specifically says it's got to be the general area, you
24 know, not so... Anyway, I think that got -- that was
25 wrong. And it's on appeal now. He's in the penitentiary.

1 It wasn't my case, but we got to do something.

2 MR. MEADORS: You want a coin?

3 THE COURT: Well, I mean, you understand if we
4 get it wrong, you doing it over. The safest thing to do
5 is to charge it.

6 MR. MEADORS: I don't think there's anything out
7 there. I think we all to me just going back, I would say
8 it's not a lesser included after thinking about it, but if
9 there's some uncertainty as always, Your Honor, whatever
10 you think we need to do, let's do it.

11 THE COURT: What's your position?

12 MR. ROUTZONG: I remember the old ABHAN common
13 law ABHAN that was just a lesser included because they
14 said it was. Everybody agrees on that. It didn't meet
15 any of the test. This time since nobody's ruled on it, it
16 doesn't appear to me to be a lesser included.

17 THE COURT: And I don't think it is either. So
18 you want me not to charge it?

19 MR. ROUTZONG: I don't know the answer to that
20 because ---

21 THE COURT: I mean, I understand you rolling the
22 dice. I had a situation with the Solicitor here who was
23 on the other side one time and he decided not to charge
24 it. You know, I don't know because it may be if you don't
25 charge it, if they have question, it be not guilty. If

1 you charge it, they may come to something less. I don't
2 know what. I don't think technically it's a lesser
3 included offense the way they re-written the statute. The
4 old ABHAN was kind of broad almost anything, if any kind
5 of touching nonconsensual whatever. The way they've got
6 it written now textbook, it doesn't appear to be lesser
7 included. And I basically -- if it's not a lesser
8 included, they didn't charge it. Your guy shouldn't be
9 facing it. If it is a lesser included -- he is -- and
10 that's why ask you all whether the jury -- if we
11 considered it a lesser included, they can't convict him of
12 both. If it's not a lesser -- I mean, if it is a lesser
13 included, they can. Well, they can't. If it's not, they
14 can.

15 MR. ROUTZONG: I talk with Mr. Little and he
16 agrees with Your Honor that the injury part of it just
17 kind of takes it out.

18 THE COURT: I think it does too. So you want me
19 not to charge it and charge what he's indicted for?
20 That's what the Solicitor want?

21 MR. MEADORS: First, second and third?

22 THE COURT: Yeah. I mean, clearly first, second
23 and third are lesser included.

24 MR. MEADORS: Right.

25 THE COURT: I mean, the assault and battery is

1 the one giving me the concern. And clearly I think
2 kidnapping, CSC first, second and the weapon is chargeable.
3 I'm not sure about the assaults. You all need to know
4 this before you do closing argument.

5 MR. MEADORS: Yes, sir.

6 THE COURT: And he takes the position it's not a
7 lesser. You take the position, I won't charge it. I'll
8 just charge CSC.

9 MR. MEADORS: Suites the State.

10 THE COURT: Cause technically I don't think it
11 is the way it's written. Now, we don't have any
12 directness. A Court of Appeals case that came out in 2011
13 that Judge Child's tried. I'm trying to find the date of
14 the crime, but I doubt if it's...

15 (WHEREUPON, a pause in the proceedings.)

16 THE COURT: We ready?

17 MR. MEADORS: Yes, sir.

18 THE COURT: We all agree he's not going to get
19 charged?

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

21 THE COURT: Okay. I will get him to change the
22 verdict form. He can do that while you're arguing. You
23 all don't need another copy of the verdict form, do you?
24 I'll just take those two out.

25 MR. MEADORS: Judge, we going right into it.

1 He's not gone make them come and go right back out? We
2 going right into it?

3 THE COURT: Right into what? He's going to
4 rest?

5 MR. MEADORS: Yes, sir.

6 THE COURT: I'm going to bring them in and he's
7 going to rest and you all going to argue, right?

8 MR. ROUTZONG: That's correct.

9 MR. MEADORS: Okay.

10 THE COURT: Bring me the jury please, sir.

11 (WHEREUPON, the jury came into open court.)

12 THE COURT: Mr. Foreman, ladies and gentleman, I
13 know you all don't think I have a clock, but I had some
14 legal matters that I had to deal with before I could bring
15 you all back and I apologize for keeping you all back
16 there the last 40 minutes, but I think we are ready to
17 proceed now.

18 Mr. Routzong.

19 MR. ROUTZONG: Your Honor, the defense rest.

20 THE COURT: Okay. Ladies and gentlemen, you
21 have heard all the evidence you're going to hear in this
22 case. Now, it's time you're going to hearing the closing
23 arguments of the attorneys and I will charge you on the
24 law and give you this case to decide. So if you will pay
25 close attention to the attorneys.

1 MR. MEADORS: May it please the Court.

2 THE COURT: Yes, sir.

3 MR. MEADORS: Mr. Routzong, Mr. Little.

4 Mr. Foreman, ladies and gentlemen, good afternoon. First
5 of all, thank you for being here these last two and a half
6 days. As I said in the opening, thank you. This hadn't
7 been that long of a trial, but the length of a trial does
8 not take away the importance of a trial to the defendant,
9 to the State, to Ms. A.G. This is an important trial
10 as be tried in this state, this country this week. It's
11 important. It is important to everybody. So thank you
12 for being here and thank you for listening.

13 I want to start off by saying don't lose sight,
14 of the forest from the trees. I do that a lot in my life.
15 I don't lose sight of the forest from the trees. Please
16 keep your eye on and your ears in this next little bit as
17 we talk about the issue is. It's called closing arguments
18 what we're doing right now. We see it on TV. They do a
19 lot of improper stuff on TV. I do a lot of objecting and
20 all, but we got rules that we're bound by. We are allowed
21 to tell you what we believe the evidence is and the
22 reasonable inferences from that evidence, that's what you
23 can do in closing argument. It implies we can talk back
24 and forth and argue, this is good, but we can't. We can
25 tell you what we believe the evidence showed and what the

1 reasonable inferences are. And then as I stated in my
2 opening his honor will charge you the law when we get
3 through talking to you and then you'll decide based on
4 what you heard from this stand and the evidence that his
5 honor admitted and nothing else, that's all you can
6 consider. And you decide what the facts are, what the
7 truth is and you apply it to the law his honor gives you.
8 And you'll decide what the truth is today, here today.
9 And we all thank you for it.

10 When we started, I told you what the defendant's
11 charged with. It's criminal sexual conduct in the first
12 degree, kidnapping, possession of a weapon during the
13 commission of a violent crime. CSC in the first degree
14 and kidnapping or violent crimes. So if you find the
15 defendant guilty of those, that would naturally -- you
16 would find the defendant guilty of the third count
17 possession of a weapon during the commission of a violent
18 crime, if you so find it. Your Honor, will instruct you
19 of that.

20 CSC in the first degree is a sexual battery
21 without consent. I don't read much, but I want to use it
22 to read to make sure aggravated force is used. The judge
23 is going to define this. The use of physical force or
24 physical violence of a high and aggravated nature to
25 overcome the victim or the threat or use -- the threat of,

1 the use of a deadly weapon. That's one way you can find
2 CSC first degree.

3 Sexual battery aggravated force or you don't
4 have to have all of them. Sexual battery without consent.
5 The victim is also the victim of forceable confinement,
6 kidnapping, robbery, extortion, burglary or any other
7 similar offense. We allege and believe we've proven
8 kidnapping. You don't have to have both of those. You
9 find a sexual battery in either one of those that's -- you
10 find the State has proven beyond a reasonable doubt the
11 guilt of the defendant, you must find him guilty of CSC
12 first degree, that's the oath you took, if you so find.

13 You're also going to be able to consider
14 criminal sexual conduct in the second degree. I want to
15 be clear the State believes and the evidence is CSC first
16 degree and we believe that's appropriate. And we believe
17 the evidence will show that's appropriate. But you're
18 also going to be able to consider criminal sexual conduct
19 in the second degree. Well, what's that about. Well,
20 it's a sexual battery again and it's accompanied with
21 aggravated coercion. Well, what does that mean. Well,
22 the judge is going to tell you that aggravated coercion is
23 if one the defendant in this case threatens to use force
24 or violence of a high and aggravated nature to overcome
25 the victim or another person and the victim reasonably

1 believes this person in this case, the defendant, has the
2 present ability to carry out this threat. That's one way.
3 It's all confusing. We believe it's CSC first. He
4 threatened her with a gun, held her there, but you have a
5 right to consider this. Or sexual battery and the
6 defendant threatens to retaliate in the future with
7 physical harm, kidnapping something of that nature.

8 You also be able to consider criminal sexual
9 conduct in the third degree. The State believes the
10 evidence has shown the first degree, ladies and gentlemen.
11 But you'll be able to consider CSC with a minor excuse me
12 -- criminal sexual conduct in the third degree. What's
13 that. Well, it's the same basic sexual battery you got to
14 find the defendant committed a sexual battery. And, of
15 course, any intrusion however slight with the body of
16 another without her consent and the use of force or
17 coercion was used without aggravated circumstances. And
18 you'll have the fourth option of not guilty. CSC first,
19 CSC second, CSC third, kidnapping, possession of a weapon
20 during a violent crime, which if you find first or second,
21 you would find -- if you believe that the possession of a
22 weapon -- that's all I'm going to say about the law.

23 I want to talk about the facts now. His honor
24 will talk to you more about the law. What's clear. It's
25 clear that Ms. A.G. and the defendant, Edward McElveen,

1 had a prior relationship. That's clear. It's clear that
2 the defendant got angry and was upset because he thought
3 Ms. A.G. was having a relationship with Mr. Eddie
4 Richardson. A former preacher who owned a trailer park.

5 It's clear he was real angry, that's what the
6 evidence shows. There's testimony of a phone call to
7 Mr. and or Mrs. Richardson professing this alleged affair.
8 It's clear from State's Exhibit 24, the letter that Ms.
9 A.G. said the defendant left in her house. And you'll
10 have it back there to read. She read it where it talks
11 about the GD preacher and how much he had loved her and
12 how upset he is. And we believe the evidence is clear
13 that after that the relationship was over. Well, does
14 that make sense. You threatening my boss. You're making
15 these crazy immoral allegations. It's over. That's it.
16 The only second person I've ever been with in my life,
17 that's it. It's over. Well, I will still be nice to you,
18 maybe give you some food, yeah. Because I can't help
19 myself, that's the way I am. But you not gone have my
20 body any more our relationship as it was is over because
21 of this. Does that make sense.

22 It's clear there were two bullets. She saw two
23 bullets. Described them as gold. Her injuries are clear,
24 look at these pictures, look at them. She's got injuries
25 to her face, injuries slapped here to here, go back and

1 look at them. That's not made up. Those are real real
2 real injuries. The tape's real. The roll of tape in the
3 picture. The other clear tape. The tape taken off her
4 hands in here. You'll have it back there to look at. The
5 marks on her hands. 30I the tape on her wrist where you
6 see where the tape had been before. It's in here
7 somewhere. I'll find it, that's real. Tape, tape on her
8 hand that's real. She described he did like this when she
9 got on the ground. Go back and look at her neck, and the
10 redness in her neck in the pictures, that's real and her
11 face and the redness on her neck, and her eye. I can pass
12 around 30F. Anybody touched her. Nobody didn't touch her
13 neck. Do it like that, that's what he did to her. That's
14 real. Injuries to her neck, the bruising where tape was
15 with her face. I don't know what he's going to say, made
16 it up, if that makes sense. She say, she say, that's what
17 we got she say, she say. But only she didn't say. The
18 evidence say. She say and the evidence say.

19 Now, he's going to attack it. Well, what about
20 the tape. We tried to get prints. It's not like TV, but
21 they tried. It's an old game I submit. If you did get
22 prints, he's been in the house. You didn't leave her, so
23 you had to try to get prints, no. They tried, but they
24 couldn't get them stay focused, stay focused. And I'm
25 talking to myself too stay focused.

1 In every case maybe more so in this case than
2 ever is credibility, it's believability. You know, why I
3 submit the evidence shows that she's credible and he did
4 this beyond all doubt and we only have to prove reasonable
5 doubt, but you're firmly convinced. She didn't want to
6 tell it. Think about that. She didn't want to tell it.
7 She talked him down. She promised him I won't tell. In
8 her mind in a way, I think somehow that -- I don't know,
9 but that's what makes this so credible. She said look
10 move away. She had a gun pointed at her and slammed on
11 the ground, had her face beat down, been assaulted, back
12 to his house. And she knew he wasn't playing now. She
13 knew he wasn't playing after he hit her with a gun or a
14 flashlight or fist. She got hit. She didn't make that
15 up. But she knew and she told him look and she said found
16 out that day that he was moving. Look, I know you're
17 moving. The relationship is over. I'll go with you.
18 I'll go with you. Was she going to. She said no. In her
19 statement, he says I know you're lying, you're not. You
20 gone tell. No, you leave and I'll go with you. I was
21 trying to save myself, trying to save him from killing
22 himself. And she did talk him down. Does that mean he's
23 not guilty because he didn't kill her. Does it take that
24 to believe her, to kill himself or kill her. Thank God
25 he's not dead. Thank God she's not dead. But that's what

1 makes it credible. And you know what else makes it
2 credible, she tells it all. What I'll say that he's good.

3 One point I think she said, well, you know, he
4 wasn't a bad fellow over the year. We got along. He
5 certainly had a little rapid downfall after he got angry
6 thinking she was with somebody else, but overall he wasn't
7 bad. But she tells everything, even to the kiss. He kiss
8 me said I'm sorry. That's real. I'm sorry I did this to
9 you, A.G.. That don't mean he can't be held responsible.
10 That's an admission. That's the he say. I'm sorry I did
11 it to you. That's really the he say. He said I'm sorry I
12 did it to you A.G. Take the money back.

13 You know, that's another detail isn't it. She
14 takes the money. He takes the money from her house. The
15 money she was going to give to who. Mr. Richardson for
16 the rent. He's angry about that. He's going to get back
17 at everybody, but after she's talked him down, he said go
18 on and take money back, go ahead. I'll walk you back.
19 You can have it back. Because she talked him down,
20 because he didn't kill her, that doesn't mean you let him
21 go.

22 It's time -- it's about power and control. And
23 he controlled her that day, that night, that morning, but
24 soon that power is going to be gone. Y'all going to be in
25 control she didn't want to go to the hospital. I think

1 that shows she's more credible. She didn't want to go.
2 She was embarrassed, had one of the nurses say I'm
3 embarrassed, but she did. You need to go. I don't want
4 to go to the hospital, put a gown on, start looking at
5 your body, sticking stuff in your vagina. Who wants to
6 come to court and have people talking about your vagina
7 and your private parts. Why would she make that up.
8 There's no reason for her to make that up and go through
9 all of that, to go through exam, have somebody touch you.
10 Maybe she still cared for him. Maybe, after he
11 let her go, maybe she had -- she knew she had to and she
12 did. And what did she start doing. Why did he just say
13 he beat her. If the rape didn't happen, why didn't she
14 just say he beat me up. There's no reason for her to talk
15 about this unless it happened. He's already leaving. She
16 finds out he's got his letter. Why would she make this
17 up. She don't want to tell. It's not a book on how you
18 act if you're sexually assaulted or raped. There's not a
19 you got to do this. You got to call now. You got to say
20 this. Don't ever say something that's wrong. Some
21 defense attorney trying to find a defense say, well, they
22 didn't do this. You didn't call right away. There's no
23 way -- it's a certain way that people act when you have
24 this. It depends on the circumstances, depend on if a
25 stranger rape, if it's somebody you knew. You can be

1 married and be raped. If a woman says you're not gone
2 come inside of me, you not gone be inside of me, I don't
3 want to be inside of you, you do not have a right to do
4 that. I don't care who you are. I don't care if you been
5 in a relationship for ten years. They broken up, clearly
6 broken up. We know why. And he said he decided he was
7 gone take her one more time before he left. It's getting
8 closer to the 30 days. I'll show the preacher who's in
9 charge. I'll take his money. I think this is going --
10 I'll take it all before I leave. That's what happened.

11 She goes from her trailer talking to Barbara
12 Williams on the phone and Barbara knows something wrong.
13 She gets with her and talks to her and sees her injuries,
14 tells her what happened the time and place and what does
15 she do. Does she want to tell. No. I don't know, but
16 then she starts. Can you make all this up. She starts
17 telling. She gives a statement to who. The first person
18 she mentioned. Who. You can't answer it. She gives the
19 first statement to Barbara. Barbara back there. Then
20 gives a statement to Mr. Richardson, talks to her. Then
21 talks to Andrew Gillette. Some of this can't come in
22 evidence, but clearly gave a statement to him, told him
23 what happened. He took notes of it, goes to the hospital
24 talks to Shantell Ward, talks to Rachel Posey tells them
25 all what happened, just make all that up.

1 Then the next day talks to Rachel Ward again,
2 that will be on the 23rd. And then on the next day talks
3 to Rachel Ward at the sheriff's department and gives a
4 statement. State's 24 you gone have it back there tells
5 the same -- is it identical, no. Is it the same
6 consistent story of what happened, yes. Only two things
7 he could find out of all those statements, was I assure
8 you would ask more if they were. Something about hearing
9 about some bullets from I don't even know who from a
10 niece, which she was talk to after he was arrested which I
11 have no idea what the heck he's trying to say that that's
12 how he knew she had a gun. He saw the gun and she showed
13 him the two bullets. Guess how many bullets were in the
14 gun when he found it, when Dubose found it, two. And the
15 other was a -- when she said the towel was in her
16 bathroom, then she said, no, it was in his bathroom. It
17 was in his bathroom. Did she mistake the first time, yes.

18 Guess what about that towel, that towel is the
19 best evidence we got. Think about this. She goes up
20 there to east, got the tape on, got it. I don't want to
21 go. Okay, I'm going and starts telling the story. Well,
22 they do a search warrant on his house. They don't find
23 the towel. And somebody testified as victims go through
24 you talk, you remember a little bit more. You remember a
25 little bit more. When they're talking to her, Shantell

1 may be the 23rd or the 24th, she says, you know, I wipe
2 myself off with a towel. Oh, by the way DNA, I think she
3 testified she rinsed that out in the bathroom. DNA
4 they're gone try to -- let's stay focus on the ball.
5 There may be a few questions here and there, but sometimes
6 questions are just questions, that doesn't mean a
7 reasonable doubt. Don't get caught up in that, stay
8 focused on what this is about. But what did she say, you
9 know, he gave me a towel in there and I wiped my face off.
10 And it's at the top of the bed in his bedroom where he
11 raped me, where I know his penis was inside of me that
12 time. Guess what they do, they go get a search warrant,
13 the second one. Why. Because Mr. Dubose saw it, because
14 Shantell saw it. Tom saw it. Wayne saw it, no. They
15 went back because she remembered. She said, you know, the
16 towel he gave me told me to wipe my blood off, it's on the
17 top of his bed. Guess what, it was. That's great
18 evidence. In his bedroom -- did I misspeak over here
19 maybe, but it was in his bedroom. They went back and they
20 found it. That better than being there.

21 But what happened and the details. Go back read
22 State's 24. Here it is, I'm sorry. She may have been
23 confused on the date when this happened, don't let that be
24 a reasonable doubt. There's no question this happened on
25 the 21st night, 22nd, that's not in dispute. That's when

1 they responded. The fact she might be off a day, don't
2 let that say this didn't happen. God bless I mean this in
3 a nice way. She's 80, that's not old. She's 80, put her
4 through this, put her through cross. Is she gone get
5 everything perfect every time, no, sir, no, ma'am. She
6 got these details. She got the story of what happened to
7 her consistent from that morning on the hill, all the way
8 to the 24th. Maybe, a few things missing here and there.
9 Maybe a few things she didn't want to tell here and there,
10 but it was all consistent.

11 He comes to the house, gives him some food. He
12 comes back. She said he kind of goes in, but he's there.
13 They hear a doorbell ring. Think about how can you make
14 this up. You hear the doorbell ring, he pushes her down,
15 hits her with something. She's got some contusion here.
16 And I don't mean this bad, but every morning she wakes up,
17 she's gone look in that mirror and be reminded of him
18 inside of her and hitting her when she didn't want him to.
19 Every day for the rest of her life and I hope it's a long
20 life. But that's what she's gone see every day and be
21 reminded of, that is real. But he throws her down on the
22 ground. He's gone try and say there wasn't enough room
23 for her to be thrown down on the ground. Well, let him
24 go, pushed her down on the ground got something. You go
25 back and look at that bruise she's got right here, that

1 made up. Is that consistent with him being on top of her
2 after he hit her. Tape right there. She stays down. If
3 you move, if you say anything, I'm going to kill you.
4 There's one bullet for me and one bullet for you. It's
5 that threat of a high and violent nature. Is that CSC
6 first degree. I'm going to kill you. That's what she had
7 hanging over her head.

8 Is this CSC first degree. It's not second.
9 It's not third. Is first degree. Two bullets. Looked --
10 think of this look at them. He told her to look at them.
11 You look at them. I got control of you. If it's not a
12 kidnapping, look at that gun. A.G., I got two bullets.
13 Do you see them. One's for me and one for you. She still
14 tried to fight a little bit and she pushed him, kicked
15 him. And then he said don't try to kick me in the balls
16 again. The details of the story. Take hers back to her
17 bedroom. I don't know and I'm trying to cover everything.
18 If I forget, y'all go back there use your common sense and
19 figure it out, if he said something. Goes back to her
20 bedroom, says her TV, she pushes him again or tries to.
21 Her TV falls off. He puts it back up says he then gets on
22 the bed. She don't know if he actually inside of her or
23 not. He tried. And the fact he took her pants off, don't
24 hold that against her. Don't hold that against her. She
25 just had gun pointed at her said one bullet for me and one

1 for you, don't forget that. You think that's not in her
2 mind. And then he tries to have sex with her. I'm not
3 sure if he was inside of me or not then, but he tried. He
4 may tried to say something and ask a question, well, look
5 at her bedroom. Did the assault occur here. Yes, ma'am,
6 it did because she said it did.

7 I'll tell you something that woman said she's
8 raped, she was raped. She don't want to tell it. She
9 went to bed that night. She gets up the next morning.
10 Did she clean her bed up. She wasn't thinking about a
11 crime scene, that little spread is laying down there. I
12 even ask her is that the way you do your bed. She said,
13 well, no. Could somebody clean it up. Yeah, or the cat
14 could have done it. I mean, that's her. She tells it
15 all. Did she make her bed up the next day before she left
16 anything wrong with that, that's not a reasonable doubt.
17 She leaves. She calls Barbara. But what does she do. We
18 going to the second house. He takes her down to the
19 second house. He's got her money. I still don't know
20 what he's gone do at this point and she doesn't either.
21 He may not either, but he takes her money down there. I
22 don't know if he's gone burn the money, takes her down to
23 his house, starts playing some country music ask her if
24 she wants something to drink. She said, yeah, but I watch
25 him to make sure he didn't put something in it. Don't

1 hold that against her. But on the way down, who does she
2 see. We just don't go out and get these witnesses. She
3 says I remember hearing some noise and I look back and I
4 thought I saw somebody at Melissa's trailer. She heard a
5 noise. Melissa lives down from her. Melissa's daughter
6 came in here Keyona. What does Keyona say. Well, I saw
7 them. I don't know him that well. I've seen him. And I
8 saw him with his arm around like this around her neck,
9 going down by the -- from the lake look like they're going
10 to his trailer. Did you say anything. No. Did you say
11 anything. No. Do you usually speak when you see Ms.
12 A.G. Does Ms. A.G. usually speak to you. Oh, yeah,
13 that's who she is. Did she say anything to you. No.
14 Now, does she know what was going on. No. If
15 she did, I'm sure Keyona would have called the police, but
16 she didn't know. But that's another one of those pieces
17 of evidence that you can't make up. She told that way
18 before anybody knew about Keyona Bethea. Hey, I saw these
19 people there. Keyona says I saw his arm around her neck.
20 What else did you see. I said Keyona have you seen them
21 before walking? Yeah. Have you ever seen them walking
22 like that? No, sir. I never seen him with his arm around
23 her neck like that. And what does she say? And she
24 couldn't have plan this y'all, that Keyona would have been
25 there. I mean, she's telling what she remember, details.

1 What does she say in her statement. We walked back to the
2 mobile home down toward the lake room -- toward the lake
3 room to his trailer number [REDACTED]. When we pass one of the
4 neighbors number [REDACTED], we heard a noise in the yard, car
5 doors or some metal something. He said Mr. McElveen,
6 Edward McElveen said if you try anything funny, I will
7 break and snap your neck and shoot you. You think there's
8 any wonder she didn't say hey or didn't say anything to
9 Keyona.

10 They get to his house and then he says he wants
11 some coochie, that maybe kind of consistent that maybe he
12 didn't finish the first time. These are little things,
13 but I thought about this coming over here today. I think
14 it's some testimony might have shared some dirty pictures.
15 Maybe he's getting excited, I don't know. He says I want
16 some coochie, already been threatened. He still got the
17 gun. Goes back -- and this is that sexual battery we got
18 to prove. She said, yeah, said I hate to ask you this.
19 You think she wants to be asked this. You think she
20 wanted to go through all this, put herself up here in
21 front of y'all and strangers and everybody. Did he put
22 his penis inside of you. I have to ask it. I don't want
23 to ask the woman that, but I have to. Yes, I did. Did he
24 finish. He did. Did he have any condom on. He did not.
25 Did you want A.G. , did you want Edward

1 McElveen inside of your body with his penis. Did you want
2 that? No, sir. And did you give him permission to do
3 that. No. Did you want him to. No. No. No. No. And
4 no means guilty in this case. No, I didn't have any
5 choice. And then she starts talking him down. Can you
6 make this up. We submit you can't make this up. He
7 starts saying, well, it's getting close to 12. She thinks
8 he's talking about -- this may be it for me and him. And
9 she starts talking him down and that's when she says look
10 you're moving, I'll go with you. Self preservation is
11 what it is. And she talks him down and says I want to.
12 I'll move with you. He says, well, I don't believe you.
13 She wasn't going to go with him. She's trying to save
14 herself. And you know what else she's trying to save, the
15 real A.G. You know who else she's trying to save
16 and that's why she's trusting, she's trying to save him.
17 She don't want him to kill himself, that's who she is,
18 that's who she is. Any wonder she didn't call right away.
19 You going to hold that against her. Call me at four. No
20 question about that. She called, why, just to see if he
21 killed himself. That's the case.

22 It's she say, evidence say. Is there any other
23 way. I don't know what he'll say, the lawyer,
24 Mr. Routzong, excuse me. There's no way she could make
25 all this up, no way. Did she plan it. Did she say Keyona

1 was going to be out there. There's no way. That's why
2 this is credible. It's believable.

3 We submit the only issue we respectfully submit
4 that she couldn't leave. You know, had one time had some
5 folks, well, what's a kidnapping. Well, I mention this
6 week you don't have to be in trouble. You don't have to
7 be handcuffed the whole time. Your will, your body
8 control of you has to be taken over by somebody else.
9 Well, that's what he did power and control. You can't
10 leave here until I say so. You can't leave here. Well,
11 now you know what, I've talked you down. You talk me
12 down, I am gone let you go back home. That is a
13 kidnapping. You don't have to be locked in a door or
14 locked in a trailer. It can last any time. It can last
15 five minutes if it's a true kidnapping and you got away.
16 Here it last hours, seven or eight hours, but it's a
17 kidnapping. There's no certain amount of time or way you
18 kidnap. It's when you have somebody's control of them and
19 they can't do anything unless you tell them. You can't do
20 anything. You're not doing anything. You're staying
21 here.

22 So we submit the only issue you'll have
23 respectfully is whether it's a CSC first, CSC second or
24 CSC third. And when he had that gun on him, threatening
25 him, I'm gone shoot me and you. We submit that's only a

1 first. That's up to y'all. It's up to y'all. But we
2 respectfully submit that the verdict that fits this
3 evidence is criminal sexual conduct rape in the first
4 degree and kidnapping and possession of a weapon during
5 the commission of a violent crime.

6 Ladies and gentlemen, I am gone close now. His
7 semen was inside of her. There's no question one and
8 quatrillion whatever it is. His semen was inside of her.
9 Nobody else's semen, only his. She say evidence say. The
10 swabs, the other DNA from her body got some from him. DNA
11 where he was kissing her. Only semen is from him
12 undisputed, without question that's his semen in her.
13 That is his semen in her. She said, she say, evidence
14 say.

15 Ladies and gentlemen, the presumption of
16 innocence Mr. Routzong mentioned it. I'm going to mention
17 it now and too I believe it is a beautiful, beautiful body
18 of law. And his honor is going to charge you with it.

19 Defendants are presumed innocent unless and
20 until the State proves them guilty beyond a reasonable
21 doubt. Once you get back in that jury room after
22 Mr. Routzong's finished and the judge has charged you,
23 you'll be able to start considering the evidence. And as
24 you do that, you symbolically, we submit, if you believe
25 the evidence take off that robe of righteousness,

1 presumption of innocence, you'll start to take it off if
2 you believe the State has proved its case beyond a
3 reasonable doubt. And we believe you'll take it off.
4 Take it off as you listen. Take it off as you look at her
5 injuries, but don't throw it away. When you come back in
6 here with your verdict, we respectfully ask symbolically
7 bring that robe of righteousness, that blanket, bring it
8 back in here, give it to the true innocent person in this
9 case. Let her use it to warm herself in her years that
10 she has left, give her the innocent liking because she's
11 innocent. Thank you.

12 MR. ROUTZONG: Your Honor, I have a matter of
13 law to take up. I object to that comment by the
14 Solicitor. We're not here to give ---

15 MR. MEADORS: You want to approach.

16 THE COURT: You all come up here.

17 (WHEREUPON, a bench conference was held in the
18 presence of the jury, but out of the hearing of the
19 jury.)

20 THE COURT: Yes, sir, you want to do closing
21 argument.

22 MR. ROUTZONG: Mr. Meadors.

23 MR. MEADORS: Mr. Routzong.

24 MR. ROUTZONG: Ladies and gentlemen, I'm going
25 agree with Mr. Meadors on something. He said something

1 about forest and trees. Don't focus on the trees or
2 you'll miss the forest. You know, ladies and gentlemen,
3 all these little pieces of evidence are the trees. If you
4 don't have no trees, you ain't got no forest. And, ladies
5 and gentlemen, there is no forest from the trees. Maybe,
6 a couple trees.

7 The other thing I want to hit right off the bat.
8 he said the best evidence they got is this towel right
9 here that was taken from that room at Mr. McElveen's
10 house. The best evidence they got, we don't know what it
11 is because they didn't test it. I should go sit down
12 right now if that's the best evidence they got. I
13 shouldn't have to say anything more.

14 Here's the thing, let's start off with this
15 story again not in dispute he lives there. She lives
16 there. Not in dispute, he clearly was in love with her.
17 I don't think she -- I don't think she testified to
18 necessarily that she was in love with him, but, you know,
19 we kind of can infer that because they were together for a
20 year. That's her testimony. I think she said almost 24
21 hours a day. Now, she said they didn't always sleep, you
22 know, and spend the night. But they were around each
23 other all the time. They cared about each other. He
24 cared about her. And you will notice when Mr. Richardson
25 was up there, I never asked him anything about whether he

1 had an affair. The State did, but I didn't because
2 that's not relevant. The only relevant thing is that he
3 thinks they were having an affair, that's pretty clear.
4 He cared enough about her, but it's a bad way to show it.
5 But we're all human beings here. We know how things go
6 our common experience. He sends a letter. He actually
7 makes a phone call first, boom, that didn't go over very
8 well as it shouldn't. When a man is not guilty of having
9 an affair and you call his wife, that's going to tend to
10 make somebody real angry. And they get a letter, more
11 fuel on that fire and then they send the eviction notice,
12 not in dispute. They had enough, that was it, that's all
13 they needed to hear from him. He's got to go. And Ms.
14 A.G. she wasn't real happy either. Her testimony is,
15 buddy, it's over. And she said this is her testimony
16 about three weeks, then one day he was sitting outside her
17 house. And she said they seen each other go like hey.
18 Said that one day he was sitting outside her house. You
19 know, here's one of those little things like Mr. Meadors
20 has talked about that kind of strikes you as odd. She
21 says he ask me for some food. Do you remember what she
22 said after that when I was cross examining her. She said
23 I knew he had food. How does she know that. That
24 bothered me. Because I'm sitting there thinking to
25 myself, well, if you haven't seen him in three weeks, how

1 would you know that for a fact, he didn't have a car, that
2 was her testimony. How did she know that. You know,
3 there's no way of knowing whether -- what I'm getting
4 ready to say is true or not because none of us were there.
5 We weren't there during those three weeks, but, you know,
6 people don't stay angry forever necessarily. You know
7 people get real angry and then their heart kind of
8 softens. Did that happen here. I don't know, but somehow
9 she was very definite she knew he had food. The only way
10 she know that is if she been around him. She talked to
11 him. Maybe, she was in his house. I don't know. It's a
12 possibility.

13 And then she says he came back a second time.
14 You know, when you look at her statement, it's really
15 interesting. This has been admitted. You happen to look
16 through that, she's very definite on the time. She said
17 this happened at 5:20. Something happened at six o'clock,
18 12 o'clock, ten o'clock, 11:30, 1:40, that's one of those
19 things that kind of struck me as odd, but, okay, so she
20 says at 5:20 he comes in the house, goes to the bathroom.
21 You know one of the things and another one of these little
22 things that struck me as really odd when she tells this
23 story and you heard the Solicitor she's told it -- I don't
24 know I counted it up what was it six or seven times maybe
25 one, two, three, four, five, six, seven times. He said

1. that she told this story to law enforcement. Did you
2. notice she even said, you know, stuff like I pointed down
3. the hallway. Every time she talks about this I pointed
4. down the hallway. He's been in her house he knows where
5. it's at. I don't know maybe it doesn't matter that much.
6. It's just one of those little things. And then she says
7. this assault starts taking place. He tapes up her hands.
8. She says that she kick him. Remember she said she kicked
9. him across the coffee table. Here's the tape. She says
10. he took that piece of tape and you remember twice across
11. her mouth. Then the doorbell rang, but after she cross or
12. after he put that tape across her mouth twice, she
13. testified that she said to him go ahead shoot me. I don't
14. care. How is that possible. That doesn't make sense. We
15. don't know when these got put there. Police don't know
16. these got put on that table. They may have been there. I
17. mean, she testified that it was the food that was there.
18. He put the food on the coffee table. I think there's a
19. picture in here somewhere where it's actually -- they
20. took a picture of the refrigerator. That's a good
21. question. You know, remember when I asked her I said this
22. was a real struggle wasn't it. You kicked him in the
23. groin. She said that she vomited up blood, spit up blood.
24. Does that look like there's any blood on anything. Does it
25. look like it's disturbed. Wouldn't you wonder about that

1 if you're a law enforcement person.

2 You know, the Solicitor said something
3 interesting. He said she wasn't interested -- basically,
4 what he was saying I don't know exactly what he said, but
5 basically what he was saying is she wasn't interested in
6 preserving a crime scene, so she made her bed. She made
7 her bed, but she left the tape on. That strikes me as
8 odd. Her bedroom -- I'm sorry these are all out of order.
9 She took the time to make her bed. She wasn't interested
10 in preserving a crime scene. Yet, she put tape on her
11 left hand, look at the tape, does it look like it's been
12 that kind of loose like somebody just kind of put it on
13 there wasn't very serious. Do you know when that was on
14 there. Is that how you tape somebody up if you wanted to
15 bind them up or maybe if the tape's on your coffee table
16 and you're mad enough at somebody, you just put that
17 little bit of tape on your wrist and then you start
18 telling a story. I don't believe that tape. We don't
19 know what happened in there, in the bedroom. Police did
20 not take any of the sheets off. You remember she said she
21 got hit so hard that blood splattered up her face and on
22 her hair. Got to be blood somewhere, right. They say
23 it's on that rag, but we don't know. Got to be somewhere.
24 From 5:20, she testified until ten o'clock, four hours and
25 40 minutes. All this is going on. Does anybody here

1 really believe that. If you're getting abused like that,
2 the age of 80 -- I'm 57 and I couldn't get abused for four
3 hours and 20 minutes. They have to carry me somewhere.
4 That's just not reasonable. But they leave the house.
5 They walk down along the way. Remember I asked her -- we
6 don't know if she's all bound up or not. She doesn't
7 remember when the tape came off she said. She doesn't
8 know what happened to the tape. She doesn't remember
9 anything.

10 Remember I asked her I said my goodness that's
11 awfully dark out behind your house. I been out there at
12 night, so I seen it. It's tree roots, little bit of a
13 hill, but, okay, you know, they're out there walking in
14 with Ms. Bethune I'm sorry -- Ms. Bethea she saw him.

15 Now, the Solicitor character it as his arm's
16 around her neck like he was squeezing on her neck. Do you
17 see what it look like when she hugged him up there. Her
18 arm wasn't anywhere near the throat. That was his
19 demonstration not mine. That's what she said she saw.
20 And, you know, the Solicitor said, well, doesn't Ms. A.G.
21 always say hello to you all the time. Ms. A.G. I think
22 testified she heard things. I don't know that she
23 testified she actually saw anything, but, you know, it
24 might be one of those days. I don't know. Did you ever
25 see them walking like that. Well, she doesn't live there

1 and she's not there 24 hours a day observing. It's not
2 really a fair question to ask her, but she did the best.
3 No, I never seen her. I've never seen the judge hugging
4 anybody. Don't mean he doesn't do it.

5 We get in the house, Mr. McElveen's house. You
6 know it's funny, it's the same thing. Mr. McElveen is not
7 quite as neat, but there's no blood. They didn't test the
8 sheets. You know, this is where that assault suppose to
9 be -- had taken place. You know, if you're going grab any
10 piece of evidence, that white clothe that they didn't
11 test, you're going to grab any piece of evidence when you
12 grab these sheets. This vile attack occurred in this
13 house. You know, it's a funny thing about stories. The
14 best lies are the ones that are intermingled with truth.
15 You know, you can tell a story and be kind of consistent
16 especially if you told it as many times as she has when
17 it's mixed in with a little truth. Like he was at my
18 house. We walked to that house. We had sex. He walked
19 me home. He gave me a peck on the cheek. He told me to
20 turn my alarm on, make sure the door is locked.

21 Remember this she said getting a little ahead of
22 myself, but I don't want to forget it. She said I was
23 afraid he was going to commit suicide. Now, I don't know
24 Ms. A.G. ... She seems like a nice person to me. So she
25 testified she likes to help folks. She was concerned this

1 is somebody she cared about. He's threatened to commit
2 suicide. They parted ways. Okay, if you don't want to
3 tell anybody that you been raped, okay. You don't want to
4 get the police involved, okay. I don't know why you keep
5 the tape around if that's true, but okay. You don't want
6 to do that, but if you care about somebody and they're
7 threatening to commit suicide, wouldn't you call the
8 police then. You don't call him at four o'clock to see if
9 he's dead or not. You call the police. That doesn't make
10 sense. Every bit of evidence that they put forward you
11 ever notice how it kind gets out there and then it's kind
12 of taken back like the \$6,000. He was going to burn it.
13 Richardson as far as I know got it, if it existed.

14 The next day -- well, first thing we need to say
15 is she went to bed. After all these vile incidents, she
16 said she didn't take a shower, that's what she testified
17 to. She didn't take a shower, changed her clothes, got up
18 the next day after she called to see if he really killed
19 himself or not. She got up started her morning routine.
20 I think she said TV. Eventually, I asked her did you get
21 your books or start doing your books. She said I didn't
22 do it. I gathered them up, took the \$6,000 went over and
23 saw Ms. Williams. The police were called about -- well,
24 several hours later let's put it that way. All that time
25 with all this opportunity she does not call 9-1-1 once.

1 In her bedroom -- now, she's alone. You know after 1:20
2 or two o'clock, she's alone. There's nobody there
3 threatening her with a gun. There's a phone in her
4 bedroom right there, got my finger on it. She didn't pick
5 up the phone and she didn't call anybody is that
6 reasonable. And all these vile things have happened to
7 you can you say beyond a reasonable doubt, that's
8 reasonable.

9 Here's another phone in her living room. She's
10 there for several hours and does not call 9-1-1. You know
11 when 9-1-1 gets called, after she goes and talks to the
12 people that that man upset the most, angry the most. The
13 people that she works with for how many years, 17 years.
14 The people that pay her money and the people who own the
15 lot that her trailer sits on, that's when 9-1-1 got
16 called. That should bother you a bit. You know, a lot
17 has been made of this gun because it is an important piece
18 of evidence wherever it's at in here. She was with him
19 for a year. Investigator Dubose says, well, I didn't find
20 any of the bullets. Is it possible that she was aware of
21 that gun, that she had examined it in that year and that
22 somebody -- and she demonstrated that. And we can talk
23 about the time. I find it kind of odd that, you know,
24 she discusses that with law enforcement about his niece
25 calling him or calling her and, hey, he wants to get more

1 bullets. I don't know why. I think that's kind of odd in
2 the context of what we're talking about here, in that to
3 me shows that she knew about that gun. I don't know when
4 the niece called. The only thing I know is it was
5 sometime before she told the police that and we're
6 talking about a very compact period of time. If he only
7 had two bullets and she seen the gun, of course, she knows
8 it has two bullets. For all we know, she gave him a gun,
9 that's not in evidence, but it's a possibility. There's
10 all kinds of possibilities.

11 You heard from the forensic person from SLED.
12 You know what bothers me about that sanitary napkin they
13 called it, there's no gentle way putting this. Ms. A.G.
14 is no doubt beyond the period of where menstruation takes
15 place. Most likely the sanitary pad and I think there was
16 some testimony about it, it's for incontinence. Nobody
17 seems to know where it came from, but it has
18 Mr. McElveen's sperm on it, not in dispute.

19 Well, what are the possibilities. She said that
20 he assaulted her sexually and that she pulled her own
21 pants up. She did not have any underwear on. Let's think
22 about that for just a minute. So we got the sanitary
23 napkin and it's got sperm on it. It's not likely that
24 that sanitary napkin is just inside her pants. We don't
25 know because they didn't test it in terms of whether

1 there's sperm in there on her clothing, but let's just use
2 our reason here. The sanitary napkin in the ordinary
3 course, I think this is common experience it goes inside
4 the underwear and the underwear is pulled up and
5 everything gets security. If she's telling the truth and
6 she didn't have any underwear on, how could his sperm be
7 on that sanitary napkin.

8 Remember, she's been inconsistent in saying I
9 took a shower. I didn't take a shower. Apparently, she
10 told everybody except the Nurse Posey that she had not
11 taken an shower, but Nurse Posey said she had. She used
12 body wipes. This is the same day as the police came out
13 there. This is on the 22nd I'm talking about. The most
14 likely thing, the reason there's sperm on that sanitary
15 napkin it was placed in her underwear. She dressed
16 herself as she normally did, gravity exerted pressure on
17 any fluids that she had in her vagina and they went into
18 the sanitary napkin, that's the most reasonable
19 explanation. That's an inconsistency. That means she
20 dressed herself with some care.

21 Why is she lying. That's always the question.
22 Why is the accuser lying. I don't know what happened in
23 that place one possibility is everything she says is true
24 and he's guilty, that's a possibility. Evidence doesn't
25 support it. She acted pretty odd, but, okay, that's a

1 possibility.

2 Another possibility something happened in that
3 trailer that night remember. I asked I said he showed you
4 pictures. I said was he trying to hurt you. What did she
5 say. That's a possibility.

6 Another possibility maybe she realized some
7 regret. Here I am, this guy's getting ready to go.
8 Remember, she's been a widow since 2014. She's somebody
9 who lives alone. You know, maybe that night she was okay
10 with having sex. And then the next morning maybe she
11 regretted it. Maybe he said something. All these are
12 reasonable alternatives, ladies and gentlemen. And if you
13 you have a reasonable alternative, that's reasonable
14 doubt. If I given you any reasonable alternatives, you
15 can't find him guilty. If you go back there and come up
16 with your own reasonable alternatives based on the
17 evidence, you can't find him guilty because the State has
18 hasn't proven it beyond a reasonable doubt. They haven't
19 tested anything. I know we're just Sumter County. It's
20 not CSI whatever that program's called, but can we test
21 something please. Not just leave the case in the hands of
22 a person and that's really like I told you it's a he said
23 she said. She is saying it. He says no. And the
24 evidence --

25 MR. MEADORS: Your Honor, I'm going to object to

1 that.

2 THE COURT: Okay.

3 MR. MEADORS: Can we approach?

4 THE COURT: Yes, sir.

5 (WHEREUPON, a bench conference was held in the
6 presence of the jury, but out of the hearing of the
7 jury.)

8 MR. ROUTZONG: Excuse me ladies and gentlemen.

9 When I initially spoke to you in the opening arguments and
10 I stood right here, I said it's a he said she said case
11 and that's what it is. If there are reasonable
12 alternatives, that's reasonable doubt.

13 What's a good way of looking at reasonable
14 doubt. I will give you an example. If a lady has a cat
15 and she puts it in a box and she puts a mouse in that box
16 and she ties that box up and she sits it down and make
17 sure nobody does anything with that, leaves the room,
18 nobody can touch that box. And she comes back and opens
19 that box up and the mouse is gone, there's not really any
20 reasonable possibilities except that the cat ate the
21 mouse. If you do the same example, put the cat and mouse
22 in a box, tie it up, nobody can get to it, come back later
23 and the mouse is gone, but there's a hole in the box.
24 There's a reasonable alternative. There's another
25 possibility. That's reasonable. That's going beyond a

1 reasonable doubt. In other words, there's another
2 possibility, you can have a reasonable doubt about that.
3 That's what you got all through this case, ladies and
4 gentlemen. He's right. There's a forest. There are
5 trees. And sometimes there's no trees, so there's no
6 forest. You should find him not guilty. They haven't
7 proven this case.

8 THE COURT: Ladies and gentlemen of the jury, we
9 gone take a short break. And then I'll bring you back and
10 then charge you on the law. It's going to take about 15
11 or 20 minutes. You been sitting there for over an hour,
12 so I'll get you back out here in just few a minute. And
13 then I'll charge you on the law and give you this case to
14 decide. Don't discuss the case yet.

15 (WHEREUPON, the jury retire to the jury room.)

16 THE COURT: All right. We'll be in recess about
17 five minutes.

18 (WHEREUPON, a break was taken.)

19 THE COURT: You all ready?

20 MR. MEADORS: Yes, sir, the State ready, Your
21 Honor.

22 MR. ROUTZONG: Yes, sir.

23 (WHEREUPON, the jury came into open court.)

24 THE COURT: Ladies and gentlemen, now that you
25 heard the evidence in this case as well as the closing

1 arguments of the attorneys, I am going to now charge you
2 on the law that you are to apply in this case. Under our
3 constitution and code of laws you, the jury, are the only
4 ones that can make finding of facts in this case. I am
5 not allowed to have an opinion about the facts in a case.
6 So if I've said anything or done anything throughout this
7 trial that you think I have an opinion about the facts,
8 you are to disregard that because under our law only you
9 can determine what the facts are in this case. In the
10 same constitution, the same laws that makes you the
11 exclusive judge of the facts, makes me the exclusive judge
12 of the law. So if you have an opinion as to what you
13 think the law is or what the law ought to be and it
14 differs from now what I tell you the law is, you are to
15 disregard your opinion and accept the law exactly as I
16 give it to you.

17 The fact that this defendant was arrested and
18 charged and indicted in this case as I told you is not
19 evidence in this case and cannot be considered by you as
20 evidence of guilt in this case nor does it create any
21 presumptions or inference of guilt. The indictment is
22 simply a formal written instrument that contains the
23 charges against the defendant and serves as a formal
24 document which processes this case through the court
25 system.

1 The defendant has entered a plea to this
2 indictment of not guilty and that plea cast the burden
3 upon the State of South Carolina to prove each and every
4 element of the indictment to you beyond a reasonable
5 doubt. A person charged with committing a criminal
6 offense in South Carolina is never required to prove
7 himself innocent. And I instruct you and emphasize to you
8 the fact that the defendant did not testify is not a
9 factor to be considered by you in any way in your
10 deliberations.

11 A defendant has a constitutional right to remain
12 silent. If the defendant asserts that right, you cannot
13 consider it in anyway toward guilt or innocence in this
14 case. And I repeat to you under your oath, you're to draw
15 no conclusions whatsoever to the fact the defendant didn't
16 testify. You can't even discuss it in the jury room the
17 fact that he did not testify in this case because he has a
18 constitutional right not to testify and exercise that
19 right. You can't hold it against him in any way. It's an
20 important rule of law in this country that a defendant in
21 a criminal case will always be presumed innocent of the
22 crime for which he is charged and indicted, unless and
23 until his guilt has been proven to you by evidence that
24 satisfies you of that guilt beyond a reasonable doubt.

25 The presumption of innocence is not a mere legal

1 theory. It is not just a legal phrase. It is a
2 substantial constitutional right for which every defendant
3 is entitled. The presumption of innocence accompanies the
4 defendant from the time he's charged, throughout the
5 trial, until you reach a verdict of guilt based upon
6 evidence that satisfies you of that guilt beyond a
7 reasonable doubt.

8 A reasonable doubt is a doubt which makes an
9 honest, sincere, conscientious juror in search of the
10 truth to hesitate to act. Proof beyond a reasonable doubt
11 must therefore be proof of such a convincing character
12 that a reasonable person will not hesitate to rely and act
13 upon it in the most important of his or her own affairs.
14 Proof beyond a reasonable doubt can also be described as
15 proof that leaves you firmly convinced of the defendant's
16 guilt.

17 Now, there very few things in the world we know
18 with absolute certainty. In a criminal case, the law does
19 not require proof that overcomes every possible doubt. If
20 based on your consideration of the evidence you are firmly
21 convinced the defendant is guilty of the crime charged,
22 you must find him guilty. If on the other hand you think
23 there's a real possibility he is not guilty, you must give
24 him the benefit of that doubt and find him not guilty.

25 Now, in determining the facts in the case, you

1 must necessarily pass upon the credibility, which simply
2 means the believability of the witnesses in the weight and
3 value to be given to their testimony. You alone must
4 decide the force and effect of the truth of that
5 testimony. In making these decisions, there many things
6 that you may and should take into consideration. The
7 matter and appearance of the witness on the stand
8 sometimes referred to as the demeanor, was the witness
9 forthright or hesitant, was the testimony consistent or
10 did it contain discrepancies. What was the ability of the
11 witness to know the facts about which he or she testified.
12 Did the witness have cause or reason to be bias or
13 prejudice in favor of their testimony he or she gave or
14 the testimony of a witness corroborated, made stronger by
15 other evidence and testimony or was it made weaker or
16 impeached by such other evidence and testimony.

17 Now, in a criminal case or in any case in this
18 court, the rules of evidence do not ordinarily permit a
19 witness to testify to opinions or conclusions. An
20 exception of this rule exist for witnesses we call expert
21 witnesses. A witness who by education and experience has
22 become an expert in some art, science, profession or
23 calling may state an opinion as to relevant material in
24 matters which the witness claims to be an expert. They
25 may also state reasons for that opinion. You should

1 consider an expert's opinion received into evidence in
2 this case like any other evidence, give it the weight you
3 think it deserves. If you decide that the opinion of an
4 expert is not based on sufficient education and experience
5 or if you conclude that the reasons given in support of
6 the opinions are not sound or are that the opinion is
7 outweighed by other evidence, you may disregard the
8 opinion in its entirety.

9 An expert witness' testimony is to be given no
10 greater weight than that of any other witness simply
11 because the witness is an expert. Further, you're not
12 required to accept an expert's opinion even though it is
13 not contradicted. As jurors, you have a right to believe
14 a small portion of a witness' testimony and disregard the
15 larger or vice versa. You may believe all of a witness'
16 testimony or none. You may believe the testimony of a
17 single witness against that of many or the other way
18 around.

19 And normally in a case there's two types of
20 evidence which are generally presented during a trial
21 direct evidence and circumstantial evidence. Direct
22 evidence directly proves the existence of a fact and does
23 not require deduction. Circumstantial evidence is proof
24 of a chain of facts and circumstances indicating the
25 existence of a fact. I'll give you an example, we been --

1 I been in this courtroom all day and I don't have any clue
2 what's going on outside. If I walk to the window and look
3 out and it's pouring down rain and I see it rain, that's
4 direct evidence. When we leave here tonight and I walk
5 outside and there's water all over the ground, there's mud
6 puddles everywhere and everything is wet, I can -- that's
7 circumstantial evidence in that I can conclude sometime
8 this afternoon it rained. I didn't see it rain. If I
9 had, that be direct evidence. But the fact that I see
10 everything wet, circumstantial evidence is it must have
11 rained while we were in here.

12 The crimes can be -- maybe proven by
13 circumstantial evidence and the law makes no distinction
14 between the weight or value to be given to either direct
15 or circumstantial evidence. However to the extent the
16 State relies on circumstantial evidence, all the
17 circumstances must be consistent with each other and when
18 taken together, point conclusively to the guilt of the
19 accused beyond a reasonable doubt. If these circumstances
20 merely portray the defendant's behavior as suspicious, the
21 proof fails. The State has the burden of proving the
22 defendant guilty beyond a reasonable doubt. This burden
23 rests upon the State regardless of whether the State
24 relies on direct evidence, circumstantial evidence or some
25 combination of the two.

1 Now, criminal intent is a necessary element of
2 each crime and it must be proven to you beyond a
3 reasonable doubt. Criminal intent is always a matter that
4 must be determined by the jury from the circumstances
5 surrounding the situation. There's no way to prove intent
6 to a mathematical certainty. There's no way medical
7 science can dissect a person's brain in determining what
8 he or she had in mind. So the law states criminal intent
9 may be inferred from the circumstances shown to have
10 existed both before and after the fact. This is how you,
11 the jury, make a determination of whether or not the
12 elements require intent was present.

13 Criminal intent is a state of mind is that it
14 operates jointly with an act or omission in commission of
15 a crime. Criminal intent is a mental state of conscious
16 wrongdoing. So it is up to you, the jury, to determine
17 what the defendant intended to do based on the
18 circumstances shown to have existed. And I tell you the
19 State must prove criminal intent beyond a reasonable doubt
20 just as it must prove every element beyond a reasonable
21 doubt.

22 Now, the defendant is charged with kidnapping.
23 The State must prove beyond a reasonable doubt that the
24 defendant knowingly and unlawfully seized, confined,
25 inveigled, decoyed, kidnapped, abducted or carried away

1 another person without authority of law. To do a thing
2 unlawfully, is to do it willfully against the law.
3 Knowingly means with knowledge consciously not
4 accidentally. Seize means to take hold of suddenly or
5 forcefully. Confine means to limit, restrict or in close
6 within bounds, imprison or shut or keep in. Inveigle
7 means to lure, entice or lead astray by false
8 representations, promises or other deceitful means. Decoy
9 means to lure by or as by -- a decoy is something to
10 entice a person into a trap. Kidnap is to remove a person
11 against his or her will by unlawful force or fraud.
12 Abduct means to carry off secretly by force for an illegal
13 purpose. Carry away means to remove. The State does not
14 have to prove that the defendant did all of these things.
15 Instead, if you find beyond a reasonable doubt that the
16 defendant did any of these things, you may find the
17 defendant guilty of kidnapping. Something done without
18 the authority of law is something which the law does not
19 sanction, permit, allow, condone or provide justification
20 for. Kidnapping does not have to be for any personal or
21 monetary gain or for any illegal purpose, but maybe for
22 any reason whatsoever.

23 Now, the defendant is also charged with a crime
24 of criminal sexual conduct in the first degree. The first
25 element which the State must prove to you beyond a

1 reasonable doubt is that the defendant engaged in sexual
2 battery with the victim. A sexual battery is sexual
3 intercourse, cunnilingus, fellatio, anal intercourse or
4 any intrusion however slight of any part of a person's
5 body or any object into the genital or anal openings of
6 another person's body except when the intrusion is
7 accomplished for medically recognized treatment or
8 diagnostic purposes. If you find that the State has not
9 shown beyond a reasonable doubt that the sexual battery
10 occurred, you will stop your deliberation and your verdict
11 will have to be not guilty.

12 If you find that a sexual battery did occur, you
13 must then decide that the State -- whether the State has
14 proven beyond a reasonable doubt that the defendant used
15 aggravated force to accomplish the sexual battery.
16 Aggravated force means the use of physical force or
17 physical violence of a high and aggravated nature to
18 overcome the victim. This includes the threat or use of a
19 deadly weapon or the victim submitted to sexual battery
20 while the victim was also the victim of a forceable
21 confinement, kidnapping, robbery, extortion, burglary,
22 house breaking or any other similar act or offense.

23 Now, if you find that the State has not proven
24 beyond a reasonable doubt criminal sexual conduct in the
25 first degree, you may consider the lesser included offense

1 of criminal sexual conduct in the second degree. You may
2 consider whether the State has proved that the defendant
3 is guilty of second degree and second degree criminal
4 sexual conduct contains all of the elements of the first
5 degree except the circumstances of aggravation. You must
6 find a sexual battery in a second degree as well. The
7 difference between first and second is the circumstances
8 of aggravation. The State must prove beyond a reasonable
9 doubt that the defendant used aggravated coercion versus
10 aggravated force. In the first degree, it's aggravated
11 force. The second degree is aggravated coercion to
12 accomplish the sexual battery.

13 The aggravated coercion means that the defendant
14 threatened to use force or violence of a high and
15 aggravated nature to overcome the victim or another
16 person. If the victim reasonably believe that the
17 defendant had the present ability to carry out the threat
18 of aggravated coercion, it may also exist if the defendant
19 threatened to retaliate in the future by the infliction of
20 physical harm, kidnapping or extortion under circumstances
21 of aggravation against the victim or another person.

22 Now, if you find that the State has failed to
23 prove criminal sexual conduct in the first degree beyond a
24 reasonable doubt or criminal sexual conduct in the second
25 degree beyond a reasonable doubt, you may consider whether

1 the defendant has proved beyond a reasonable doubt that
2 the defendant is guilty of criminal sexual conduct in the
3 third degree beyond a reasonable doubt.

4 Now, criminal sexual conduct in the third degree
5 includes all of the elements of second degree except the
6 proof of aggravated coercion. The State must prove beyond
7 a reasonable doubt that the defendant used force or coerce
8 without aggravating circumstances. It's the same element
9 that a sexual battery must have occurred, but here
10 aggravated force was not used or aggravated coercion was
11 not used. It was just simply that the defendant forced
12 the defendant or coerce the defendant without any form of
13 aggravation into the sexual battery.

14 Now, the defendant is also charged with the
15 crime of possession of a weapon during the commission of a
16 violent crime. The State must prove beyond a reasonable
17 doubt that the defendant was in possession of a firearm or
18 visibly displayed what appeared to be a firearm during the
19 commission of a violent crime. A firearm means any
20 machine gun, automatic rifle, revolver, pistol or any
21 weapon which will or is design or may readily be converted
22 to expel a projectile. In order for the defendant to be
23 guilty of possession of a weapon during the commission of
24 a violent crime, you must find whether the defendant is
25 guilty of a violent crime. And the State must prove

1 beyond a reasonable doubt that the weapon further advanced
2 or helped in the commission of that crime.

3 Now, ladies and gentlemen, you are not partisans
4 or advocates for the State of South Carolina or this
5 defendant. You do not serve as jurors to reward your
6 friends or punish your enemies, obviously such a converted
7 system of justice would not be tolerated. You have been
8 selected by both the State and this defendant to be fair
9 and impartial jurors. It is your duty then during your
10 joint deliberation to determine the truth in this case,
11 giving to this defendant the benefit of every reasonable
12 doubt on each and every issue and apply the facts that you
13 determine to be true to the law that I've now given to you
14 and reach a verdict in this case.

15 Now, Mr. Foreman, the -- hand that to him. I
16 have had my law clerk draw up a possible verdict form in
17 this case and I'm just handing you this because I'm going
18 to explain to you what your options are on this, okay. In
19 the top of the verdict form, is simply the caption of the
20 case. That's the name of the case and how it's listed in
21 the court system. Now, it's the possible verdicts. One
22 is as to the charge of kidnapping, we, the jury,
23 unanimously find the defendant guilty or not guilty. If
24 you think the State has proven those elements beyond a
25 reasonable doubt, your verdict would be guilty. If they

1 failed to make that proof, your verdict will be not
2 guilty.

3 The second charge is criminal sexual conduct in
4 the first degree. If you unanimously find that the State
5 has proven beyond a reasonable doubt that the defendant is
6 guilty, your verdict would be guilty. If you think they
7 failed to prove it beyond a reasonable doubt, it would be
8 not guilty.

9 The next charge is a lesser include offense of
10 first degree. If you think the State has failed to prove
11 aggravated force, but they hadn't proven to you beyond a
12 reasonable doubt aggravating coercion, then you'll be
13 looking at second degree and the verdict will either be
14 guilty and not guilty.

15 Now, the next one is the possession of a weapon
16 during violent a crime and the reason that's there all of
17 those crimes above kidnapping, criminal sexual conduct and
18 first degree and second degree are all listed as violent
19 crimes in South Carolina. You can't find him guilty of
20 possession of a weapon unless you find him guilty of one
21 of the crimes above. And so the State has to prove each
22 one beyond a reasonable doubt.

23 If you don't think the State has met its burden
24 of proof on criminal sexual conduct first or second, you
25 may consider the third option which is where the State

1 prove to you beyond a reasonable doubt he's guilty of
2 criminal sexual conduct in the third degree. Your verdict
3 must be unanimous. If you find him guilty of first
4 degree, you don't look second or third. If you find him
5 not guilty or don't think they proved beyond a reasonable
6 doubt on first, you go to second. If they have proved it,
7 you find him guilty. They did not prove it, you find him
8 not guilty and then you go to the third.

9 You can't find him guilty of the possession of a
10 weapon on a third because it is nonviolent, okay. Now,
11 the order that put I these in, the guilt or innocence
12 doesn't mean anything. Don't draw any presumption from
13 that at all. We just had to put them in some order. The
14 State has the burden of proof. I understand the verdict
15 form is a little confusing. I just want to be sure you
16 understand it.

17 Now, your verdict must be unanimous. All 12 of
18 you must agree. When you do agree, then you're to check
19 the appropriate blocks on the verdict form, sign your name
20 and date it and knock on the door and we will bring you
21 out and receive your verdict. Now, if any time during
22 your deliberations somebody needs to be excused for any
23 reason, you got to stop talking about the case. You can
24 only talk about it when all 12 of you are sitting around
25 the table. So if that person had to go to the restroom,

1 stop talking. They come back continue talking until you
2 reached a verdict. Like I say, all 12 you of must agree.

3 If you have a question of law, I can bring you
4 back out on my charge if you want me to explain the law to
5 you again, I can do that. If you have a question of fact,
6 I can't answer that. Because you've heard all the
7 evidence you going to hear and I can't reopen this case.
8 So if you have a legal question, if you'll write it on a
9 piece of paper, send it out to the bailiff, I'll bring you
10 back out and answer that. If it's a question of fact, I
11 can't answer it.

12 Now, I got to go over these charges with these
13 lawyers because I may have left something out. So I'm
14 going to send you to the jury room. I'm going to talk
15 with them and see if I need to bring you back out and
16 charge you further. If I do, I'll bring you back out and
17 charge you with additional issues of the law. If I've
18 covered everything, I will send the evidence in. And when
19 you receive the evidence, that will your be your
20 indication to start your deliberation, simply knock on the
21 door when you reached a verdict.

22 Now, my alternate you stay with me. I only
23 needed you if somebody got sick, looks like everybody's
24 gone make it. So you just stay with me. You don't go
25 back there. I know you been sitting this whole time and

1 you won't get to deliberate, but I just needed you in case
2 I lost somebody where I won't have to try this all over
3 again.

4 If you'll go to the jury room, I'll either bring
5 you back out in a minute to recharge you or I'll send the
6 evidence in that will begin your start.

7 JUROR: I have one question.

8 THE COURT: Okay.

9 JUROR: You said we have to be unanimous. Is
10 that unanimous in guilty or unanimous in not guilty?

11 THE COURT: Yep. You got to be -- all 12 of you
12 got to agree on everything.

13 JUROR: I got you.

14 THE COURT: Okay. All right.

15 (WHEREUPON, the jury retire to the jury room at
16 4:30.)

17 THE COURT: All right. Any additions or
18 deletions from the State?

19 MR. MEADORS: No, sir.

20 THE COURT: From the defense?

21 MR. ROUTZONG: No, sir.

22 THE COURT: All right. If you all will come
23 forward and be sure that all the evidence you agree with
24 the court reporter that's all the evidence is there.

25 Ms. Rudd, I know you sat through this whole

1 thing and you not going to get to go back and decide, but
2 I appreciate you being here and you are free to go. Give
3 me just a minute to get all the evidence to be sure
4 because not long ago I let an alternate go and I had an
5 issue immediately with one of the jurors but -- and my
6 understanding, Solicitor, you don't need the panel back
7 tomorrow?

8 MR. MEADORS: They're already gone.

9 THE COURT: So you won't have to come back. You
10 won't have to do this again for three years. They gone
11 mail you a big check. I been telling you you couldn't
12 talk about this case, now you can talk it to about anybody
13 you want to. But you don't have to if you don't want to,
14 okay, but I appreciate you being here. And I hope you
15 got you somewhat of an education about our court system
16 and how things work. I really enjoyed having you. If you
17 see me at the Wal-Mart or somewhere, come up to me and
18 tell me where we met. Thank you so much, but you're free
19 to go.

20 (WHEREUPON, the alternate was excused.)

21 (WHEREUPON, the jury began deliberations at 4:37
22 pm.)

23 THE COURT: Okay.

24 MR. ROUTZONG: Your Honor, at this time I renew
25 my motion for directed verdict based on my prior motions

1 and objections.

2 THE COURT: Thank you, sir. And I think there's
3 sufficient evidence to go to the jury. I will
4 respectfully deny your motion.

5 MR. ROUTZONG: Thank you, Your Honor.

6 THE COURT: Yes, sir.

7 (WHEREUPON, court at ease.)

8 (WHEREUPON, Court's Exhibit No. 2 was marked for
9 the record.)

10 THE COURT: Gentlemen, I have a question from
11 the jury please provide classifications on the elements of
12 CSC first and second.

13 MR. MEADORS: Please provide what?

14 THE COURT: Classification on the elements of
15 CSC first and second.

16 MR. ROUTZONG: Clarification.

17 THE COURT: I'm sorry it is clarification not
18 classification. I can't read his writing. Okay. Bring
19 them in.

20 (WHEREUPON, the jury came into open court at
21 approximately 5:47.)

22 THE COURT: Mr. Foreman, it's my understanding
23 that I had a question from you all that said please
24 provide clarification on the elements of CSC first and
25 second; is that correct?

1 JURY FOREPERSON: Yes, sir.

2 THE COURT: And the crime of criminal sexual
3 conduct in the first degree, the first element that the
4 State must prove to you beyond a reasonable doubt that the
5 defendant engaged in a sexual battery with the victim.
6 And a sexual battery is sexual intercourse, cunnilingus,
7 fellatio, anal intercourse or any intrusion however
8 slight of any part of a person's body or in any object or
9 any object into the genital or oral openings of another
10 person or another person's body except when it
11 accomplished for medical diagnostic treatment or purposes
12 -- diagnostic purposes.

13 If you find the sexual battery did not occur,
14 you will stop there. If you find the sexual battery did
15 occur, you must consider whether the defendant used
16 aggravated force in accomplishing the sexual battery.
17 Aggravated force means the use of physical force or
18 physical violence of a high and aggravated nature to
19 overcome the victim. This includes threats of using a
20 deadly weapon or you can either use -- have that use of
21 aggravated force and use of a deadly weapon or the victim
22 submitted to sexual battery while the victim was also the
23 victim of forceable confinement, kidnapping, robbery,
24 extortion, burglary, house breaking or any other similar
25 act or offense.

1 Now, criminal sexual conduct in the second
2 degree is a lesser included offense. A sexual battery has
3 to occur in the second degree as well, but the difference
4 between first and second is the amount of force. The
5 first is aggravated force or done as a result of a
6 kidnapping or those things I listed to you or you know
7 burglary or any of those crimes. Aggravated coercion is
8 the element in second offense that accomplishes the sexual
9 battery. Aggravated coercion means that the defendant
10 threatened to use force or violence of a high and
11 aggravated nature to overcome the victim or another
12 person. If the victim reasonably believed the defendant
13 had the present ability to carry out the threat,
14 aggravated force may also exist if the defendant
15 threatened to retaliate in the future by the infliction of
16 physical harm, kidnapping, extortion other circumstances
17 of aggravation against the victim or another person. So
18 those are the differences between first and second. One
19 is aggravated force. One is aggravated coercion. And
20 does that explain it or you need me to go into any other
21 elements?

22 JURY FOREPERSON: I believe's that's it, sir.

23 THE COURT: Okay. If you have any more
24 questions, if you'll come back out and let me know, I'll
25 try to answer them.

1 (WHEREUPON, the jury retired to the jury room at
2 5:51 pm to continue deliberations.)

3 THE COURT: Anything for me to decide? Any
4 objection to anything I charged?

5 MR. ROUTZONG: No, Your Honor.

6 MR. MEADORS: No, sir.

7 THE COURT: We'll be at ease until we hear
8 something.

9 (WHEREUPON, court ease while the jury continue
10 deliberations.)

11 THE COURT: Everybody ready. Bring me the jury.

12 (WHEREUPON, the jury came into open court with a
13 verdict at 6:04 p.m.)

14 THE COURT: Mr. Foreman, have you reached a
15 verdict?

16 JURY FOREPERSON: Yes, sir. I just start at the
17 top?

18 THE COURT: No, sir, I just need you to pass it
19 up. Is it unanimous?

20 JURY FOREPERSON: Yes, sir.

21 THE COURT: Thank you. And I noticed on the
22 form you signed your name -- where your name is signed
23 means that's the verdict instead of checking it.

24 JURY FOREPERSON: I'm sorry thought I suppose to
25 sign it.

1 THE COURT: I must not explain it to you very
2 clear, but that's fine wherever your name is signed is
3 what you all mean is the verdict.

4 JURY FOREPERSON: And today's date is January...

5 THE COURT: January 24th.

6 JURY FOREPERSON: 24th 2018.

7 THE COURT: Yes, sir. Thank you. You may
8 publish the verdict.

9 BAILIFF: Your Honor, may please the court.

10 THE COURT: Yes, sir.

11 BAILIFF: The State of South Carolina in the
12 court of general session in the third judicial court case
13 number 2017-GS-43-667, the State of South Carolina vs.
14 Edward Earl McElveen. As to the charge of kidnapping, we,
15 the jury, unanimously find the defendant guilty. As to
16 the charge to the criminal sexual conduct of first degree,
17 we, the jury, unanimously find the defendant guilty. As
18 to the charge of possession of a weapon during the
19 commission of a violent crime, we, the jury, find the
20 defendant guilty. Sign by foreman, Carl R. Vandenheuvel,
21 Jr., dated January 20 (sic) 2018.

22 THE COURT: Thank you. Anything from either
23 side before I release the jury?

24 MR. MEADORS: No, sir. Thank you.

25 MR. ROUTZONG: Your Honor, can you poll the jury

1 please.

2 THE COURT: Yes, sir, if you poll the jury
3 please, sir. And the date on it is January 24th 2018.

4 BAILIFF: Ladies and gentlemen of the jury, I'm
5 gone ask you a question, all I want is yes or no.

6 Juror number 161 Henrietta Stukes. Is this your
7 verdict and still your verdict?

8 JUROR: Yes.

9 BAILIFF: Juror number 124 Linda McLane. Is
10 this your verdict and still your verdict?

11 JUROR: Yes.

12 BAILIFF: Juror number 181 William Wise, Jr. Is
13 this your verdict and still your verdict?

14 JUROR: Yes.

15 BAILIFF: Juror number 25 Jeremy Burgess. Is
16 this your verdict and still your verdict?

17 JUROR: Yes.

18 BAILIFF: Juror number 12 Martin Bayless. Is
19 this your verdict and still your verdict?

20 JUROR: Yes.

21 BAILIFF: Juror number 87 Erickson Jackson. Is
22 this your verdict and still your verdict?

23 JUROR: Yes.

24 BAILIFF: Juror number 24 Renee Burkenham (sic).
25 Is this your verdict and still your verdict?

1 JUROR: Yes.

2 BAILIFF: Sorry about Buchanan I meant to say.
3 Juror number 34 Portia Coles. Is this your verdict and
4 still your verdict?

5 JUROR: Yes.

6 BAILIFF: Juror number five Shirley Ann Amos.
7 Is this your verdict and still your verdict?

8 JUROR: Yes.

9 BAILIFF: Juror number 166 Carl R. Vandenneuvel,
10 Jr. Is this your verdict and still your verdict?

11 JUROR: Yes.

12 BAILIFF: Juror number 81 Kennedy Hastie, Jr.
13 Is this your verdict and still your verdict?

14 JUROR: Yes.

15 BAILIFF: The jury has been polled.

16 THE COURT: Number 143 Ms. Rhodes.

17 BAILIFF: Juror number 143 Kristin Rhodes. Is
18 this still your verdict and still your verdict?

19 JUROR: Yes.

20 THE COURT: Okay. Thank you. Anything before I
21 release the jury on either side?

22 MR. ROUTZONG: No, sir.

23 MR. MEADORS: No, sir. Thank you.

24 THE COURT: Ladies and gentlemen, I want to
25 thank you for your service. This is the last case we

1 going to try this week. I got some other work tomorrow
2 and Friday, so you don't have to do this again for three
3 years. So you'll free to go. I been telling you the
4 whole week, you couldn't talk about this case and now you
5 can talk about it to anybody you want to. You can tell
6 your family what you been doing. If you don't want to
7 talk about it, you don't have to. I appreciate your
8 service. You have a great evening and hopefully the rest
9 of the week. If you need an excuse, the clerk's office
10 will give one for your employer and they'll mail you a
11 huge check. So you won't be able to go to Greeleyville
12 and do shopping, but we couldn't pay you what you are
13 worth. If we could, you wouldn't be able to pay your
14 taxes. Thank you so much. You have a great evening.

15 (WHEREUPON, the jury is dismissed.)

16 THE COURT: Okay. Mr. Solicitor, can you tell
17 me anything about his record or anything else you think I
18 need to know?

19 MR. MEADORS: Yes, sir. Judge, assault and
20 batter in '78, criminal domestic violence in '88, 1988,
21 DUI in '90, criminal domestic violence in '96. Appears he
22 had a CSC first and kidnapping from North Charleston which
23 was either pled down or went to trial I don't know which,
24 but that was a conviction for criminal sexual conduct
25 third degree and assault and battery of a high and

1 aggravated nature. So it appears the others nol pros or
2 he may have pled to that. He got ten years on that and
3 that was in September of 2005.

4 Violation of the Sexual Offender Registry Act
5 first offense in February of 2017. And I believe in March
6 of 2012, I believe, he had an attempted murder case which
7 was pled to assault and battery. So his conviction was
8 assault and battery first degree, which he got a ten year
9 sentence on that in March of 2012.

10 Judge, I would like to publically thank the
11 Sumter County Sheriff's Department and all their staff and
12 our office Mr. Miller and Ms. Harrison for their help.
13 Judge, the victim's here. You've heard her. I talk to
14 her. She doesn't want to say anything. Thank
15 Investigator Dubose and Shantell Ward on the excellent job
16 they did. The victim doesn't want to speak, Judge. I
17 just want to briefly say obviously we -- Your Honor's
18 worked all sides. You get to know victims especially in
19 cases like this and murder cases and families, but
20 especially these cases you get to know the victim and you
21 wish you never had to get to know them, but you do. And
22 you prepare and I found -- and I think the jury's found,
23 but I found that Ms. A.G. to be I think the most
24 credible victim and witness I've ever dealt with all due
25 respect to all the others. And I don't know if this the

1 right thing to say, but the most enjoyable victim I ever
2 dealt with. And I'm sorry this happened to her, but I'm
3 so thankful to her and all the people that surround and
4 supported. She stood up and went through this and stayed
5 strong and she was strong all the way through. And I am
6 proud of her for that. I want to thank the jury for their
7 verdict, that's all we have.

8 THE COURT: Thank you, sir.

9 Yes, sir, Mr. Routzong, you want to tell me
10 anything?

11 MR. ROUTZONG: Your Honor, I guess you probably
12 heard just about everything. There's a little bit of
13 auditees on both sides. The jury came to the conclusion
14 that they did. We don't agree with it necessarily. I
15 just would like to add, Your Honor, he's 67 years old. I
16 know the older I get time becomes really precious. Any
17 lengthy sentence, Your Honor, is going to be virtually a
18 life sentence. I ask the Court to take into that
19 consideration.

20 THE COURT: All right. On the kidnapping, the
21 sentence of the Court is that you be committed to the
22 state department of corrections for a term 18 years. On
23 criminal sexual conduct in the first degree, the sentence
24 is 18 years to run concurrent with credit for time served
25 on both of them and on possession of a weapon is five

1 years to run concurrent with credit for time served.

2 MR. ROUTZONG: Thank you, Your Honor.

3 MR. MEADORS: Thank you, Your Honor.

4 END OF REQUESTED TRANSCRIPT

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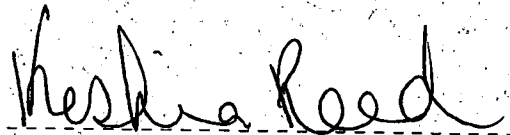
CERTIFICATE OF REPORTER

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STATE OF SOUTH CAROLINA)
)
COUNTY OF FLORENCE)

I, Keshia Reed, Court Reporter in and for the State of South Carolina At Large, do hereby certify that the above-entitled cause was heard as hereinafter set out; that I was authorized to and did transcribe the said proceedings; and that the foregoing and annexed paged, numbered 1 through 413, inclusive, constitute a true and accurate transcription of my stenographic report of the said cause taken during the said hearing. In the Court of General Sessions for Sumter County, South Carolina, on the 22nd through 24th day of January, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto. In witness whereof, I have hereunto affixed my signature this 24th day of September 2018.



Keshia Reed, Court Reporter

6/6

WITNESSES

W. Dubose Sumter County Sheriff

S. Ward Sumter County Sheriff

02-16-2018

02:09:08 p.m.

DOCKET NO. 2017-GS-43-0667

The State of South Carolina

County of SUMTER

COURT OF GENERAL SESSIONS

June TERM 2017

THE STATE

vs.

EDWARD EARL MCELVEEN

ARREST WARRANT NUMBER

2017A4310100125 2017A4310100117
2017A4310100126

Indictment for

Criminal sexual conduct - First degree
Kidnapping
Possession of a Weapon during the Commission of a Violent
Crime

ACTION OF GRAND JURY

TRUE BILL

Daniel Dato

Foreperson of Grand Jury
Date: 6/8/17

Ernest A. Finney III

VERDICT

ERNEST A. FINNEY, III, SOLICITOR

8034362223
4

Foreperson of Petit Jury
Date:

STATE OF SOUTH CAROLINA)
)
COUNTY OF SUMTER)

INDICTMENT FOR

Criminal Sexual Conduct - First degree
Kidnapping
Possession of a Weapon during the Commission of a Violent
Crime

At a Court of General Sessions, convened on June 8, 2017 the Grand Jurors of
SUMTER County present upon their oath:

COUNT ONE - CRIMINAL SEXUAL CONDUCT, FIRST DEGREE

That Edward Earl McElveen did in Sumter on or about February 21, 2017 engage in sexual battery with A. G. [redacted] and the defendant used aggravated force to accomplish the sexual battery and or the victim submitted to the sexual battery by the defendant under circumstances where the victim is also the victim of kidnapping or any other similar offense or act to wit: the defendant did commit a sexual battery against the victim while holding the victim against her will with a handgun and restraining the victim with duct tape in violation of Section 16-03-0652, S. C. Code of Laws, 1976, as amended.

COUNT TWO - KIDNAPPING

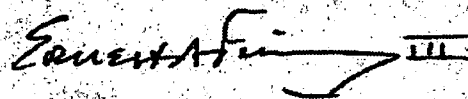
That Edward Earl McElveen did in Sumter County on or about February 21, 2017, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Adelene Gaudig, without authority of law, in violation of Section 16-03-0910, S. C. Code of Laws, 1976, as amended.

**COUNT THREE - POSSESSION OF A WEAPON DURING THE COMMISSION OF A VIOLENT
CRIME**

That Edward Earl McElveen did in Sumter County, on or about February 21, 2017, possess a firearm, or visibly display what appeared to be a firearm, or visibly displayed a knife, during the commission or attempted commission of a violent crime, in violation of Section 16-23-0490, S. C. Code of Laws, 1976, as amended.

Against the peace and dignity of the State, and contrary to the statute in such case made
and provided.

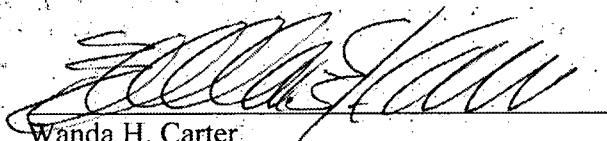
Solicitor



CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

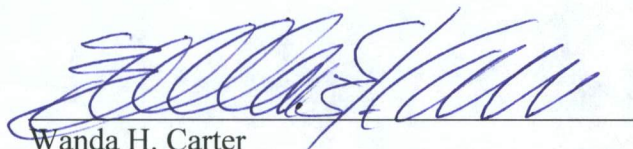
ATTORNEY FOR APPELLANT

This 4th day of March, 2019.

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

Respectfully Submitted,



Wanda H. Carter
Deputy Chief Appellate Defender

South Carolina Commission on Indigent Defense
Division of Appellate Defense
PO Box 11589
Columbia, S.C. 29211-1589

ATTORNEY FOR APPELLANT

This 4th day of March, 2019.

RECEIVED
MAR 04 2019
SC Court of Appeals