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ORIGINAL

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Oconee County
R. Lawton McIntosh, Circuit Court Judge

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JUL 29 2016

SC Court of Appeals

THE STATE,

RESPONDENT,

-v-

WILBUR A. RICKMON,

APPELLANT.

APPELLATE CASE NO. 2015-000989

RECORD ON APPEAL

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3
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5 -vs-) April 21, 2015
6 Wilbur A. Rickmon,) 2014-GS-37-338
7 Defendant:) 2014-GS-37-183
8 -----) Transcript of Record
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and a jury

13
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Attorney for Defendant

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22 Circuit Court Reporter
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21

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23

24

25

1 she's married and she's a mother. Amy was living near
2 this defendant in September of 2013. In fact, on
3 September 27, 2013, Amy was indeed pregnant. She knew
4 this defendant because he lived two trailers over. You
5 can see the trailers from each one.

6 And she had been helping him. He was on
7 unemployment. He would come over to her house, and she
8 would help him on the computer because he didn't
9 understand how to file his unemployment on the
10 computer, so she would do it for him. He would give
11 her small amounts of money for her time. That's how
12 she knew him.

13 Other than that, she will tell you there was no
14 relationship between them other than neighbors. All
15 the times she had done this filing for him, it had been
16 at her house. On September 27th of 2013, she's going
17 to tell you he began calling her very early that day.
18 In fact, he called her about a dozen times that day,
19 and she talked to him a couple times and said, "Hey,
20 I'm in school. I've got to go to school, but I will
21 come help you after work." Because he said he now had
22 a computer and Wi-Fi and he needed her to come over and
23 help him.

24 Amy got out of school at 3:15 that day. By about
25 4:09 she called the defendant and said, "Hey, I can

1 THE COURT: Call your first witness, please,
2 ma'am.

3 MS. SIMMONS: Thank you, your Honor. State calls
4 Amy Carver.

5 AMY CARVER,
6 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:
7 DIRECT EXAMINATION

8 BY MS. SIMMONS:

9 Q Good morning, Amy. Could you please say and spell
10 your first and last name for the record.

11 A A-m-y, C-a-r-v-e-r.

12 Q Amy, how old are you now?

13 A 18.

14 Q And what's your date of birth?

15 A May 23, 1996.

16 Q And what's your last name legally now?

17 A Carranza.

18 Q Is that your married name?

19 A Yes.

20 Q Who do you presently live with?

21 A My husband and his mother.

22 Q And do you have any children?

23 A Yes, I have two.

24 Q How long have you been in a relationship with your
25 husband?

1 A Almost five years.

2 Q And has that been an exclusive relationship?

3 A Yes.

4 Q Is your husband helpful?

5 A Yes.

6 Q On September 27th of 2013, how old were you?

7 A 17.

8 Q Where were you living then?

9 A With my parents.

10 Q And can you tell me how far that was from the
11 defendant's house?

12 A Not even two minutes away.

13 Q How well do you know the defendant?

14 A Not really. He just came over to my house on some
15 occasions to do his unemployment.

16 Q How often do you think you saw him during that
17 time frame?

18 A Two times a month.

19 Q And when -- did you see him at your house or his
20 house?

21 A My house.

22 Q Had you ever had any sort of sexual discussion or
23 relationship with the defendant prior to September 27,
24 2013?

25 A No.

1 Q Has he ever paid you to have sex with him?

2 A No.

3 Q Has he ever paid you to do anything sexual with
4 him?

5 A No.

6 Q I want to focus on September 27th of 2013. What
7 was your medical condition at that time?

8 A I was pregnant.

9 MS. SIMMONS: Your Honor, if I may approach the
10 witness.

11 THE COURT: Yes, ma'am.

12 Can the jury hear the witness okay? Okay.

13 BY MS. SIMMONS:

14 Q Amy, prior to court today, have you had occasion
15 to review State's Exhibit Number 23?

16 A Yes.

17 Q What is State's Exhibit 23?

18 A It's my phone records.

19 Q Are those phone records fair and accurate for
20 September 27th of 2013 and the preceding six months?

21 A Yes.

22 Q To your knowledge, have any alterations or
23 deletions or additions been made to those phone
24 records?

25 A No.

1 Q Are they accurate as to calls made on
2 September 27th of 2013?

3 A Yes.

4 MS. SIMMONS: Beg the Court's indulgence for one
5 moment.

6 Q Amy, I know this is kind of hard to see, but the
7 number ending in 1926 right here, can you tell me whose
8 number that was back in September of 2013?

9 A It was Rick's.

10 Q And when you refer to "Rick," who are you
11 referring to?

12 A Wilbur.

13 Q How did you have him saved in your phone?

14 A I didn't.

15 Q And the number right here, 280-4019 whose number
16 was that in September of 2013?

17 A Mine.

18 Q Amy, are these phone records accurate as to the
19 number of calls received on that day?

20 A Yes.

21 Q Let's just count those together as we go.
22 Actually, I'm going to hand you your phone records for
23 September 27th of 2013 with him and let you count how
24 many times there were phone calls between you guys.

25 A There's many. Like seven to eight times.

1 Q How many times did you actually speak to him that
2 day?

3 A Two or three.

4 Q When did the calls begin?

5 A Early that morning around 6:00.

6 Q Did they continue through the day?

7 A Yes.

8 Q Approximately what time did you call him to tell
9 him you were coming over?

10 A It was after school.

11 Q And was that call referenced in your phone records
12 as well?

13 A Yes.

14 MS. SIMMONS: Your Honor, at this time the State
15 would move to admit State's Exhibit 23.

16 THE COURT: Any objection?

17 MR. DAY: No objection to those, your Honor.

18 THE COURT: Admitted.

19 (WHEREUPON, State's Exhibit Number 23 was admitted
20 into evidence.)

21 BY MS. SIMMONS:

22 Q What was so pressing that day the defendant wanted
23 you to come over?

24 A He wanted me to do his unemployment at his house
25 because he said he had a new laptop.

1 Q Other than by phone, did he try to get in touch
2 with you any other way?

3 A Not that I know of, but my parents said he came to
4 the house that day.

5 Q Approximately what time do you think you went to
6 his house that day?

7 A Around 4:10.

8 Q Is his home in Oconee County?

9 A Yes.

10 Q Had you ever been to his home before?

11 A No.

12 Q Once you entered the house, what was the condition
13 of the outside door?

14 A It was all locked, and I had to go to the left to
15 his dining room.

16 Q The door being locked, was that normal or was it
17 concerning?

18 A It was concerning.

19 Q Did you contact anyone at any point while you were
20 in the home?

21 A My mother.

22 Q For what purpose?

23 A I texted her, telling her I was scared.

24 MR. DAY: No objection to those pictures, your
25 Honor.

1 THE COURT: What exhibit numbers are those?

2 MS. SIMMONS: Your Honor, we'd move in State's 7,
3 6, 8, 9, 10, 11 and 13.

4 THE COURT: All right. Admitted.

5 (WHEREUPON, State's Exhibit Numbers 6 through 11
6 and 13 were admitted into evidence.)

7 BY MS. SIMMONS:

8 Q Referring to State's Exhibit 7, what is that a
9 photograph of?

10 A My phone records.

11 Q I know there is a lot of glare, but at 4:09 that
12 day, what does that show us?

13 A That I received a call from Rick.

14 Q Would that be the call before you went over?

15 A Yes.

16 Q And I'm going to show you what's been marked
17 State's Exhibit 6. What message did you send there?

18 A "I'm scared."

19 Q Who was that message sent to?

20 A My mother.

21 Q At what time?

22 A 4:26.

23 Q Where were you at 4:26?

24 A At his house.

25 Q Amy, I'm also going to show you some photographs

1 of the scene.

2 THE COURT: What exhibit number is that?

3 MS. SIMMONS: I'm sorry, Judge.

4 Q I'm going to show you State's Exhibit 10. What is
5 this?

6 A The back door.

7 Q Is that the back door you entered through?

8 A Yes.

9 Q Tell me what specifically happened with that door.

10 A When I came in, he shut and locked it.

11 Q Which locks?

12 A The top one and the bottom one, yes.

13 Q And --

14 A The one below it, yes.

15 Q I'm going to show you now State's Exhibit 9. Is
16 that a fair and accurate representation of the inside
17 of the home?

18 A Yes.

19 Q Where was the computer located that day?

20 A Right there on the table.

21 Q What's that down the hallway?

22 A His bedroom.

23 Q Another picture of the hallway. Can you explain
24 what that is?

25 A That is the bedroom door, and right there is the

1 back door.

2 MS. SIMMONS: And that, your Honor, was State's
3 Exhibit 11.

4 Q And then State's Exhibit 8, can you explain that?

5 A That is his bedroom door opened.

6 Q And let me show you State's Exhibit 13. What is
7 this?

8 A The lock on the bedroom door.

9 Q Is that the interior or the exterior of the
10 bedroom?

11 A The interior.

12 Q Is there a knob on that door, or is that the only
13 thing?

14 A That's the only thing.

15 Q So back to you were sitting at the dining room
16 table?

17 A Yes.

18 Q Why did you believe you were at the home?

19 A He told me that he had a new laptop and he wanted
20 me to show him how to do his unemployment there.

21 Q Were you able to connect the computer? Was it
22 operable?

23 A No.

24 Q Were you able to log on to the computer?

25 A No.

1 Q How did you end up in the defendant's bedroom?

2 A He told me that his Wi-Fi box was in his bedroom,
3 to come look at it and see if there was something
4 wrong.

5 Q What happened when you got inside the bedroom?

6 A I came inside, and he shut the door behind me.

7 Q We have just seen a picture of the door. How did
8 you perceive that door's condition at that time?

9 A I thought it was locked.

10 Q Did you feel free to leave at that point?

11 A No.

12 Q What did he say after the door was closed?

13 A He offered me \$50 to have sex with him and I
14 declined.

15 Q Did he have any other conversation with you?

16 A He told me that he wanted to leave his girlfriend
17 at that time to come move in with me and have a house.

18 Q What did you say to that?

19 A I told him no.

20 Q What happened after that?

21 A He grabbed my arm, my left arm, and threw me onto
22 the bed and ripped off my pants.

23 Q Any once you were on the bed, did you feel
24 restrained or free to go?

25 A Restrained.

1 Q How did he smell to you that day?

2 A He smelled like alcohol.

3 Q Was he passive or aggressive?

4 A Aggressive.

5 Q What -- I know this is hard -- what specific sex
6 acts did he perform on you?

7 A Vaginal and oral.

8 Q When you say "vaginal," that's penis in your
9 vagina?

10 A Yes.

11 Q Were any of these acts consensual, Amy?

12 A No.

13 Q Were you paid to perform any of these acts on him?

14 A No.

15 Q At that point did you know he had ejaculated
16 inside you?

17 A Yes.

18 Q Did he say anything while these things were
19 happening?

20 A He just told me that he wanted to leave his
21 girlfriend.

22 Q Did he say anything when it was over?

23 A He told me not to tell anybody.

24 Q Once it was over, what did you do?

25 A I threw on my pants and shoes and ran home.

1 Q Did you leave any items at the home that day?

2 A My underwear.

3 (WHEREUPON, State's Exhibit Number 1 was marked
4 for identification.)

5 BY MS. SIMMONS:

6 Q Amy, I'm going to show you what's been marked
7 State's Exhibit 1.

8 MS. SIMMONS: If I may approach, your Honor.

9 THE COURT: Yes, ma'am.

10 BY MS. SIMMONS:

11 Q Do you recognize these?

12 A Yes.

13 Q What are they?

14 A They are my underwear that I left.

15 MS. SIMMONS: Your Honor, the State would move
16 into evidence State's Exhibit 1.

17 THE COURT: Any objection?

18 MR. DAY: No objection.

19 THE COURT: Admitted.

20 (WHEREUPON, State's Exhibit Number 1 was admitted
21 into evidence.)

22 BY MS. SIMMONS:

23 Q Amy, for the record, can you point to the person
24 who sexually assaulted you on September 27, 2013?

25 A Him over there.

1 Q What is his name?

2 A Wilbur Rickmon.

3 MS. SIMMONS: Your Honor, please let the record
4 reflect the witness was pointing to the defendant.

5 THE COURT: So reflects.

6 BY MS. SIMMONS:

7 Q How did you get home that day?

8 A My mother picked me up from school.

9 Q After -- I'm sorry. After what happened, how did
10 you get home?

11 A I ran.

12 Q Who did you tell when you got home?

13 A My mother.

14 Q Is that immediate or delay?

15 A Immediate.

16 Q What did you tell her had happened?

17 A That I had just been raped.

18 Q What did she do?

19 A She called 911.

20 (WHEREUPON, State's Exhibit Number 20 was marked
21 for identification.)

22 BY MS. SIMMONS:

23 Q Amy, prior to court today, have you listened to
24 State's Exhibit 20?

25 A Yes.

1 Q Is that a fair and accurate representation of the
2 call that was made that day?

3 A Yes.

4 Q Have any additions, alterations, or deletions been
5 made to that call?

6 A No.

7 Q Did you initial that call after you reviewed it?

8 A Yes.

9 Q Whose voices can you hear on your end of the
10 phone?

11 A My mother's, mine, and my Aunt Judy's.

12 MS. SIMMONS: State would move in State's
13 Exhibit 20.

14 THE COURT: Admitted.

15 (WHEREUPON, State's Exhibit Number 20 was admitted
16 into evidence.)

17 MS. SIMMONS: Your Honor, could we take a quick
18 break? I apologize.

19 THE COURT: Mr. Foreman, let's take a brief
20 moment, and we'll get you back out here in just a
21 couple minutes. If the jury needs anything, let Buck
22 know, please.

23 (WHEREUPON, the jury exited the courtroom
24 at 10:31 a.m.)

25 (WHEREUPON, recess taken from 10:31 a.m.

1 to 10:42 a.m.)

2 THE COURT: Ms. Carver, you are still under oath.

3 (WHEREUPON, the jury came into open court at

4 approximately 10:43 a.m.)

5 BY MS. SIMMONS:

6 Q Amy, back to the point of running home, once you
7 got home, did you receive any more calls from the
8 defendant?

9 A Yes, he called me again.

10 Q Did you answer?

11 A No.

12 Q And now we're going to listen to the 911 call from
13 that day.

14 (911 call played from 10:43 a.m. to 10:47 a.m.)

15 BY MS. SIMMONS:

16 Q Amy what happened after 911 was called?

17 A We went to the hospital.

18 Q Do you recall around what time you got to the
19 hospital?

20 A Around 5:30.

21 Q Did you see a nurse or a doctor or both?

22 A Both.

23 Q Did you tell them what happened to you?

24 A Yes.

25 Q Did you also give -- did you give anyone else a

1 statement at the hospital?

2 A Yes.

3 Q Who?

4 A Detective Smith.

5 Q Did you see any other police officers at the
6 hospital?

7 A Yes.

8 Q When was that?

9 A It was right after I arrived.

10 Q Did you give them a statement?

11 A Yes.

12 Q Did you have a sexual assault kit performed on you
13 at the hospital?

14 A Yes.

15 Q Can you tell me about that process?

16 A They remove all your clothes and put them in bags
17 and seal them with a cop right there; and they take it
18 away. And then they make you lie on the bed and they
19 examine you.

20 Q How detailed is the examination?

21 A Very.

22 Q Can you elaborate on that?

23 A They ask you everything, they do swabs,
24 everything.

25 Q That night, how many people did you have to tell

1 what happened to you?

2 A Three or four.

3 Q Would it be possible that details may have been a
4 little different between those three and four people?

5 A Yes.

6 Q So, Amy, just recap for us what happened on
7 September 27, 2013.

8 A I went to his house to go fix his laptop so he can
9 start doing his own unemployment. I went to his
10 bedroom and he shut the door and locked it, and then he
11 raped me.

12 Q Amy, please answer any questions the defense may
13 have.

14 THE COURT: Cross-examination.

15 CROSS-EXAMINATION

16 BY MR. DAY:

17 Q Amy, I'm Danny Day. I'm going to ask you some
18 questions, some of which are going to be very
19 difficult. Okay? I don't want you to be mad at me,
20 but I've got questions I have got to ask you.

21 A Okay.

22 Q Some are very personal. Do you understand that?

23 A Yes.

24 Q I'd ask, if you would, to speak into that
25 microphone. I'm having a hard time hearing you.

1 You're very soft-spoken. Okay?

2 A Okay.

3 Q Now, where y'all live there, there are, as I
4 remember correctly, Rick's house?

5 A Yes.

6 Q Your grandmother's house?

7 A Uh-huh.

8 Q You and your mother's house?

9 A No. It's his house, my aunt's house, my
10 grandmother's, and then ours.

11 Q Okay. So there are -- and then Frank Owens is
12 right in that area?

13 A Yes.

14 Q Okay. And all of these are pretty close together?

15 A Yes.

16 Q As a matter of fact, it's easy to walk back and
17 forth between them?

18 A Yes.

19 Q Are there any fences separating you to seal off
20 any particular house or anything?

21 A No.

22 Q And the houses that are there, the closest house
23 to Rick's house is whose?

24 A My grandmother's.

25 Q Okay. And then Judy Rogers' house, if you're

1 looking out of Rick's back door, you got grandma, then
2 Judy is right here?

3 A Yes.

4 Q And you're in the middle?

5 A Yes.

6 Q Okay. So that's the four houses there, not
7 counting Frank Owens?

8 A Yes.

9 Q But he's right close?

10 A Yes.

11 Q All right. Now, all of the time that Rick has
12 lived there, which I understand is probably 2009, so
13 this would have been about four years he had been
14 living there. Does that sound about right?

15 A Yes.

16 Q And during that time, apparently all of you had
17 gotten to know each other?

18 A A little bit.

19 Q Didn't Rick help out doing some repairs over time?

20 A Not at my house, at my aunt's house.

21 Q At Judy's house?

22 A Yes.

23 Q Had gone in there and done some repairs there?

24 A Yes.

25 Q How about at your grandmother's house?

1 A He might have.

2 Q And during this approximately four years, if you
3 you are living there, you saw him at times?

4 A Yes.

5 Q As a matter of fact, not that y'all planned to do
6 things or anything together, there were times when
7 y'all were together, like down getting rocks down there
8 near the water somewhere?

9 A No.

10 Q Did not?

11 A No.

12 Q Okay. So you went over to his house this day, and
13 you had been there before?

14 A I had not been there before.

15 Q Okay. I thought a while ago when they asked you
16 had you been there, you said that you had done this for
17 the claims at both --

18 A At my house. That was the first time I had ever
19 been in his house.

20 Q Okay. Now, as I understand it, on this particular
21 day Rick was trying to get in touch with you because
22 you had helped him do what?

23 A Do his unemployment, fill it out.

24 Q That has to be done online, doesn't it?

25 A Yes.

1 Q One of those things you have to be able to have
2 computer access in order to file your claims?

3 A Yes.

4 Q About how many of those had you done?

5 A Three or four.

6 Q Now, did you use your computer?

7 A Yes.

8 Q What kind of computer?

9 A It's a desktop.

10 Q So did you do it on the desktop, or did you use
11 your telephone to do it, to get online?

12 A My desktop.

13 Q On the desktop?

14 A Yes.

15 Q All right. Now, on this particular day, as I
16 think I said, you had called or he had called several
17 times about wanting to get it done?

18 A Yes.

19 Q Because there's deadlines on these things?

20 A I have no idea.

21 Q Okay. I don't either. But he felt like it needed
22 to be done that day?

23 A Yes.

24 Q Now, did he come over to the house?

25 A He did while I was at school.

1 Q Okay. And did your mom say whether or not he came
2 in the house or anything?

3 A No.

4 Q Didn't say. So he comes over to the house, he's
5 looking for you, and then he makes several phone calls.
6 And when you get home from school, which is around what
7 time?

8 A Around 4:00.

9 Q Around 4:00?

10 A Yes.

11 Q And, looking back, let's see. You said you went
12 over there approximately, what was it, 4:30?

13 A 4:10.

14 Q Excuse me?

15 A Around 4:10.

16 Q Four?

17 A Ten.

18 Q 4:10?

19 A Yes.

20 Q Why do you remember that particular time?

21 A I had to go put my daughter down and my school
22 stuff, and I called him right after. It only takes a
23 few minutes.

24 Q Okay. And then about 4:10 is when you called him?

25 A That's the time I went over there.

1 Q Okay. But you said did you call him before you
2 went over?

3 A Yes.

4 Q So you go over there, and you say you came in the
5 house. And I remember I think you said you came in the
6 back door?

7 A Yes.

8 Q Now, when you came in the back door, you said
9 something about he locked the door?

10 A Yes.

11 Q In the other statements you made to everybody
12 else, you never mentioned locking this back door?

13 A That's what I meant and they thought I meant the
14 bedroom door.

15 Q Okay. But that's what you said in your statement,
16 you said bedroom door?

17 A I thought the bedroom door was locked because it
18 had no knob. All it was was a lock.

19 Q Okay. So you thought the bedroom door was locked?

20 A Yes.

21 Q Now, you said something about that he locked the
22 back door, and the Solicitor asked you about sliding a
23 lock or something?

24 A Yes. It's a slide lock.

25 Q And this is the door on the back door to the

1 house?

2 A Yes.

3 Q Okay. But in your statements you never mentioned
4 that.

5 A I told them as soon as I left the house, I had to
6 unlock all the locks to get out.

7 Q You never mentioned about unlocking all the locks
8 in any of these statements.

9 A I did..

10 Q Well, it's not in there.

11 A When you're in that much stress after something
12 happens to you, you're not going to remember every
13 detail.

14 Q That's a good answer. It's a very good answer
15 that you would answer that, but "I was under stress,"
16 right?

17 A Yes.

18 Q Okay. But those statements were hours after this
19 occurred when you're sitting down in a safe environment
20 and they asked you what happened, even had you write it
21 down?

22 A Yes.

23 Q And you never mentioned any of those?

24 A I was still in distress. It just happened. It's
25 a life changing event.

1 Q Okay. Now, I want to ask you about -- you say
2 you're in there and you sent a text; is that right?

3 A Yes.

4 Q All right. These are the pictures. I'm just
5 somewhat confused. Let's see. I'm looking at what has
6 been marked as State's Exhibit 7 and 6. Okay? I'm
7 going to show these to you.

8 A Okay.

9 Q If you would, look at those and make sure what I'm
10 talking about. Is this your phone?

11 A Yes.

12 Q Okay. And what time did you send the text?

13 A 4:26.

14 Q Okay. And was there a response to that text?

15 A Yes.

16 Q What is it?

17 A "Why? What's wrong?"

18 Q Okay. And there's no other text after that?

19 A Correct.

20 Q Now, make sure I understand this. You're over at
21 Rick's house?

22 A Yes.

23 Q You're looking to see about making the computer
24 work?

25 A Yes.

1 Q And it doesn't work?

2 A Correct.

3 Q As I understand it, you could not make a
4 connection to the Internet; is that right?

5 A Yes.

6 Q And that's what Rick had told you?

7 A Yes.

8 Q Just trying to see if you can fix that?

9 A Yes.

10 Q See if you can make it connect, of course?

11 A Yes.

12 Q But it didn't?

13 A Correct.

14 Q All right. After you tried that, what are you
15 saying happened after you tried to get the computer to
16 work?

17 A I told him it would not work, and he told me the
18 Wi-Fi box was in his bedroom, to see if I could see
19 what's wrong with it.

20 Q And what did you do at that point?

21 A I walked back there.

22 Q All right. And you got back in the bedroom?

23 A Yes.

24 Q Now, once you got in the bedroom, what happened?
25 I mean, the next thing that happened?

- 1 A He shut the door behind us.
- 2 Q Shut the door behind you?
- 3 A Yes.
- 4 Q Okay. All right. Now you're in the bedroom. He
- 5 shut the door behind you. How long after he shut that
- 6 door are you saying that he grabbed you?
- 7 A A few minutes after.
- 8 Q Okay. Now, this apparently, as I'm trying to
- 9 figure out here, when did you send the text?
- 10 A Right after I came into the bedroom.
- 11 Q Okay. So I want to make sure I understand this.
- 12 You have a telephone?
- 13 A Yes.
- 14 Q That telephone --
- 15 A Yes.
- 16 Q -- right? Walking down this hallway, which is no
- 17 more than right here --
- 18 A Yes.
- 19 Q You're walking down there and you're texting?
- 20 A Yes.
- 21 Q Okay. As you're walking by there, you walk by
- 22 that same door that you just said that he locked?
- 23 A Yes.
- 24 Q Okay. That door is right here. All you had to do
- 25 is stop and go, open the door, walk right to your

1 house; is that correct?

2 A Yes.

3 Q You could also, instead of texting, is punch
4 "call." I take it your mom's phone number was on there
5 like a speed dial, quick dial, or whatever?

6 A No.

7 Q Okay. But you could dial that?

8 A Yes.

9 Q As a matter of fact, you could dial it with the
10 same number of letters plus one of "I'm scared" or
11 actually the same number?

12 A Yes.

13 Q Could have dialed that number. All right. Now,
14 you're saying you walked into the bedroom. And at that
15 point you're saying that's when he did -- he grabbed
16 you?

17 A My left arm, yes.

18 Q All right. He grabbed which arm?

19 A My left.

20 Q Left arm?

21 A Yes.

22 Q And what -- which hand did he grab you with?

23 A I don't remember.

24 Q Okay. So you're standing there, and you're saying
25 he grabbed your left arm?

1 A Yes.

2 Q But you don't know which hand he grabbed you with?

3 A No.

4 Q Was he in front of you?

5 A Yes.

6 Q Now, at this point, let's see. Find the statement
7 here. When you were talking to I think it was -- is it
8 officer Bettingfield?

9 A Yes.

10 Q When you were talking to Officer Bettingfield --
11 here. He has got all these notes here. And according
12 to this, he wrote down, "Rick kept calling me saying he
13 needed help with his computer. I went over there
14 trying to fix it, and then he told me he had to show me
15 something in his bedroom. I went in there and he shut
16 the door and locked it. He tried giving me \$50 to have
17 sex with him. He told me that -- he told me that his
18 wife, Darlene, would be gone for three hours. I told
19 him no. He then took off my pants, underwear, and he
20 threw me onto the bed. He climbed on top of me and he
21 started having sex with me. I text my mom. 'I'm
22 scared' before we went to the bedroom. Okay. After he
23 finished, I threw back on my pants and left. My
24 underwear is still in his house. They are pink and
25 white with spots."

1 A Yes.

2 Q Never mentioned grabbing the arm, did you?

3 A Not in that statement.

4 Q And I take it that Officer Bettingfield, since he
5 was trying to get down information, asked you to "Tell
6 me what happened." Did he take you through "what
7 happened next?" "What happened next"?

8 A He grabbed my arm and threw me on the bed and tore
9 off my pants, and my shoes came off with them.

10 Q You didn't mention that in here?

11 A And I was under distress. That was right after it
12 happened.

13 Q Okay. And this was done at Oconee Medical Center?

14 A Yes.

15 Q Now, after this, as you said, you went home?

16 A Yes.

17 Q Okay. Now, you went to the hospital?

18 A Yes.

19 Q And at the hospital, the doctor and the nurses are
20 there asking you questions. They need to know what
21 happened?

22 A Yes.

23 Q Exactly. Remember that?

24 A Yes.

25 Q And in talking to the doctors, they asked you to

1 tell what happened?

2 A Yes.

3 Q And then that was when you said -- they asked you
4 precisely what happened, they had written down that the
5 time of the assault was 5:30, but the 911 call was made
6 two minutes to 5:00, so that couldn't be correct,
7 right? They wrote down a wrong number?

8 A Yes.

9 Q Must have. You said, "I went over there to help
10 him with his computer. I had been helping him with his
11 unemployment. He told me he wanted to show me
12 something in his room. He closed the door and locked
13 it. He offered me \$50 to have sex with him. Darlene
14 wouldn't be back for three hours. I told him no. He
15 grabbed my arm"?

16 A Yes.

17 Q So here you start talking about grabbing the arm?

18 A Yes.

19 Q "Took down my pants and underwear, threw me on the
20 bed and started to rape me. At one point he stopped
21 raping me to do oral sex to me and then started raping
22 me again. He kept saying he loved me and he would
23 leave his girlfriend. I smelled alcohol on him. When
24 he stopped, I put my pants on and ran out. He told me
25 not to tell"?

1 A Yes.

2 Q And that's not mentioned any time when you're
3 talking to Bettingfield, was it?

4 A No.

5 Q Okay. And as you went through this, they ask you
6 a lot of questions. I know you had to keep going
7 through that over and over, right?

8 A Yes.

9 Q And you advised one of the things that they asked
10 you about at the hospital so they would know it's part
11 of all this to get all the information, were there any
12 weapons used?

13 A No.

14 Q And you said no. There was no biting?

15 A Correct.

16 Q Okay. Now, again, let me go back. You said when
17 he grabbed you, do you remember whether he was facing
18 you or not?

19 A He was facing me.

20 Q He was facing you?

21 A Yes.

22 Q Okay. And you said he grabbed your left arm?

23 A Yes.

24 Q But you don't remember whether he used his right
25 hand or left hand to grab it?

1 A Correct.

2 Q You said he then threw you on the bed?

3 A Yes.

4 Q Now, later on, at 9:20 that night, you spoke to
5 Detective David Smith, the gentleman sitting here?

6 A Yes.

7 Q And he sat down and went over everything with you?

8 A Yes.

9 Q One of the things I notice as Officer Bettingfield
10 was taking the statement, he put down that you were 16?

11 A I was 17.

12 Q Right. But he put down 16. Now, with David
13 Smith, you sat down with him, and he wanted the whole
14 story, right?

15 A Yes.

16 Q Because he's putting together -- as a matter of
17 fact, he's already been to Rick's house, et cetera.
18 Did he tell you that?

19 A Yes.

20 Q And he needed to know what all went on?

21 A Yes.

22 Q You understand why he was doing that?

23 A Yes.

24 Q Because he wanted all the information because he's
25 supposed to be investigating?

1 A Yes.

2 Q Again, you went through, "Rick called me about
3 6:00 this morning."

4 Excuse me. There's pollen outside and I bring it
5 in with me. Okay.

6 "Wanted to fix the laptop so he could work on his
7 unemployment. I did not go up there. I told him I
8 could not this morning but probably could this
9 afternoon. I went to school today. After school Rick
10 called me several times. I called and went to his
11 house. I went in the back door. This is the first
12 time I had been at the scene. He lived there. He told
13 me the computer was in the living room." Nothing about
14 locking that door, that back door?

15 A He did.

16 Q Okay. But you didn't mention that?

17 A No.

18 Q "I was working on the computer which was in the
19 kitchen/living area"?

20 A Yes.

21 Q "He asked me to come back to the bedroom. He
22 wanted to show me something. He walked in front of me
23 down the hallway." So, now, you're going to the
24 bedroom this way. He is not behind you. He is in
25 front of you. Okay? And at this point you're texting,

1 saying, "I'm scared," but you did not turn around and
2 walk out that door or go to the front door or go
3 anywhere else. There is another door in front of the
4 house, right?

5 A Yes.

6 Q You did not turn around. He's in front of you.
7 He's not pushing you into the bedroom, is he?

8 A No.

9 Q He's not pulling you or anything else or holding
10 on to you or anything else?

11 A Correct.

12 Q He has not threatened you in any way?

13 A Not at that time.

14 Q Okay. "He walked in front of me down the hallway.
15 He told me to look at the Wi-Fi box. I went over
16 there. He shut the door and locked it. He said, 'You
17 know I love you. I will leave Darlene and get a
18 house.' He grabbed my left arm. He said he would give
19 me \$50 to have sex. I said no. He took my shoe off,
20 he undid my belt, pulled my pants off."

21 All right. Now, for the first time, after you
22 have spoken to at least four people, we now have a
23 belt?

24 A Yes.

25 Q Okay. And what you're saying is that with one

1 hand holding your arm, he was able to unbuckle your
2 belt with the other hand?

3 A He threw me on the bed -- he grabbed my arm and
4 threw me onto the bed, undid my belt, took off my
5 pants, and my shoe came off with it.

6 Q Let's go over it again. He has you by your left
7 arm, by one of his arms. We don't know which one?

8 A Yes.

9 Q And that he still is able to unbuckle your belt?

10 A His hands were free after he threw me onto the
11 bed.

12 Q You had never mentioned anything about a belt
13 before; is that correct?

14 A Yes.

15 Q "He undid my belt." If he's still holding you, he
16 still could only have one hand, right?

17 A Yes.

18 Q And you're saying at that point he undid them and
19 "Pulled my pants off. My other shoe came off with my
20 pants. He pulled my pants off. They're pink and white
21 with polka dots. He throwed me on the bed"?

22 A Yes.

23 Q Okay. Now, in this one, the way you described it,
24 right down to it, "He said he would give me \$50 to have
25 sex. I said no. He took my shoe off. He undid my

1 belt. He pulled my pants off. My other shoe came off
2 in my pants. He pulled my panties off, then he threwed
3 me on the bed."

4 A I was confused at that point. My mind was still
5 going.

6 Q Did you explain that you were confused by that to
7 make sure he put it down right?

8 A No, I did not.

9 Q It's been 19 months. Have you told them at any
10 time, "That's not correct. I need to change that"?

11 A No.

12 Q Now, you said you then left?

13 A Yes.

14 Q Is that correct?

15 A Yes.

16 Q All right. Now, when you left, you walked out
17 that same door to the bedroom, right?

18 A Yes.

19 Q Walked right out?

20 A Yes.

21 Q Which door did you go out?

22 A The back door. I had to unlock it.

23 Q The one you just walked by a minute ago?

24 A Yes.

25 Q So apparently it was not that hard to open?

1 A You have to unlock it.

2 Q Right. To unlock it, you didn't have to have a
3 key, did you?

4 A No.

5 Q All you had to do was a bolt?

6 A It was a sliding lock.

7 Q Just a sliding lock was the one?

8 A Yes.

9 Q And then it opened up?

10 A There was two sliding locks.

11 Q You opened those up easily enough and headed out?

12 A Yes.

13 Q Okay. Now, I want to go back, if I may. I'm not
14 asking you to accept this as absolutely positive,
15 verbatim and precise. I used Google, Google Maps,
16 where you can get a satellite picture and did a
17 satellite picture of the area. Okay? A friend of mine
18 had a machine that would make this big picture for me
19 and I could stand up here with my laser pointer and
20 point to things, but it didn't work. So now I had to
21 resort to go back to this and to draw what it is. I'm
22 going to show this to you just to show where it came
23 from so when I ask you about it, you know what I'm
24 talking about.

25 MR. DAY: Your Honor, just to be sure, for the

1 record, I'm going to mark this for identification
2 purposes only, if I may.

3 (WHEREUPON, Defendant's Exhibit Number 1
4 was marked for identification.)

5 MS. SIMMONS: Your Honor, I have not seen this
6 document.

7 THE COURT: Tell you what. While you're doing
8 that, let me see the attorneys up here right quick.

9 (WHEREUPON, counsel approached the bench.)

10 THE COURT: Mr. Foreman, what I'm going to do is
11 take a midmorning break, and I had a couple requests
12 earlier. Buck can accommodate those. It will probably
13 be about ten minutes. Okay, sir? So if you will go
14 back to the jury room.

15 (WHEREUPON, the jury exited the courtroom
16 at 11:16 a.m.)

17 THE COURT: All right. Ms. Carver, you still
18 can't talk to anybody about your testimony. All right?
19 You can step down. We're in recess for about ten
20 minutes.

21 (WHEREUPON, recess taken from 11:16 a.m.
22 to 11:32 a.m.)

23 THE COURT: Mr. Rickmon, in the future if you need
24 to take a break, let your attorney know.

25 Is the State ready to proceed?

1 MS. SIMMONS: Yes, your Honor.

2 THE COURT: Mr. Day?

3 MR. DAY: Yes.

4 THE COURT: Ms. Carver, you are still under oath.

5 (WHEREUPON, the jury came into open court at
6 approximately 11:33 a.m.)

7 THE COURT: All right. Mr. Day.

8 MR. DAY: Thank you.

9 Q Ms. Carver, as I was getting ready to do before we
10 stopped, I'm going to show you what's been marked for
11 identification Defendant's Exhibit 1 which, as I said,
12 is a Google picture I took. Does that look familiar?

13 A Yes.

14 Q Just while we're looking at it, I also did a
15 drawing that would embarrass my grandson if he saw it,
16 how terrible it is, but does this look like a
17 representation we're talking about, this being
18 Rickmon's house, grandmother, your house, Judy's house,
19 Mr. Owens over here?

20 A Yes.

21 Q Does that look correct, too?

22 A Yes.

23 Q And looking at those, this shows how far --
24 approximately how far apart. I tried with the Google
25 Maps to scale it down, and I kept coming up with

1 different numbers over and over again. But
2 approximately, as best I could tell, from your
3 grandmother's house over to Rick's house was about
4 50 feet does that sound close?

5 A Yes.

6 Q And from your house I came up at first around 90.
7 And it looked like maybe a little bit more. Does that
8 sound about right?

9 A Yes.

10 Q Is that correct?

11 A Yes.

12 Q Okay. So in the neighborhood there, do you
13 remember whether your grandmother was home that day?

14 A I think she was.

15 Q And at your house was you -- well, when you came
16 back to the house, your mother was there and Judy was
17 there?

18 A Judy was not there as soon as I got there.

19 Q She came in when you did?

20 A No. My sister went and got her.

21 Q Okay. Judy got on the telephone?

22 A Yes.

23 Q We just heard that?

24 A Yes.

25 Q Okay. Was she at the house when you came in or

1 did she walk in?

2 A I came in there, and I told my mother what
3 happened, and she sent my sister to go get my aunt.

4 Q Okay. So was that before your mother called 911?

5 A Yes.

6 Q So the call to 911 was about how long after you
7 got there?

8 A Two minutes.

9 Q And so Judy was at home. Your mother was at home.
10 And as far as you remember, your grandmother was at
11 home, all right in that area?

12 A Yes.

13 Q Okay. When you called 911, whose phone did you
14 use?

15 A My mother called on her phone.

16 Q On her phone. So her number is the 431-6752.

17 A Yes.

18 Q And who all went to the hospital with you?

19 A My husband met me there to get my daughter, my
20 mother went, and my father went.

21 Q Okay. So your father had come home at this point?

22 A Yes.

23 Q Okay. Now, back to that scenario back inside
24 Wilbur Rickmon's house, okay, the Solicitor asked you
25 about why you were there. They did a physical

1 examination; is that correct?

2 A Yes.

3 Q And I think you finished up around 9 o'clock,
4 according to the medical records. Does that sound
5 about right?

6 A Yes.

7 Q The officers were there. Okay? And you had the
8 same clothes?

9 A Yes.

10 Q And you were wearing those clothes to the
11 hospital?

12 A Yes.

13 Q Did you wear the clothes home?

14 A Yes -- no. They took them away. My mother went
15 to go get me some more.

16 Q Okay. And who got those clothes?

17 A My mother.

18 Q The clothes you were wearing, you left them at the
19 hospital. Who did you leave them with?

20 A The nurse put them in a bag and she sealed them
21 and gave them to the police.

22 Q All right. Until today had you seen your panties
23 again?

24 A No.

25 Q Okay. They have had them that whole time?

1 A Yes.

2 Q Now, just to finish up, if I may.

3 MR. DAY: Okay. Just so I can make sure that
4 we've got this, with the Court's permission, I would
5 ask the Court's permission if she could step here and
6 point to the drawing for me.

7 THE COURT: Yes, ma'am. Ms. Carver, would you
8 step down, please, ma'am.

9 BY MR. DAY:

10 Q I'm going to show you that drawing I showed you
11 where we had identified all the houses. Just to make
12 sure, I'm going to put an X there. And that's where
13 Mr. Rickmon lives?

14 A Yes.

15 Q And back here where it says "Carver," that's
16 y'all's home?

17 A Yes.

18 Q And Judy Rogers lives here?

19 A Yes.

20 Q And your grandmother lives right here?

21 A Yes.

22 Q We talked about the distances between them. I
23 said 50 to 60 between Mr. Rickmon and your grandmother?

24 A Yes.

25 Q 90 feet, plus or minus, of course, to your house,

1 and about 50 feet or so to Judy's house. And these are
2 approximations?

3 A Yes.

4 Q And that's about where Mr. Owens lived, over here,
5 and that's his driveway next door?

6 A Yes.

7 Q All right. I just wanted to make sure I had that
8 correct. Thank you. Please go back.

9 MR. DAY: With the Court's indulgence, just a
10 moment, please.

11 THE COURT: Yes, sir.

12 MR. DAY: I have no further questions. Thank you
13 very much.

14 THE COURT: Redirect?

15 MS. SIMMONS: Just a couple of follow-up, your
16 Honor.

17 REDIRECT EXAMINATION

18 BY MS. SIMMONS:

19 Q Amy, the closest home you could have gotten help
20 from would have been your grandmother's; is that
21 correct?

22 A Yes.

23 Q What is her physical health?

24 A She's very old and had dementia and Alzheimer's.

25 Q When you sent that text at 4:26 on September 27th

1 that you were scared --

2 A Yes.

3 Q -- did you think you were going to be sexually
4 assaulted?

5 A I did not at that time.

6 Q And why did you not fight the defendant harder
7 that day?

8 A I was scared for my child's life and my life
9 because I could smell the alcohol on him.

10 Q And did you have access to your phone during the
11 assault?

12 A No.

13 Q Thank you.

14 THE COURT: Thank you, ma'am. You may step down.
15 Call your next witness, please.

16 MS. SIMMONS: State calls Dr. Edwin Leap.

17 KEITH EDWIN LEAP, II, M.D.,

18 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

19 DIRECT EXAMINATION

20 BY MS. SIMMONS:

21 Q Dr. Leap, please state your full name for the
22 record and spell it.

23 A Keith Edwin Leap, II. K-e-i-t-h, E-d-w-i-n,
24 L-e-a-p, second.

25 Q Thank you. Dr. Leap, where are you presently

1 employed?

2 A I'm currently self-employed in a corporation in
3 which I do locums, emergency medicine. That is to say
4 I travel to different facilities and provide emergency
5 care in this state and others.

6 Q In previous times, did you work at Oconee Memorial
7 Hospital?

8 A Yes, ma'am. I worked there from 1993 until
9 January of -- well, December of 2014.

10 Q And --

11 A '13, 2013.

12 Q In what capacity?

13 A As an emergency physician and partner in Blue
14 Ridge Emergency Physicians, a group that provides sole
15 staffing there.

16 Q And what are your duties as an emergency room
17 doctor?

18 A To staff the emergency department and evaluate and
19 treat anyone for any condition that comes through that
20 door at the emergency department and stabilize what we
21 can and definitively treat what we can. Quite a wide
22 variety of pathology and injuries.

23 MS. SIMMONS: Judge, at this time we would move to
24 admit Dr. Leap as an expert in emergency medicine.

25 MR. DAY: No objection.

1 A Yes, sir, within the period of time we had with
2 her, sure.

3 Q Okay. And in the report, I'm just looking at when
4 you first spoke to her, she went through what she said
5 happened about going back to the room, et cetera. "I
6 told him -- said he grabbed my arm, took down my pants,
7 underwear, threw me on the bed and started to rape me.
8 At one point he stopped raping me to do oral sex, but
9 then started raping me again. Kept saying he loved me,
10 et cetera. I smelled alcohol. When he stopped, I put
11 my pants on and ran out. He told me not to tell."

12 That's what you wrote down. So those were the
13 things that she told you?

14 A Yes, sir. If it's documented in the chart, yes.

15 Q And that's when you start, start -- that's when
16 you start doing your examination. After you have heard
17 all that you can, then you have to start looking?

18 A Typically, the way we did our protocol is I would
19 talk to her, and then would I leave, the nurse would do
20 their portion of the collection, and I would come back
21 and do my portion.

22 Q Okay. In the medical report, I note, as part of
23 it says, "He did not strike, bite, or use a weapon"?

24 A That is correct.

25 Q And the report, the one the State has, is the same

1 APRIL BURGESS, R.N.

2 BEING FIRST DULY SWORN, TESTIFIED AS FOLLOWS:

3 DIRECT EXAMINATION

4 BY MS. SIMMONS:

5 Q Good morning, Ms. Burgess.

6 A Good morning.

7 Q Would you please state your full name and spell it
8 for the record.

9 A April, A-p-r-i-l, Vanessa Burgess, B-u-r-g-e-s-s.

10 Q Ms. Burgess, where are you employed?

11 A Ocone Medical Center.

12 Q How long have you been there?

13 A I've been there for a total almost 15 years. Been
14 in the emergency room for six.

15 Q What are your duties in the emergency room?

16 A I will work triage where we initially get the
17 patients in and kind of give them a triage level. And
18 then at times I'm in the back where I actually perform
19 care, testing, IVs, just general care for patients.

20 Q Do part of your job duties include performing
21 sexual assault exams?

22 A Yes, ma'am.

23 Q Do you know personally either the defendant in
24 this case or Amy Carver?

25 A No, ma'am.

1 Q Were you on duty September 27, 2013?

2 A Yes, ma'am.

3 Q Did you treat Amy Carver that day?

4 A Yes, ma'am.

5 Q What was the complaint when Amy Carver came in?

6 A She had been violated sexually.

7 Q Were you the nurse specifically assigned to this
8 patient?

9 A Yes, ma'am.

10 Q Is that protocol?

11 A Yes. We -- when we have a sexual assault patient,
12 we assign one nurse to her because that particular
13 nurse can be with her for six to eight hours or longer
14 depending on the evidence collection techniques or what
15 is there. But because that kit cannot leave that
16 particular nurse's hand, she has to stay with that
17 patient, so she cannot take any others, or he, as a
18 nurse.

19 Q What was Amy Carver's condition when you initially
20 saw her that day?

21 A I know she -- I noticed she was uncomfortable and
22 she was tearful.

23 Q And what time did she arrive?

24 A I believe she got to our ER around 5:30, 5:35-ish.

25 Q Since you were present with her the whole time,

1 what Dr. Leap said. You were there during this whole
2 time?

3 A Yes, sir.

4 Q And as set forth in the reports, stated that no
5 evidence of -- did not strike, bite or use a weapon?

6 A Right.

7 Q And that -- let's see. As to methods employed by
8 the assailant, grabbing, holding or pinching, you said,
9 "Yes, held by left arm to take down pants and
10 underwear." Does that sound correct?

11 A Yes, sir.

12 Q And one of the things y'all do is during all of
13 this is you are observing the patient at all times so
14 that you can put down things that would be, to you,
15 significant?

16 A Sure.

17 Q She was very cooperative?

18 A Yes, sir.

19 Q That's all the questions I have. Thank you very
20 much, ma'am.

21 THE COURT: Redirect?

22 MS. SIMMONS: None, your Honor.

23 THE COURT: Thank you. May this witness be
24 excused?

25 MS. SIMMONS: Yes, your Honor.

1 MS. SIMMONS: Judge, at this time the State would
2 move into evidence State's Number 22 and State's 19.

3 THE COURT: Any objection?

4 MR. DAY: No objection.

5 THE COURT: Admitted.

6 (WHEREUPON, State's Exhibit Number 19 was admitted
7 into evidence.)

8 (WHEREUPON, State's Exhibit Number 22 was admitted
9 into evidence.)

10 BY MS. SIMMONS:

11 Q What were your results of the swabs taken from Amy
12 Carver, 1.2 and 1.7?

13 A May I look at my report?

14 Q Yes.

15 MS. SIMMONS: I'm showing the witness, your Honor,
16 State's Exhibit 26.

17 THE WITNESS: Spermatozoa were identified on items
18 1.2 and 1.7. The DNA profile developed from the semen
19 on items 1.2 and 1.7 matches the DNA profile of Wilbur
20 Rickmon and has been entered -- excuse me -- the
21 probability of randomly selecting an unrelated
22 individual having the DNA profile matching the semen on
23 these items is approximately one in 350 quadrillion.
24 DNA types attributable to Amy Carver are present within
25 these profiles.

1 Q What does one in 350 quadrillion mean?

2 A What that means, basically, if I take a random
3 person's DNA profile and I compared it to the DNA
4 profile from the semen from items 1.2 and 1.7, there
5 would be a one in 350 quadrillion chance that that
6 random person's DNA profile would match that profile
7 developed on the semen on those items.

8 Q Does that number exceed the population of the
9 earth?

10 A Yes, it does, several times. The population on
11 earth is approximately seven billion.

12 Q So, in your opinion, to a reasonable degree of
13 scientific certainty, does the semen found on the swabs
14 from Amy Carver's sexual assault kit match the
15 defendant?

16 A Yes, they do.

17 MS. SIMMONS: Judge, at this time the State would
18 move into evidence State's Exhibit 26, which is the DNA
19 report generated by the agent.

20 MR. DAY: No objection.

21 THE COURT: Admitted.

22 (WHEREUPON, State's Exhibit Number 26 was admitted
23 into evidence.)

24 MS. SIMMONS: Agent Stewart, please answer any
25 questions the defense may have.

1 back in the '90s.

2 Q When you were living with Wilbur Rickmon in
3 September of '13, how long had y'all been together?

4 A Five years.

5 Q Are you still a couple today?

6 A No, ma'am.

7 Q Have you talked to him, visited him or anything
8 since this accusation?

9 A No, ma'am.

10 Q To your knowledge, has the defendant had any sort
11 of sexual relationship with Amy Carver --

12 A No, ma'am.

13 Q -- prior to September 27th?

14 A No, ma'am.

15 Q Has the defendant ever made sexual comments to you
16 about Amy Carver?

17 A Yes, ma'am.

18 Q Could you elaborate what those were?

19 A One day we were backing out of the driveway and
20 she was in her driveway walking, and she had her
21 daughter and she had on some -- some shorts. And he
22 made a comment, "Look at her with them shorts on with
23 her little stinkin' pussy." And I got -- I got upset
24 and, you know, I told him, you know, you're out of
25 place and, you know, she's -- she's a kid to us.

1 Q On September 27th of 2013 were you home when these
2 events occurred?

3 A No, ma'am.

4 Q What time did you get home?

5 A About 7:00.

6 Q Did you find anything out of place when you got
7 home?

8 A Well, I found my laptop in the kitchen on the
9 table and it was open, and I don't have the Internet,
10 so I was wondering why would my laptop be open.
11 There's no Internet to it.

12 Q Would the -- did the defendant have your password
13 to your computer?

14 A I don't know if he had it or not.

15 Q As of September 27th did you have operable
16 Internet in your home?

17 A No. It had been a while since it had been turned
18 off.

19 Q Did you have --

20 A It's been a -- it was a while.

21 Q Did the defendant know that?

22 A Yes.

23 Q Did you have any Wi-Fi equipment, boxes, routers
24 or anything in your bedroom or your home?

25 A No, ma'am, because I didn't have no Internet.

1 (WHEREUPON, State's Exhibit Number 12 was marked
2 for identification.)

3 BY MS. SIMMONS:

4 Q I'm going to show you what's been marked as
5 State's Exhibit 12.

6 MS. SIMMONS: Your Honor, if I may approach?

7 THE COURT: Yes, ma'am.

8 BY MS. SIMMONS:

9 Q Ms. Greer, are these your underwear?

10 A No, ma'am, they are not.

11 (WHEREUPON, State's Exhibit Number 13 was marked
12 for identification.)

13 BY MS. SIMMONS:

14 Q I also want to show you State's Exhibit 13. Do
15 you recognize that item?

16 A Yes, ma'am, I do. It's the lock on the bedroom
17 door.

18 Q Can you explain how the lock works?

19 A The lock itself will not lock. When you close the
20 door, it jams, so if you don't know the trick, you
21 can't get out. You have to reach up and pull back on
22 it to open up the door.

23 Q And if it's not jammed, how would you get out?

24 A If it's not jammed, like I say, you have to pull
25 up on it or reach up under the door and pull it like

1 that because it doesn't have a knob on it to turn. It
2 just has this lock.

3 Q Is it possible for someone unfamiliar with it to
4 perceive it to be locked?

5 A Yes, ma'am.

6 MS. SIMMONS: Beg the Court's indulgence for one
7 moment.

8 THE COURT: Yes, ma'am.

9 BY MS. SIMMONS:

10 Q Please answer any questions the defense may have.

11 A Yes, ma'am, I will.

12 CROSS-EXAMINATION

13 BY MR. DAY:

14 Q In looking at -- I'm talking about State's Number
15 13 showing the lock and the wall, there's no metal --
16 you can go ahead and hold it. I'm sorry -- there's no
17 metal for the bolt to go into, is there?

18 A No, sir, there isn't.

19 Q Just a hole that's apparently over time been kind
20 of gouged out?

21 A Yes, sir.

22 Q Okay. And you're saying when that door closes, it
23 jams?

24 A Yes, sir, it does.

25 Q And to get out, what do you have to do?

1 Rickmon, Wilbur. It's got down here, like I say, this
2 is general information. Most of the time you've got
3 what you usually have on your driver's license. Then
4 it's got the date and time Miranda was read. States,
5 "Been living at current address for four years. Known
6 Amy about three years. Met by cutting grass in
7 neighborhood and fixing father's headlights. Amy last
8 year -- Amy's last year in school. Did not know what
9 school. Thinks Amy is 18 or 19 years. Amy had blue
10 jeans and light shirt, long sleeve, I think. I spoke
11 to last week about fixing, putting Wi-Fi on my laptop
12 computer. I talked to Amy about 8:00 a.m. this morning
13 on the phone for Wi-Fi. She called me back this
14 afternoon about a Wi-Fi. She came up by herself today
15 to fix the Wi-Fi. She could not fix my Wi-Fi. She
16 wanted \$50. I told her I did not have \$50. She pulled
17 some panties out of her shirt and was twirling them on
18 her finger. I told her she had to leave. She went out
19 the back door. She slung the panties into my bedroom.
20 Amy has stripped for me before in the garage. I would
21 give her money. I had oral sex with her. Oral sex to
22 me was her showing herself to me. I drank a beer this
23 afternoon and a glass of MD 20/20 early today. I did
24 not have sex with Amy." That's it.

25 Q Thank you, Sergeant Smith. After this statement

1 State of South Carolina
2 County of Oconee In the Court of General Sessions

3
4 State of South Carolina,)
5 -vs-) April 22, 2015
6 Wilbur A. Rickmon,) 2014-GS-37-338
7 Defendant.) 2014-GS-37-183
8) Transcript of Record
9) Volume 3 of 3
10) Pages 264 - 352
11)
12)
13)
14)
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B E F O R E:

The Honorable R. Lawton McIntosh, Judge;
and a jury

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

Lindsey Satterfield Simmons, Esquire
Attorney for the State

R. Daniel Day, Jr., Esquire
Attorney for Defendant

Diane L. Marcengill, RPR, CRR
Circuit Court Reporter

1 THE COURT: Okay.

2 MR. DAY: That's fine with me, your Honor.

3 THE COURT: That's fine with me. I was looking
4 through the criminal sexual conduct charge this
5 morning, and I have a question. Initially we had put
6 on page two of the charge the option for aggravated
7 force, and I really don't know that that's applicable
8 under the facts of this case.

9 MR. DAY: I agree, your Honor. I thought about
10 that, too, and I was going to mention it with the
11 kidnapping, but I don't think there's any -- when it
12 says "high and aggravated nature."

13 THE COURT: Right.

14 MR. DAY: Which means it puts it into a category
15 along with assault and battery, that that really
16 wouldn't fall into this case with the testimony that's
17 been given.

18 THE COURT: What's your feeling?

19 MS. SIMMONS: I would argue under State vs.
20 Lindsey and State vs. Frazier, I think this case is
21 similar to State vs. Frazier. The defendant was -- the
22 issue of attempted -- assault with intent to commit
23 criminal sexual conduct in the first degree was sent to
24 the jury, and factually the victim in this case was
25 grabbed, drug into the woods and -- he grabbed her,

1 forced her into the woods and ripped her clothes in an
2 attempt to commit a sexual battery. And the Court did
3 rule that this was enough for criminal sexual conduct
4 in the first degree. And, your Honor, State vs.
5 Lindsey is also along those lines.

6 May I approach?

7 THE COURT: Yes.

8 MR. DAY: Your Honor, I would say, of course, that
9 the evidence in this case does not rise to what it is
10 in that one anyway. Nothing about ripped clothes of
11 any kind. Talking about being in a room, but it
12 doesn't rise to high and aggravated nature to overcome
13 the victim. In other words, there's nothing there that
14 showed that he had to strike. In fact, the testimony
15 was there was no weapon used, no threat made. In fact,
16 there's been no testimony of a threat at all anywhere
17 in this trial.

18 THE COURT: Use of physical force or physical
19 violence of a high and aggravated nature to overcome
20 the victim.

21 Have you read this State vs. Lindsey?

22 MR. DAY: I have not today, but I have read it
23 before.

24 THE COURT: Anyway, reading that case, I agree
25 with Ms. Simmons that the force described in that case

1 is not terribly dissimilar or more pronounced than
2 appears in this case. So I'll let you look at it.

3 What I think we might do is go ahead and charge
4 the jury -- I mean let you argue to the jury and let
5 you look at it again. We have to do directed verdict
6 motions this morning, too, by the way and let you
7 address it. I don't want to make them sit around too
8 terribly long, but at the same time, give you an
9 opportunity to look at it.

10 I was looking at it from a comparable basis for
11 the ABHAN charge and that case rejected that analysis
12 and said that's not the way to do it. That's not
13 exactly what they said but that's not the analysis you
14 look at.

15 MS. SIMMONS: Judge, I was planning on making an
16 argument in my closing argument on alternatives under
17 criminal sexual conduct.

18 THE COURT: So I need to go ahead and make that
19 ruling.

20 MS. SIMMONS: I apologize. Yes.

21 THE COURT: You got to do your case. That's fine.

22 MR. DAY: Thank you, your Honor. For the record,
23 your Honor, we, of course, would move for a directed
24 verdict, and I would start with the kidnapping
25 indictment and playing that into what we have just been

1 discussing.

2 Your Honor, we would submit to the Court that the
3 charging document in this case is the indictment. In
4 the indictment, the defendant is charged with the
5 specific crime of kidnapping. In the indictment it
6 sets forth what the law says, but then it uses
7 specificity then. "Here is what you are charged with,
8 Mr. Rickmon," and it says, "To wit, defendant did
9 confine the victim to a room in his home physically
10 restrained her during a sexual assault." That is
11 precisely what he is charged with. That's what he is
12 on notice for.

13 He is not on notice for having inveigled, he's not
14 decoyed, he is not unlawfully seizing, any of those
15 things. In the Frazier case, there was no question
16 there was an unlawful seizing that was confined to a
17 locked door, et cetera, and a section in which there
18 was a physical confrontation by ripping of clothes, et
19 cetera.

20 I would submit, your Honor, that in this case
21 there's no high and aggravated nature in that that,
22 one, would support the indictment, and we would submit
23 to the Court that the evidence of the kidnapping does
24 not rise to the level sufficient to get beyond the
25 threshold of what would be needed for this matter to go

1 to the jury, and we would move to dismiss the
2 indictment on kidnapping based on lack of evidence
3 based upon the exact specificity as set forth in the
4 indictment.

5 THE COURT: All right. I'm going to deny that
6 motion. I think there's sufficient evidence for the
7 record to make it a jury question.

8 What will be your next motion?

9 MR. DAY: Also be a directed verdict on the
10 criminal sexual conduct itself, your Honor. We would
11 submit again that the level of evidence does not reach
12 the threshold necessary for the matter to go to the
13 jury.

14 THE COURT: Okay, sir. Based on the same
15 arguments?

16 MR. DAY: Yes, sir.

17 THE COURT: All right, sir. I'm going to deny
18 that motion.

19 Looking at the cases provided to me by
20 Ms. Simmons, Lindsey and Frazier, Lindsey is 583 S.E.2d
21 740, and Frazier is 397 S.E.2d 93, the facts and
22 circumstances that were cited in those cases and also
23 recited in the fact that you don't use ABHAN elements
24 to make the -- meet the definition of what aggravated
25 force is.

1 Also State vs. Brown, 602 S.C.2d 392. In Brown,
2 it says the definition of aggravated force and
3 aggravated coercion along with the different penalties
4 reveal the legislature intended to draw the distinction
5 between the actual use of force and violence during the
6 assault and the threat of force and violence or after
7 the assault with the formal result of the conviction
8 resulting in a greater degree or harsher penalty.

9 Looking at those three cases together, I'm
10 convinced that there's sufficient evidence in the
11 record to warrant charging the aggravated force aspect
12 of the CSC charge as well as the number two, which
13 would be that the victim submitted to sexual battery
14 while the victim was also -- while -- let me go back
15 and change my charge because I have "victim" in my
16 charge and I told you I wouldn't do that. It's also
17 victim of forcible confinement, kidnapping, robbery, et
18 cetera, et cetera.

19 What term would you propose I use in lieu of
20 "victim"?

21 MS. SIMMONS: Judge, I just had that dilemma
22 myself because I had printed out CSC first. I changed
23 mine to the "person submits to sexual battery."

24 MR. DAY: Either "person" or "accused," either one
25 would be fine for me.

1 THE COURT: "Accused"? She's not accused.

2 MR. DAY: I'm sorry, "Accuser." Might be easier
3 to say "person."

4 THE COURT: So going back to the charge, first
5 element, the State must prove beyond a reasonable doubt
6 that the defendant engaged in sexual battery with
7 another person.

8 MR. DAY: Yes.

9 THE COURT: I think we have to go further in this
10 case, State's witness, Ms. Carver.

11 MR. DAY: That's fine.

12 THE COURT: So going to page two under number one,
13 you would have activated force means the use of
14 physical force or physical violence of a high and
15 aggravated nature to overcome another person, in this
16 case Amy Carver, and/or that Amy Carver submitted to
17 sexual battery while she was also the victim of
18 forcible confinement, et cetera, et cetera, et cetera.

19 MR. DAY: Yes.

20 THE COURT: Okay.

21 MS. SIMMONS: Thank you, Judge. I don't think I
22 have "victim" anywhere else in there.

23 MR. DAY: Following up on that, your Honor, on
24 page four of the charge --

25 THE COURT: Four.

1 MR. DAY: Yes, sir.

2 THE COURT: Okay.

3 MR. DAY: Where you begin, you define the other
4 elements, and I was just wondering if that's actually
5 necessary since the specificity was only confine,
6 didn't have anything to do about seize or inveigle,
7 decoy.

8 THE COURT: Well, inveigle means to lure, entice,
9 lead astray by false representations, and you had
10 allegations in this case that the defendant made false
11 representations to Ms. Carver about coming over to his
12 house to allegedly fix a laptop that he knew allegedly
13 was broken. There's no Wi-Fi. So that would apply.
14 Decoy would be the same thing.

15 MR. DAY: We would submit, your Honor, then, that
16 should have been placed within the indictment itself,
17 and that would be what would have been placed before
18 the Grand Jury. In this case they only placed before
19 the Grand Jury those two.

20 THE COURT: Well, the indictment says unlawfully
21 seize, confine, inveigle, decoy, or kidnap. The
22 indictment is sufficient to provide him notice. I
23 think that I'm going to -- the charge will be as I
24 provided it to you because I think it's appropriate
25 based on the facts of this case.

1 MR. DAY: How about taking out the "abduct and
2 carry away" because there's certainly no evidence or
3 testimony on that?

4 THE COURT: I don't have a problem with that
5 necessarily. What's your feeling about abducting and
6 carrying away?

7 MS. SIMMONS: Judge, I agree with Mr. Day. I
8 don't think there's any evidence that she was abducted.

9 THE COURT: So take out "abduct and carry away,"
10 correct?

11 MR. DAY: Yes.

12 THE COURT: You agree with that, Ms. Simmons?

13 MS. SIMMONS: Yes, your Honor.

14 THE COURT: Anything further? I note your
15 objections to the charge, Mr. Day, as to that that I
16 propose.

17 Other than that, any further matters?

18 MR. DAY: No, your Honor. I don't think so. To
19 make sure I understood it, you're going to advise the
20 jury -- when we rest, are you going to advise the jury
21 at that time about his right to remain silent, not
22 testify, and that's also in the final charge, would be
23 part of the full charge?

24 THE COURT: I'm going to do it in my final charge.
25 You say, "We rest." I'm going to go to closing

1 make a decision here to make our system work. And for
2 our system to work, you've got to believe that the
3 evidence backs up the accusation that was made. There
4 are so many holes in it, so many reasons why not. It
5 just doesn't make sense.

6 Ladies and gentlemen, the Solicitor said only one
7 verdict. That's not correct. The other verdict is not
8 guilty because it doesn't add up. Just because it's a
9 terrible crime that he's been accused of doesn't mean
10 you have to find him guilty. It doesn't mean someone
11 has to be punished. What it means is you have got to
12 believe it beyond a doubt. You have got to believe the
13 evidence backs up what was said, and I just don't
14 believe it's there. Thank you.

15 THE COURT: All right.

16 Mr. Foreman, ladies and gentlemen of the jury, my
17 charge will probably be in the neighborhood, give or
18 take, about 25 minutes. Would you like to continue now
19 or would you like -- would the jury like to take a
20 quick break?

21 JURY FOREMAN: We'd like to continue now, your
22 Honor.

23 THE COURT: Very good. All right.

24 Several things, ladies and gentlemen. Number one,
25 I'm not eloquent enough or intelligent enough to be

1 able to not read some aspects of my charge to you.
2 They are important points of law, so I will give you my
3 apologies in advance when I do read to you.

4 Another thing is all the evidence that is going to
5 be presented at trial has been presented. There will
6 be no supplementation of the record from this point
7 forward. I just like to let you know. Sometimes I'm
8 questioned to get additional information into the
9 record. It's all in now. It's your decision to make
10 after I charge you on the law.

11 If the jury would like to view the DVDs, because
12 we don't have a clean computer without anything else on
13 it and because certain aspects have been skipped over,
14 you will need to have it here in the courtroom. We
15 will let you watch it as often and as many times as you
16 want to. You'll just need, Mr. Foreman, with that and
17 any other requests, write it down, identify, say you
18 want to watch it, and we'll bring you in here to do
19 that.

20 The indictments I've shown you will not be back in
21 the jury room. And the charge I'm about to give you
22 will not be sent back to the jury room either. If you
23 want any aspect of my charge repeated to you, I'll do
24 it as often as you want me.

25 With that being said, ladies and gentlemen, now

1 that you have heard all the evidence that's been
2 presented and is going to be presented in this case,
3 you have heard the arguments of the attorneys, it is my
4 duty under the law to instruct you on the law that you
5 must apply in this case.

6 My instructions are going to be in three parts.
7 The first part of my instructions will be general rules
8 to define and control your duties as jurors. Quite
9 frankly, that will be probably the more lengthy aspect
10 of my charge. The second part of my charge will be the
11 law of criminal sexual conduct first degree and
12 kidnapping. You have heard the term "rape" used. The
13 term that the law uses is first-degree criminal sexual
14 conduct.

15 Finally, there will be some considerations for
16 your deliberations for you, then we will excuse you,
17 bring you back in here if I need to correct something
18 that I have misstated; or we'll send words to you to
19 begin your deliberations with the exhibits and the
20 verdict form. Okay?

21 If you recall, ladies and gentlemen, at the
22 beginning of this case, I told you it is your duty to
23 find the facts in this case from the evidence that has
24 been presented in this case. To those facts as you,
25 the sole judges of the facts, determine them to be, you

1 must apply the law as I give it to you now. You shall
2 not and must not consider what you would like the law
3 to be but only what it is. Also you must not and shall
4 not be influenced by any personal likes or dislikes,
5 opinions, prejudice, or undue sympathy you may have for
6 one side or the other. That means that you have no
7 friends to reward, no enemies to punish in this case.
8 And, bottom line, that means that you will make your
9 decision based upon the evidence that has been
10 presented and according to the law as I give it to you
11 now.

12 If you recall at the beginning of this case when
13 you took your oath, you swore or affirmed that that's
14 what you would do. In following my instructions that I
15 give to you at this point, you must follow all of them.
16 You can't pick out aspects of the charge that you agree
17 with and apply those and not apply the ones that you
18 may not agree with. They're all equally important.

19 Also, if I have said or done or made any gesture
20 throughout the course of this trial that seems to
21 indicate to you how you're to find facts, in other
22 words, which verdict would you reach, I'm going to ask
23 you but also I'm going to instruct you that you must
24 disregard that. Our constitution does not allow an
25 attorney -- excuse me -- a judge to have a comment or

1 an opinion on the facts. Suffice it to say, I'm
2 somewhat akin to a referee to make sure that both sides
3 receive a fair and impartial trial and instructor to
4 advise you as to the law that you must apply to the
5 facts of this case as you find them to be.

6 You and you alone will determine what those facts
7 are. And you will decide what the facts are by
8 evaluating the evidence, weighing the evidence, and
9 discussing that evidence amongst your fellow jurors.
10 You can't weigh evidence in a literal sense. I can't
11 give you a set of scales. It is entirely a mental
12 process that all of you will have to go through, and
13 you will evaluate and weigh that evidence using your
14 good sense and common judgments that you bring to bear
15 with you when you're sworn in as jurors.

16 Now, as I told you at the beginning of the case,
17 certain things constitute evidence and certain things
18 are not evidence. Let me remind you in this case the
19 only things that you may consider as evidence is the
20 sworn testimony from the witnesses you heard from this
21 witness stand, whether it be on direct examination or
22 cross-examination. Also any exhibits that I have
23 allowed to come into evidence is evidence. That's it.
24 That's the only true evidence that you must base your
25 decision on.

1 So that leads me to what is not evidence. Again,
2 these arguments and statements by these attorneys
3 during the course of this trial, it is intended to help
4 you but it's not evidence. They're not sworn. They're
5 not brought to the witness stand and subjected to
6 cross-examination.

7 If, at the end of this case during your
8 deliberations, if your memory differs from what you
9 were told by either or both these lawyers, your
10 collective memory will prevail over what you have been
11 told.

12 And, Mr. Foreman, I also remind you about the
13 notes. Just because something appears in someone's
14 notes doesn't mean it trumps somebody's memory or the
15 jury's collective memory. That's why they call them
16 deliberations. You will just have to hash out those
17 differences.

18 Also, questions asked by the attorneys is designed
19 to bring out and elicit evidence, but the questions
20 themselves is not evidence. Also, in every case there
21 are objections. In this case there's no difference.
22 The fact that there is an objection and the fact that I
23 let you stay in here and listen to my ruling on that
24 objection is not evidence. It's not subject to your
25 deliberations.

1 Mr. Foreman, you will be required to stop any
2 juror from discussing the fact that an objection was
3 made or my ruling on that when your deliberations
4 begin.

5 Finally, ladies and gentlemen, anything that you
6 may have heard or seen when court was not in session
7 either during break or overnight is not evidence in
8 this case. Solely to say that the only evidence is
9 what you have heard here in this courtroom and what's
10 been submitted into the record.

11 Now, in South Carolina we recognize two types of
12 evidence. We have direct evidence, and we have
13 circumstantial evidence. And I'm going to define both
14 of them for you, both of which are recognized on equal
15 par in South Carolina.

16 Direct evidence is evidence that directly proves
17 the existence of a fact and does not require deduction
18 or inference. For example, if an issue in a case was
19 whether or not I have run a red light and my law clerk
20 testifies that he saw me run the red light, then that
21 would immediately establish that fact without there
22 being any deduction or inference. That's direct
23 evidence.

24 Circumstantial evidence is this: Proof of a chain
25 of facts and circumstances indicating the existence of

1 a fact, in other words, you do have inference and you
2 do have deduction. For example, if each of you were to
3 go to bed at night, and in your front door yard there
4 was a fresh sheet of snow in your front yard, if you
5 were to wake up in the morning and see tracks in that
6 snow, you may reasonably deduce or infer that someone
7 or something walked through your yard during the night,
8 although you did not actually see that person or thing
9 walk through your yard. It requires you to deduce or
10 infer another fact. The only prohibition is your
11 inference or deduction can't be conjecture or surmise.

12 Now, in South Carolina, ladies and gentlemen,
13 crimes may be proven by circumstantial evidence and
14 direct evidence. The law makes no distinction between
15 weight or value to be given either to direct evidence
16 or to circumstantial evidence. However, to the extent
17 that the State relies on circumstantial evidence, all
18 of the circumstances must be consistent with each
19 other, and when taken together, point conclusively to
20 the guilt of the accused beyond a reasonable doubt. If
21 the circumstances merely portray the defendant's
22 behavior as suspicious, the proof has failed.

23 The State has the burden of proving defendant
24 guilty beyond a reasonable doubt, and this burden rests
25 with the State regardless of whether or not the State

1 relies on direct evidence, circumstantial evidence, or
2 a combination of direct and circumstantial evidence.

3 Now, ladies and gentlemen, in deciding what the
4 facts are, you must consider which testimony that you
5 wish to believe and which testimony you may not wish to
6 believe. You have a right to disbelieve all or part of
7 any witness' testimony. You have a right to believe
8 all of any witness' testimony. In the vernacular of
9 the law, we call this determining the credibility of
10 the witnesses.

11 In making this determination as to which testimony
12 you wish to believe or what you may not wish to
13 believe, you may take into account the following
14 factors: You may consider was the witness able to see
15 or hear or know about the things they testified about.
16 How well was the witness able to recall and describe
17 the things about which they testified about. What was
18 the witness' manner on the witness stand, in other
19 words, what was their demeanor while they were sitting
20 up here on the witness stand. You can ask yourself, is
21 there a reason that a witness would want to give
22 testimony that would help or hurt one side or the
23 other? Did that witness have an interest in the
24 outcome of the case or any bias or prejudice concerning
25 any party or matter or issue involved in the case? You

1 can ask yourself how reasonable the witness' testimony
2 was in light of all the evidence and whether that
3 witness' testimony had been contradicted by what that
4 witness had said or done at another time or by the
5 testimony of other witnesses or other evidence
6 presented in this case.

7 And, ladies and gentlemen, those are simply some
8 of the factors you may consider when you go through
9 this exercise in determining the credibility of the
10 witnesses. When you're sworn in as jurors, you don't
11 check your common sense at the door, and you shouldn't
12 in this case. You should use those things in your
13 day-to-day lives that you find indicative of
14 truthfulness and indicative of lack of truthfulness
15 when you make this determination as to which testimony
16 you wish to believe and what you may not wish to
17 believe.

18 One thing that you may not do, however, is to add
19 up the number of witnesses that may have appeared on
20 behalf of one side or the other in making this
21 determination because it does not matter for you where
22 it comes from, whether it comes from direct examination
23 or cross-examination. But your sole interest is to try
24 to determine the truth based on the testimony and the
25 evidence that has been presented to you in this case.

1 Ladies and gentlemen, also in this case you've
2 heard testimony from people described as expert
3 witnesses. As I told you through the trial, most times
4 witnesses are limited to testifying about what they
5 felt, they have heard, they saw, they smelled,
6 basically your senses. However, if a person, because
7 of their education or their experience, has developed
8 an expertise in a particular area that would be helpful
9 to you as finders of the facts and determine what those
10 facts are, then they will be allowed to be qualified as
11 experts and give their opinions in their field of their
12 expertise.

13 Expert testimony is just like any other testimony
14 in this case. You may accept it, you may reject it,
15 you may give it as much weight as you think it deserves
16 considering that witness' education, their experience,
17 the reasons given for their opinion and the other
18 evidence in this case.

19 Ladies and gentlemen, I remind you that the fact
20 that the defendant was arrested, charged and
21 indicted -- and these are the indictments that I showed
22 you at the beginning of the trial -- is not evidence of
23 his guilt, nor does it raise any type of presumption or
24 inference of his guilt. These indictments are simply
25 the charging mechanisms by which the State of South

1 Carolina brought Mr. Rickmon to court for this trial
2 and a determination by you, the jury, as to whether or
3 not he is guilty or innocent.

4 Also, Mr. Foreman, each indictment or each charge
5 is a separate or distinct offense, and you must
6 determine each indictment or charge separately based on
7 the evidence and the law and then make your decision on
8 the other charge uninfluenced by your decision on the
9 previous charge. Okay? So each one stands on its own
10 four feet or two feet.

11 Now, in this case, ladies and gentlemen, the
12 defendant has said that he was not guilty, and,
13 therefore, that places the burden upon the State of
14 South Carolina to prove his guilt by proof beyond a
15 reasonable doubt. I will charge you and tell you that
16 a person in South Carolina is never, ever required to
17 prove himself innocent in any criminal matter. And
18 that is an important rule of law, no matter how serious
19 the crime may be or the charges in the case may be,
20 that a person will always be presumed innocent of the
21 crime for which an indictment has been issued unless
22 guilt has been proven by evidence satisfying you of
23 that guilt beyond a reasonable doubt. And that
24 presumption of innocence does not end when you begin
25 your deliberations, but it accompanies the defendant

1 throughout this trial until you are convinced of the
2 defendant's guilt by proof satisfying you of guilt
3 beyond a reasonable doubt.

4 It is said that the presumption of innocence is
5 like a robe of righteousness placed upon the shoulders
6 of the defendant until it's been stripped by evidence
7 satisfying you of guilt beyond a reasonable doubt.
8 Now, ladies and gentlemen, that is not just a mere
9 legal phrase, and it's not just a legal theory. But it
10 is a fundamental and substantial right in which every
11 defendant is entitled to unless you, the jury, are
12 satisfied from the evidence of his guilt beyond a
13 reasonable doubt.

14 So that leads me to a recharge to you on the
15 definition of reasonable doubt. A reasonable doubt is
16 the kind of doubt that would cause a reasonable,
17 sincere, honest, and conscientious person to hesitate
18 to act in an important matter in his own affairs.
19 Proof beyond a reasonable doubt is proof that leaves
20 you firmly convinced of the defendant's guilt.

21 Now, ladies and gentlemen, there are very few
22 things in this world that we know with absolute
23 certainty, and in criminal cases the law does not
24 require proof that overcomes every possible doubt. If,
25 based on your consideration of the evidence, you are

1 firmly convinced that the defendant is guilty of the
2 crime or crimes for which he has been charged, then you
3 must find the defendant guilty. On the other hand, if
4 you think there is a real possibility that the
5 defendant is not guilty, you must give the defendant
6 the benefit of the doubt and find him not guilty.

7 A reasonable doubt may arise from the evidence or
8 it may arise from the lack of the evidence. I further
9 instruct you that a defendant is entitled to every
10 reasonable doubt that may arise in a case. Now, what
11 that simply means, ladies and gentlemen, is this: That
12 if, upon any issue essential to a conviction and a
13 verdict of guilt of the offense charged, if you have a
14 doubt as to how that issue should be resolved, it will
15 be your duty to resolve that issue in favor of the
16 defendant.

17 Now, in order to establish criminal liability,
18 criminal intent is required. For example, the mental
19 state required to be proven by the State for a
20 particular crime might be purpose, intent, knowledge,
21 recklessness, or criminal negligence. Criminal intent
22 must be proven by the State beyond a reasonable doubt.

23 Criminal intent is always a matter that must be
24 determined by the jury from the circumstances
25 surrounding the situation. Now, there's no way to

1 prove intent to a mathematical certainty. There's no
2 way you can dissect a person's brain to determine what
3 they had in mind, so the law says that criminal intent
4 may be established or may be inferred from the
5 circumstances shown to have existed. And that is how
6 you make the determination in this case as to whether
7 or not the element requiring intent was present.

8 It is not necessary to establish intent by direct
9 and positive evidence, but intent may be established by
10 inference in the same way as any other fact, by taking
11 into consideration the acts of the parties and all the
12 circumstances in this case. Criminal intent is a
13 mental state, a conscious wrongdoing. It is up to you
14 to determine what the defendant intended to do based on
15 the circumstances shown to have existed.

16 Criminal intent can arise from action or a failure
17 to act. It may arise from negligence, recklessness, or
18 indifference to duty or to the consequences that is
19 considered by law to be equivalent to criminal intent.

20 Ladies and gentlemen, I'll instruct you and I'll
21 emphasize to you that the fact that the defendant did
22 not testify in this case may not and shall not be
23 considered by you in any way during your deliberations.

24 Mr. Foreman, it will be your duty that, if someone
25 raises that issue, to stop that type of conversation

1 immediately.

2 The Fifth Amendment of the United States provides
3 that every citizen is free from having to testify
4 against themselves, and the burden remains on the State
5 of South Carolina at all times to prove each and every
6 element of the charges against Mr. Rickmon by proof
7 beyond a reasonable doubt.

8 All right. Mr. Foreman, ladies and gentlemen of
9 the jury, those are the general rules that define and
10 control your duties as jurors. If you would like, you
11 may stand up, you may take a quick break, or I'll
12 continue with the substantive law and some other
13 thoughts and points about your deliberations.

14 What would you like to do, Mr. Foreman?

15 JURY FOREMAN: We'd like a break, please, your
16 Honor.

17 THE COURT: Okay. Let's take about a five,
18 10-minute break, please.

19 (WHEREUPON, the jury exited the courtroom
20 at 11:30 a.m.)

21 (WHEREUPON, recess taken from 11:31 a.m.
22 to 11:40 a.m.)

23 THE COURT: Y'all ready?

24 MS. SIMMONS: Yes, sir.

25 MR. DAY: Yes, sir.

1 (WHEREUPON, the jury came into open court at
2 approximately 11:41 a.m.)

3 THE COURT: Okay. Ladies and gentlemen, I am in
4 the second aspect of my charge. This is the
5 substantive law of first-degree criminal sexual
6 conduct, as you heard referred to as rape. The proper
7 name is criminal sexual conduct. Also the law of
8 kidnapping.

9 Now, ladies and gentlemen, this case the defendant
10 is charged with criminal sexual conduct in the first
11 degree. The first element which the State must prove
12 beyond a reasonable doubt is that the defendant engaged
13 in a sexual battery with another person, in this case,
14 Amy Carver.

15 A sexual battery is defined as sexual intercourse,
16 cunnilingus, fellatio, anal intercourse, or any
17 intrusion, however slight, of any part of a person's
18 body or of any object into the genital or anal openings
19 of another person's body except when the intrusion is
20 accomplished for medically recognized treatment or
21 diagnostic purposes.

22 If you find that the State has not shown beyond a
23 reasonable doubt that a sexual battery occurred, you
24 will stop deliberating and your verdict will be for the
25 defendant on this charge.

1 If you find that a sexual battery did occur, you
2 must then decide whether the State has proven beyond a
3 reasonable doubt either that the defendant used
4 aggravated force to accomplish the sexual battery.
5 Aggravated force means the use of physical force or
6 physical violence of a high and aggravated nature to
7 overcome another person, in this case, Amy Carver.

8 This includes the threat of using a deadly weapon
9 or that Amy Carver submitted to sexual battery while
10 she was also the victim of forcible confinement,
11 kidnapping, robbery, extortion, burglary,
12 house-breaking, or any other similar act or offense.
13 That is the law of criminal sexual conduct.

14 The law of kidnapping is as follows: The
15 defendant is charged with kidnapping. The State must
16 prove beyond a reasonable doubt that the defendant
17 knowingly and unlawfully seized, confined, inveigled,
18 decoyed, kidnapped, abducted, or carried away another
19 person without authority of law. To do a thing
20 unlawfully is to do it willfully against the law.
21 Knowingly means with knowledge consciously, not
22 accidentally. Seize means to hold -- excuse me --
23 seize means to take hold of suddenly or forcibly.
24 Confine means to limit, restrict, or enclose within
25 bounds, imprison or shut or keep in. Inveigle means to

1 lure, entice or lead astray by false representations,
2 promises or other deceitful means. Decoy means to lure
3 by or as if by decoy. A decoy is something to entice a
4 person into a trap. Kidnap is to remove a person
5 against her will by unlawful force or by fraud.

6 The State does not have to prove that the
7 defendant did all of these things. Instead, if you
8 find beyond a reasonable doubt that the defendant did
9 any of these things, you may find the defendant guilty
10 of kidnapping. Something done without authority of law
11 is something which the law does not sanction, permit,
12 allow, condone or provide justification for. The
13 kidnapping does not have to be for any personal or
14 monetary gain, for any illegal purpose, but may be for
15 any reason whatsoever.

16 Also, ladies and gentlemen, in this case you've
17 heard testimony or statements by the defendant. A
18 statement or statements alleged to have been made by
19 the defendant has been admitted into evidence in this
20 case. While this Court has determined that the
21 statement or statements were admissible, I instruct you
22 that you make the ultimate decision of whether or not
23 the defendant made the statement. If the defendant did
24 make the statement, you must determine whether the
25 statement was made by the defendant voluntarily and of

1 his own free will. This means that the statement was
2 not caused by pressure, force, fear, threats, coercion,
3 or intimidation or by hope or a promise of leniency or
4 a reward of any kind.

5 In determining whether the statement was
6 voluntarily -- excuse me. In determining whether the
7 statement was voluntary, you should consider both the
8 characteristics of the defendant and the details of the
9 questioning. Some of the factors that you must
10 consider are: The age of the defendant, the
11 defendant's education or lack of education, the
12 defendant's mental ability or capacity, the defendant's
13 IQ or intelligence, the defendant's background and
14 environment, the place and length of detention, the
15 nature of the questioning and the advice or lack
16 thereof to the defendant of his constitutional rights
17 including but not limited to the right to remain
18 silent, that any statement could be used against him in
19 a court of law, the right to have a lawyer present,
20 that if he could not afford a lawyer, a lawyer would be
21 appointed to represent him without any cost, and that
22 he could stop making a statement at any time.

23 You must carefully consider all of the surrounding
24 circumstances before you give any weight to an alleged
25 statement. The State has the burden of proving beyond

1 a reasonable doubt that the alleged statement was
2 voluntary. If you determine that it was, you may give
3 the statement any further consideration that you deem
4 proper. You must decide what weight, if any, should be
5 given to the alleged statement by the defendant. If
6 you determine that the alleged statement was not the
7 free and voluntary statement of the defendant, you
8 should not consider the statement or statements at all.

9 All right. Ladies and gentlemen, that is the
10 substantive law that you must apply in this case.

11 That leads me to my final aspects of my charge,
12 and that is some thoughts about your deliberations.
13 Number one, you don't serve as jurors in this case to
14 be partisans or advocates for one side or the other in
15 this case. Both sides chose you because of your
16 explicit or implicit representations that you could be
17 fair and impartial to both the State and to Mr. Rickmon
18 and make your decision based solely upon the evidence
19 presented in this case and according to the law as I'm
20 giving it to you now.

21 When you begin your deliberations in just a few
22 minutes, I'm going to urge you to use your experiences
23 in your life that you have -- you bring with you,
24 common sense and your sense of logic and reason when
25 you go through and discuss the evidence and determine

1 what the facts are in this case, i.e., which verdict
2 you wish to reach.

3 Now, deliberation is defined as this: It's
4 defined as a careful consideration, weighing up with a
5 view to a decision. A careful consideration, weighing
6 up with a view to a decision. Regardless of what any
7 of you may think about our jury system, I would submit
8 to you that the genius of our jury system is that it
9 allows 12 men and women who come to the court from
10 different backgrounds, who bring with them different
11 perspectives and different life experiences, to go
12 through and consider all the evidence, consider the law
13 as I give it to you now and to ultimately, hopefully,
14 reach a verdict.

15 You are to consider all of the evidence carefully,
16 courteously, and discuss it with your fellow jurors.
17 Remember, you're not partisans or advocates but you're
18 the judge of the facts, the sole judges of the facts,
19 and your sole interest is to try to see that justice is
20 done based on the testimony and the evidence that's
21 presented and according to the law.

22 I'm going to ask you and I'm also going to
23 instruct you that you are to listen to everyone's
24 points and their points of view, discuss those points,
25 ask each other why they have those points and where

1 they base them from, and go through and discuss
2 something, all the evidence, thoroughly. Remember, if
3 you're doing something deliberately, you should not be
4 in a big hurry, and you shouldn't be in this case.
5 I'll tell you that this case is important to both the
6 State and to Mr. Rickmon, and this is the State's and
7 Mr. Rickmon's only day in court. They don't get to
8 come back and have a second bite at the apple.

9 Now, in order for your verdict to stand, it will
10 have to be unanimous. With that being said, each of
11 you have to decide this case for yourself. But you
12 should only do so after you have impartially considered
13 all the other evidence, you have fully discussed it
14 with your fellow jurors, you have listened to
15 everyone's points and their points of view and their
16 reasons given for those points. Do not be afraid to
17 change your opinion as to the weight of the evidence if
18 your deliberations and discussions with your fellow
19 jurors convinces you it's the right thing to do.

20 On the other hand, do not change a firmly held
21 belief as to the weight of the evidence solely to
22 appease your fellow jurors.

23 Now, with that being said, Mr. Foreman, if at any
24 time the jury wants to re-listen to any of the
25 evidence, they want to have further instruction on the

1 law, write it down, write your issue down, sign it,
2 knock on the door, and the bailiff will bring it into
3 the courtroom and we'll respond accordingly here. If
4 you need anything such as refreshments or drinks, the
5 bailiffs will respond to that.

6 In just a moment we're either going to bring you
7 back out here for further instruction, or we're going
8 to send back the verdict form and the exhibits with
9 word for you to begin your deliberations.

10 Now, this verdict form, I have to put it in some
11 order. So the order in which it appears is of no
12 consequence to you. But these are your options.

13 Under the charge of first-degree criminal sexual
14 conduct, as to the charge of first-degree sexual
15 conduct, we, the jury, unanimously find the defendant
16 not guilty. If that's your decision, you will check
17 that mark right next to that option.

18 Next is the option as to the charge of
19 first-degree criminal sexual conduct. We, the jury,
20 unanimously find the defendant guilty. If that is your
21 decision or your option, you will check there.

22 Then you will go to the charge of kidnapping.
23 Okay? And you will separately and independently
24 consider that charge. The options there is as to the
25 charge of kidnapping, we, the jury, unanimously find

1 the defendant not guilty. And also the next option
2 would be, we, the jury, unanimously find the defendant
3 guilty.

4 Once you have appropriately marked your decision
5 on each charge, you will then sign the verdict form,
6 you will take it, and you will fold it over and crease
7 it, okay, sir, knock on the door and then we'll receive
8 your verdict here in the courtroom.

9 With that being said, with the exception of our
10 alternate, I'm going to ask the jury to go back to the
11 jury room. We're either going to bring you back or
12 send word back for you to begin your deliberations.
13 Very good.

14 (WHEREUPON, the jury exited the courtroom
15 at 11:54 a.m.)

16 THE COURT: Do you have any personal belongings
17 back in the jury room?

18 ALTERNATE JUROR: No, sir.

19 THE COURT: You do not?

20 ALTERNATE JUROR: No, sir.

21 THE COURT: Okay. If you would take her back in
22 the hallway just one second, but not to the jury room.
23 I'm going to let you go in just a minute. Okay?

24 ALTERNATE JUROR: Oh, okay.

25 (WHEREUPON, the alternate juror exited the

1 courtroom at 11:55 a.m.)

2 THE COURT: Any additions or exceptions from the
3 State?

4 MS. SIMMONS: No, your Honor.

5 THE COURT: From the defense?

6 MR. DAY: No, your Honor.

7 THE COURT: All right. If you would, I'm going to
8 ask that you look at the exhibits, make sure everybody
9 is on board with that, then we can send word back to
10 the jury room.

11 Once they give you the exhibits, Buck, would you
12 give the verdict form to them, the exhibits to the
13 jury.

14 Let me thank the attorneys for their preparation
15 and their presentation. You did a very professional
16 job, and I appreciate both of you for doing that.

17 Before you go anywhere too far, give Brann your
18 phone number so we can chase you down if we need to.

19 (Court in recess, pending verdict,
20 from 11:56 a.m. until 12:48 p.m.)

21 (WHEREUPON, a note was received from the jury.)

22 THE COURT: We have some questions. Here's
23 evidence requested -- no matter how you tell the jury
24 you can't get any more evidence, they always do --
25 "schedule of payments need for submission on

1 anything you want to add?

2 THE DEFENDANT: I'm sorry I got such a terrible
3 record, and I've made some mistakes in my life. I
4 never thought I would end up in any situation like
5 this. Never meant to hurt anybody, you know. Just
6 sorry for the situation I'm in.

7 THE COURT: Mr. Rickmon, let me just advise you
8 for the record that not counting today you will have
9 ten days from today in which to appeal my sentence.
10 Quite frankly, once the proper prior convictions are
11 put in the record, I don't have any discretion
12 whatsoever, and the sentence is on both indictment
13 2015-183, which is kidnapping, indictment 2014-338,
14 criminal sexual conduct first degree, two counts of
15 life without possibility of parole. Good luck to you.

16 THE DEFENDANT: Thank you.

17 MS. SIMMONS: Thank you, your Honor.

18 (WHEREUPON, the hearing ended at 4:30 p.m.)

19 ***END OF REQUESTED TRANSCRIPT OF RECORD***
20
21
22
23
24
25

WITNESSES

David B Smith, Oconee Co Sheriff's Dept.

[Signature]
W. J. Freestater

ARREST WARRANT NUMBER

2013A3710200031

ACTION OF GRAND JURY

TRUE BILL
Melissa Burdette

[Signature]
Foreperson of Grand Jury

Date MAR 10 2014

VERDICT

Foreperson of Petit Jury
Date

DOCKET NO. 2014GS37 60338

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

MAR 10 2014

Term

THE STATE

vs.

WILBUR A RICKMON

LSS

Indictment for

SEX / CRIMINAL SEXUAL CONDUCT FIRST
DEGREE

SC Code 16-03-0652

CDR Code 0160

RECEIVED
MAY 04 2016
SC Court of Appeals

STATE OF SOUTH CAROLINA)

INDICTMENT

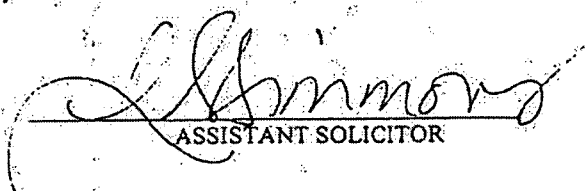
COUNTY OF Oconee)

At a Court of General Sessions, convened on MAR 10 2014 the Grand Jurors of
Oconee County present upon their oath:

SEX / CRIMINAL SEXUAL CONDUCT - FIRST DEGREE

That Wilbur A Rickmon did in Oconee County, South Carolina, on or
about September 27, 2013, engage in sexual battery (sexual intercourse)
with AC, accompanied by the following circumstance(s): the defendant
used aggravated force to accomplish the sexual battery and/or the victim
submitted to sexual battery under circumstances where she was also the
victim of forcible confinement, or any other similar offense or act. This is in
violation of 16-3-652 of the South Carolina Code of Laws (1976) as
amended

Against the peace and dignity of the State, and contrary to the statute in such case made and provided.


ASSISTANT SOLICITOR

WITNESSES

Oconee Co Sheriff's Dept.

David B. Smith

Will Freestate

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

True Bill

M. Cassin
Foreperson of Grand Jury
Date:

FEB 09 2015

VERDICT

Foreperson of Grand Jury
Date:

DOCKET NO. 2015-GS-37- *00183*

The State of South Carolina

County of Oconee

COURT OF GENERAL SESSIONS

FEB 09 2015

TERM

THE STATE

VS.

WILBUR A RICKMON

INDICTMENT FOR

KIDNAPPING

SC Code: § 16-03-0910

CDR Code: 0095

STATE OF SOUTH CAROLINA
COUNTY OF OCONEE

INDICTMENT

FEB 09 2015

At a Court of General Sessions, convened on _____, the
Grand Jurors of Oconee County present upon their oath:

KIDNAPPING

That Wilbur A. Rickmon did in Oconee County, on or about the on or about
September 27, 2013, unlawfully seize, confine, inveigle, decoy, or kidnap, Amy Nicole
Carver, by any means whatsoever, without the authority of law, to wit: defendant did
confine victim to a room in his home, physically restrained her during a sexual
assault. This is in violation of §16-3-0910 of the South Carolina Code of Laws (1976) as
amended.

Against the peace and dignity of the State, and contrary to the statute in such
case made and provided.


LINDSEY SATTERFIELD SIMMONS
ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF 104 Oconee
STATE VS.Wilbur A Rickmon

AKA:

Race: B Sex: M Age: 53DOB: SS#

Address:

City, State, Zip: Seneca, SC 29678DL#: 003288904 SID#:*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Sex / Criminal sexual conduct - First degreeINDICTMENT/CASE#: 2014-GS-37-338A/W#: 2013A3710200031Date of Offense: 9/27/2013S.C. Code § : 16-03-0652CDR Code #: 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADSin violation of § 16-03-0652 of the S.C. Code of Laws, bearing CDR Code # 0160☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC 16-17-25-45

w/minor 1st or Lewd Act)

The charge is: ☒ As Indicted, ☐ Lesser Included Offense ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)The plea is: ☒ Without Negotiations or Recommendation ☐ Negotiated Sentence ☐ Recommendation by the State.ATTEST: Simmons 70224 Willis 1525
Simmons, Lindsey Satterfield SC Bar# Defendant Attorney for Defendant SC Bar#WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections, ☐ County Detention Center,
for a determinate term of Life without possibility of parole under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and/or payment
of \$ _____; plus costs and assessments as applicable*; the balance is suspended with probation for _____months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of
probation, which are incorporated by reference.☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code § 24-13-40 to be calculated and applied
by the State Department of Corrections.☐ The Defendant is to be placed on the Central Registry of Child Abuse and Neglect pursuant to S.C. Code § 17-25-135.Pursuant to 18 U.S.C Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal
Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives Hearing ☐ Ordered

Total: \$ _____ plus 20% fee: \$ _____

Payment Terms: _____

☐ Set by SCDPPPS _____

Recipient: _____

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath-Test)	\$25	\$
Proviso 47.9 (Public Def/Prob)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114 (BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$
Proviso 90.5 (SCCA Surcharge)	\$5	\$ <u>5.00</u>
3% to County (if paid in installments)	\$	\$ <u>3.90</u>
TOTAL	\$	\$ <u>133.90</u>

PTUP _____ days/hours Public Service Employment

Obtain GED ☐

Attend Voc. Rehab. or Job Corp. _____

May serve W/E beginning _____

Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐Fine may be pd. in equal, consecutive weekly/monthly
pmts. of \$ _____ beginning _____

\$ _____ paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,
§ 47.12 requires \$500 be paid to Clerk
during probation.

Clerk of Court/Deputy Clerk

Court Reporter: Diane Marcengill

SCCA/217 (03/2011)

Presiding Judge

Judge Code: 3155Sentence Date: 7-22-15

STATE OF SOUTH CAROLINA

105

COUNTY OF OCONEE

STATE VS.

WILBUR A RICKMON

AKA: Wilbur Rickmon, Wilbur A Rickmon

Race, Black Sex: M Age: 54

DOB: SS#:

Address:

City, State, Zip: Seneca, SC 29678

DL# 003288904 SID# SC00213507

*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

In disposition of the said indictment comes now the Defendant who was

TO: Kidnapping

In violation of § 16-03-0910 of the S.C. Code of Laws, bearing CDR Code # 0095

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☒ §17-25-45(CSC w/minor 1st or Lewd Act)The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def.'s initials)The plea is: ☒ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST

Lindsey Satterfield Simmons, Assistant Solicitor SC Bar # 70224 Defendant SC Bar # 1575

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center, for a determinate term of 30 days/months/years or ☐ under the Youthful Offender Act not to exceed 30 years and/or to pay a fine of \$ 100.00; provided that upon the service of 30 days/months/years and or payment of \$ 100.00; plus costs and assessments as applicable*; the balance is suspended with probation for 30 months/years and subject to South Carolina Department of Probation, Parole and Pardon Service standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☐ CONSECUTIVE to sentence on:☐ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

Pursuant to 18 U.S.C. Section 922, it is unlawful for a person convicted of a violation of Section 16-25-20 or 16-25-65 (Criminal Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

☐ RESTITUTION: ☐ Deferred ☐ Def. Waives HearingTotal: \$ 100.00 plus 20% fee: \$ 20.00

Payment Terms:

☐ Ordered PTUP 30 days/hours Public Service EmploymentObtain GED ☐☐ Set by SCDPPPS

Recipient:

*Fine: \$ 100.00§14-1-206 (Assessments 107.5%) \$ 100.00§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ 100.00§56-5-2995 (DUI Assessment) \$12 \$ 12.00§56-1-286 (DUI Breath Test) \$25 \$ 25.00Proviso 47.9 (Public Def/Prob) \$500 \$ 500.00§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00§14-1-213 (Drug Court Surcharge) \$150 \$ 150.00§50-21-114 (BUI Breath Test Fee) \$50 \$ 50.00§56-5-2942(I) (Vehicle Assessment) \$40/ea \$ 40.00Proviso 90.5 (SCCJA Surcharge) \$5 \$ 5.003% to County (if paid in installments) \$ 3.90TOTAL \$ 1339.00

Attend Voc. Rehab. Or Job Corp.

May serve W/E beginning

Substance Abuse Counseling ☐Random Drug/Alcohol Testing ☐

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ 3.33 Beginning\$ 100.00 Paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel,

\$47.12 requires \$508 be paid to Clerk

during probation.

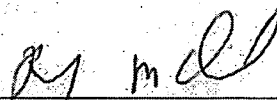
Presiding Judge:

Judge Bar ID: 7270Sentence Date: 9-22-15Judge Code: 2105Clerk of Court/Deputy Clerk: Beverly H. WhitfieldCourt Reporter: Diane Marcengill

SCCA/217 (03/2011)

CERTIFICATE OF COUNSEL FOR APPELLANT

Counsel for appellant certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material and that this Record on Appeal complies, to the best of my ability, with the April 15, 2014 order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

By: 

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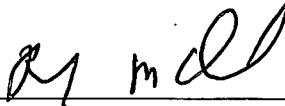
Robert M. Dudek
Chief Appellate Defender

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ATTORNEYS FOR APPELLANT

CERTIFICATE OF COUNSEL FOR APPELLANT

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