

STATE OF SOUTH CAROLINA

In The Court of Appeals

APPEAL FROM ORANGEBURG COUNTY

Edgar W. Dickson, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

CEDRIC FLOOD,

APPELLANT

Appellate Case No. 2011-196546

RECORD ON APPEAL

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

Attorney for Appellant

ALAN WILSON
Attorney General

JULIE KATE KEENEY
Assistant Attorney General
Office of the Attorney General
PO Box 11549
Columbia, SC 29211

Attorneys for Respondent

RECEIVED
SEP 18 2012
SC Court of Appeals

19947

INDEX

INDEX..... i

TRIAL TRANSCRIPT..... 1

TESTIMONY

 LAUREN WASHINGTON

 Direct Examination by Solicitor Justis 2

 Cross Examination by Mr. Mellard 22

 Redirect Examination by Solicitor Justis..... 30

 JAMES SHUMPERT

 Direct Examination by Solicitor Bell..... 33

 Cross Examination by Mr. Wise..... 40

 ALLEN HUNTER

 Direct Examination by Solicitor Justis 44

 GERALD D. CARTER

 Cross Examination by Mr. Wise..... 47

 CATHERINE LIESEY

 Direct Examination by Solicitor Justis 48

QUESTION BY THE JURY 52

RECHARGE ON THE LAW 53

QUESTION BY THE JURY 56

MOTION FOR A MISTRIAL 64

POLLING OF JURY REGARDING MEDIA COVERAGE..... 69

QUESTION BY THE JURY 72

ALLEN CHARGE BY THE COURT..... 73

QUESTIONS BY THE JURY..... 75

ADDITIONAL CHARGE BY THE COURT..... 75

COURT’S EXHIBIT #10 (NOTE FROM JURY) 76

VERDICT..... 78

MOTION FOR A NEW TRIAL 84

SENTENCING..... 93

COURT’S EXHIBIT #9 (NOTE FROM JURY) 94

COURT’S EXHIBIT #10 (NOTE FROM JURY) 94

INDICTMENT 95

CERTIFICATE OF COUNSEL 97

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

COURT’S EXHIBIT #8 (SEALED ENVELOPE WITH QUESTION FROM JURY)

STATE OF SOUTH CAROLINA
COUNTY OF ORANGEBURG

COURT OF GENERAL SESSIONS
FIRST JUDICIAL CIRCUIT

State of South Carolina)

CASE NO. 2009-GS-38-1775 and 1776

versus)

TRANSCRIPT OF RECORD

Cedric Flood,)

DATE:

DEFENDANT)

July 19-21, 2011

BEFORE:

Honorable Edgar W. Dickson, Presiding Judge

And a jury.

APPEARANCES:

Glenn Justis, Esquire

Harrison Bell, Esquire

Assistant Solicitors

For The State

Douglas Mellard, Esquire

Mark Wise, Esquire

Public Defenders

For The Defendant

HARRY A. WALKER (MRS.)
COURT REPORTER, FIRST JUDICIAL CIRCUIT
POST OFFICE BOX 127
ROWESVILLE, SOUTH CAROLINA 29133

1 (LAUREN WASHINGTON, being first duly sworn,
2 testifies as follows:)

3 DIRECT EXAMINATION BY SOLICITOR JUSTIS:

4 Q. Good afternoon, Ms. Washington. Where do you live?

5 A. Orangeburg, South Carolina.

6 Q. Okay. And how long have you lived in Orangeburg?

7 THE COURT: Okay, hold on one second. Ms. Washington, I
8 hate to ask you to this, but you need to speak up. I'm having a
9 hard time hearing you, and I'm close.

10 A. Okay.

11 THE COURT: The jury's way over there and they need to hear
12 you. So, I know ...

13 COURT REPORTER: Oh, could you just turn that down, that's
14 good. And you might want to pull your chair a little bit closer,
15 not too close but -- that's fine, thank you.

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

17 A. You're welcome.

18 THE COURT: Okay. Alright, Mr. Justis, you may proceed.

19 Q. Ms. Washington, by the end of your testimony here today will
20 you be able to tell us about the events of September Twenty-
21 ninth, Two thousand and Nine?

22 A. Yes.

23 Q. Okay. And how long have you lived in Orangeburg County?

24 A. All my life.

25 Q. And do you work?

1 A. Yes.

2 Q. What kind of work do you do?

3 A. Child care.

4 Q. Okay. And Ms. Washington, let's talk about the events of
5 September Twenty-ninth, Two thousand and Nine. Do you remember
6 that day?

7 A. Yes.

8 Q. And what were you doing that day?

9 A. I got up that morning and got my son ready for school.

10 Q. Okay. And how old is your son?

11 A. He'll be eight in October.

12 Q. Okay. So, how old was he back in Two thousand and Nine?

13 A. Six.

14 Q. And was -- what grade was he in?

15 A. Kindergarten.

16 Q. Okay. And where were you living back in Two thousand and
17 Nine?

18 THE COURT: Is it on?

19 COURT REPORTER: Is it cut on down there?

20 SOLICITOR JUSTIS: I see a red light.

21 COURT REPORTER: It's burning? The red light is on?

22 SOLICITOR JUSTIS: There's a red light on.

23 COURT REPORTER: Will you just tap on that mike? Try it
24 now. We're getting feedback now.

25 THE COURT: Alright.

1 Q. And where were you living back then?

2 A. Russell Street.

3 Q. Russell Street. And is that in Orangeburg County?

4 A. Yes.

5 Q. Okay. And who was living with you?

6 A. Just me and my son.

7 Q. And you said your son was in kindergarten?

8 A. Yes.

9 Q. And that day, tell us what you were doing with your son?

10 A. I got him ready for school and I walked outside and walked
11 him to the bus stop and put him on the -- after I put him on the
12 bus I walked back home and got ready to open the door..

13 Q. Okay. And when you say you put him on the -- was it a
14 school bus you put him on?

15 A. Yes.

16 Q. And how far was the school bus from your house would you
17 say?

18 A. Like four or five houses down.

19 Q. Okay. So, you returned back to your house, and what
20 happened when you returned back to your house?

21 A. I got ready, I took my keys out and I looked over at my car
22 where my car was parked in front of my room window, and Cedric
23 came from behind my car and jumped on the steps. And I tried to
24 run, I turned around to run back away from the house but then he
25 pulled my shirt and stick the gun in my back.

1 Q. Okay. Now, you said Cedric, do you mean Cedric Flood?

2 A. Yes.

3 Q. Did you know Mr. Flood?

4 A. Yes, we used to date.

5 Q. You say you used to date. Had you been broken up?

6 A. Yes.

7 Q. Who broke up with who?

8 A. I broke up with him.

9 Q. And how long did you know, at that point how long did you
10 know Mr. Flood, when did you meet him?

11 A. Just for a few months.

12 Q. Okay.

13 A. Less than six months.

14 Q. And how long had you been broken up?

15 A. For about two months.

16 Q. Okay. And you said he came from behind your car?

17 A. Yes.

18 Q. What kind of car did you have?

19 A. A Plymouth Grand Voyager van.

20 Q. Okay. Ms. Washington, I'm showing you what's been marked
21 as State's Exhibit Number Five, do you recognize that?

22 A. Yes.

23 Q. What is that?

24 A. The back of my van.

25 Q. Is that the van that was parked at your house that day?

1 A. Yes.

2 Q. And Ms. Washington, you mentioned that he had a gun?

3 A. Yes.

4 Q. Could you describe the gun for the jury?

5 A. Black, it looked like a pistol.

6 Q. Okay. And what did he do with this black pistol?

7 A. He told me to open the door and go in the house and get my
8 license plate to my car.

9 Q. Okay. And where was he pointing the gun?

10 A. Into my back.

11 Q. Could you see the gun?

12 A. No.

13 Q. And did you go inside the house?

14 A. Yes.

15 Q. And what happened when you got inside the house?

16 A. He told me to give him the key and phone, and go get the
17 license plate. And I went and did that, and all the time he was
18 holding onto my shirt. And then I left, and then he left out the
19 room and he came back into the kitchen and he went in my
20 refrigerator and took some food out there.

21 Q. And what did he do with the gun?

22 A. He was still holding it in his hand.

23 Q. Did he say anything else to you?

24 A. Yeah, he said that, I'm going home, you're going with me,
25 and going to my house because I'm going to kill you.

1 Q. And then what happened?

2 A. And then we went out, we was going outside, and he put me in
3 the trunk of my van. And he drove there to his sister's house.
4 And the whole time he was saying that he was going to kill me,
5 and yelling.

6 Q. What kind of things was he yelling?

7 A. Who are you talking to? Why do you want to leave me? Why
8 you won't give me no sex? I want sex. I'm going to kill you.
9 I'm going to make you cut -- I'm going to cut your main veins.

10 Q. And what did you say in response to this, were you
11 responding to him?

12 A. No, I wasn't saying nothing, but crying.

13 Q. Ms. Washington, I'm showing you what's been marked as
14 State's Exhibit Number Eight. Do you recognize that?

15 A. Yes.

16 Q. What is that a photo of?

17 A. The back of my van.

18 Q. Is that where Mr. Flood made you sit?

19 A. Yes.

20 Q. Now, he made you get in the van, he's driving the van, where
21 did he go from there?

22 A. He went to his sister's house.

23 Q. Okay. And where is that located?

24 A. On, off of Myers Road.

25 Q. And is that close by to where your house is?

1 A. No.

2 Q. Did anything happen at his sister's house?

3 A. Yes. He got out the car and got a license plate from off
4 the back of another car, and got back in the car.

5 Q. And then what happened?

6 A. And then he drove around to another, on another, the next
7 street over and went to his house.

8 Q. Okay. And do you know the address of where he lived, or the
9 name of the street where he lived?

10 A. Muriel Street.

11 Q. Muriel Street?

12 A. Muriel.

13 Q. And what happened when you got to his house?

14 A. He pulled out the -- he had some duct tape in his hand, and
15 he was showing me the gun in his pants, and he said if I run,
16 that I better not run. And then he let me get out the car, get
17 out the van, and we went in the house.

18 Q. Ms. Washington, at this time I'm showing you what's been
19 marked as State's Exhibit Number One. Do you recognize that?

20 A. Yes.

21 Q. What is that?

22 A. That gun that he had.

23 Q. So, you got to the defendant's house, and he's got the gun.
24 Where does he have the gun?

25 A. In the front of his, in his pants.

1 Q. Like tucked in his waistband?

2 A. Yes.

3 Q. When you got out of the van where did you go next?

4 A. He was holding onto my shirt and then we went in the house,
5 and then I went in the house and sat down in the living room.

6 Q. Alright, Ms. Washington, I'm showing you what's been marked
7 as State's Exhibit Number Eleven, do you recognize that?

8 A. Yes.

9 Q. What is that?

10 A. The end of the trailer that's his house.

11 Q. Okay. And is this where he took you?

12 A. Yes.

13 Q. And you stated you went in the living room. Is that the
14 first room you come to when you come in the house?

15 A. Yes.

16 Q. And what happened when you got in the living room?

17 A. I sat down and he came and sat down on the table in front of
18 me, and he was pointing the gun in my chest, yelling. He kept my
19 phone and started messing with my phone in front of me. And he
20 just kept pointing the gun into my head and my chest and stuff.

21 Q. Now, was there anybody else in the house?

22 A. No.

23 Q. And could you show the jury how he pointed the gun, and use
24 your finger to kind of show where he was pointing the gun?

25 A. Right there and right there.

LASER BOND FORM A PENGAD • 1-800-691-6989 • www.pengad.com

1 Q. And what was he saying when he was pointing the gun at you?

2 A. Asking me do I feel the gun, and you're going to die, your
3 son is going to miss you. And I know he's going to miss you
4 because he loves you. And I'm going to kill you today. And I
5 kept asking him, will you let me go home? And he said, no,
6 you're going to die today.

7 Q. Now, what happened at that point?

8 A. I was just sitting there, and then he got up and said that
9 he wanted sex, and he told me to come on. And then he was
10 holding me and walking me to the back room.

11 Q. And did you go with him?

12 A. Yes.

13 Q. And you said he took you into a back room?

14 A. Yes.

15 Q. What was in the -- can you describe the room, what was in
16 the room?

17 A. It was a bed, a queen size bed and a dresser, and a t.v.

18 Q. Okay. And what happened when you got to that room?

19 A. I sat down -- no, he said, sit down, and I sat down on the
20 bed. Then he told me that he wanted sex and for me to take off
21 my clothes. And he was just pointing the gun all in my face.

22 Q. So, he still had the gun at this point?

23 A. Yes.

24 Q. And what did you do?

25 A. I took off my clothes and laid down.

1 Q. And what did he -- I'm sorry, go ahead.

2 A. And laid down.

3 Q. And then what did the defendant do?

4 A. He took off his clothes and he, then he picked the gun up,
5 and then he put it back down, and he took off his clothes and got
6 on top of me.

7 Q. And did the defendant have sexual intercourse with you?

8 A. Yes.

9 Q. Ms. Washington, do you know if the defendant used a condom?

10 A. No, he didn't.

11 Q. Ms. Washington, after the defendant had intercourse with
12 you, what happened at that point?

13 A. He was holding me, and then he went to sleep, so I went to
14 sleep.

15 Q. And at some point did you wake back up?

16 A. Yes.

17 Q. How much later would you estimate you woke back up?

18 A. Probably about thirty minutes or an hour.

19 Q. And when you woke back up was the defendant still there?

20 A. Yes.

21 Q. Did he still have the gun?

22 A. Yes.

23 Q. Was he -- what was he saying or doing at that point when you
24 woke up, did he say anything to you?

25 A. He said that, do I know that he love me. And then he

1 had sex with me again, and I was crying and asked him would he
2 let me go home.

3 Q. So, he had sexual intercourse with you again when you woke
4 up?

5 A. Yes.

6 Q. After, after that what happened at that point?

7 A. It was coming time to go pick up my son, and I asked him
8 would he let me go, could we go get my son, and he told me yeah.

9 Q. Okay. So, at that point what happened?

10 A. I got up and put my clothes and stuff back on, and I was
11 just sitting down, and then he was holding onto my shirt, and he
12 got the gun and I think he went and did something in the house
13 and, like, hurry up, tried to hurry up and come back in the room
14 with me so I won't run.

15 Q. Okay. And when he came back in the room, you stated he had
16 the gun with him again?

17 A. Yes.

18 Q. And what happened at that point, after you put your clothes
19 back on?

20 A. We went outside to go get my son from off the bus.

21 Q. Okay. And did you drive or walk?

22 A. Drive.

23 Q. Whose vehicle did you go in?

24 A. Mine.

25 Q. The same van that he used to bring you there?

1 A. Yes.

2 Q. And did you go to the bus stop?

3 A. Yes.

4 Q. And what happened when you got to the bus stop?

5 A. I was sitting down and he was sitting down, and my son's bus
6 pulled up and he got out, he got off the bus and got in the car,
7 and he was sitting down quiet like he knew something was wrong.

8 Q. Did the defendant have a gun?

9 A. Yes.

10 Q. Was he showing the gun to you at that time?

11 A. Yes.

12 Q. After you picked up your son, -- and how old was your son?

13 A. Seven, he'll be eight in October.

14 Q. After you picked up your son where did you go from there?

15 A. Back to his house.

16 Q. Did you ask him if he could take you home?

17 A. Yes.

18 Q. And what did he say?

19 A. He said, no, I'm going to kill you.

20 Q. So, did he drive you back to his house?

21 A. Yes.

22 Q. And when you got back to his house what happened at that
23 point?

24 A. Me and my son got out of the car, and he had the duct tape
25 in his hand again, and I think I asked him what he was going to

1 do with the duct tape, and he said, I'm going to tie you up with
2 it.

3 Q. Okay. And did you go back in the house?

4 A. Yes.

5 Q. And when you got in the house what happened?

6 A. Me and my son sat down in the living room, and he told me to
7 come on, and we went back in the, a middle room, we went in the
8 middle room and he was about to, well, he hand cuffed me to the
9 bed, the bunk bed in the middle room, and he left out, and he was
10 saying when he come back he was going to kill me.

11 Q. And where was your son while this was going on?

12 A. In the living room, in his living room, sitting down on a
13 chair.

14 Q. Ms. Washington, I'm showing you what's been marked as
15 State's Exhibit Number Twelve, do you recognize that?

16 A. Yes.

17 Q. What is that a photograph of?

18 A. The living room and the chair that my son was laying down
19 on.

20 Q. I'm showing you State's Exhibit Number Eighteen, do you
21 recognize that?

22 A. Yes.

23 Q. What is that?

24 A. The bunk bed in the middle room that he hand cuffed my arms
25 to.

1 Q. And finally, let me show you State's Exhibit Number Twenty-
2 three, do you recognize that?

3 A. Yes.

4 Q. What is that?

5 A. The bed that he had sex with me on.

6 Q. So, he took you back into this middle room with a bunk bed
7 in it?

8 A. Yes.

9 Q. Was that the room you were in earlier?

10 A. No.

11 Q. So, it's a different room?

12 A. Yes.

13 Q. And you testified he handcuffed you to that bed. What
14 happened at that point, after he handcuffed you to that bed?

15 A. He went outside and came back in, and took the handcuffs off
16 my arm, and took me in the room, in the same room.

17 Q. Now, when you say, same room, the bunk bed room?

18 A. In the other room, back in the other room.

19 Q. The one you were in earlier in the day?

20 A. Yes.

21 Q. And when you got in that room what happened then?

22 A. He just kept pointing the gun in my face and saying he was
23 going to kill me, and was about to tape me up. And I was just
24 crying.

Q. Okay. I'm showing you what's been marked as State's Exhibit

1 Number Two. Do you recognize these, Ms. Washington?

2 A. Yes.

3 Q. What are they?

4 A. Handcuffs.

5 THE COURT: And I hate to interrupt you, Ms. Washington, but
6 I really need for you to speak up just a little louder if you
7 can.

8 A. They're handcuffs.

9 THE COURT: Thank you, ma'am, that's the right tone.

10 Q. Do these appear to be the handcuffs that were used that day?

11 A. Yes.

12 Q. Now, Ms. Washington, when you got back in the bedroom that
13 had the bed in it, what did the defendant do then?

14 A. He started telling me what he was going to do, yelling, and
15 he said that he was going to go to work, and when he got back he
16 was going to kill me.

17 Q. Did the defendant have sex with you again?

18 A. Yes.

19 Q. After he had sex with you then what happened?

20 A. He put the handcuffs -- no, he put the duct tape around my
21 legs, and started putting the duct tape on my head and my mouth,
22 and around my legs, and shaking to see if it was on right.

23 COURT REPORTER: Checking to see what?

SOLICITOR JUSTIS: If it was on right.

Just make sure you speak up.

1 A. Checking to see if it was on right.

2 Q. Okay. And when you say, around your legs, could you kind of
3 show for the jury where you're talking about?

4 A. With my legs together, around my legs, all the way around.

5 Q. And where else did he put the duct tape on your body?

6 A. Around my head and my eyes, my mouth and my eyes.

7 Q. So, could you see?

8 A. No.

9 Q. Could you speak?

10 A. No.

11 Q. And what did he do with the handcuffs?

12 A. He put my arms behind my back and put them on my arms.

13 Q. And after he bound you what did he do next?

14 A. He left out the room and came back and checked a couple of
15 times, and left again, and got my son and got in the car and he
16 left.

17 Q. So, he drove off with your son?

18 A. Yes.

19 Q. Now, after he left the residence, and where were you, were
20 you standing up, were you laying down?

21 A. Laying down.

Q. And where were you laying?

A. On the bed sideways.

Q. On that same bed - - -

25 A. Yes.

1 Q. --- that we talked about? After he left what did you do?

2 A. I moved my arms a little bit and it came loose.

3 Q. When you say, it came loose, what came loose?

4 A. The handcuffs.

5 Q. Okay. So, when the handcuffs came loose what did you do?

6 A. I got up real fast and pulled all the duct tape from off of
7 me and ran outside. And I waited until I -- well, before I did
8 all that I waited until he left completely, entirely, and leave
9 all the way down the road first.

10 Q. Okay. And you said you removed the duct tape. Where did
11 you put the duct tape?

12 A. I threw it down.

13 Q. Where you were standing?

14 A. Yes.

15 Q. And when you got outside, what did you do next?

16 A. I ran next door.

17 Q. And when you got next door what did you do?

18 A. I was knocking on the door and they let me use the phone.

19 Q. And did ...

20 A. I told them that it was an emergency and I needed to call
21 Nine One One.

22 Q. And did you call Nine One One.

23 A. Yes.

24 Q. And did the police arrive at the scene?

A. Yes.

1 Q. Now, when the police arrived what happened at that point,
2 what did you do at that point?

3 A. I just went outside and went over there and talked to the
4 police -- well, before that, when the police got there they was
5 telling me that, when I was on the phone ...

6 MR. MELLARD: Objection.

7 Q. Don't tell us what anybody else said, that would be hearsay.
8 So, the police arrived. Where were the handcuffs at that point?

9 A. Still on my arm.

10 Q. Were they both on your arm, or just one?

11 A. Just one.

12 Q. Okay. At some point in time did someone remove those
13 handcuffs?

14 A. Yes.

15 Q. And who removed the handcuffs?

16 A. The ambulance.

17 Q. Okay. Were you in the ambulance?

18 A. Yes.

19 Q. Okay. Did you have an opportunity to give a verbal
20 statement there at the scene to police when they arrived?

21 A. No.

22 Q. Did you give a statement at some point later on?

23 A. Yes.

24 Q. Okay. And where was that?

25 A. In, at the hospital.

1 Q. Okay. So, you mentioned that you were sitting in an
2 ambulance when they took the handcuff off. Did you eventually go
3 to the hospital?

4 A. Yes.

5 Q. And did you have an exam?

6 A. Yes.

7 Q. And I think you mentioned that the police took a statement
8 from you at that point?

9 A. Yes.

10 Q. Did you have any injuries on you that you can recall?

11 A. No.

12 Q. Ms. Washington, did you willingly go with Mr. Flood that
13 day?

14 A. No.

15 Q. Did you willingly have sex with him that day?

16 A. No.

17 Q. Ms. Washington, do you see the man who -- do you see Cedric
18 Flood in the courtroom today?

19 A. Yes.

20 Q. Could you point him out for the jury?

21 A. (Witness points towards defendant.)

22 SOLICITOR JUSTIS: Please let the record reflect that the
23 witness has identified the defendant, Cedric Flood.

24 THE COURT: The record so reflects.

25 SOLICITOR JUSTIS: I beg the Court's indulgence.

1 THE COURT: Yes, sir.

2 SOLICITOR JUSTIS: No further questions, Ms. Washington,
3 please answer any questions Mr. Mellard might have.

4 THE COURT: Alright, Mr. Mellard, your witness.

5 (NOTE: Blank lines on this page do not indicate any part of
6 record has been omitted. Headers on testimony pages and hard
7 page breaks between testimony are now required by the Court. See
8 next ensuing page for sequential continuation of record.)

1 CROSS-EXAMINATION BY MR. MELLARD:

2 Q. You've known Cedric for ...

3 A. Yes.

4 Q. You know Cedric. In fact, y'all dated?

5 A. Yes.

6 Q. Okay. And y'all were boyfriend and girlfriend?

7 A. Yes.

8 Q. Okay. And y'all lived together?

9 A. No.

10 Q. You didn't, never stayed over at his house?

11 A. Sometimes.

12 Q. Okay. Alright. And it's my understanding you have a son?

13 A. Yes.

14 Q. Okay. And he's eight years old?

15 A. Yes.

16 Q. Okay. Now, let's talk about what happened on September
17 Twenty-ninth, Two thousand Nine. It's my understanding that on
18 that day you were living at Twenty-four Seventy-five Russell
19 Street, is that correct?

20 A. Yes.

21 Q. Okay. And had you lived at this address with Cedric Flood?

22 A. No.

23 Q. Alright. Were you living at this address when you and
24 Cedric Flood were dating?

A. Yes.

1 Q. Okay. And you're claiming that on September Twenty-ninth he
2 jumped out of the bushes with a gun?

3 A. Yes.

4 Q. Okay. Didn't knock on the door?

5 A. No.

6 Q. He just jumped out of the bushes?

7 A. Yes.

8 Q. Okay. And he had a gun, correct?

9 A. Yes.

10 Q. Alright. And you said it was a black gun?

11 A. Yes.

12 Q. Okay. And I believe you identified this as the black hand
13 gun?

14 A. Yes.

15 Q. Okay. And he waved this at you?

16 A. Yes.

17 Q. Okay. And while he was waving it at you did you ever notice
18 the word, Crossman, written on it?

19 A. No.

20 Q. Okay. Did you ever notice that it was a BB gun?

21 A. No.

22 Q. Okay. And did you ever hear BBs rattling around in it?

23 A. No.

24 Q. Okay. So, it was an unloaded BB gun?

25 A. I guess so.

1 Q. Okay. Alright.

2 MR. MELLARD: Do you want me to put it back in the bag?

3 Q. Alright, and then he tells you to go get the tag to your
4 car, correct?

5 A. Yes.

6 Q. Okay. So, you had this car, and I believe you said it was a
7 van. You didn't keep the tags on it?

8 A. No, because it wasn't update.

9 Q. Okay. So, you just kept the tags inside your house?

10 A. Yes.

11 Q. Okay. And then you claim he puts you in the car and drives
12 you to his sister's house, his sister's house?

13 A. Yes.

14 Q. Okay. And then y'all go to his house on Muriel Street, I
15 believe?

16 A. Yes.

17 Q. Okay. And you told the police that that was Cedric's house?

18 A. Yes.

19 Q. And you know that because you and Cedric had been boyfriend
20 and girlfriend?

21 A. Yes.

22 Q. And you had been over there before?

23 A. Yes.

24 Q. Alright, so you go to his house and then you claim -- let's
25 see -- that he's going to -- at some point he gets you son off

1 the bus at one:thirty, you go to get your son?

2 A. Yes.

3 Q. Okay. And again, he knows your son's bus schedule because
4 y'all were boyfriend and girlfriend?

5 A. Yes.

6 Q. Okay. Alright. So, at some point he tells you he wants to
7 have sex with you?

8 A. Yes.

9 Q. Okay. And while he's doing that he's waving the BB gun at
10 you?

11 A. Yes.

12 Q. Okay. And then you said y'all had sex, correct?

13 A. Yes.

14 Q. Alright. And then you said that after you had sex he goes
15 to sleep and then you went to sleep also?

16 A. Yes.

17 Q. Okay. So, you didn't try to take the gun away while he was
18 sleeping?

19 A. No.

20 Q. You didn't try to wait for him to go to sleep and then run
21 out the door?

22 A. No, I was too scared.

23 Q. Okay. So, you just had sex with someone you say you didn't
24 want to have sex with, correct?

25 A. Yes.

1 Q. Okay. And you're in a house with someone who's threatening
2 you with an unloaded BB gun?

3 A. Yes.

4 Q. Okay. And you said you were scared?

5 A. Yes.

6 Q. But you don't try to get away when he goes to sleep?

7 A. No.

8 Q. Okay. And then you sleep until about eleven:fifteen,
9 correct?

10 A. Yes.

11 Q. Okay. And then you wake up and Cedric wakes up?

12 A. Yes.

13 Q. Okay. And then you go to the bus stop?

14 A. Yes.

15 Q. Alright. And you're sitting there with him waiting for the
16 bus to come?

17 A. Yes.

18 Q. And then the bus comes?

19 A. Yes.

20 Q. Okay. And then your child gets off the bus?

21 A. Yes.

22 Q. And then he gets in the car with you and Cedric?

23 A. Yes.

24 Q. Okay. You don't call for help?

25 A. No.

1 Q. You don't try to signal the bus driver?

2 A. No.

3 Q. You don't tell your son to run?

4 A. No.

5 Q. Instead you allow your son to get off the bus and get into a
6 car which you say is driven by a man who's threatening to hurt
7 you?

8 A. No, because I don't want him, he was with me.

9 Q. Who was with you?

10 A. My son.

11 Q. Your son was on the bus.

12 A. No, I'm saying when he got off the bus he ain't had nowhere
13 else to go.

14 Q. Correct. But you're saying Cedric is a bad person, he's
15 going to hurt you, but you let your son get in the car with him?

16 A. Well, I didn't want to tell him to run because he's not
17 going to know where to run at.

18 Q. The bus driver is right there, the bus is right there. Then
19 you and Cedric and your son go back to your house, correct?

20 A. Yes.

21 Q. Alright. And you take your son into the house?

22 A. Yes.

23 Q. Again, you don't tell him to run?

24 A. No, because he didn't know really what was going on, but he
25 had a feeling.

1 Q. So, you don't -- he has a feeling, and you don't tell him to
2 run?

3 A. No.

4 Q. You don't tell him to go for help?

5 A. No.

6 Q. Alright. You just allow your son to go into a house with a
7 person you're claiming is kidnaping and raping you. Alright.
8 So, then you and your son go in the living room, right?

9 A. Yes.

10 Q. Okay. And then he goes -- Cedric goes into the kitchen you
11 said and gets something to eat?

12 A. Yes.

13 Q. Okay. And again, you don't tell your son to run?

14 A. No.

15 Q. You don't try to get in the way so he can get out of this
16 danger that you say he's in, that you say is in this house?

17 A. No.

18 Q. Alright. And then Cedric calls you into a back bedroom?

19 A. He walked me in the bedroom.

20 Q. Okay. He walks you back there, and your son is sitting in
21 the living room?

22 A. Yes.

23 Q. Okay. And you claim that Cedric handcuffs you?

24 A. Yes.

25 Q. Okay. And you claim he put the duct tape on you?

1 A. Yes.

2 Q. Alright. And your son's just sitting there in the living
3 room?

4 A. Yes.

5 Q. Okay. And then you say that Cedric leaves the house?

6 A. Yes.

7 Q. Alright. And almost immediately the handcuffs come loose
8 and you're able to get free?

9 A. Yes.

10 Q. Alright. And then that's when you said you called the cops,
11 correct?

12 A. Yes.

13 MR. MELLARD: Alright, hold on one second. No more
14 questions.

15 THE COURT: Alright. Anything on redirect?

16 SOLICITOR JUSTIS: Briefly, Your Honor.

17 (NOTE: Blank lines on this page do not indicate any part of
18 record has been omitted. Headers on testimony pages and hard
19 page breaks between testimony are now required by the Court. See
20 next ensuing page for sequential continuation of record.)

1 REDIRECT EXAMINATION BY SOLICITOR JUSTIS:

2 Q. Ms. Washington, did you know that was a BB gun?

3 A. No.

4 Q. And at the bus stop did he have this gun with him?

5 A. Yes.

6 Q. Did he have this gun when he returned back to his house with
7 your son?

8 A. Yes.

9 Q. Ms. Washington, you testified that he got something to eat
10 when he came back with your son, he went in the kitchen and got
11 something to eat and you were in the living room, correct?

12 A. Yes.

13 Q. I'm showing you what's been marked as State's Exhibit Number
14 Thirteen. Do you recognize that?

15 A. Yes.

16 Q. What's that a picture of?

17 A. The kitchen.

18 Q. And what's this area right next to the kitchen?

19 A. The living room.

20 SOLICITOR JUSTIS: Thank you, no further questions.

21 THE COURT: Anything on recross?

22 MR. MELLARD: No questions, Your honor.

23 THE COURT: Alright, Ms. Washington, you may step down.

24 Okay? Thank you, ma'am.

Alright, Ladies and Gentlemen, I'm going to allow y'all to

1 take -- we're going to take a short ten minute break and let
 2 y'all go back and, you know, so we can just take a break.
 3 Remember, you have just heard one witness. You cannot talk about
 4 this case at all at this time. Okay? Thank y'all.

5 (Whereupon, the jury retires
 6 to the jury room and the following
 7 takes place out of the presence
 8 of the jury.)

9 THE COURT: ALRIGHT, Mr. Justice and Mr. Mellard, we have
 10 to make sure that the witnesses talk up. Okay? Just so y'all
 11 will both be aware of that. Okay?

12 SOLICITOR JUSTIS: Your Honor, obviously, she was very
 13 emotional there on the stand.

14 THE COURT: No, I understand that.

15 SOLICITOR JUSTIS: I think the rest of my witnesses will be
 16 fine.

17 THE COURT: And I just wanted to make sure. If y'all want
 18 to test it some while we're in the break, you know, I'd just
 19 like to make sure that that's turned up. I know that the
 20 officers, we're probably not going to have any trouble hearing
 21 them.

22 SOLICITOR JUSTIS: Right. And Ms. Washington's very soft
 23 spoken.

24 THE COURT: No, I understand, and I hated to bother her
 with the testimony, but I just want you to know that.

LASER BOND FORM A PENGAD • 1-800-631-6889 • www.pengad.com

1 COURT REPORTER: Judge, Rich knows how to adjust this if
2 they need it to be adjusted. Where is Rich?

3 THE COURT: He's right here, he's trying to hide. Okay?
4 Thank you, ma'am.

5 (Recess)

6 THE COURT: Is the State ready to proceed?

7 SOLICITOR BELL: The State's ready, Your Honor?

8 THE COURT: Defense? Is the Defense ready to proceed?

9 MR. MELLARD: I'm sorry. Yes, we're ready.

10 THE COURT: Okay, thank you. Alright, bring the jury back
11 in.

12 (Whereupon, the jury enters
13 the courtroom and the following
14 takes place in the presence
15 of the jury.)

16 THE COURT: Call your next witness.

17 SOLICITOR BELL: The State would call Annette Jensen to the
18 stand.

19 Come around, Ms. Jensen, and be sworn.

20 CLERK: Place your left hand on the Bible and raise your
21 right hand, please.

22 (Whereupon, Annette Jensen
23 is duly sworn.)

24 CLERK: Thank you, ma'am. Please sit down, have a seat and
25 state your name for the record.

1 (JAMES SHUMPERT, being first duly sworn,
2 testifies as follows:)

3 DIRECT EXAMINATION BY SOLICITOR BELL:

4 Q. Mr. Shumpert, where are you employed?

5 A. I'm employed with the Orangeburg County Sheriff's Office.

6 Q. And how are you employed there?

7 A. I'm the lieutenant over the Criminal Investigation Division.

8 Q. Okay. And how long have you been the lieutenant over the
9 Criminal Investigation Division.

10 A. About a year.

11 Q. What did you do before that?

12 A. I was the sergeant over the Criminal Investigation Division.
13 I started in investigations back in Two thousand Five.

14 Q. Okay. How long have you been in law enforcement?

15 A. Approximately thirteen, maybe fourteen years.

16 Q. All with the Orangeburg County Sheriff's Department or ...

17 A. No, I first started my career in law enforcement in
18 Columbia, South Carolina, at the Department of Juvenile Justice.

19 Q. How long have you been with the Orangeburg County Sheriff's
20 Department?

21 A. Twelve years.

22 Q. Generally, what training have you had in your law
23 enforcement career?

24 A. Initially I went to the Academy to be certified as a Class
25 Officer. After that I went to investigations, I went to a

1 week long course dealing with criminal investigations, then I
2 went back for a two week course with criminal investigations and
3 crime scenes.

4 Q. Lieutenant Shumpert, do you recall an incident that occurred
5 back on September Twenty-ninth, Two thousand and Nine, in
6 Orangeburg County?

7 A. I do.

8 Q. I believe that you were called out to Muriel Street, is that
9 right?

10 A. Correct.

11 Q. Do you recall the address that you were called out to?

12 A. I don't remember the address.

13 Q. Do you recall about what time?

14 A. I'd have to look back at my notes. It was in the latter part
15 of the day, I can't remember the time.

16 Q. Okay. Why were you called out there?

17 A. In reference to a possible kidnaping and what we call
18 Thirty-one, which is rape.

19 Q. Okay. And when you got there what did you find?

20 A. When I arrived on the scene a young lady was on the back of
21 the ambulance. She was very hysterical, crying and she had --
22 the paramedics was working on her at the time and she had a
23 handcuff on one of her wrists, one was on and one was unattached.
24 And when I went to take it off I found it to be plastic. And I
25 believe also it looked like she had been duct taped at the time,

1 around her ankles and her mouth area.

2 Q. Okay. Do you see that lady in the courtroom today?

3 A. Yes, I do.

4 Q. Where do you see her?

5 A. Sitting right there behind Bobby Jones.

6 SOLICITOR BELL: Okay. Your Honor, let the record reflect
7 that the witness has identified the victim, Lauren Washington.

8 THE COURT: The record so reflects.

9 Q. You said that it appeared to be duct tape. What led you to
10 believe that?

11 A. Well, actually, she said on the back of the ambulance ...

12 MR. WISE: Objection, Your honor.

13 THE COURT: Overruled. Okay.

14 A. Actually, she said on the back of the ambulance she had been
15 taped up, and then when I looked at her lower leg area - - -

16 MR. WISE: Objection, Your honor. Again - - -

17 THE COURT: That's okay, that's okay. I understand -- she's
18 already testified.

19 MR. WISE: That's correct. It just ...

20 THE COURT: Yes, sir. Go ahead.

21 MR. WISE: I think there's -- it's all about this hearsay.

22 I think there is case law that says, even after she testifies,
23 the testimony can only be corroborated as to certain aspects when
24 someone is testifying.

THE COURT: Alright, sir.

1 MR. WISE: I can further quote the case, Your Honor.

2 THE COURT: Okay, but that's okay.

3 Well, Mr. Bell, if you can just ask him what he saw and like
4 that, and not what she said.

5 SOLICITOR BELL: Well, he was going to that in a second.

6 THE COURT: Okay. So, let's just make it clear that he's
7 just going to testify as to what he saw. Okay?

8 Q. You were getting ready to say you looked at ...

9 A. The lower legs we could tell that she had been duct taped.

10 Q. And, I mean, what led you, that you could tell from your
11 observation?

12 A. I believe at the time, I'd probably have to look up in my
13 notes, but I believe we collected it off the ambulance. But I
14 also remember that we did take those handcuffs. So, the
15 investigation that I performed on the back of the ambulance led
16 me to collect what evidence that was brought to my attention.

17 Q. Okay. Let me show you what has been -- let me show you what
18 has been marked as State's Two for identification and ask if
19 you've seen those?

20 A. Yes, sir.

21 Q. And what are those?

22 A. It appears to be the same type of handcuffs that was on the
23 victim on the back of the ambulance.

24 Q. And that you took off of her?

I'd.

1 Q. Okay.

2 SOLICITOR BELL: Your Honor, I'd offer these as State's Two
3 into evidence at this point.

4 THE COURT: Any objection?

5 MR. WISE: No, objection.

6 THE COURT: Huh?

7 MR. WISE: No objection.

8 THE COURT: Okay. State's Number Two is in evidence.

9 COURT REPORTER: Hand it to me, Mr. Bell. State's Two.

10 (State's Exhibit Two
11 marked and filed.)

12 Q. And Lieutenant Shumpert, without saying what she told you,
13 did you have an occasion to talk to Ms. Washington at the scene?

14 A. I did, on the back of the ambulance.

15 Q. And she described what happened?

16 A. She did.

17 Q. Okay. And as a result of talking with her what did you do?

18 A. After speaking with the victim at that time I went to secure
19 a search warrant for the residence.

20 Q. And why did you get a search warrant?

21 A. Well, like I say again, the evidence that was -- the
22 investigation that I performed on the back of the ambulance at
23 that time and the information that I had collected led me to
24 believe that there may be evidence possibly in the residence.

25 Q. Okay. And did you go get a -- did you know if that house

1 was hers or not?

2 A. At the time I believe we found -- I've written it down, I
3 can't remember whose house it was.

4 Q. Okay. But you decided to get a search warrant, is that
5 correct?

6 A. I did.

7 Q. And what did you do to get a search warrant?

8 A. Well, what I did first, I made sure somebody stayed at the
9 property so nobody couldn't go in or come out the residence. At
10 that time I went back to the office, typed up a search warrant,
11 presented it to the magistrate, and got probable cause to get a
12 search warrant.

13 Q. Okay. And did you physically go to the magistrate's office
14 and have the magistrate sign ---

15 A. I did.

16 Q. --- and present it to the magistrate?

17 A. I did.

18 Q. Okay. And then, did you execute the search warrant?

19 A. No, you're not able to execute your own search warrant, so I
20 contacted Lieutenant Carter who's over our forensic unit. He
21 executed the search warrant. He went in and collected the
22 evidence, but I also went in with him.

23 Q. Okay. Do you recall what you saw inside the house when you
24 went in with him?

25 A. I remember going into the house, I think it was the back

1 bedroom: I did find some duct tape that had appeared to be used
2 already. And at that time I believe I brung it to Lieutenant
3 Carter's attention. And at that time I just went back and I
4 backed out, because that's pretty much Lieutenant Carter's area
5 as far as collecting evidence and enforcing the search warrant.

6 Q. So, you pointed it out to him and then he would have
7 collected it and photographed it, etcetera?

8 A. He would have, yes, sir.

9 Q. Okay. And Lieutenant Shumpert, that address that you were
10 at, what county is that located in?

11 A. Orangeburg County.

12 SOLICITOR BELL: Thank you, Lieutenant Shumpert, please
13 answer any questions that the Defense may have for you.

14 THE COURT: Mr. Wise.

15 MR. WISE: Thank you, Your Honor.

16 THE COURT: Yes, sir.

17 (NOTE: Blank lines on this page do not indicate any part of
18 record has been omitted. Headers on testimony pages and hard
19 page breaks between testimony are now required by the Court. See
20 next ensuing page for sequential continuation of record.)

1 CROSS-EXAMINATION BY MR. WISE:

2 Q. Lieutenant Shumpert, how are you?

3 A. Fine, sir.

4 Q. I just have a couple of questions.

5 A. Yes, sir.

6 Q. Your testimony is that when you encountered Ms. Washington
7 she had this handcuff on her?

8 A. Yes, sir.

9 Q. One wrist?

10 A. One wrist, correct.

11 Q. One handcuff on one wrist?

12 A. One handcuff on one wrist.

13 Q. Okay. Do you remember which wrist?

14 A. No, I do not.

15 Q. These handcuffs as they are now, is that the way they were
16 when you saw them, aside from the fact that Ms. Washington isn't
17 attached to them anymore?

18 A. Right. You mean the condition?

19 Q. Yes.

20 A. I would assume. I didn't do a full examination. Like I
21 said, I just took them off and turned them into evidence.

22 Q. Alright. The, one handcuff is, I guess, still engaged, is
23 that the right way to describe it?

24 A. Yes, sir.

25 Q. Okay. The other appears to have been, the handcuff is kind

1 of looped through?

2 A. Yes, sir.

3 Q. Okay. You don't remember which one of these she had on her?

4 A. No, sir, no, I don't remember.

5 Q. How did you get them off of her?

6 A. I'd have to see them again, but I don't remember. I thought

7 they was real at the time by looking at them, but it's a little

8 latch right here at the back. You push down on it, it comes

9 open.

10 Q. A little latch in the back?

11 A. Uh-huh.

12 Q. Okay. Can you show me that one more time?

13 A. Push down on it and pull back.

14 Q. This latch right here?

15 A. Yes, sir.

16 Q. You push down and it opens?

17 A. Correct.

18 Q. When you looked at them was that obvious to you?

19 A. No, not at -- they were apparent -- like I say, looking at
20 them, when I first looked at them and saw them on her, I assumed
21 that they were real, they appeared to be real, they appeared to
22 be real until actually seeing the little latch on the back and
23 actually taking them off. That's when I knew they were kind of
24 fake.

25 Q. Okay. Do you remember how, for lack of a better term,

1 closed the handcuff was?

2 A. How closed?

3 Q. Yeah. Was it like that, was it, you know, a larger opening?

4 A. I'm not sure which one, the one that was on her wrist or the
5 one that was ...

6 Q. Yeah, the one that was on her wrist?

7 A. Well, it was, it was on her wrist is all I can tell you.

8 Q. Okay. Alright, you don't remember?

9 A. It was on her wrist, that's all.

10 Q. And the other one, was it, had it been opened so that it was
11 kind of hanging down like that?

12 A. I cant remember.

13 Q. You can't remember?

14 A. It could have been looped as well, I don't remember.

15 Q. You don't remember?

16 A. I don't remember.

17 MR. WISE: Could I have one moment?

18 THE COURT: Okay.

19 MR. WISE: Lieutenant, thank you.

20 THE COURT: Anything on redirect?

21 SOLICITOR BELL: No, thank you, Lieutenant.

22 THE COURT: Thank you, Lieutenant.

23 SOLICITOR BELL: He can be excused, too, Your Honor.

24 THE COURT: Any objection to him being excused?

25 MR. WISE: No objection, Your Honor.

1 THE COURT: Okay. You're excused, thank you, sir,
2 appreciate it.

3 Alright, does the State want to call the next witness?

4 SOLICITOR JUSTIS: The State calls Allen Hunter.

5 (Whereupon, Allen Hunter
6 enters the courtroom.)

7 CLERK: Please put your left hand on the Bible and raise
8 your right hand,

9 (Whereupon, Allen Hunter
10 is duly sworn.)

11 CLERK: Please have a seat and state your full name for the
12 record.

13 WITNESS: Allen Hunter.

14 THE COURT: Alright, Mr. Justis, your witness.

15 (NOTE: Blank lines on this page do not indicate any part of
16 record has been omitted. Headers on testimony pages and hard
17 page breaks between testimony are now required by the Court. See
18 next ensuing page for sequential continuation of record.)

1 (ALLEN HUNTER, being first duly sworn,
2 testifies as follows:)

3 DIRECT EXAMINATION BY SOLICITOR JUSTIS

4 Q. Officer Hunter, where are you employed?

5 A. Orangeburg County Sheriff's Office.

6 Q. And how long have you been in law enforcement?

7 A. Eight years.

8 Q. And what is your position with the Orangeburg County
9 Sheriff's Office?

10 A. I'm Patrol Supervisor.

11 Q. And were you on duty on September Twenty-ninth, Two Thousand
12 and Nine?

13 A. Yes, sir.

14 Q. And did you have an opportunity to respond to an area on
15 Roberts Street just off Myers Road on that date?

16 A. Yes, sir.

17 Q. Okay. And when you arrived on Roberts Street what did you
18 notice?

19 A. I saw a van.

20 Q. And where was that van located?

21 A. It was parked on the back of his sister's residence.

22 Q. I am showing you what's been marked as State's Exhibit
23 Number Five. what is that?

24 That is the van with the license plate on it.

25 Q. Is this the one that you spotted on Roberts Street?

1 A. Yes.

2 Q. And when you spotted that vehicle what did you do at that
3 point?

4 A. I ran the license number and checked the van. I had another
5 deputy with me. A female came out which was his sister. I asked
6 her where Mr. Flood was, and she said he wasn't there. She
7 brought the kid to the door.

8 Q. Are you talking about the victim's son?

9 A. Correct. At that point I took the kid into custody and
10 waited until he came around.

11 Q. And at that time did you make contact with Mr. Flood?

12 A. Not at that time, but shortly after that Mr. Flood came out
13 of the wood line.

14 Q. And you saw him?

15 A. Right. It's a street light. It's another street light
16 between two trailers that were in the wood line.

17 Q. And when he came out of the wood line what did you do?

18 A. I went ahead and apprehended him.

19 Q. And the person you apprehended that day, do you see him in
20 the courtroom?

21 A. (Witness points toward the defendant at the defense table.)

22 SOLICITOR JUSTIS: Let the record reflect that the witness
23 has identified the defendant, Cedric Flood.

24 THE COURT: The record will so reflect.

25 Officer Hunter, was that the extent of your involvement in

1 this case?

2 A. Yes, sir.

3 SOLICITOR JUSTIS: I have no further questions. Please
4 answer any questions the Defense may have.

5 THE COURT: Alright. Mr. Wise, your witness.

6 (NOTE: Blank lines on this page do not indicate any part of
7 record has been omitted. Headers on testimony pages and hard
8 page breaks between testimony are now required by the Court. See
9 next ensuing page for sequential continuation of record.)

1 CROSS-EXAMINATION BY MR. WISE:

2 Q. Lieutenant Carter, good morning.

3 A. Good morning, sir.

4 Q. I don't think I will be very long. I wanted to start by
5 talking about your processing of the scene, - - -

6 A. Yes, sir.

7 Q. --- Mr. Cedric's trailer. What did you take out of there?

8 A. Items of evidence that I collected?

9 Q. Yes. Let me be more specific, did you take any bedding out
10 of there?

11 A. Yes, sir, I did.

12 Q. Okay. Alright. And did you analyze that bedding, or did
13 you have it analyzed to see if there was DNA on it?

14 A. Not to my knowledge.

15 Q. Okay. When you were doing your processing of the scene did
16 you find any blood anywhere?

17 A. No, sir.

18 Q. Okay. You found a BB gun?

19 A. Yes, sir.

20 Q. Okay. And which room was the BB gun in?

21 A. The BB gun would have been in the bedroom all the way at the
22 end of the mobile home when you came in the front door into the
23 living room, - - -

24

25 -- turn to your left, follow that all the way down to the

1 (CATHERINE LIESEY, being first duly sworn,
2 testifies as follows:)

3 DIRECT EXAMINATION BY SOLICITOR JUSTIS:

4 Q. Ms. Liesy, did you have an opportunity to perform DNA
5 testing in this case?

6 A. Yes, I did.

7 Q. And are you prepared to testify about the results of that
8 testing today?

9 A. I am.

10 Q. Before we get to that let's talk a little bit about your
11 education, your background, where you work. Please tell us where
12 you work?

13 A. I'm employed by the South Carolina State Law Enforcement
14 Division also known as SLED.

15 Q. And what's your job title there?

16 A. I'm a forensic scientist, assigned to the DNA and serology
17 unit.

18 Q. And how long have you been with SLED?

19 A. For five years.

20 Q. And what are some of your duties as a forensic scientist?

21 A. My responsibilities include processing forensic cases,
22 generating reports based on the result and conclusions drawn, and
23 testifying to those reports if necessary.

24 Q. And what type of education do you have?

25 A. I have a Bachelor of Science Degree in genetic engineering

1 Q. And did you record these results in some sort of report?

2 A. I did.

3 Q. And in your expert opinion what were the results of your
4 testing?

5 A. The DNA profile developed from the semen on the vaginal
6 swabs matches the DNA profile of Cedric Flood. The probability
7 of randomly selecting an unrelated individual having a DNA
8 profile matching the semen on this item is approximately one in
9 fifty-one quadrillion.

10 Q. And do you have any knowledge approximately how many people
11 reside on the face of the earth currently?

12 A. The current population is between six and seven billion.

13 Q. Six to seven billion?

14 A. Yes, sir.

15 Q. And you stated this was one in fifty-one quadrillion?

16 A. That's correct.

17 Q. And how, I mean, what's the relationship between seven
18 billion, let's say, and fifty-one quadrillion?

19 A. Fifty-one quadrillion would be several million times larger
20 than the current population of the earth.

21 SOLICITOR JUSTIS: I beg the Court's indulgence.

22 Q. Ms. Liesy, you testified that there was a match to Cedric
23 Flood, so are you saying that his DNA was found in the semen that
24 was, that was on the vaginal swab from Ms. Washington?

25 A. I can say with a reasonable degree of scientific certainty

1 that Mr. Flood was the contributor of the DNA that I obtained
2 from that fraction of the item, yes.

3 Q. And it's based on, that's that one in fifty-one quadrillion?

4 A. Correct.

5 SOLICITOR JUSTIS: Thank you, no further questions.

6 THE COURT: Alright. Mr. Mellard?

7 MR. MELLARD: Yes, sir.

8 (NOTE: Blank lines on this page do not indicate any part of
9 record has been omitted. Headers on testimony pages and hard
10 page breaks between testimony are now required by the Court. See
11 next ensuing page for sequential continuation of record.)

1 THE COURT: Come on back this way. My law clerk, -- if
2 you'll just walk right around here, my law clerk will take you
3 back in there and you can use the phone. Okay?

4 (Whereupon, the jury foreman
5 leaves the courtroom.)

6 THE COURT: Alright, bring the alternates in.
7 (Whereupon, the alternates
8 enter the courtroom.)

9 THE COURT: Alright, Ms. Glenn and Ms. Odom, I want to tell
10 y'all how much I appreciate y'all serving as alternates. The, as
11 you know we've completed the case, we've got all the jurors so we
12 don't need to use y'all as jurors. So, y'all are excused to go.
13 Now, if y'all want to stay y'all are welcome to stay, y'all can
14 wait in the back like everybody else is going to be doing, or
15 y'all are free to go and do whatever you want to, but I want to
16 tell you again how much I appreciate you being willing to serve.
17 Okay? Thank y'all very much.

18 JUROR ODOM: You're quite welcome.

19 THE COURT: Appreciate it.

20 (Whereupon, the jury begins
21 deliberations at 4:25 p.m.)

22 (Recess)

23 (Whereupon, the jury sends
24 a note in at 5:05 p.m.)

25 THE COURT: Gentlemen, we have, they are asking for the

1 definition of law for kidnaping and criminal sexual conduct.

2 They indicated they wanted to see the chart?

3 BAILIFF: What Mr. Justis had on the display about the
4 kidnaping.

5 THE COURT: They've indicated they want to see the chart.
6 I'm not inclined to let them see the chart, that's not evidence.
7 Okay. If they want me to re -- I can re-give them the
8 definitions that I charged them on. What's the State's position?

9 SOLICITOR JUSTIS: I would agree. We normally don't give
10 them a written ...

11 THE COURT: Right. Okay. Is that what you want, to
12 recharge them?

13 SOLICITOR JUSTIS: That's fine.

14 MR. MELLARD: That's fine, Your Honor..

15 THE COURT: Okay. Alright. You can go ahead and bring the
16 jury back out and I'll tell them -- what I'm going to do is tell
17 them I can't give them the chart because it's not in evidence,
18 but I can redo, I'll reread the charge. Okay?

19 (Whereupon, the jury
20 enters the courtroom.)

21 THE COURT: Ladies and Gentlemen, I have a note from y'all
22 that said y'all need the definition of law for kidnaping and
23 criminal sexual conduct. I believe the bailiff has indicated
24 that y'all would like to see the charts that were used. The
25 charts are not in evidence, they were part of the argument. What

1 I can do is, I can recharge you my charge on kidnaping and
2 criminal sexual conduct in the first degree, and that's what I'm
3 going to do right now. Okay?

4 RECHARGE BY THE COURT:

5 Criminal sexual conduct, first degree. The defendant is
6 charged with criminal sexual conduct in the first degree. The
7 first element which the State must prove beyond a reasonable
8 doubt is that the defendant engaged in a sexual battery with the
9 victim. A sexual battery is sexual intercourse, cunnilingus,
10 fellatio, anal intercourse, or any intrusion, however slight, of
11 any part of a person's body or any object into the genital or
12 anal openings of another person's body except when the intrusion
13 is accomplished for medically recognized treatment or diagnostic
14 purposes. If you find that the State has not shown beyond a
15 reasonable doubt that a sexual battery occurred you would stop
16 deliberating and your verdict would have to be not guilty. If
17 you find that a sexual battery did occur you must then decide
18 whether the State has proven beyond a reasonable doubt that the
19 defendant used aggravated force to accomplish sexual battery.
20 Aggravated force means the use of physical force or physical
21 violence of a high and aggravated nature to overcome the victim.
22 This includes threat of using a deadly weapon or that the victim
23 submitted to sexual battery while the victim was also the victim
24 of forcible confinement, kidnaping, robbery, extortion, burglary,
25 house breaking, or any other similar act or offense. That was

1 criminal sexual conduct.

2 Kidnaping. The defendant is charged with kidnaping. The
3 State must prove beyond a reasonable doubt that the defendant
4 knowingly and unlawfully seized, confined, inveigled, decoyed,
5 kidnaped, abducted or carried away another person without
6 authority of law.

7 To do a thing unlawfully is to do it willfully against the
8 law.

9 Knowingly means with knowledge, consciously, not
10 accidentally.

11 Seize means to take hold of suddenly or forcibly.

12 Confine means to limit, restrict or enclose within bounds,
13 imprison, or to shut or keep in.

14 Inveigle means to lure, entice or lead astray by false
15 representations, promises or other deceitful means.

16 Decoy means to lure by, or as if by decoy. A decoy is
17 something to entice a person into a trap.

18 Kidnap is to remove a person against his will by unlawful
19 force or by fraud.

20 Abduct means to carry off secretly or by force for an
21 illegal purpose.

22 Carry away means to remove.

23 The State does not have to prove that the defendant did all of
these things. Instead, if you find beyond a reasonable doubt
that the defendant did any of these things you may find the

1 defendant guilty of kidnaping, something done without authority
2 of law or something which the law does not sanction, permit,
3 allow, condone or provide justification for. The kidnaping does
4 not have to be for any personal or monetary gain or for any
5 illegal purpose, but may be for any reason whatsoever.

6 Those are the two definitions by the law of South Carolina
7 as to first degree criminal sexual conduct and kidnaping. Okay?

8 Y'all can retire back -- no, you can't do it that way. If
9 y'all have another question you can write it down, but y'all need
10 to, y'all can now go back in the jury room and continue with your
11 deliberations.

12 Thank you.

13 (Whereupon, the jury retires
14 to the jury room
15 and continues deliberations.)

16 THE COURT: Alright. Mark this as Court's Exhibit Six.
17 (Court's Exhibit Six
18 marked and filed.)

19 THE COURT: Alright, we're in recess for a while.

20 Mr. Mellard, wait a minute, we're going to go back on the
21 record. Any exception to my charge?

22 SOLICITOR JUSTIS: None, Your Honor.

23 THE COURT: Okay. Any exceptions?

24 MR. MELLARD: None from the Defense.

25 THE COURT: Okay. Thank you, sir.

1 (Recess)

2 (Whereupon, the jury
3 sends in another note.)

4 THE COURT: Alright, we've got another question from the
5 jury, and the question from the jury is, can we get the victim's
6 transcript? Well, you know, we don't have a transcript. The
7 only thing I can do is replay it. Hold on a second, Ms. Harry
8 Dot.

9 (Whereupon, the defendant
10 enters the courtroom.)

11 THE COURT: Oh, I'm sorry, I didn't -- Mr. Flood I didn't
12 see you come back out here. Mr. Flood, I've just told your
13 attorneys and the State's attorneys, the jury has another
14 question. They would like to get the victim's transcript, but we
15 don't have real time transcription, so we can't do that. The
16 only thing I can do is replay her testimony, and that's only --
17 and it's going to take a while for Ms. Harry Dot to find it and
18 to set it up so we can see if we can hear it. That's my only
19 suggestion. Anything else from the State?

20 SOLICITOR JUSTIS: Well, the State would suggest, you know,
21 what we could do is just let them go home, bring them back in the
22 morning, and that would give us time to get that all cued up and
23 ready to go. That would give them, they've been here all day,
24 that would give them a good night's sleep, and they'd be able to
25 hear it fresh in the morning, and that would give us a chance to

1 have it cued up. Because if you try to find it now what time is
2 it going to be before you can get ready to replay it, and then
3 you have to play it, and then they'll go back there. And that
4 would be my suggestion.

5 THE COURT: Okay.

6 SOLICITOR JUSTIS: They've been here all day.

7 THE COURT: The defense, what do you think?

8 MR. MELLARD: I would object to that. That's allowing her
9 to testify twice, and I would object to that.

10 THE COURT: Okay. Well, I ...

11 MR. MELLARD: I mean, they heard everybody's testimony, they
12 heard it. They should be able to, between the twelve of them, to
13 reconstruct what they heard.

14 THE COURT: Okay. Okay.

15 SOLICITOR JUSTIS: They should be able to review it just
16 like they review, you know, a physical piece of evidence.

17 THE COURT: Okay. Alright, since I don't have any agreement
18 on this let me think about it for a minute. Okay? Alright,
19 we'll stand down for a minute.

20 (Recess)

21 THE COURT: Did I give you that sheet?

22 COURT REPORTER: I don't think you did, Judge.

23 THE COURT: I didn't?

24 COURT REPORTER: No, sir.

25 THE COURT: Well, I'll have to see what I did with it. I'm

1 talking about the note. See if I left it in there. I'm sorry.
2 Okay, thank you, sir. Alright, are you ready?

3 COURT REPORTER: Yes, sir.

4 THE COURT: Okay. Alright, the jury would like the
5 transcript, and we've already talked about that. The only thing
6 I can do is play the tape and it's going to take a while to play
7 the tape if I decide to do it. The Defense has objected saying
8 she's essentially getting to testify twice. And you know, I
9 understand your concern, Mr. Mellard, I really do, but when the
10 jury requests something to help them make what they believe to be
11 a fair, just and impartial verdict, as the judge I've got to
12 think about whether or not they really need it or not. And so,
13 what I'm going to do is, I'm going to allow them to listen to the
14 transcript again, that portion of the transcript.

15 MR. MELLARD: And that's the problem I kind of have. We
16 don't know what they're looking for.

17 THE COURT: No, I don't, I'm just, I know ...

18 MR. MELLARD: We don't know what they're interested in.

19 THE COURT: They're going to have to listen to every part of
20 her testimony.

21 MR. MELLARD: And again, they're not really -- by listening
22 to the testimony they're not just hearing facts, they're hearing
23 facts and emotion, and again, it's giving her a chance to testify
24 twice.

THE COURT: And I understand your objection to me, my

1 decision to do that, and so, I'm going to note your objection on
2 the record so that it will be preserved.

3 My next question, though, is, it's going to take a while,
4 we've got to check to see if it can work, you know. I was
5 concerned, as you may recall, during the original testimony of
6 her trying to speak up. I think I asked her to speak up at least
7 three times. And so, I'm hoping it's going to be on the tape,
8 but if it's not, it's not, you know.

9 MR. MELLARD: I would have concerns if they're hearing an
10 incomplete record.

11 THE COURT: Well, I'm going to have some concerns about
12 that, too, but I, she's sitting right there, I'm hoping -- but I
13 won't know until we listen to the tape, you know. And it's going
14 to take Ms. Harry Dot a while to find it on the tape, cue it up,
15 and for us to practice to make sure it works. And having said
16 that, it's now a little bit after six. Do you want me to bring
17 them back out here and tell them that, and tell them we're going
18 to take a break and come back in the morning so they'll be fresh,
19 or ...

20 MR. MELLARD: I don't have a problem with them coming back
21 in the morning.

22 SOLICITOR JUSTIS: And the State doesn't either. I think
23 that would probably be the best.

24 THE COURT: Okay. Well, then, noting your objection to the,
25 me playing the tape, what I'm going to do is, I'm going to ask,

1 I'm going to bring them back out here and tell them that's what
2 we're going to have to do because that's the only way we can
3 handle this.

4 MR. MELLARD: Well, I would ask the Court to makes sure we
5 have a complete tape before you decide one way or another.

6 THE COURT: Okay. Well, I mean, I will review it.

7 MR. MELLARD: I don't think it would be fair for them to
8 only hear part of her testimony if they want to hear it all.

9 THE COURT: No, I ...

10 SOLICITOR JUSTIS: We can do that in the evening.

11 THE COURT: Okay, well, I mean, I will review it.

12 MR. MELLARD: I don't think it would be fair for them to
13 only hear part of her testimony if they want to hear it all.

14 SOLICITOR JUSTIS: We can do that during the evening, I mean
15 ...

16 THE COURT: We will do that. If it turns out we can't
17 apparently hear it, then that's a whole other issue, we'll come
18 back and revisit this issue and explain it to them in the
19 morning.

20 MR. MELLARD: Yes, sir, I just didn't want to promise them
21 anything that we ...

22 THE COURT: I'll just tell them this is what we've got to
23 do. It takes a while.

24 MR. MELLARD: Yes, sir.

25 THE COURT: Okay. Okay. And by this time next week she's.

1 going to be doing live transcript, live transcription.

2 Okay.

3 MR. MELLARD: She's not laughing.

4 THE COURT: She's not laughing. Okay.

5 BAILIFF: Do you want me to bring them out?

6 THE COURT: Yeah, thank you, ma'am, if you'll bring them
7 back out.

8 Ms. Harry Dot, mark this as a Court's Exhibit.

9 (Court's Exhibit Seven
10 marked and filed.)

11 (Whereupon, the jury
12 enters the courtroom.)

13 THE COURT: Ladies and Gentlemen, the question that y'all
14 have sent to me now is, can we get the victim's transcript, and
15 by that I'm assuming you mean what she testified to here today.
16 Okay. Now, we can't do, we don't have a transcript that's
17 available right now. The only thing we can do is replay the tape
18 of the testimony, and we can do that. The problem we have is,
19 we've got to go back through the tape, get it cued in right,
20 review it to make sure that all the testimony is clearly where
21 you can hear it, and then play it back for you out in the
22 courtroom. That will take us a while to do that, and since this
23 is where y'all seem to be at an impasse, what, and since now it's
24 after six, what I'm planning on doing is to let y'all go home for
25 the evening and come back tomorrow morning. I'm going to tell

1 y'all to come back tomorrow morning at nine:thirty. Again, you
2 are to stop your deliberations at this point, so that means when
3 y'all go back into the jury room and get your things and things
4 like that y'all are to stop your deliberations, you can't talk in
5 ones or twos or anything like that. Again, I'm reminding you,
6 I'm sure there's going to be an article in the T and D about
7 this, you cannot read the paper, you cannot talk to anybody about
8 it, you cannot check on the internet, listen to the radio, any
9 news reports, all of that kind of stuff. Okay? All the evidence
10 that you need to decide this case you have heard already, even
11 though I understand you wish to hear her testimony one more time.
12 Okay? Now, so again, I'm going to excuse you. Deliberations
13 have stopped for today. You are to meet back in the jury room at
14 nine:thirty tomorrow morning. Okay? And I'll tell you where we
15 are with hearing her testimony again. Okay? Y'all are excused.
16 Thank you.

17 (Whereupon, the jury leaves
18 the courtroom for the day
19 and the following takes place
20 out of the hearing of the jury.)

21 THE COURT: What I -- how long did she testify? Wait, I
22 know.

23 COURT REPORTER: I would estimate about an hour, but I, you
24 know, it's hard to do.

25 THE COURT: Yeah, actually, she testified about forty

1 minutes. Okay?

2 COURT REPORTER: Okay.

3 THE COURT: From Three:o-four to Three:forty-four, according
4 to my calculations. Do y'all want to let's sit here tonight and
5 let's see if we can get that straight before y'all leave or do
6 y'all want to come back much earlier than nine:thirty to make
7 sure we've got it? I'd just as soon sit here and make sure we've
8 got it straight.

9 MR. MELLARD: Can we all get together?

10 THE COURT: Yeah. Why don't y'all get together and talk for
11 a little while, and while y'all are doing that Ms. Harry Dot is
12 going to be trying to find that. Okay? Y'all talk.

13 (Whereupon, the Solicitors and Defense
14 Counsel confer off the record.)

15 THE COURT: That was not a long discussion.

16 Alright, we'll be in recess until nine:thirty in the
17 morning.

18 (Recess for the day.)

19 DATE:

20 July 21, 2011

21 THE COURT: Alright, just so you all know, we are getting
22 ready to play the tape now, and we are going through the whole
23 thing.

24 MR. MELLARD: I would just like to bring the Court's
25 attention to the newspaper article that was in the T and D this

1 morning. I would again make a motion for a mistrial.

2 THE COURT: And you were kind enough to underline it for me.
3 Have you seen a copy?

4 SOLICITOR JUSTIS: Yes, sir.

5 THE COURT: And again, what I will do is, I will poll the
6 jury again before I make a decision regarding your motion for a
7 mistrial.

8 MR. MELLARD: You mean as a group?

9 SOLICITOR JUSTIS: It is almost accusatory to the jurors,
10 and I just think the general polling of the entire jury would be
11 just -- calling them out and specifically bringing each one out -
12 - it's a waste of time. If they know not to read the paper they
13 are not going to know - - -

14 THE COURT: I understand your position.

15 SOLICITOR JUSTIS: --- because I just think it is really
16 prejudicial to imply that somebody would do something wrong. And
17 I just think it is going to hurt their deliberations if you call
18 them out individually and all.

19 THE COURT: Well, I will have to ask them about it. I
20 understand your concern but I think, by the same token ...

21 SOLICITOR JUSTIS: I think it would give them the impression
22 that there is something in that article - - -

23 THE COURT: Did you hear anything?

24 SOLICITOR JUSTIS: --- because I think we are highlighting -
25 - I think a reasonable person would get the feeling -- it might

1 make them want to read the paper now. The perception I would
2 start to receive -- it's like asking your kid the same question
3 over and over again to get them to answer how you want them to
4 answer.

5 THE COURT: Well, I will think about it.

6 MR. MELLARD: This jury does not know how we normally
7 conduct polling. Normally you would bring them out as a group.
8 They don't know that you don't do this all the time, that this is
9 not a normal thing to do this. If it was just a normal question
10 - but this is something that is highly prejudicial is the reason
11 that we need to do this individually.

12 THE COURT: Well, I will think about it. I will poll them
13 but I will think about how I am going to do it.

14 Let's take a few minutes.

15 (Recess)

16 THE COURT: Alright, is the State ready?

17 SOLICITOR JUSTIS: The State's ready.

18 THE COURT: Is the Defense ready?

19 MR. WISE: The Defense is ready, Your Honor, and the
20 defendant is ready also.

21 THE COURT: Alright. We have a few things to go over.

22 Okay, Mr. Bell and Mr. Mellard need to be in here.

23 I think I can handle it.

24 (Whereupon, Mr. Bell and Mr. Mellard

25 enter the courtroom.)

1 THE COURT: We had already talked about polling the jury.
2 As far as the playing of the tape, Mr. Mellard made the
3 objection yesterday.

4 MR. MELLARD: What the jury wanted was the transcript, which
5 is factual, and my objection was that that would get her, the
6 victim, to testify twice. So, I would just like to renew my
7 objection to playing the tape.

8 THE COURT: Okay. I note your objection.

9 MR. MELLARD: My second objection, we are now in
10 deliberations. The jury, they wanted a transcript, they wanted
11 to read the transcript. Now, when we play this tape, with her
12 sitting there crying -- this is jury deliberations, so what I
13 would suggest is that we clear this courtroom. They need to hear
14 what they want to hear without any other people being in here.
15 We are in jury deliberations. The tape can't be taken back to
16 them. In my opinion this room becomes the jury room while they
17 are listening to the tape.

18 SOLICITOR JUSTIS: This is a public courtroom. I think the
19 victim has a right to be here.

20 THE COURT: My take on that is -- my take on that is, we are
21 playing this tape for the jury's benefit. And I am going to play
22 the entire tape for the jury's benefit. And Mr. Mellard is
23 right, this should be the jury room. Now, having said that, the
24 attorneys are going to have to be present, and we can sit in that
25 back room -- if we can sit in that back room. I don't mind the

1 attorneys staying in here but as far as anybody else in the
2 courtroom, they will all have to go.

3 Mr. Mellard, you have said your client is going to waive his
4 presence while we play this?

5 MR. MELLARD: It would only be fair.

6 THE COURT: It must just be the jury's time.

7 MR. MELLARD: Yes, sir, and that means ...

8 SOLICITOR BELL: If we are going to do this -- I have never
9 seen it happen.

10 THE COURT: It is always nice to do something for the first
11 time.

12 MR. WISE: Thank you, Your Honor.

13 THE COURT: Let me just get back to -- you attorneys have
14 talked about waiving his presence while we play the tape.

15 MR. MELLARD: Yes, sir.

16 THE COURT: Mr. Flood, do you understand that, do you desire
17 to do that?

18 DEFENDANT FLOOD: Yes, sir.

19 THE COURT: He said he understood he was waiving his
20 presence in the courtroom while we are playing the tape. So,
21 everyone, including the defendant and the victim, will clear the
22 courtroom.

23 SOLICITOR BELL: I would object.

24 MR. MELLARD: She was emotional.

25 SOLICITOR BELL: It makes no difference.

1 THE COURT: And Mr. Bell, I understand that. Right now they
2 wanted the transcript. We can let them rehear the tape which is
3 going to have the emotional stuff on it.

4 Now, having said that, I agree with Mr. Mellard's analogy
5 that this is part of the jury room, and what I would prefer to do
6 -- I could just take this evidence back into the jury room and
7 play it. So, instead of doing that I bring the jury out here as
8 part of their deliberations, except the attorneys will be in
9 here. I understand, -- I heard Mr. Justis mention that the
10 victim has a right to be here. This is not going to be the
11 courtroom for a few minutes, it is going to be the jury room.

12 If you have an objection to that on the ...

13 SOLICITOR BELL: I think we waive objection.

14 THE COURT: Alright, everybody is out of the courtroom
15 except the attorneys. I want you all to be close in case there
16 is something wrong with the tape.

17 Alright, now, the other thing we will do is poll the jury.
18 Let me tell you what I am going to do when I poll the jury. They
19 just stand right there, I am going to bring them on out and ask
20 them about whether they have read the article in the newspaper
21 individually, and that's how we are going to proceed. Any
22 objection?

23 SOLICITOR JUSTIS: I think that's a fair resolution.

24 THE COURT: Are you ready to play the tape?

25 COURT REPORTER: Yes, sir.

1 THE COURT: Bring the jury on out, please, ma'am.

2 (Whereupon, the jury enters

3 the courtroom.)

4 THE COURT: Good morning, ladies and gentlemen of the jury.
5 I hope you all got a good rest. Now, just to let you know, you
6 have begun your deliberations. Normally speaking, it would be
7 nice if we could bring the tape back into the jury room. Since
8 that is not easy to do we will bring you out here. Nobody is in
9 here except you and the attorneys, possibly deputies are back
10 there, but no one else is in the courtroom. Let me just tell
11 you, I think we have sat in your seats in the jury box to make
12 sure you can hear, and if, however, you cannot hear you can stand
13 up and move and get right in front of the speaker. Get
14 comfortable to make sure you can hear it.

15 Now, the final thing before we start rehearing the tape is,
16 because this is a case that is getting some news coverage I'm
17 going to poll you again this morning as to whether anybody has
18 talked to you. The way we are going to ask you the question is,
19 each one of you should stand up and respond by name. Now, the
20 question that I am going to ask each one of you right now, have
21 any of you read any articles in the newspaper, heard anything on
22 the radio, or anything on t.v. or talked to anyone about this
23 case?

24 Mr. Negrón?

25 JUROR NEGRON: No, sir, I have not.

1 THE COURT: Mr. Beckett?

2 JUROR BECKETT: No, sir, I have not.

3 THE COURT: Mr. White?

4 JUROR WHITE: No, sir, I have not.

5 THE COURT: Ms. Fulton?

6 JUROR FULTON: No, sir, I have not.

7 THE COURT: Ms. Mabry?

8 JUROR MABRY: No, sir, I have not.

9 THE COURT: Mr. Danhauser?

10 JUROR DANHAUSER: I have not.

11 THE COURT: Ms. Frierson?

12 JUROR FRIERSON: No, sir, I have not.

13 THE COURT: Mr. Gray?

14 JUROR GRAY: No, Your Honor.

15 THE COURT: Ms. Wright?

16 JUROR WRIGHT: No, sir.

17 THE COURT: Mr. Moorer?

18 JUROR MOORER: No, sir, I have not.

19 THE COURT: Mr. Shingler?

20 JUROR SHINGLER: No, sir, I have not.

21 THE COURT: And Mr. Shuler?

22 JUROR SHULER: No, sir.

23 THE COURT: Okay. I appreciate you all following my
24 instructions. Particularly like most people you want to read the
25 paper in the morning, so I appreciate you all not doing that.

1 I will go back on the record later, Ms. Harry Dot. If you
2 would start playing the tape.

3 Now, if for some reason you can't hear it, you are welcome
4 to come stand by the mikes. This is now the jury room.

5 (Whereupon, Ms. Washington's testimony
6 is played for the jury in its entirety.)

7 THE COURT: Alright, Ladies and Gentlemen, you have now
8 heard the testimony of the victim, as you requested. GO back
9 into the jury room and then you can begin your deliberations, and
10 we will send all the exhibits in to you along with the verdict
11 form. This will take another minute.

12 (Whereupon, the jury retires to
13 the jury room to continue their
14 deliberations.)

15 THE COURT: Alright, anything from the State?

16 MR. JUSTIS: Nothing.

17 MR. MELLARD: Nothing from the Defense.

18 THE COURT: Alright, you can unlock the doors now. Thank
19 you, sir.

20 Alright, we will be in recess for a while.

21 (Recess)

22 (Whereupon, the jury sends
23 in another note.)

24 THE COURT: Alright, we now have a jury question, well,
25 actual we have a jury statement. The jury has informed the

1 Court that they cannot come to a unanimous decision on either
2 charge. Now, they probably haven't been given enough time to
3 deliberate is the Court's position. What I was going to do is --
4 well, I have two choices, I can just let them sit back there for
5 a little while and not give them the Allen charge, or I can go
6 ahead and give the Allen charge. I'm inclined to go ahead and
7 give them the Allen charge and then we've got a work day ahead of
8 us and we'll just see what happens.

9 What's the State's position on that?

10 SOLICITOR JUSTIS: That's fine, Your Honor.

11 THE COURT: What's the Defense's position? I'm always open
12 to suggestions.

13 MR. MELLARD: That's fine, Your Honor.

14 THE COURT: Okay. Alright. Ms. Harry Dot, you want to mark
15 that as ...

16 COURT REPORTER: I believe that would be Eight.

17 THE COURT: That will be Eight.

18 (Court's Exhibit Eight
19 marked and filed.)

20 THE COURT: Bring them on out.

21 (Whereupon, the jury enters the courtroom,
22 and the following takes place in the
23 presence of the jury.)

THE COURT: Alright. I have gotten your note. I have
advised the attorneys that y'all have not been able to reach a

1 unanimous verdict. But let me tell you, that is not going to end
2 your deliberations at this time. Okay. I am going to read y'all
3 an additional charge that I am required to read, and then I'm
4 going to send you back into the jury room. Okay?

5 ADDITIONAL ALLEN CHARGE BY THE COURT:

6 Now, you have stated to the Court that you have been unable
7 to agree on a verdict in this case. As I instructed you earlier,
8 the verdict of the jury must be unanimous. When a matter is in
9 dispute it isn't easy for even two people to agree. So, when
10 twelve people must agree it becomes even more difficult. In most
11 cases absolute certainty cannot be reached or expected. However,
12 you have a duty to make every reasonable effort to reach a
13 unanimous verdict. In doing this you should consult with one
14 another, express your own views and listen to the opinions of
15 your fellow jurors. Tell each other how you feel, and why you
16 feel that way. Discuss your differences with open minds.
17 Although the verdict of the jury must be unanimous, every one of
18 you has the right to your own opinion. The verdict you agree to
19 must be your own verdict, the result of your own convictions and
20 you should not give up your firmly held beliefs merely to be in
21 agreement with your fellow jurors. The majority should consider
22 the ~~minority~~ minority's position, and the minority should consider the
23 majority's position. You should carefully consider and respect
24 the opinions of each other and re-evaluate your position for
25 reasonableness, correctness, and impartiality. You must lay

1 aside all outside matters and reexamine the questions before you
2 based on the law and the evidence in this case. If you do not
3 agree on a verdict in this case I must declare a mistrial. In
4 that case it does not mean that anybody wins, it just means that
5 at some future time I will try this case with some other jury
6 sitting where you now sit. The same participants will come and
7 the same lawyers will ask basically the same questions and get
8 basically the same answers, and we will go through this whole
9 entire process again. You were selected in the same manner and
10 from the same source as any future jury will be, and there is no
11 reason for me to suppose that the case will ever be submitted to
12 twelve more intelligent, impartial, conscientious and competent
13 jurors than you, or that more or clearer evidence will be
14 produced on one side or the other. Therefore, I ask you to
15 return to your deliberations with the hope that you can arrive at
16 a verdict within a reasonable time. So, I am sending you back
17 into the jury room for you to continue your deliberations. Okay?
18 Thank you.

19 (Whereupon, the jury
20 retires to the jury room,
21 and continues their
22 deliberations.)

23 THE COURT: Alright, anything from the State regarding my
24 charge?

25 SOLICITOR JUSTIS: Nothing, Your Honor.

1 THE COURT: Anything from the Defense regarding my charge?

2 MR. MELLARD: No, sir.

3 THE COURT: Okay. We're in recess. Thank y'all.

4 (Recess)

5 (Whereupon, two more notes by
6 the jury are sent into the
7 Court, and a conference is had
8 with the Court and attorneys
9 off the record, in chambers,
10 after which the Court and
11 attorneys enter the courtroom.)

12 THE COURT: Alright, bring them back in.

13 (Whereupon, the jury enters
14 the courtroom.)

15 ADDITIONAL CHARGE BY THE COURT:

16 THE COURT: I've gotten two notes from you. I did not
17 respond to the first one, so I got the second one that's
18 essentially the same thing. You know, it reminds me of when my
19 children repeat things like I was hard of hearing, and I
20 apologize for not getting back to you sooner than that. But let
21 me tell you, I'm not going to recharge the law to you again, I'm
22 not going to do that. But I want y'all -- if y'all have ever
23 been involved in Court proceedings before, y'all know that it
24 takes a lot of people a lot of time and a lot of work just to get
25 to Court. Okay? And we've been in this trial now for a few

1 days, and I know these deliberations have been hard on y'all, and
2 I know that they are some very hard decisions that you are being
3 asked to make, and I know that there's serious disagreement among
4 you. But I want to remind you that if you think it is tough on
5 you, I want you to think about how tough it is on the parties.

6 Now, the parties want you to make a decision in this case,
7 and they want you to make that decision without compromising any
8 of your convictions or your beliefs. Now, considering that and
9 considering that it's still early in the day, I want to apologize
10 to you and tell you that rather than try this case again I'm
11 treating this as a work day. Sometimes you've got to work
12 overtime. So, I'm asking y'all to return to your deliberations
13 and bring back a fair, just and impartial verdict. Okay? Thank
14 y'all very much.

15 (Whereupon, the jury retires
16 to the jury room at 2:50 p.m.
17 and continues deliberations.)

18 (Court's Exhibits Nine and Ten
19 marked and filed.)

20 THE COURT: Okay. Thank you, Ms. Harry Dot.

21 And just so the record will reflect this, I went over this
22 charge with the other attorneys, or with the attorneys, excuse
23 me, in chambers, reviewed this before I came out and put this on
24 the record. And just to make sure everything is clean, Mr.
25 Justis, do you have any exceptions to my additional charge?

1 SOLICITOR JUSTIS: No exceptions, Your Honor.

2 THE COURT: Mr. Mellard?

3 MR. MELLARD: No, sir.

4 THE COURT: Okay. Then, we are in recess and we'll see what
5 happens. Thank you.

6 (Recess)

7 THE COURT: Ms. Harry Dot, are we ready?

8 COURT REPORTER: Yes, sir.

9 THE COURT: Alright, I have been told that the jury has
10 reached a verdict. Is the State ready?

11 SOLICITOR JUSTIS: The State's ready, Your Honor.

12 THE COURT: Is the Defense ready?

13 MR. MELLARD: Yes, Sir.

14 THE COURT: Okay. Bring the jury in, please.

15 (Whereupon, the jury returns

16 with a verdict at 5:00 p.m.)

17 THE COURT: Mr. Foreman, have you reached a verdict?

18 JUROR FOREMAN: Yes, we have, Your Honor.

19 THE COURT: Okay. Is that verdict unanimous?

20 JUROR FOREMAN: Yes, sir.

21 THE COURT: Okay. Would you give the bailiff the verdict
22 form? Thank you, ma'am.

23 (Whereupon, the Court

24 examines the verdict.)

THE COURT: Alright.

1 VERDICT OF THE JURY:

2 THE COURT: In the case of State of South Carolina versus
3 Cedric Flood, Indictment Number 2009-GS-38-1775, we, the jury,
4 unanimously find the defendant as to the first charge of criminal
5 sexual conduct in the first degree not guilty.

6 Indictment Number 2009-GS-38-1776, we, the jury, unanimously
7 find the defendant as to the second charge of kidnaping guilty.

8 This was signed by the foreman of the jury and dated July
9 Twenty-first, Two Thousand Eleven.

10 Alright, anything from the State regarding the verdict?

11 SOLICITOR JUSTIS: Nothing, Your Honor.

12 THE COURT: Anything from the Defense regarding the verdict?

13 MR. MELLARD: We'd ask that you poll the jury, Your Honor.

14 THE COURT: Okay. Ladies and Gentlemen of the jury, the
15 defendant has asked that I poll the jury in much the same manner
16 that I have polled y'all earlier today for other reasons. Okay?
17 So, what I'm going to do is, I'm going to call your names and ask
18 you the questions regarding the verdict. And Mr. Negrón, you
19 always get to go first.

20 JUROR NEGRON: I'm sorry.

21 THE COURT: If you'd please stand, sir. Mr. Negrón, you've
22 heard me read the verdict form into the record, is that correct?

23 JUROR NEGRON: Yes, sir.

24 THE COURT: Okay. Is this your verdict?

JUROR NEGRON: Yes, sir.

1 THE COURT: Is it still your verdict?

2 JUROR NEGRON: Yes, sir.

3 THE COURT: Okay, thank you, sir.

4 Mr. Beckett.

5 JUROR BECKETT: Yes, sir.

6 THE COURT: You've heard me read the verdict into the
7 record, is that correct?

8 JUROR BECKETT: Yes, sir.

9 THE COURT: Is this your verdict?

10 JUROR BECKETT: Yes, sir.

11 THE COURT: Is it still your verdict?

12 JUROR BECKETT: Yes, sir.

13 THE COURT: Alright, thank you, sir.

14 Mr. White. You've heard me read the verdict form into the
15 record?

16 JUROR WHITE: Yes, sir.

17 THE COURT: Is this your verdict?

18 JUROR WHITE: Yes, sir.

19 THE COURT: Is it still your verdict?

20 JUROR WHITE: Yes, it is.

21 THE COURT: Thank you, sir.

22 Ms. Fulton. You've heard me read this verdict into the
23 record?

24 JUROR FULTON: Yes.

THE COURT: Is this your verdict?

1 JUROR FULTON: Yes, sir, it is.

2 THE COURT: Is it still your verdict?

3 JUROR FULTON: Yes, sir, it is.

4 THE COURT: Okay. Ms. Mabry. You've heard me read the
5 verdict into the record?

6 JUROR MABRY: Yes, sir.

7 THE COURT: Is this your verdict?

8 JUROR MABRY: Yes, sir.

9 THE COURT: Is it still your verdict?

10 JUROR MABRY: Yes, it is.

11 THE COURT: Okay. Mr. Danhauser. You've heard me read this
12 verdict into the record?

13 JUROR DANHAUSER: Yes, sir.

14 THE COURT: Okay. Is this your verdict?

15 JUROR DANHAUSER: Yes, sir.

16 THE COURT: Is it still your verdict?

17 JUROR DANHAUSER: Yes, sir.

18 THE COURT: Thank you, sir.

19 Ms. Frierson. You've heard me read this verdict into the
20 record?

21 JUROR FRIERSON: Yes, sir.

22 THE COURT: Is this your verdict?

23 JUROR FRIERSON: Yes, it is.

24 THE COURT: Is it still your verdict?

25 JUROR FRIERSON: Yes, it is.

1 THE COURT: Thank you, ma'am.

2 Mr. Gray. You've heard me read this into the record?

3 JUROR GRAY: Yes, Your Honor.

4 THE COURT: Okay. Is this your verdict?

5 JUROR GRAY: Yes.

6 THE COURT: Is it still your verdict?

7 JUROR GRAY: Yes.

8 THE COURT: Okay. Ms. Wright. Ms. Wright, you've heard me
9 read this verdict into the record?

10 JUROR WRIGHT: Yes, sir.

11 THE COURT: Okay. Is this your verdict?

12 JUROR WRIGHT: Yes, it is.

13 THE COURT: Is it still your verdict?

14 JUROR WRIGHT: Yes.

15 THE COURT: Thank you, ma'am.

16 Mr. Moorer.

17 JUROR MOORER: Yes, sir.

18 THE COURT: Mr. Moorer, you've heard me read this verdict
19 into the record?

20 JUROR MOORER: Yes, sir.

21 THE COURT: Is this your verdict?

22 JUROR MOORER: Yes, sir.

23 THE COURT: Is it still your verdict?

24 JUROR MOORER: Yes, sir.

25 THE COURT: Thank you, sir.

1 Mr. Shingler. Mr. Shingler, you've heard me read this
2 verdict into the record?

3 JUROR SHINGLER: Yes.

4 THE COURT: Is this your verdict?

5 JUROR SHINGLER: Yes.

6 THE COURT: Is it still your verdict?

7 JUROR SHINGLER: Yes, sir.

8 THE COURT: Thank you, sir.

9 And Mr. Shuler. Mr. Shuler, you've heard me read this
10 verdict into the record?

11 JUROR SHULER: Yes, sir.

12 THE COURT: Is this your verdict?

13 JUROR SHULER: Yes, sir.

14 THE COURT: Is it still your verdict?

15 JUROR SHULER: Yes, sir.

16 THE COURT: Alright, thank you. Thank you.

17 Anything else from the State? Anything else from the State?

18 SOLICITOR JUSTIS: Nothing, Your Honor.

19 THE COURT: Anything else from the Defense?

20 MR. MELLARD: Not as far as the jury.

21 THE COURT: Okay. Thank you.

22 Ladies and Gentlemen, I want to tell you how much I
23 appreciate -- I know y'all paid attention during the trial, I
24 know that you had a very concerned and passionate deliberation,
25 and I appreciate it, I really do. But your service is now ended.

1 We really do appreciate your service. I know there are many
2 other things that you would rather have been doing during these
3 past three days, but it was a great benefit to the County and to
4 the State, and we do appreciate your service. And again, you're
5 going to be paid just an excessive amount of money. Anyway,
6 y'all are now excused to go. Thank y'all so much for your
7 service, and I hope you have a wonderful weekend. Thank you.
8 (Whereupon, the jury
9 leaves the jury box.)

10 THE COURT: Anything from the State?

11 SOLICITOR JUSTIS: The only thing, the sentencing, Your
12 Honor.

13 THE COURT: Alright, sir. Alright, anything from the
14 Defense before ...

15 MR. MELLARD: Yes, sir.

16 THE COURT: Yes, sir. Okay.

17 MR. MELLARD: At this time we would renew all motions we've
18 made, including the issue of competency, including the issue of
19 the directed verdict.

20 We would also move for a motion for a new trial. It's our
21 position that there's no evidence to support a conviction of
22 kidnaping, and the guilty verdict on the kidnaping is entirely
23 inconsistent with their verdict of not guilty on the CSC charge.

24 THE COURT: Alright, with regard to renewing your motion as
to his competency, I would again deny that.

1 In regard to your motion for a directed verdict, again I am
2 denying that for reasons earlier stated.

3 Regarding your motion for a new trial based on the fact that
4 there is no evidence to convict him of kidnaping, I'm going to
5 deny it on those grounds. Okay? I think there's plenty of
6 evidence in the record that a jury could find that he did kidnap
7 her.

8 Now, I'm also going to deny it with regard to your argument
9 that it is inconsistent. He had two separate charges, and the
10 jury had in its, had the ability to find one or the other guilty
11 or not guilty. They chose to do that, and so I'm going to deny
12 your request based on the fact that you believe it was an
13 inconsistent verdict, that you had to convict or find not guilty
14 of both. Okay.

15 MR. MELLARD: Yes, sir.

16 THE COURT: I'll note your objection to my ruling on the
17 record so that it will be preserved.

18 Anything else?

19 MR. MELLARD: Nothing, Your Honor.

20 THE COURT: Okay. Alright. Let's take a few minutes and
21 then we'll come back and y'all can finish filling out the
22 sentencing sheet.

23 SOLICITOR JUSTIS: It's filled out, Your Honor.

24 THE COURT: It's filled out? Okay. Well, we're still going
25 to take a few minutes. Take about five minutes.

1 (Recess)

2 THE COURT: Ms. Harry Dot, we're back on the record, State
3 versus Cedric Flood. Are you ready to proceed?

4 COURT REPORTER: Yes, sir.

5 THE COURT: Okay.

6 SOLICITOR JUSTIS: The State's ready, Your Honor.

7 THE COURT: Okay. Is the Defense ready?

8 MR. MELLARD: Defense is ready, Your Honor.

9 THE COURT: Okay. Alright, Mr. Justis, let me hear from
10 you.

11 SOLICITOR JUSTIS: Your Honor, I have the sentencing sheet,
12 and the indicted case that he was convicted of.

13 THE COURT: Okay.

14 SOLICITOR JUSTIS: May I approach?

15 THE COURT: Yes, sir. Thank you, sir. Alright.

16 SOLICITOR JUSTIS: And Your Honor, as far as the prior for
17 Mr. Flood, he does have a Nineteen Ninety-two shoplifting
18 conviction, a Nineteen Ninety-four kidnaping, and criminal sexual
19 conduct in the second degree conviction for which he received
20 twenty years. He served approximately ten and a half years, was
21 released in Two Thousand and Five, and I have some arrests, I
22 don't have dispositions, a Magistrate arrest for simple assault
23 and battery and a couple of unlawful use of telephone from March
24 of Two Thousand and Nine, and of course, this charge.

25 THE COURT: Alright.

1 SOLICITOR JUSTIS: Back on August Twentieth of Two Thousand
2 Ten, the State served notice to the Defense on the record that we
3 sought to seek a life without parole sentence if he was convicted
4 on either the CSC, first, or the kidnaping, or both. So, the
5 State would ask that based on Seventeen Twenty-five Forty-five of
6 the South Carolina Code of Laws, this being his second conviction
7 for a most serious crime, there is no discretion, he must be
8 sentenced to a life without parole sentence. And I did have a
9 copy of the conviction for kidnaping back in Calhoun County in
10 Nineteen Ninety-four which serves as proof of his first most
11 serious, and of course, today would be the second most serious.

12 THE COURT: Okay, now, Mr. Justis, one of the things, -- I
13 got that file, and one of the things that we were concerned with
14 was the medical report. You had -- okay, let me see ...

15 SOLICITOR JUSTIS: Mr. Bell actually has a copy of that,
16 Your Honor.

17 THE COURT: Okay, Mr. Bell, do you have a copy for the
18 Defense?

19 SOLICITOR BELL: They've got it, we've given them three
20 copies.

21 THE COURT: They've been given three copies, this is the
22 Court's copy?

23 SOLICITOR BELL: Yes, this is the copy for the Court.

24 THE COURT: Okay. Hold on one second. Mr. Justis or Mr.
25 Bell, I believe it's your position that this would then clear up

1 the issue regarding the, whether or not he was competent to plead
2 guilty in Nineteen Ninety-four?

3 SOLICITOR JUSTIS: Absolutely, Your Honor.

4 THE COURT: Okay. Anything else?

5 SOLICITOR JUSTIS: Nothing further from the State.

6 COURT: Alright.

7 COURT REPORTER: Excuse me, Judge, is that something I
8 should mark?

9 THE COURT: Yeah, I'm going to let you mark it.

10 COURT REPORTER: Oh, I'm sorry.

11 THE COURT: That's okay. Alright, Mr. Mellard, or Mr. Wise,
12 I don't know who's, you're both doing it?

13 MR. MELLARD: Yes, sir.

14 THE COURT: Alright. Yes, sir.

15 MR. MELLARD: The Clerk said that you have a copy of the
16 Clerk's file?

17 THE COURT: Yes, sir. I have the Clerk's file.

18 MR. MELLARD: You have it?

19 THE COURT: Yes, sir.

20 MR. MELLARD: You do have the Clerk's file?

21 THE COURT: I have the Clerk's file, yes, sir.

22 MR. MELLARD: And what the document in the Clerk's file says
23 is that he was not competent.

24 THE COURT: Right.

25 MR. MELLARD: And they have provided you with a document

1 that says competent.

2 THE COURT: Yes, sir.

3 MR. MELLARD: So, we have two competing documents, one says
4 he's not competent and one says he is competent.

5 THE COURT: Right.

6 MR. MELLARD: And any case like that, for instance, in this
7 case, the Court is the ultimate finder of whether a person is
8 competent or not competent. And in the records we have no
9 finding by the Court one way or another. And without that
10 finding it's our position that there is no resolution to this
11 issue. The medical people made their evaluations, but the final
12 determiner is the Court. And so because there's nothing in that
13 record showing that the Court made a finding that he's competent
14 it's our position that issue is still out there and there's no
15 resolution to it. And because there's no resolution to it, it's
16 our position that he should not -- that that prior conviction
17 should not be used to, to sentence him to life without parole.

18 THE COURT: Alright, sir. Mr. Mellard -- okay. Alright,
19 anything else?

20 MR. MELLARD: No, sir.

21 THE COURT: Alright. Okay. Alright. Okay, we're going to
22 stand down for a moment and I'm going to look over this stuff. I
23 will come back out here and tell you whether I'm going to make my
24 decision today or in the morning. Okay?

25 (Recess)

1 THE COURT: Mr. Bell.

2 SOLICITOR BELL: Yes, sir.

3 THE COURT: You handed up to the Court a copy of the
4 evaluation by Dr. Donald Morgan, MD, that was done on October
5 Fourteenth, Nineteen Ninety-four, evaluating Mr. Cedric Flood for
6 purposes of his competency to stand trial?

7 SOLICITOR BELL: Yes, sir.

8 THE COURT: Okay. Tell the Court how you obtained a copy of
9 this?

10 SOLICITOR BELL: Our office, and I believe our investigator,
11 Mr. Walt Turner, contacted one of his attorneys, Mr. Martin Banks
12 of Calhoun County, I believe he was his attorney on the kidnaping
13 case if I'm not mistaken, and he went back and found his file and
14 faxed us a copy of this report.

15 THE COURT: Okay. Now, as I understand it, Mr. Flood pled
16 guilty to the kidnaping charge in Calhoun County in Nineteen
17 Ninety-four?

18 SOLICITOR BELL: Yes.

19 THE COURT: And he pled guilty to the criminal sexual
20 conduct charge here in Orangeburg County, is that correct?

21 SOLICITOR BELL: I think they were done at the same time.

22 THE COURT: Yeah, they were done at the same time, done on
23 the same day.

24 SOLICITOR BELL: That's correct.

25 THE COURT: But the kidnaping was a Calhoun County case?

1 SOLICITOR BELL: Yes, sir.

2 THE COURT: Okay. Alright. Now, I'm getting ready to do
3 the sentencing in this case. I know there are people concerned
4 about the sentencing here, and I want to caution everybody that
5 there is going to be no emotional outbreak or anything like that
6 when I read the sentence. If you cannot remain calm then I will
7 ask you, I'm giving you the opportunity now to leave the
8 courtroom.

9 Alright, everybody else in the courtroom is going to remain
10 calm while I do this.

11 Alright. Mr. Mellard, regarding the Nineteen Ninety-four
12 convictions, - - -

13 MR. MELLARD: Yes, sir.

14 THE COURT: --- the Order in that case, the Order of the
15 Honorable Charles Whetstone ordered that the evaluation be
16 completed on or before October Fourteenth, Nineteen Ninety-four,
17 and he issued that Order in response to the report that we were
18 so concerned about at the beginning of this trial.

19 MR. MELLARD: Yes, sir. I think he also put in there that
20 the results would be filed, if I'm not mistaken.

21 THE COURT: It says, "completed report and filed on or
22 before", yes, sir, yes, sir. Now, the report that I have
23 gotten from the officer of the Court has advised this Court that
24 this man from the kidnaping file in the Calhoun County
25 case.

1 MR. MELLARD: Yes, sir.

2 THE COURT: This report evaluation on Cedric Flood is dated
3 on October Fourteenth, Nineteen Ninety-four. You have a copy of
4 it?

5 MR. MELLARD: I do have a copy, I don't have it in front of
6 me but I do have a copy of it.

7 THE COURT: Yes, sir. The findings that were made in this
8 case that he is competent to stand trial also mirrors the
9 findings that were made for this mental evaluation that we had
10 Mr. Flood undergo for this trial.

11 MR. MELLARD: Yes, sir. I think that's fair to say.

12 THE COURT: Okay. Now, having -- this Court is also aware
13 of the people that were involved in that case. I know Judge
14 Whetstone was the sentencing Judge, Ms. Garrick was the attorney
15 for the defendant, the prosecuting attorney was Jimmy Williams.
16 I am convinced that they would not have accepted the plea if that
17 report had not gone into evidence, or they were aware of it
18 before the Judge would accept the plea. Now, I understand that
19 you would object to that.

20 MR. MELLARD: Yes, sir.

21 THE COURT: Yes, sir, and I want to preserve that objection
22 for the record. Okay? But for the purposes of this hearing my
23 finding is that in Nineteen Ninety-four he was convicted, he pled
guilty to two most serious offenses, criminal sexual conduct in
the first degree and kidnaping.

1 MR. MELLARD: I believe it was ...

2 SOLICITOR JUSTIS: Your Honor, I believe it was criminal
3 sexual conduct, second degree.

4 THE COURT: Oh, second degree. Okay.

5 SOLICITOR JUSTIS: Right. And the State contends that the
6 kidnaping was the most serious offense.

7 THE COURT: Oh, kidnaping. Okay. And the criminal sexual
8 conduct, second degree, was just a most serious?

9 MR. MELLARD: Serious.

10 SOLICITOR JUSTIS: And that was just serious.

11 THE COURT: Serious. Okay. I mean, not most serious, but
12 serious. That's correct.

13 SOLICITOR JUSTIS: Correct, Your Honor.

14 THE COURT: So, he had a prior most serious offense, if I
15 accept that?

16 MR. MELLARD: If you accept what you have just said, yes,
17 sir, with the understanding that we disagree on that.

18 THE COURT: And I understand that you are objecting to that,
19 and I am again making sure, every time I can say it in the
20 record, that you're objecting to me concluding that.

21 MR. MELLARD: Yes, sir.

22 THE COURT: But based upon that, this jury has convicted him
23 of kidnaping, another most serious offense.

24 MR. MELLARD: Yes, sir.

25 THE COURT: Okay.

1 SENTENCE OF THE COURT:

2 THE COURT: And noting your objection to that earlier ruling
3 also, Code Section Seventeen Twenty-five Forty-five of the South
4 Carolina Code mandates that he be sentenced to life without the
5 possibility of parole. Okay?

6 As a result the sentence of this Court, Mr. Flood, is, you
7 are sentenced to the State Department of Corrections for life
8 without the possibility of parole.

9 Thank y'all.

10 SOLICITOR JUSTIS: Thank you, Your Honor.

11 MR. MELLARD: Thank you, Your Honor.

12 COURT REPORTER: Judge, how should I mark that?

13 THE COURT: A Court's exhibit.

14 COURT REPORTER: A Court's exhibit?

15 THE COURT: Yes, ma'am. Here, pass that over there. That's
16 the sentencing sheet.

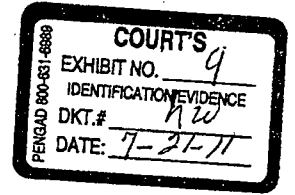
17 (Court's Exhibit Eleven

18 marked and filed.)

19 THE COURT: Alright, thank y'all.

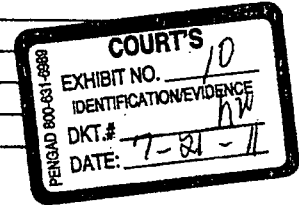
20 ---END OF TRANSCRIPT---

We have one juror that has said for two days of deliberation that he will "never" change his mind.



Comments:

We have a juror that has said for the past two days of deliberation that he will "never" change his mind.



Name: (Optional)

WITNESSES

Bobby Jones

Orangeburg County Sheriff

2009013038

ARREST WARRANT NUMBER

M212720

Arrested: October 1, 2009

ACTION OF GRAND JURY

Mary Beth W. Brown

FEB 03 2010

Date

Foreperson of Grand Jury

Date: February 3, 2010

VERDICT

Foreperson of Petit Jury

Date:

DOCKET NO. 2009GS38-1776

The State of South Carolina

County of ORANGEBURG

COURT OF GENERAL SESSIONS

February 1, 2010 TERM

**THE STATE
vs.**

Cedric Flood

Indictment for

KIDNAPPING

SC Code: 16-3-910

After being fully advised as to my legal rights, I hereby waive presentment to the Grand Jury.

Defendant

I hereby appear in my own proper person and plead guilty to the within indictment or to

Defendant

Witness:

C.C.C. PLS. AND G.S.

2010 FEB 03 A 11:40

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies to the best of my ability, with the August 13, 2007, order from the South Carolina Supreme Court entitled "Interim Guidance Regarding Personal Data Identifiers and Other Sensitive Information in Appellate Court Filings."

September 13th, 2012



Susan B. Hackett
Appellate Defender

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

ATTORNEY FOR APPELLANT