

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Beaufort County

Honorable Carmen T. Mullen, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

LANCE R. ELAM,

APPELLANT

APPELLATE CASE NO. 2018-002256

RECORD ON APPEAL

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THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
State’s Exhibit 3 (Audio CD of defendant’s interview)

1 In the Court of General Sessions for the
2 State of South Carolina, County of Beaufort

3

4

Case No.: 2017GS070683

5

2017GS070684

6

State of South Carolina,

7

Plaintiff(s),

8

vs.

Transcript of Record

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Lance Rontavis Elam,

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Defendant(s).

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TRIAL TRANSCRIPT

14

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16

17

December 10, 2018 thru December 12, 2018

18

Beaufort, South Carolina

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22

BEFORE:

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The Honorable Carmen T. Mullen

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25

JURY SELECTION

1 THE COURT: Solicitor, I'm going to ask you to
2 call your case, if you would.

3 MS. SWANSON: Thank you, Your Honor. State calls
4 Lance Elam, Indictment Numbers 2017 GS 07683 for
5 criminal sexual conduct in the first degree, as well as
6 2017 GS 07684, burglary in the first degree.

7 THE COURT: Thank you.

8 Ladies and gentlemen, if you will give me your
9 attention. We are about to begin the trial entitled
10 The State of South Carolina versus Lance Elam, who is
11 charged in the Bill of Indictments by a grand jury in
12 Beaufort County with the offenses of criminal sexual
13 conduct in the first degree, and burglary in the first
14 degree.

15 Ladies and gentlemen, I'm going to ask both the
16 State and Defense to introduce themselves in -- would
17 you also introduce anyone else at counsel table?

18 Ms. Swanson, whenever you are ready.

19 MS. SWANSON: Thank you, Your Honor.

20 My name is Hunter Swanson, I'm an Assistant
21 Solicitor here for the 14th Circuit. Been prosecuting
22 for Solicitor Duffy Stone for the past 11 years.

23 Sitting with me is Kimberly Smith, also an
24 Assistant Solicitor, primarily who works here in
25 Beaufort County. And then sitting over to my left is

JURY SELECTION

1 Baker Odom. At the time, was a detective with the
2 Bluffton Police Department, still with that department,
3 but has transferred.

4 THE COURT: Thank you. You all may be seated.

5 Mr. Staggs.

6 MR. STAGGS: Thank you, Your Honor.

7 My name is Eric Staggs, I'm an attorney with the
8 Beaufort County Public Defender's Office, and this is
9 Lance Elam -- stand up -- and this is Courtney Gibbes,
10 also with our office.

11 THE COURT: Thank you.

12 Ladies and gentlemen, under the oath you took
13 earlier, if you need to respond to these questions,
14 again; simply stand, give me last name and your juror
15 number and then respond to the question. All right?
16 Because anything you need to talk to me privately
17 about, please just ask to approach, ladies and
18 gentlemen, and you and I will have a conversation. All
19 right?

20 So the first question is, ladies and gentlemen, is
21 anyone related by blood or connected by marriage with
22 the Defendant in this case, Mr. Lance Elam? If so,
23 would please stand.

24 (No response.)

25 THE COURT: Is anyone in the jury panel a close

JURY SELECTION

1 personal friend or share a special relationship or have
2 any kind of business relationship with the Defendant in
3 this case, Mr. Lance Elam? If so, would please stand.

4 (No response.)

5 THE COURT: Additionally, ladies and gentlemen,
6 you have been introduced to the attorneys trying this
7 case and also the lead investigator on behalf of the
8 State in this case. My first question is, are you
9 related by blood, connected by marriage, have a close
10 personal relationship or special friendship with any of
11 the lawyers involved in this case? If so, please
12 stand.

13 (No response.)

14 THE COURT: Also I'm going to ask it a little bit
15 weird. Have you ever been prosecuted by, represented
16 by, employed by any of these lawyers or their offices,
17 or have any type of financial relationship in any way
18 with any of the lawyers involved in this case? If so,
19 please stand.

20 (No response.)

21 THE COURT: Ladies and gentlemen, the following
22 are a list of potential witnesses. All these people
23 will not be called, they are just potential witnesses
24 in this case.

25 But what I need to know from you is whether or not

JURY SELECTION

1 you are related by blood, connected by marriage, or
2 have a close personal relationship with any of these
3 people, such that you would give their testimony more
4 weight than others because of your relationship.

5 Just because you know them or may have an
6 acquaintance with them doesn't mean you are not
7 qualified to serve, I just need to make sure it doesn't
8 rise to the level where because of that relationship,
9 you would have give their testimony greater weight than
10 someone else's who you don't know. All right?

11 If any of these people are here in the courtroom,
12 I am going to ask that they stand.

13 The first is [REDACTED] C.B. David Bachman.
14 Akil Brown of Bluffton Police Department.

15 Joseph Delong of the Bluffton Police Department.
16 Jeff Dickson of the Bluffton Police Department. Jeb
17 Fay of the Bluffton Police Department.

18 Sara Goodman of SLED. Robert Harman with the
19 Bluffton Police Department. Cody Kirkman of the
20 Bluffton Police Department.

21 Chynna Lopez, Jose Lopez, Kelly McCauley of the
22 Bluffton Police Department.

23 Jeff Maxwell. Allison Moreira. Bonafacio Perez
24 of the Bluffton Police Department.

25 Lance Puryear from the Bluffton Police Department.

JURY SELECTION

1 Laura Rutland of the Bluffton Police Department.

2 Jennifer Stokes. And Jessica Stowe from SLED.

3 Again, the question is, is anyone related by
4 blood, connected by marriage, have a close, personal
5 relationship or special friendship or business
6 relationship with any of these people? If so, please
7 stand.

8 (No response.)

9 THE COURT: Very good.

10 Solicitor, can you tell me whereabouts this
11 occurred exactly?

12 MS. SWANSON: This was off of a street in Old Town
13 Bluffton.

14 THE COURT: Do you know specifically the name of
15 the street?

16 MS. SWANSON: Girard Avenue.

17 THE COURT: Thank you. I appreciate it.

18 Ladies and gentlemen, this involves an alleged
19 sexual battery, also known as a rape, and a burglary
20 that occurred back on April 27th of 2017 allegedly in
21 Old Town Bluffton on Girard Avenue.

22 Ladies and gentlemen, does anyone have any
23 independent knowledge whatsoever about this case? If
24 so, please stand.

25 (No response.)

JURY SELECTION

1 THE COURT: Ladies and gentlemen, is there any
2 member of the jury panel who's a member of or
3 contributor to any group which has as its primary
4 concern the promotion of law enforcement or victims
5 rights? And that includes the groups as CAV, Citizens
6 Against Violent Crime; MADD, Mothers Against Drunk
7 Driving; or SADD, Students Against Drunk Driving.

8 Again, is anyone a member of or a contributor to
9 any of these types of groups? And that would also
10 include, CODA, Citizens Against Domestic Abuse, or any
11 other group like that. If so, please stand.

12 (No response.)

13 THE COURT: Ladies and gentlemen, is there any
14 member of the jury panel or someone you are related to
15 by blood or marriage a member of law enforcement? If
16 so, please stand.

17 And I know Ms. Grossman already stood before.
18 Where did Ms. Grossman go? You're still there. Thank
19 you.

20 And as everyone knows, her son is Brian Ranger,
21 and so we know who that is.

22 Ma'am, give me your name and juror number again.
23 Who is the law enforcement in your family?

24 JUROR: My number is 374, my name is Barbara
25 Zeoli. My husband works emergency management, but he's

JURY SELECTION

1 also a deputy.

2 THE COURT: Who does he work for?

3 JUROR: For the County. For the sheriff's office.

4 THE COURT: And give me your last name again.

5 JUROR: Zeoli.

6 THE COURT: And that is for Beaufort County?

7 JUROR: Yes.

8 THE COURT: All right. Ma'am, thank you.

9 Sir.

10 JUROR: My name is Charles Cook, Juror Number 72.

11 My stepson is an officer with the Duluth Police

12 Department, Duluth, Georgia.

13 THE COURT: Thank you, sir. You may be seated.

14 Sir.

15 JUROR: Mark Fitzgibbons, Juror 105. My father
16 used to run the Detention Center and is a magistrate.

17 THE COURT: Okay. Thank you, sir.

18 Anyone else?

19 (No response.)

20 THE COURT: Has any member of the jury panel or
21 any member of your immediate family ever been employed
22 by the Attorney General's office, the Solicitor's
23 office, or any prosecuting attorney's office? If so,
24 please stand.

25 JUROR: I have a question. My brother is a

JURY SELECTION

1 trial -- he used to work as an Assistant D.A., but we
2 moved here from New York. But he still practices as an
3 Assistant D.A. in New York.

4 THE COURT: And give me your name and number
5 again.

6 JUROR: Maria Annunziata, Juror Number 15.

7 THE COURT: Thank you, ma'am. You may be seated.
8 Anyone else?

9 Has any member of the jury panel ever been
10 employed by any civilian or military law enforcement
11 agency? If so, please stand.

12 JUROR: My ex-husband was an attorney in Columbus,
13 Georgia. He was primarily real estate, but he did do
14 some little cases, but not much.

15 THE COURT: Okay. And give me your name and
16 number, please.

17 JUROR: Stephanie Spence, and I'm 307.

18 THE COURT: Thank you. You may be seated.

19 JUROR: Excuse me, Your Honor. I have a question.
20 Did you say anybody who worked for law enforcement
21 in the past?

22 THE COURT: Yes, yes.

23 JUROR: Before working for the fire department, I
24 was 23 years with the police department.

25 THE COURT: And what police department were you

JURY SELECTION

1 with?

2 JUROR: In Teaneck, New Jersey.

3 THE COURT: What did you do for them?

4 JUROR: I was the stenographer of the detective
5 bureau.

6 THE COURT: Very good. Did you do criminal work,
7 I assume?

8 JUROR: Yes, I did. I did, yes.

9 THE COURT: Thank you, ma'am. You may be seated.

10 THE CLERK: Your number?

11 JUROR: Oh, 368.

12 THE COURT: Thank you. Anyone else?

13 Yes.

14 JUROR: I just have a question. When you asked if
15 somebody was in military law enforcement, does that
16 include your spouse?

17 THE COURT: That includes your spouse as well.

18 JUROR: My husband was Naval Hospital, N.A.
19 That's where he retired from.

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

21 THE CLERK: Your number, ma'am?

22 JUROR: 203.

23 THE COURT: Yes, ma'am.

24 JUROR: 344. Going back a couple questions, I did
25 -- I have made a contribution to a victim's rights

JURY SELECTION

1 organization.

2 THE COURT: Thank you. And which organization was
3 it?

4 JUROR: Called the Remembrance Project.

5 THE COURT: Okay.

6 Ladies and gentlemen, does any member of the jury
7 panel ever been a witness in a criminal trial? If so,
8 please stand.

9 (No response.)

10 THE COURT: Ladies and gentlemen, I told you very
11 briefly about the allegations in this case. But I need
12 to know whether or not anyone has heard anything, seen
13 anything, or read anything about this case in the
14 papers, TV, anything along those lines? If so, please
15 stand.

16 (No response.)

17 THE COURT: Ladies and gentlemen, is there any
18 member of this panel who either currently is or has
19 been in the past a mandatory reporter, such that you're
20 required by law to report suspected child abuse or
21 suspected -- child abuse to law enforcement or social
22 services?

23 All right. And I will tell you, this case does
24 not involve a child in any way. So I just want you all
25 to know that from the beginning, but this is a question

JURY SELECTION

1 that's requested of me to ask you. So I need to start
2 from my left. I need to say that obviously it's true,
3 and in what capacity you had to be a mandatory
4 reporter. So, ma'am, give me your name and juror
5 number.

6 JUROR: Jessica Lupinetti, 203, and I was a school
7 nurse on Laurel Bay, so I have to.

8 THE COURT: Of course. Okay. Thank you.

9 Is there any follow-up from anyone after that? Is
10 there anything further you want to know?

11 MR. STAGGS: Not at this time, Your Honor.

12 THE COURT: Thank you.

13 All right. Ma'am.

14 JUROR: Barbara Zeoli. I'm a registered nurse,
15 and an assisted live-in, and if somebody has been
16 abused, I need to report it.

17 THE COURT: I understand that. Thank you.

18 Got her number?

19 THE CLERK: Your number, ma'am?

20 JUROR: Yes, 374.

21 THE COURT: All right. Doctor.

22 JUROR: Yes. Cecilia Colmer, 69, and I obviously
23 have to report any domestic violence or abuse.

24 THE COURT: You got that, Mona?

25 Thank you. You may be seated.

JURY SELECTION

1 Yes, ma'am.

2 JUROR: Number 231, Marshell Muligan. I'm a
3 school teacher, and so I have to report.

4 THE COURT: Thank you, ma'am.

5 Yes.

6 JUROR: I'm 251, I'm a child care provider, so we
7 have to report.

8 THE COURT: Thank you, ma'am.

9 Yes.

10 JUROR: Juror Number 15, Maria Annunziata. I'm a
11 registered nurse and I work as a float nurse mostly in
12 the emergency room.

13 THE COURT: Thank you, ma'am. You may be seated.

14 Yes, ma'am.

15 JUROR: Juror Number 355, Jeanette Weiman. I was
16 day care owner for 42 years, and had to report
17 anything.

18 THE COURT: Thank you, ma'am. You may be seated.

19 Yes.

20 JUROR: Number 138, I work for a school system in
21 the health office and reported to CPS for child abuse.

22 THE COURT: Thank you.

23 Yes.

24 JUROR: I'm Juror Number 270. I'm an E.R nurse,
25 so I have to report anything.

JURY SELECTION

1 THE COURT: Thank you. You may be seated.

2 Yes, ma'am.

3 JUROR: I'm Juror Number 200. I'm a registered
4 nurse and I have to report any signs of abuse.

5 THE COURT: Thank you. You may be seated.

6 Sir.

7 JUROR: Juror Number 30, I'm a paramedic with
8 Beaufort County EMS. We have to report anything
9 suspicious.

10 THE COURT: Thank you, sir.

11 JUROR: Juror 328, registered nurse. I have to
12 report.

13 THE COURT: Thank you, ma'am.

14 Sir.

15 JUROR: Daniel Byrne, 55, first responder.

16 THE COURT: Thank you, sir.

17 JUROR: Mark Fitzgibbons, 105, EMS.

18 THE COURT: Thank you, sir.

19 JUROR: Former director of nursing.

20 THE COURT: Thank you, sir. Give me your number.

21 JUROR: 210.

22 THE COURT: Thank you, sir. I appreciate that.

23 Ladies and gentlemen, has any member of the jury
24 panel ever received any training by any advocacy
25 center, either child advocacy or any type of sexual

JURY SELECTION

1 assault advocacy center? If so, please stand.

2 All right. Let's start with you, Mr. Fitzgibbons.

3 JUROR: 105, military, throughout my course of 20
4 years and everything else, EMS.

5 THE COURT: Thank you, sir. Give me your number
6 again.

7 JUROR: 105.

8 THE COURT: First responder.

9 JUROR: Yes, ma'am. Byrne, 55.

10 THE COURT: I appreciate it.

11 Sir, go ahead.

12 JUROR: EMS.

13 THE COURT: Give me your number again.

14 JUROR: 30.

15 THE COURT: 30, thank you.

16 Doctor.

17 JUROR: Sexual assault, criminal exams.

18 THE COURT: Thank you, Doctor.

19 JUROR: I was a foster parent in Philadelphia
20 County. Does that count?

21 THE COURT: Yes, ma'am. It does.

22 Ma'am, will you give me your number, please.

23 JUROR: 215.

24 THE COURT: Thank you. I appreciate it. You may
25 be seated.

JURY SELECTION

1 Yes.

2 JUROR: 355, with the day care, I had special
3 training being the owner.

4 THE COURT: Thank you. Anyone else?

5 (No response.)

6 THE COURT: Okay.

7 Ladies and gentlemen, has any member of the jury
8 panel ever been a volunteer for the Beaufort County
9 Sheriff's Office or the Bluffton Police Department or
10 any other law enforcement agency?

11 Sir, your name and juror number.

12 JUROR: Kevin Edwards, 96, Oakland County
13 sheriff's office, 1984 to 1989. Michigan. Just
14 washing police cars and answering the phone.

15 THE COURT: Thank you, sir.

16 Do I have anyone here who has attended the
17 Citizen's Police Academy here in Beaufort County or
18 anywhere else?

19 (No response.)

20 THE COURT: Ladies and gentlemen, is any member of
21 the jury panel or any member of your immediate family
22 have any kind of business or personal relationship with
23 the Bluffton Police Department? If so, please stand.

24 Yes, ma'am.

25 JUROR: My husband works for the Town of Bluffton,

JURY SELECTION

1 so he does have interaction with the police department..

2 THE COURT: What does your husband do for the Town
3 of Bluffton?

4 JUROR: He works for public works. He does a lot
5 of work in the police department.

6 THE COURT: Tell me your husband's name again.

7 JUROR: Brian Ranger.

8 THE COURT: All right, ma'am. Thank you. You may
9 be seated.

10 THE CLERK: Ma'am, your number?

11 JUROR: 265.

12 THE COURT: Ladies and gentlemen, this next
13 question is about social media platforms. Do I have
14 anyone here who regularly follows either the 14th
15 Circuit Solicitor's Office web page or Twitter accounts
16 or other Facebook accounts or any other, what I
17 consider, local maybe media outlet accounts that report
18 about crime or report about criminal happenings here?
19 And that can include the newspaper as well.

20 Sir.

21 JUROR: Yes, ma'am. Byrne, 55. I'm a public
22 information officer for my fire department. So I
23 follow the police departments.

24 THE COURT: Thank you, sir. You may be seated.

25 Yes, sir.

JURY SELECTION

1 JUROR: Edwards, 96. We follow Beaufort County
2 Sheriff's Office, also Bluffton Police Department on
3 Twitter and Facebook to keep our tenants informed of
4 what's happening in the area. Some live out of state.

5 THE COURT: Thank you, sir.

6 JUROR: Your Honor, you mentioned the newspaper.
7 I regularly read the Island Packet daily.

8 THE COURT: Thank you, sir. I appreciated that.

9 THE CLERK: Your number, sir?

10 JUROR: 367.

11 THE COURT: Yes, ma'am.

12 JUROR: 344. I follow the Island Packet on
13 Twitter.

14 THE COURT: Okay. Thank you.

15 Ladies and gentlemen. As I told you, the
16 allegations in this case are burglary in the first
17 degree and criminal sexual conduct, which would be rape
18 of an adult.

19 Ladies and gentlemen, is there anyone, because of
20 the nature of this case, that simply cannot sit and be
21 fair and impartial in the trial of this case?

22 And what's important, ladies and gentlemen, is
23 that maybe you may have experience with a family member
24 or personally, and you need to make sure that you can
25 distance the two and understand that they are two

JURY SELECTION

1 completely different things.

2 You need to approach this fairly and impartially.
3 And so people come with biases towards certain charges
4 or persons or anything along those lines. I need to
5 know if you are one of those people who cannot be fair
6 and impartial in the trial of this case.

7 Again, typically, it's based on the nature of the
8 charge, or for something along those lines. So -- all
9 right.

10 Ma'am. Can you give me your name and juror
11 number.

12 JUROR: I'm Number 28.

13 THE COURT: Can you be fair and impartial?

14 JUROR: I've been a victim.

15 THE COURT: All right. Ma'am, I need to go ahead
16 and excuse you from the trial of this case. However,
17 I'm going to ask that you keep your seat. And the next
18 trial, you will be subject to questions having to do
19 with it, but I appreciate it. Thank you.

20 Ma'am, can you be fair and impartial?

21 JUROR: I haven't been a victim, but I know a lot
22 of victims, and I don't think I could be.

23 THE COURT: And I appreciate your candor. I am
24 going to also excuse you from the trial of this case.
25 Give me your number again.

JURY SELECTION

1 JUROR: 327.

2 THE COURT: Thank you, ma'am. We're going to
3 excuse you just like I told the previous juror. You
4 are subject to the next case and the one after that.
5 All right. So just sit tight.

6 They are both excused from this case.

7 Anyone else?

8 Ladies and gentlemen, does anyone else know of any
9 reason whatsoever that you cannot be fair and impartial
10 to the State of South Carolina and the Defendant,
11 Mr. Elam, in this case? If so, please stand.

12 (No response.)

13 THE COURT: All right. Very good.

14 Ladies and gentlemen, what happens now is you have
15 been qualified, we are placing your names in a list.
16 It is going to randomly pull a number of people. What
17 is going to happen is this, when your name and number
18 is called, you are going to simply stand in place. You
19 do not say or do anything. Both sides have an
20 opportunity to accept you or excuse you from the trial
21 of this case. My intent is I will pull 12 primary
22 jurors and I'm going to pull two alternates just in
23 case someone falls sick or we have any issues. All
24 right?

25 This usually will take us about two or three

JURY SELECTION

1 minutes to get it together. Does anyone absolutely
2 need a break right now? And don't be shy if you do.

3 I'm going to ask that I don't excuse all of you,
4 but if a few of you need to run to the restroom, you're
5 welcome to. If anyone needs to go, I just need to know
6 who it is.

7 Okay. What I'm going to do with this, for those
8 of you that do, as you walk on out, Norman is going to
9 grab your badge just so we know. Quickly refresh
10 yourself and come on back, if you would. We're going
11 to go straight into pulling this jury, and we are
12 making really good time, ladies and gentlemen, so I'll
13 get you out of here as quick as I can.

14 THE CLERK: Strikes five and ten?

15 MS. SWANSON: Yes, that's correct.

16 THE CLERK: Thank you.

17 THE COURT: Ladies and gentlemen, while we're
18 waiting, we do our very best here in Beaufort County
19 not to bring you back and forth. Just knowing, just to
20 give you some distance, I drive from the island every
21 morning. I have jurors that come from St. Helena and
22 most days it takes 45 minutes to an hour to get here.
23 So we endeavor to do the best that we can to pull as
24 many jurors as we possibly can so we don't have you
25 coming back in the morning. And a lot of counties have

JURY SELECTION

1 you come in and report every morning at 9:30, and we'll
2 see what we have to do. We just try real hard not to
3 do that here.

4 Number one, it's an expense for the County,
5 because every time you come -- well, the amount that
6 you are paid, which I need to tell you is set by County
7 council, so that's who you would complain to.

8 It is obviously very much needed to cover. You
9 multiply it times 100 people, it runs a cost for the
10 County. So we do our very best not to bring you back
11 up here.

12 Also, I understand that it's an inconvenience. We
13 do so much appreciate you being here, and please
14 understand that short of fighting during war time, this
15 is the greatest service you can do. You will help us
16 resolve these matters, and I want you to know that I
17 started my week with many more cases than this. I
18 started with 15 trials, and we will dispose of probably
19 another hundred, 150 cases this week between two
20 judges. Without having jurors here willing to serve,
21 we simply can't do that.

22 So please understand the importance of what you
23 do. Even if you don't get chosen as a juror here just
24 simply being here this morning helps me move these
25 cases. So please understand we appreciate your doing

JURY SELECTION

1 your duty. So thank you.

2 THE BAILIFF: All the jurors are present,

3 Your Honor.

4 THE COURT: Very good. With that said, are we
5 ready to go? Are we good?

6 All right. Let's go.

7 All right. Ladies and gentlemen, when your name
8 is called, simply stand. You don't have to say or do
9 anything. Each side will either say, "Please seat the
10 juror," or "Please excuse the juror."

11 If they both say, "Please seat the juror," that's
12 your -- you're going to the jury box and you're going
13 to be the jury for my first trial. All right?

14 If not, then you are excused to go sit back down
15 in your seat. Please remain seated. Tommy Russo is
16 here and he's ready to pull the next jury before lunch,
17 which is great news for you all, because it's going to
18 get even more of you out of here earlier. Okay?

19 THE CLERK: David Spangler, Juror 306.

20 What says the State?

21 MS. SWANSON: Please present this juror.

22 THE CLERK: What says the Defense?

23 MR. STAGGS: Please excuse this juror.

24 THE BAILIFF: Sit down, sir.

25 THE CLERK: Juror 367, Chester Williams. What

JURY SELECTION

1 says the State?

2 MS. SWANSON: Please present this juror.

3 THE CLERK: What says the Defense?

4 MR. STAGGS: Please seat the juror.

5 THE BAILIFF: Come forward, please, sir.

6 THE CLERK: Juror Number 80, Bria Dasher. What
7 says the State?

8 MS. SWANSON: I'm sorry, what was the number
9 again?

10 THE CLERK: Number 80, Bria Dasher.

11 MS. SWANSON: Please excuse Ms. Dasher.

12 THE BAILIFF: Free to sit down, ma'am.

13 THE CLERK: Juror 371, Freddie Wright. What says
14 the State?

15 MS. SWANSON: Please excuse Mr. Wright.

16 THE BAILIFF: You may sit down, sir.

17 THE CLERK: Juror 182, Maureen Korzik. What says
18 the State?

19 MS. SWANSON: Please present 182.

20 THE CLERK: What says the Defense?

21 MR. STAGGS: Please excuse this juror.

22 THE BAILIFF: You may sit down, ma'am.

23 THE CLERK: Juror 287, Robert Sell. What says the
24 State?

25 MS. SWANSON: Please present this juror.

JURY SELECTION

1 THE CLERK: What says the Defense?

2 MR. STAGGS: Please excuse this juror.

3 THE BAILIFF: You may sit down, sir.

4 THE CLERK: Juror 187, Garrett Lamar. What says
5 the State?

6 MS. SWANSON: Please present this juror.

7 THE CLERK: What says the Defense?

8 MR. STAGGS: Please seat the juror.

9 THE BAILIFF: Come forward, please, sir. Please
10 bring any possessions with you when you come forward.

11 THE CLERK: Juror 72, Charles Cook, what says the
12 State?

13 MS. SWANSON: Please present this juror.

14 THE CLERK: What says the Defense?

15 MR. STAGGS: Please excuse this juror.

16 THE BAILIFF: Please sit down, sir.

17 THE CLERK: Juror 231, Marshall Muligan. What
18 says the State?

19 MS. SWANSON: Please present this juror.

20 THE CLERK: What says the Defense?

21 MR. STAGGS: Please seat the juror.

22 THE BAILIFF: Come forward, ma'am.

23 THE CLERK: Juror 292, Shirley Sharp. What says
24 the State?

25 MS. SWANSON: Please present this juror.

JURY SELECTION

1 THE CLERK: What says the Defense?

2 MR. STAGGS: Please seat the juror.

3 THE BAILIFF: Come forward, ma'am.

4 THE CLERK: Juror 36, Jeffrey Bowers. What says
5 the State?

6 MS. SWANSON: Please present this juror.

7 THE CLERK: What says the Defense?

8 MR. STAGGS: Please excuse the juror.

9 THE BAILIFF: Please sit down, sir.

10 THE CLERK: Juror 370, Adam Woernle. What says
11 the State?

12 MS. SWANSON: Please present this juror.

13 THE CLERK: What says the Defense?

14 MR. STAGGS: Please seat the juror.

15 THE BAILIFF: Come forward, sir.

16 THE CLERK: Juror 50, Amy Burnham. What says the
17 State?

18 MS. SWANSON: Please present this juror.

19 THE CLERK: What says the Defense?

20 MR. STAGGS: Please excuse this juror.

21 THE BAILIFF: You can sit down, please, ma'am.

22 THE CLERK: Juror 238, Tammie Nix. What says the
23 State?

24 MS. SWANSON: Please present this juror.

25 THE CLERK: What says the Defense?

JURY SELECTION

1 MR. STAGGS: I beg the Court's indulgence for a
2 moment, Your Honor.

3 THE COURT: Yes, sir.

4 MR. STAGGS: Please excuse this juror.

5 THE BAILIFF: You can sit down, ma'am.

6 THE CLERK: Juror 173, John Kaiser. What says the
7 State?

8 MS. SWANSON: Please present this juror.

9 THE CLERK: What says the Defense?

10 MR. STAGGS: Please seat the juror.

11 THE BAILIFF: Come forward, sir.

12 THE CLERK: Juror 328, Ava Torman. What says the
13 State?

14 MS. SWANSON: Please present this juror.

15 THE CLERK: What says the Defense?

16 MR. STAGGS: Please seat the juror.

17 THE BAILIFF: Come around, please, ma'am.

18 THE CLERK: Juror 374, Barbara Zeoli. What says
19 the State?

20 MS. SWANSON: Please present this juror.

21 THE CLERK: What says the Defense?

22 MR. STAGGS: Please excuse this juror.

23 THE BAILIFF: You may sit down, ma'am.

24 THE CLERK: Juror 351, Joseph Waters. What says
25 the State?

JURY SELECTION

1 MS. SWANSON: Please present this juror.

2 THE CLERK: What says the Defense?

3 MR. STAGGS: Please seat the juror, Your Honor.

4 THE BAILIFF: Come around, sir.

5 THE CLERK: Juror 206, Elton Major. What says the
6 State?

7 MS. SWANSON: Please present this juror.

8 THE CLERK: What says the Defense?

9 MR. STAGGS: Please seat the juror.

10 THE BAILIFF: Come forward, sir.

11 THE CLERK: Juror 135, Joseph Green. What says
12 the State?

13 THE COURT: It's the standing gentleman in the
14 back.

15 MS. SWANSON: Please present this juror.

16 THE CLERK: What says the Defense?

17 MR. STAGGS: Please seat the juror.

18 THE BAILIFF: Come forward, sir.

19 THE CLERK: Juror 178, Jennifer Kitty.

20 THE COURT: Tom, we're going to let Mr. Green go
21 back to the third row. Okay. So he can stand up.
22 Absolutely.

23 THE CLERK: What says the State?

24 MS. SWANSON: Please present this juror.

25 THE CLERK: What says the Defense?

JURY SELECTION

1 MR. STAGGS: Please excuse this juror.

2 THE BAILIFF: Go ahead and sit down.

3 THE CLERK: Juror 286, Jeffrey Seidl. What says
4 the State?

5 MS. SWANSON: Please present this juror.

6 THE CLERK: What says the Defense?

7 MR. STAGGS: Please seat this juror.

8 THE BAILIFF: Come forward, sir.

9 THE CLERK: Juror 265, Lisa Ranger. What says the
10 State?

11 MS. SWANSON: Please present this juror.

12 THE CLERK: What says the Defense?

13 MR. STAGGS: Please excuse this juror.

14 THE CLERK: Juror 344, Jessica Vaughan. What says
15 the State?

16 MS. SWANSON: Please present this juror.

17 THE CLERK: Strike for cause?

18 MR. STAGGS: No, ma'am. Please seat the juror.

19 THE CLERK: Come on up, ma'am.

20 THE BAILIFF: Come forward, ma'am.

21 THE COURT: All right. Pull for first alternate,
22 strikes are one and two. We are going to try two
23 alternates in this case.

24 THE CLERK: Juror 308, James Stark. What says the
25 State?

JURY SELECTION

1 MS. SWANSON: Please present this juror.

2 THE CLERK: What says the Defense?

3 MR. STAGGS: Please seat the juror.

4 THE BAILIFF: Come forward, sir.

5 THE CLERK: Juror 105, Mark Fitzgibbons. What
6 says the State?

7 MS. SWANSON: Please present this juror.

8 MR. STAGGS: Please excuse the juror.

9 THE BAILIFF: You can sit down, sir.

10 THE CLERK: Juror 243, Ansah Owusu. What says the
11 State?

12 MS. SWANSON: Please excuse this juror.

13 THE BAILIFF: You may sit down, sir.

14 THE CLERK: Number 5, Dorothy Aho.

15 MS. SWANSON: Please present this juror.

16 THE CLERK: What says the Defense?

17 MR. STAGGS: Please excuse this juror.

18 THE BAILIFF: You may sit down, ma'am.

19 THE CLERK: Juror 175, Wladimir Kinasch. What
20 says the State?

21 MS. SWANSON: Please present this juror.

22 THE CLERK: What says the Defense?

23 MR. STAGGS: Please seat the juror.

24 THE BAILIFF: Come forward, sir.

25 THE COURT: All right. Are there any matters of

JURY SELECTION

1 law that we need to take up regarding the jury
2 selection process, from the State?

3 MS. SWANSON: None from the State.

4 THE COURT: From the Defense?

5 MR. STAGGS: Nothing from the Defense, Your Honor.

6 THE COURT: Ladies and gentlemen, welcome. As you
7 understand, you are the jury for the trial of my case.
8 Sit tight. All right?

9 Ladies and gentlemen, for the rest of you, I give
10 you a ten-minute break. Judge Russo will be coming out
11 in the next ten minutes or so to go ahead and pull this
12 next jury.

13 So I'm going to go ahead and ask you, if you
14 would, at this time to excuse yourselves from the room.
15 Just go out in the hall is fine, walk around for a few
16 minutes. By the clock in the back of the courtroom, if
17 you'll be back at five minutes to 12, we will get you
18 back out here, we'll pull the second jury. And at that
19 point we will determine what to do about the third
20 jury. Okay? Thank you.

21 THE BAILIFF: The door is closed and the jury is
22 clear, Your Honor.

23 THE COURT: Ladies and gentlemen, again, welcome.
24 As you all know, I'm Carmen Mullen. I am your trial
25 judge for this first trial that we are going to begin

JURY SELECTION

1 tomorrow morning at 9:30, ladies and gentlemen.

2 Before we break for the afternoon, I'm going to
3 give you just a few ground rules that you need to
4 follow during the trial of this case.

5 To begin with, if you were able to get into the
6 courthouse with a cell phone, I need you to leave it
7 back in your car tomorrow. The reason why is there's
8 so much information you can get off of a cell phone or
9 a smart phone these days, I don't want anyone tempted.
10 So I would ask you to leave it back.

11 If you are really concerned about someone reaching
12 you emergently, and there is one particular person that
13 needs to call you, you can ask our wonderful bailiffs
14 if they will hold your phone. But they can't sit and
15 answer all the calls that are coming. All right?

16 So if you need one, we have some expectant fathers
17 on the jury, that kind of thing, we will do what we
18 need to do to accommodate for something that
19 extraordinary. All right?

20 With that said, ladies and gentlemen, also you are
21 not to discuss this case with anyone, and that includes
22 each other. When you go home tonight, the only thing
23 you are permitted to say is I've been chosen as a juror
24 in a trial of a criminal case. You cannot say the
25 lawyers involved, the parties, the charges. The reason

JURY SELECTION

1 is this: Someone is inevitably going to try to tell
2 you something about something when they know nothing
3 about this case.

4 You are going to have everything you need to
5 decide this case here in the courtroom. It would be
6 highly inappropriate for you to be influenced by any
7 outside source.

8 Additionally, you are not to speak to each other,
9 and the reason is you haven't heard any evidence in
10 this case. You haven't heard the lawyers' closing
11 arguments, and you haven't heard my charge on the law
12 that's applicable to this case.

13 So, again, until I send it to you for your
14 deliberation's at the very end of this trial, you are
15 not to talk about it back in the jury room as well, or
16 any other place. All right?

17 Also, ladies and gentlemen, you are not to do any
18 independent research. No looking online, no Googling
19 names. I always tell people once we start having
20 evidence and testimony, no drive-bys. We don't do
21 that.

22 Again, you are going to have everything you need
23 right here in this courtroom, and your determination of
24 the facts in this case, which is your job, is to be
25 determined by what you hear here. Therefore, I don't

JURY SELECTION

1 want you reading the newspaper, looking anything up in
2 the news.

3 Ladies and gentlemen, there may be something in
4 newspaper about this case, or possibly the news. If
5 you turn on the T.V. open the newspaper tomorrow and
6 see anything, close it, turn it off. Turn to another
7 channel. Again, it's factual. I want to make sure
8 that you are not influenced by an outside source.

9 I will tell you that I'm going to ask you in the
10 morning whether or not you have read anything, seen
11 anything, heard anything. All right? And that
12 includes your spouse. Again, it's not appropriate.

13 Also, if you are someone that gets on any social
14 media or social media platforms, you are not to tell
15 anyone that you are sitting as a juror. We don't want
16 anyone reaching out to you or any way in the opposite
17 direction again.

18 So, you are not to place on any type of Facebook
19 page or anything else that you have been chosen as a
20 juror in the trial of this.

21 Also, the lawyers, the parties, the witnesses in
22 this case have been instructed in coming and going over
23 the next three days in the courthouse, they've been
24 instructed not to speak to you, they're not even
25 allowed to say hello. And the reason is this: Even an

JURY SELECTION

1 innocent conversation outside of "I can't believe how
2 cold it is," in the parking lot will be misconstrued
3 and reported back. I will tell you there are cameras
4 all over this courthouse and in the parking lot.
5 Again, it's reviewed. If you come into contact with
6 any of these people, again, if they don't even smile or
7 say hello, remember, they are not being unfriendly.
8 They are just following my orders. All right?

9 Lastly, ladies and gentlemen, I need you to be on
10 time. I need every last one of you to be here. I
11 can't start until all 14 of you are here. Therefore,
12 if you fall ill over the evening, you are to call up to
13 the Clerk of Court's office and leave a message.

14 If you have car trouble, call to the Clerk of
15 Court's office, we will come get you. All right?

16 I will tell you that I intend, if acceptable to
17 you all, I intend to run until up to 5:30 tomorrow, if
18 I can.

19 I like to on the very first day to try to get as
20 much as I can before you. The lawyers tell me that we
21 will finish this case on Wednesday. I just want to
22 make sure that we get it all to you and that allows you
23 enough time for deliberations as well.

24 My understanding from the lawyers is the testimony
25 will be completed and done, at the latest, Wednesday

JURY SELECTION

1 morning, which will give you as much time as you need
2 and certainly, you can deliberate as long as you want.
3 If you want to come back on Thursday and Friday, you
4 are welcome to do that as well. But we know the case
5 will be finished and sent to you. All right?

6 Does anyone have any problem with getting here at
7 9:30 tomorrow morning? I can start a little later, if
8 necessary. Is that okay? Is that acceptable to
9 everyone?

10 Very good.

11 Also, I know when we came here this morning, you
12 didn't expect to have to be here for the next few days.
13 Does anyone have trouble working until 5:30 or so
14 tomorrow? I can stop earlier. I can stop at five, if
15 necessary. Usually, what we do is just break when
16 there is a natural break in the testimony. If we think
17 we can get another witness up and we can complete that
18 witness, we will put it up, as long as the jury isn't
19 too tired.

20 But I will tell you that I certainly understand
21 the position you are in. All of my friends that sit on
22 juries, they all tell me the hardest thing is they have
23 to sit there, they're not permitted to ask questions,
24 and just listen to all that's going on. That's not the
25 easiest thing to do, and I appreciate that.

JURY SELECTION

1 Yes, sir.

2 JUROR: Is that something we could maybe ask
3 tomorrow, if we can end early? I have to talk to the
4 spouse.

5 THE COURT: Absolutely. Absolutely. So go on and
6 find out. If you need to leave, you just have to tell
7 me what time you have to be out of here to get to
8 wherever you're going at a certain time. I know people
9 have practices. If you have an engagement, or you have
10 something that you have promised your husband or wife
11 that you will do, I understand that, and I appreciate
12 that. I'll make sure you get there. All right?

13 So just let me know in the morning. One other
14 thing I need to ask you to do is elect a foreperson. A
15 foreperson hasn't got anymore say than anyone else.
16 They're simply the person that communicates with me
17 regarding scheduling. And also, when I send the case
18 to you for your deliberations, they are the person that
19 gets kind of everyone contributing and everyone
20 talking.

21 When you elect that foreperson, I'm going to ask
22 you that you give a name to the bailiff. And they will
23 take you back to the jury room right now, before we
24 excuse you for the remainder of the day. They are
25 going to show you when you report, or where you report

JURY SELECTION

1 and what door you are going to come to if it's not the
2 same one. I'm not sure what we are doing this week.

3 You would give the name of your foreperson you
4 elect, I would appreciate that. The foreperson is
5 going to keep this front seat here as well.

6 Mr. Green, I know you're going to have standing
7 problems, and obviously you are fine, you can keep that
8 seat.

9 JUROR: This seat is better. This seat is better
10 than that one.

11 THE COURT: Very good. Well, I can tell you, I
12 don't know if we're going to be using the video cameras
13 at all, but I'll go ahead and be the first to tell you
14 that sometimes that's a neck crane.

15 So some of you may inquire if you can go back that
16 way. I'm not too concerned where you all are, I just
17 like to keep my alternates where I know you are at all
18 times. Mr. Green, you are fine to move around, and
19 just the last seat, I think, is still broken. So don't
20 sit in that.

21 But other than that, ladies and gentlemen, you can
22 kind of come and go as you come into the courtroom. I
23 will tell you we have blankets in the back, if it ends
24 up being cold. And if that happens here, we even have
25 crates, because some people's, their legs aren't long

JURY SELECTION

1 enough to be comfortable on that seat.

2 Please don't be shy about letting me know what you
3 need. If you need to stand up and take a stretch, you
4 are welcome to. Whatever you need, just let us know.
5 The bailiffs in the courtroom, as you see around here,
6 they are all here to take care of you. That is their
7 job.

8 We have Jessica and Rick and Norman. Again, if
9 you need anything, simply ask them and they will
10 accommodate you. All right?

11 Ladies and gentlemen, thank you for serving on
12 this jury. I truly appreciate it. If anyone were to
13 approach you or talk to you in any way about this case
14 at any time during the trial of this case, or while
15 you're performing jury duty, please go straight to the
16 bailiffs and have them bring you to me. Okay?

17 All right. Ladies and gentlemen, you are excused,
18 and I look forward to seeing you at 9:30 tomorrow
19 morning. They're going to give you a few more
20 instructions, and they're going to get good phone
21 numbers so we can find you if we need to. And I look
22 forward to seeing you all tomorrow morning at 9:30.
23 Thank you.

24 THE BAILIFF: Follow me.

25 (The jurors exit the courtroom at 12:00 p.m.)

JURY SELECTION

1 THE BAILIFF: The jury is clear, Your Honor.

2 THE COURT: How long are your pretrials in this
3 case?

4 MS. SWANSON: I don't think more than an hour,
5 from the State.

6 THE COURT: Do you want to go ahead and get them
7 done now before lunch, or what -- do you all have a
8 preference? When are your people coming? I'll do them
9 whenever.

10 MS. SWANSON: The only thing is, I don't think I
11 told Matt to be here until 1.

12 THE COURT: That's fine. Let's just do that then.
13 Okay. Let's take a break. I have a 1:30 wrongful
14 death settlement, we usually take that as it comes.
15 Would you rather do it sooner rather than later?

16 MS. SWANSON: Sure. I mean, depending on
17 Mr. Staggs.

18 THE COURT: What about 1, 1:15. Y'all are looking
19 at me like, what are you doing? We are not going to
20 have enough time.

21 How about this. Let's come back at 1:30 and we
22 can go ahead and do this. I've got the wrongful death
23 settlement, and I may end up playing this for the jury,
24 it may be approximately 1 o'clock before we start. So
25 let's start for 1:30 for this group.

JURY SELECTION

1 Mike, I'm not sure what we are doing yet.

2 MIKE: Welcome to my world.

3 THE COURT: I know. Are you going to stay around
4 for the next jury to seat? I mean, it looks like we
5 are going to have enough to pull another 12, don't we?
6 It looks like we do.

7 THE CLERK: We may.

8 THE COURT: Y'all are good, 1:30.

9 MS. SWANSON: Judge, do you anticipate being in
10 the Courtroom 1 at 1:30 or Courtroom 3?

11 THE COURT: I don't know. Tell me where I am.

12 MS. SWANSON: Three. I think three.

13 THE COURT: Mike, where am I going to be?

14 I think three.

15 (Recess)

16 THE COURT: All right. What would you like to
17 start with first, as far as pretrial motions?

18 MS. SWANSON: Your Honor, if it pleases the Court
19 and defense is fine with it, I would like to go ahead
20 and knock the Denno out of the way.

21 THE COURT: Let's go.

22 MR. STAGGS: That's fine.

23 MS. SWANSON: All right. The State calls
24 Baker Odom.

25 Thereupon,

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 BAKER ODOM

2 was called as a witness, having been first duly sworn,
3 was examined and testified as follows:

4 DIRECT EXAMINATION

5 BY MS. SWANSON:

6 Q Good afternoon, Detective.

7 A Good afternoon.

8 Q Or formerly detective, right?

9 A Correct.

10 Q What is your rank now?

11 A Master police officer. A lot fancier than it
12 sounds -- or a it's a lot less fancy than it sounds.

13 Q Officer Odom, back in April of 2017, were you
14 working as a detective for the Bluffton P.D.?

15 A Yes, I was.

16 Q All right. And were you involved in the
17 investigation of a sexual assault that occurred on
18 April 27th of 2017?

19 A I was.

20 Q All right. Tell us about your involvement in
21 that.

22 A Sure. I was called out just after midnight on
23 April 28th. So the same night, just after midnight.

24 Received a call from the sergeant who was on duty or patrol
25 that night, Sergeant Bill Ferrelli.

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 At this point, they had detained a suspect in
2 a sexual assault which had occurred at [REDACTED],
3 which is in town of Bluffton. The suspect had been located
4 near the post office on Thurman Way and had been detained
5 there by officers who arrived on scene.

6 When I got there, I saw a vehicle on scene, a
7 truck, with a Hargray logo on the side. Had a messed up
8 front tire, it was kind of shredded. And I took photos of
9 the scene, or of the truck, and we secured the truck, had it
10 towed back to police department where it was later searched
11 with a search warrant.

12 Q Okay. And was that a truck that you determined
13 that the suspect had been driving?

14 A Correct, yeah. The suspect was actually found at
15 least near the truck, if not actually in the truck, by the
16 officers when they arrived on scene.

17 Q Okay. And so the truck was taken back to the bay
18 at Bluffton Police Department?

19 A Correct.

20 Q To be searched?

21 A Correct.

22 Q And was the suspect transported over to Bluffton
23 P.D.?

24 A He was. Officer Puryear, I believe, transported
25 him to the Bluffton Police Department.

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 Q Okay. And what was the suspect's name?

2 A Lance Elam.

3 Q And do you see him sitting in the courtroom today?

4 A I do. He's right over there.

5 Q And about what time was he transported over to the
6 police department?

7 A This would have been probably 12:30, 1 o'clock in
8 the morning, somewhere around that time.

9 Q Okay. And were -- did you have the opportunity to
10 conduct an interview with him?

11 A I did.

12 Q All right. What time was that?

13 A That would have been closer to five in the
14 morning, I believe, by the time we actually conducted the
15 interview.

16 Q Okay. And so what was going on between one and
17 five in the morning?

18 A Secured a search warrant for the truck would have
19 been the primary thing that would have taken up most of that
20 time, most likely. Also, we would have been calling in
21 other detectives to come in.

22 This sort of crime is all hands on deck, so
23 we would have been getting everybody involved. And it just
24 takes some time, especially, you know, waking up judges,
25 getting search warrants signed, that sort of thing.

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 Q Right. And in the meantime, had anyone made
2 contact with the victim?

3 A Yes. There were two detectives who were with the
4 victim. I believe it was Sergeant Heany -- or I'm sorry,
5 should have been Lieutenant Heany at the time, I believe,
6 and Sergeant Rutland were with the victim and were working
7 on getting a sexual assault kit conducted as well.

8 Q Okay. And so once you were able to gather what
9 you believe to be the facts of the case, you then went to
10 interview Mr. Elam?

11 A Correct.

12 Q And did you interview him with anyone?

13 A Yes, Detective Wilfong was with me.

14 Q All right. I'm going to show you what -- and let
15 me ask you this. Where was Lance Elam between the time of
16 his detention and the time of his interview?

17 A We have a holding area at the Bluffton Police
18 Department, he would have been kept in one of those cells.

19 Q And was he allowed to go to the bathroom?

20 A Yeah. There's toilets right there in the holding
21 cells.

22 Q Was he provided with any water if he asked?

23 A There's a water fountain in there as well, yes,
24 ma'am.

25 Q I'm going to show you what's been marked as

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 State's Exhibit 1 for the purposes of this hearing and ask
2 that you identify this document, please. And I have shown
3 this to defense counsel.

4 A This is a written advisement of Miranda rights
5 signed by Lance Elam, witnessed by me.

6 Q Okay. And is that the actual form that you went
7 over with, with Mr. Elam?

8 A This looks like a copy.

9 Q A copy of the actual form?

10 A Yes, absolutely.

11 Q All right. And can you go over that the way you
12 went over it with him?

13 A So whenever we use one of these written forms,
14 basically what we'll do is we'll, you know, go get them, go
15 through them line by line, and either have the person
16 initial each line as we read it to them, or have them
17 initial each line after we've read the whole thing. And it
18 just has the Miranda warning on it. "You have the right to
19 remain silent, anything you say can and will be used against
20 you in a court of law. You have the right to talk to an
21 attorney for advice before we ask you any questions. If you
22 can't afford an attorney, one will be appointed for you
23 before any questioning, if you wish. If you decide to
24 answer questions now without an attorney, you'll still have
25 the right to stop answering questions at any time. You also

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 have the right to stop answering any time until you talk to
2 an attorney."

3 And then you sign next to each of those five
4 lines, and then underneath that is a waiver of rights. "Do
5 you understand each of these rights I have explained them to
6 you?" And he can mark yes or no and initial next to it.

7 "Having these rights in mind, do you wish to
8 talk to us now?" Mark yes or no. He marked "yes" on both
9 of those.

10 Q Thank you. And when you read these out to him,
11 did he appear to understand them?

12 A Yes.

13 Q Did he appear to be under the influence of
14 anything?

15 A No, he did not.

16 Q Did he have any questions about them?

17 A About his rights?

18 Q Correct.

19 A He seemed to understand them fine.

20 Q Okay. Do you know what his level of education is?

21 A I am not familiar actually.

22 Q Did he wish to give you a statement?

23 A He did.

24 Q All right. And essentially, did he -- in that
25 first statement, Judge, and we're not going to introduce the

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 recorded version of the first statement, but did he admit
2 any guilt or any involvement in a sexual assault that took
3 place on April 27th of 2017?

4 A In the first statement, no, he did not.

5 Q Okay. Did you ask him about the sheets that were
6 found in the truck?

7 A We did.

8 Q What did he say about those?

9 A Well, he said during his traveling around in
10 Bluffton, at one point, he realized his tires -- one of his
11 tires was going flat. He parked his car along the way,
12 walks to Wal-Mart to buy Fix-a-Flat. When he returns, he
13 finds that somebody has placed these sheets in his truck.

14 Q At the end of the interview, did you ask if he
15 would submit to a buccal swab?

16 A I did.

17 Q All right. And I'm going to hand you what's been
18 marked as State's Exhibit 2 for the purpose of this hearing.
19 And ask if this was -- if this is a copy of the form that
20 you read to him and provided him in making that decision.

21 A Yes, it is.

22 Q All right. And can you read from that form now?

23 A Sure. So it's Bluffton Police Department consent
24 to the search for DNA evidence, has our case number, the
25 date, and all that standard, you know, admin stuff there.

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 Then it says, "I," and he filled in his name,
2 "Lance Elam, hereby grant consent for Officer," and then we
3 wrote in -- or he might have written this in, "Odom/Wilfong,
4 for the Bluffton Police Department to collect buccal oral
5 swabs from me in order for my DNA profile to be developed
6 for comparison purposes. I am aware that this sample
7 provided by me may be used as evidence in a court of law.
8 This consent is being given by me freely, voluntarily,
9 without threats or promises of any kind."

10 Then it has a spot for him to sign in front
11 of his name, and then Detective Wilfong did, as did I.

12 Q Did he seem to have any questions about that form?

13 A No. He actually seemed pretty confident in
14 providing his DNA sample at that time.

15 Q So he did provide his DNA?

16 A He did.

17 Q Did he say anything about his DNA when he provided
18 it to you?

19 A I believe something -- he seemed to believe that
20 there was no reason why his DNA would show up anywhere
21 downtown Bluffton. I believe he commented about his
22 fingerprints as well, that nowhere downtown would we find
23 any of that.

24 Q Did he say that he had had sex with anyone that
25 night?

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 A He said he had not had sex with anybody that
2 night.

3 Q So you took the first buccal swab, right?

4 A Correct.

5 Q Did you end up taking another one?

6 A We did. Twice.

7 Q And did you ask for a second one?

8 A I did.

9 Q And did Mr. Elam agree to provide you with a
10 second one?

11 A Yes, he did.

12 Q All right. And tell us why you requested a second
13 buccal swab.

14 A After getting the first buccal swab from him, as
15 we were leaving the interview room to go put him back in a
16 holding cell, the buccal swab got left behind, and I wasn't
17 positive at the time if -- because if the video was
18 recording throughout the entire time to maintain that it had
19 not been tampered with. And so since I hadn't seen it and I
20 couldn't review the video at the time, I figured the safer
21 route would be to get another buccal swab and maintain chain
22 of custody all the way to the evidence room with that one
23 instead of having the other one just sitting there.

24 Q And so then what happened with the first buccal
25 swab?

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 A It was thrown away.

2 Q Did it make contact with anything else?

3 A No.

4 Q And did you wear gloves when you were doing these
5 swabs?

6 A Yes.

7 Q And did you also take some swabs of the suspect's
8 hands?

9 A I'm not positive.

10 Q Would you disagree with me if I told you you did?

11 A No, I wouldn't. It sounds like something I would
12 do, yes.

13 Q All right. How does the first interview end?

14 A The first interview ends basically, we talked to
15 him, I believe it was around an hour, a little bit more, and
16 his story kept kind of adjusting. Little things got left
17 out or added in. Every time we would talk and go back
18 through it, it just never completely added up, not to
19 mention, just general inconsistencies.

20 So finally we just ended the interview and
21 placed him back in the holding cell.

22 Q And what did you do after interview one ended;
23 where did you go?

24 A I then went to start completing some paperwork
25 that was necessary to get him transferred up, and during the

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 process of just getting all that straightened out, we were
2 actually probably about ten minutes away from getting him
3 out of there, and we heard him yelling in the cell that he
4 wanted to talk.

5 So I went back over there and got him out of
6 the cell that he was in, took him back to the interview
7 room, and Detective Wilfong and I spoke to him one more
8 time.

9 Q So he actually requested to speak with you?

10 A Correct.

11 Q And did you re-Mirandize him?

12 A Yes -- or Detective Wilfong did.

13 Q And was that interview recorded?

14 A It was.

15 Q And was it recorded on audio, video, both?

16 A Well, it was recorded on both. For some reason,
17 it appears that the video portion was corrupted or
18 something. We have the audio, though.

19 Q And you listened to that audio with me?

20 A Correct.

21 Q And that was a fair and accurate depiction of how
22 the second interview took place?

23 A Yes, it is.

24 Q And there was nothing that wasn't on that
25 recording that happened, was there?

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 A No. The recording was accurate.

2 Q No conversations that took place outside of the
3 recording?

4 A No.

5 MS. SWANSON: Your Honor, if I may play that
6 second interview at this time.

7 THE COURT: Sure.

8 (Audio CD of interview played.)

9 BY MS. SWANSON:

10 Q Officer Odom, is that how you recall the second
11 interview?

12 A Yes, it is.

13 Q And there were a couple of things that were
14 redacted at the very end, and because we're outside the
15 jury's presence, they were things that had to do -- some
16 references to a DNA database, or have you ever had these
17 urges before, are we going to find you in the CODIS system,
18 things of that nature?

19 A Correct.

20 Q And if I can get you to initial State's Exhibit 3.
21 This is what we just listened to, and I would offer
22 State's 3 for the purpose of this hearing.

23 THE COURT: Thank you.

24 (Whereupon, State's Exhibit No(s). 3 marked for
25 identification and received in evidence.)

PRETRIAL DIRECT EXAMINATION OF BAKER ODOM BY MS.
SWANSON

1 BY MS. SWANSON:

2 Q And Mr. Elam never asked for a lawyer on or off
3 tape, did he?

4 A At no time.

5 Q And was he ever promised anything or coerced in
6 any way that was not recorded?

7 A No, he was not.

8 Q We heard his confession. Were you able to find
9 physical evidence at the scene, at [REDACTED] as well as
10 inside the white Silverado truck that corroborated his
11 statements?

12 A Yes, we were.

13 Q Did you find the sheets?

14 A Yes.

15 Q Did you find an iPhone?

16 A Yes.

17 Q Did you find pink underwear?

18 A Yes.

19 Q Did you find a watch set?

20 A Yes.

21 MS. SWANSON: That is all I have at this time.

22 THE COURT: Mr. Staggs.

23 MR. STAGGS: Thank you, Your Honor. May it please
24 the Court.

25 THE COURT: Yes, sir.

PRETRIAL CROSS EXAMINATION OF BAKER ODOM BY MR.
STAGGS

1 CROSS EXAMINATION

2 BY MR. STAGGS:

3 Q Officer, I have very few questions.

4 You did at some point discuss exposure,
5 criminal exposure, with Lance, correct? Prison terms, how
6 long he could expect, how long charges carry? That happened
7 in the first interview; did it not?

8 A I believe so, yes, sir.

9 Q Okay. So you told Lance at some point, either you
10 or Detective Wilfong discussed with him that he was looking
11 at 30 years?

12 A Somewhere, I guess, in that vicinity. I'm not
13 sure exactly. I would have to re-listen to the first
14 interview.

15 Q But you wouldn't disagree that that conversation
16 occurred?

17 A Yeah, I wouldn't disagree.

18 Q And approximately how long was it between the
19 conclusion of the first interview and when we hear the
20 recording start?

21 A I would say somewhere between 45 minutes to an
22 hour. I'm not a hundred percent positive on that.

23 Q So 45 minutes to an hour after the video recorded
24 one, before the audio recorded one?

25 A I believe so.

PRETRIAL CROSS EXAMINATION OF BAKER ODOM BY MR.
STAGGS

1 Q So that would put us then somewhere around
2 7 o'clock in the morning?

3 A That sounds about right. I would have to look at
4 the time stamp on that.

5 Q All right. Did you attempt to retrieve a video
6 recording of that second interview?

7 A I -- generally what we do is we will have the
8 front office retrieve those videos. I know that we were
9 having problems with our video system. I was under the
10 impression that a video had been obtained from that;
11 however, since I viewed it -- when I viewed it, it was still
12 on the system itself, and not been taken off the system.
13 Apparently in transferring it to a disc, there was some
14 issue that I was not aware of.

15 Q Okay. How far -- I believe your testimony was,
16 you could hear Lance screaming that he wanted to talk?

17 A I believe I was in the Sally port, which is --
18 there's just a door between us and the holding area.

19 Q All right.

20 MR. STAGGS: I don't have any further questions.

21 THE COURT: Anything further?

22 MS. SWANSON: No, Your Honor.

23 THE COURT: Do you have anything further?

24 MS. SWANSON: No, not as far as Officer Odom. I
25 will call Officer Wilfong.

PRETRIAL CROSS EXAMINATION OF BAKER ODOM BY MR.
STAGGS

1 THE COURT: Okay. Come on, sir.

2 Thereupon,

3 MATT WILFONG

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: Could you spell your last name for me,
7 please.

8 THE WITNESS: It's Wilfong. W-I-L-F-O-N-G.

9 DIRECT EXAMINATION

10 BY MS. SWANSON:

11 Q And, Officer Wilfong, who were you working for in
12 April of 2017?

13 A Bluffton Police Department as a detective.

14 Q All right. As a detective?

15 A Yes, ma'am.

16 Q And did you come into contact with Lance Elam on
17 April 27th of 2017?

18 A Yes, ma'am.

19 Q And did you engage or participate in the interview
20 of Mr. Elam?

21 A Yes, ma'am.

22 Q And who did you do that with?

23 A Detective Odom.

24 Q I'm going to hand you what has been submitted as
25 State's 1 for the purpose of this hearing and ask if you

PRETRIAL DIRECT EXAMINATION OF MATT WILFONG BY MS.
SWANSON

1 recall going over this form with Mr. Elam?

2 A Yes, I did.

3 Q And what kind of form is that?

4 A That's the advisement of the Miranda rights.

5 Q Okay. And I'm also going to show you what has
6 been submitted as State's 2 for the purpose of this hearing.

7 Did you and Mr.-- and Officer Odom go over
8 that form with Mr. Elam?

9 A Yes, ma'am.

10 Q And is your signature on the bottom of that form?

11 A That's correct, under the witness.

12 Q Okay. And what sort of form is that?

13 A Consent to search for DNA evidence.

14 Q And so you were present for the advisement of both
15 of those warnings and forms?

16 A That's correct.

17 Q All right. And were you present for the second
18 interview as well?

19 A Yes, ma'am.

20 Q And did you verbally advise Mr. Elam of his
21 Miranda rights at that time?

22 A I did.

23 Q And you were in the courtroom when I played the
24 recording of the second interview?

25 A Yes, ma'am.

PRETRIAL DIRECT EXAMINATION OF MATT WILFONG BY MS.
SWANSON

1 Q Is that a fair and accurate depiction of how that
2 second interview played out?

3 A Yes, ma'am.

4 Q Was there anything that you can recall that
5 happened that night -- conversations, anything of this
6 sort -- between you and Mr. Elam or Officer Odom and
7 Mr. Elam that were not on the recordings?

8 A No, ma'am.

9 Q All right. And when the second interview took
10 place, who requested to speak to who?

11 A Mr. Elam requested to speak to us again after the
12 first interview.

13 Q Did you make any promises?

14 A No, ma'am.

15 Q Promises of leniency?

16 A No, ma'am.

17 Q Coerce him in any way?

18 A No, ma'am.

19 MS. SWANSON: Okay. That is all I have.

20 THE COURT: Okay. Mr. Staggs.

21 MR. STAGGS: Thank you, Your Honor. I do have a
22 few questions.

23 CROSS EXAMINATION

24 BY MR. STAGGS:

25 Q Deputy Wilfong, that was your voice that we heard

PRETRIAL CROSS EXAMINATION OF MATT WILFONG BY MR.
STAGGS

1 on that second interview, right? You were running the show,
2 kind of?

3 A Yes, sir.

4 Q Why didn't you offer Lance a written waiver for
5 the second interview?

6 A I didn't feel it was necessary to offer it to him
7 again after I had just had him sign, and then I verbally
8 read it to him verbatim off the paper again, the second
9 time, and it was recorded on video and audio.

10 Q So you were reading off of a waiver at the time
11 that we heard you advise him?

12 A I was reading off the same one that he signed.

13 Q Oh, the one that he had already signed?

14 A Yes, sir.

15 Q All right. And that was -- were you the junior
16 officer there or was this your interview?

17 A It was Detective Odom's case. I was there to
18 assist.

19 Q All right. And this was -- so we have heard --
20 you agree with the timeline, 45 minutes to an hour after the
21 first interview concluded?

22 A I don't recall exactly the timeline. It didn't
23 seem like it was that long.

24 Q And is that, in part, why you elected to not go
25 through and sign a new waiver?

PRETRIAL CROSS EXAMINATION OF MATT WILFONG BY MR.
STAGGS

1 A Correct. And I read it to him verbally.

2 MR. STAGGS: Okay. That is all I have.

3 THE COURT: Okay. Anything further?

4 MS. SWANSON: Nothing further.

5 THE COURT: You may step down.

6 MR. STAGGS: Thank you, Your Honor.

7 MS. SWANSON: Thank you. And I would ask that
8 Deputy Wilfong be able to be released until tomorrow
9 morning.

10 THE COURT: Okay. Of course. You are released.

11 WITNESS: Thank you.

12 MS. SWANSON: Your Honor, that concludes the
13 State's presentation as far as the Jackson V Denno
14 hearing.

15 THE COURT: Any argument, Mr. Staggs?

16 MR. STAGGS: Yes, Your Honor, very briefly.

17 MR. STAGGS: Ms. Swanson elicited some testimony
18 about the initial interview; however, there was talk
19 about an amount of criminal exposure as far as the
20 30-year term between Lance and these two officers. And
21 then we just learned that the timeline, the gap is 45
22 minutes to an hour in between the conclusion of the
23 first interview and the beginning of the second
24 interview.

25 Following a discussion about legal exposure, they

ARGUMENT BY COUNSEL

1 didn't go through the process. We don't have a video
2 this time around. While I did hear the reading of the
3 form, I don't understand why the form wasn't given to
4 him to sign again. I think there was clearly a break
5 between the first interview and the second interview.
6 And we ask Your Honor to suppress the second statement
7 as he wasn't fully advised of his rights. And,
8 therefore, the statement cannot be given freely and
9 voluntarily.

10 At this point, I believe the testimony is it
11 started at 7 o'clock. Lance was taken into custody
12 right around midnight. So we are seven hours in. Now,
13 he sat for four hours prior to the first interview
14 beginning, and then another hour, and then this
15 statement comes up. There's no documentation that we
16 have other than these two officers testifying that
17 Lance is the one who actually requested to speak to
18 them.

19 Given the totality of the circumstances, we would
20 ask that it be suppressed.

21 THE COURT: Ms. Swanson.

22 MS. SWANSON: Just briefly, and for clarification
23 sake, there was a mention of the fact that he is
24 looking at 30 years. That was actually at the end of
25 his confession, and I cut that off of the end of the

ARGUMENT BY COUNSEL

1 second interview. That's at, like, the 20-minute mark.

2 But clearly, Your Honor, you have heard the
3 testimony as well as the audio, I think it's very clear
4 it's free and voluntary. There's no evidence of any
5 sort of pressure, coercion, or promise of leniency.
6 Thank you.

7 THE COURT: I agree with the State. He obviously
8 called the officers to speak. Clearly, I heard Wilfong
9 give him his rights on the record, and I think it's
10 freely and voluntarily. So with that, I deny your
11 motion for suppression of that.

12 What else do we have?

13 MR. STAGGS: Thank you, Your Honor. We have
14 just --

15 THE COURT: Sequester the witnesses? Can we agree
16 to that?

17 MS. SWANSON: Yes.

18 THE COURT: Okay.

19 MS. SWANSON: Sequestration is really fine. Let's
20 see, I believe Your Honor covered Defense's first
21 motion to cease all use of television, computer, cell
22 phones.

23 THE COURT: Anything in regards to this case?

24 MR. STAGGS: Yes.

25 MS. SWANSON: Number three, the State is not

ARGUMENT BY COUNSEL

1 offering the 911 call.

2 THE COURT: That is not an issue.

3 MR. STAGGS: Not an issue.

4 THE COURT: What about the police statements to
5 the Defendant?

6 MS. SWANSON: Correct. There is one -- there were
7 a series of eight jail phone calls and two visitations.
8 I am only seeking to play one jail phone call between
9 the Defendant and his wife. It's about eight minutes
10 long. These are clearly statements by a party opponent
11 through the jail phone system, wherein the Defendant is
12 advised that the call is being recorded. He proceeds
13 and engages in the call anyway, thereby giving his
14 implied consent to have himself recorded.

15 THE COURT: What does he say on it that is
16 incriminating?

17 MS. SWANSON: Well, he -- I mean, I can play it,
18 or I can just --

19 THE COURT: I just want a synopsis of what it is.

20 MS. SWANSON: Sure.

21 MR. STAGGS: Your Honor, I believe the crux of the
22 phone call that Ms. Swanson intends to introduce is
23 Lance says something to the effect of, "I initially
24 went in to get money, and then it went a different
25 way."

ARGUMENT BY COUNSEL

1 Is that the one that we are talking about?

2 MS. SWANSON: Yes. I mean, it's just basically
3 another confession. I mean, he says that, you know,
4 he, he didn't rape anyone, he just sexually abused the
5 woman. You know, he "messed up."

6 THE COURT: Let me do this. As far as that is
7 concerned, if you can just give me a copy of it, and I
8 can just play it back quickly in chambers when we take
9 a break, and I can hear exactly what it is, and then I
10 will come back out and rule on that.

11 MS. SWANSON: Okay. May I approach?

12 THE COURT: Absolutely. What about any 404B and
13 Lyle:

14 And my question to y'all is this. I've got the
15 jury pulled back, and I was going to pull
16 Mr. McCloskie's, his second jury. Should we break
17 here, or what should we do? You tell me what y'all
18 want to do.

19 MS. SWANSON: Well, the 404B Lyle, I mean, the
20 only thing that would come up are these hits from other
21 jurisdictions, and that would only be if he took the
22 stand and said this is something out of my character
23 and opened the door that way. So I'm certainly not
24 seeking to try and get any of those in.

25 THE COURT: Okay.

ARGUMENT BY COUNSEL

1 MR. STAGGS: Absolutely. And that's something
2 that we have talked about and resolved since the time
3 of the filing of this.

4 The last thing, Judge, that we have, I believe we
5 can wrap everything up right now in just a few more
6 minutes.

7 The final thing that I put in here was a motion
8 that prohibited hearsay testimony. One of the issues
9 that we have in this case is Ms. [REDACTED] C.B. disclosed to a
10 number of people, and I just want to make sure that we
11 are all on the same page about what is going to be
12 permitted for these witnesses to testify about, and
13 what isn't.

14 The main concern that I have was the 911 call, and
15 now that that's not being introduced, I think that we
16 are doing a little bit better. But, obviously,
17 Jennifer Stokes is going to come in, who did the exam,
18 and it's just sort of a preemptive housekeeping measure
19 to make sure we are only testifying that, you know,
20 date and time and not substance disclosures.

21 MS. SWANSON: Your Honor, I would only speak to
22 admit any hearsay that fell, you know, with any of the
23 exceptions -- excited utterance, certainly, and then,
24 also for the purpose of medical diagnosis or treatment.

25 I am familiar with the Simmons case. I sat with

ARGUMENT BY COUNSEL

1 Ms. Lempesis on it. And this is a totally different
2 scenario. I would like to hand the Defense and the
3 Court State V McFadden, which is a Court of Appeals
4 opinion.

5 This is a sexual assault case where the victim was
6 actually later found incompetent, and was not able to
7 testify. It addresses excited utterance as well as
8 statements made to the E.R. nurse for the purpose of
9 medical diagnosis and exam.

10 And so, you know, I would just submit that as a
11 guide for the type of statements that the State would
12 be seeking to enter.

13 MR. STAGGS: Okay. I have a copy of the Simmons
14 case, Your Honor, if you would like.

15 THE COURT: Actually, give it to Julia. That
16 would be great.

17 So, what I'll do is this. I'm going to go ahead
18 and break on this case. I will let you know about the
19 911 -- I'm sorry, not 911, the jail phone call to his
20 wife. I will listen to that this afternoon, and I will
21 give that back to you in the morning, before Court, if
22 that's all right with you.

23 MS. SWANSON: Sure. I have an additional.

24 THE COURT: Other than that, the jury will be back
25 at 9:30. I would ask you all to be here by 9:15 and

ARGUMENT BY COUNSEL

1 ready to go.

2 If you could pre-mark exhibits, if there are any,
3 that would be great, so we can get everything
4 streamlined. So if I could have everyone by here by
5 9:15 tomorrow. Is that doable?

6 All right. So, thank you.

7 Anything else in this case?

8 MR. STAGGS: Nothing from the Defense, Your Honor.

9 MS. SWANSON: I don't think so.

10 THE COURT: All right. We will see you all
11 tomorrow morning at 9:15. Okay.

12 MS. SWANSON: Thank you.

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ARGUMENT BY COUNSEL

1 12-11-2018 PROCEEDINGS

2 THE COURT: I revisited this case last night and
3 the other one that you gave me, as far as ruling on the
4 hearsay. So, it's my understanding that she -- where
5 was the rape kit done?

6 MS. SWANSON: It was done at --

7 THE COURT: Done by Christen Dalton or someone
8 else.

9 MS. SWANSON: No, it was not. It was done by
10 Jennifer Stokes who took the victim to a private clinic
11 that night. Just an hour or two after the event.

12 THE COURT: Okay. All right. And what is your
13 concern, specifically, Mr. Staggs? Again, other than
14 her saying that she just relayed that she had been
15 sexually assaulted and date and time.

16 MR. STAGGS: That is the construction of it, Your
17 Honor. I just wanted to make sure that we were all on
18 the same page as far as date and time of disclosure and
19 limiting it to that. Ms. Swanson and I had
20 conversations where she indicated that she may try to
21 introduce some of the details as I understood it
22 anyway, some of the details that were shared with
23 Jennifer Stokes.

24 And I believe that Detective Heany was there, at
25 that time as well. And I just wanted to make sure that

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1 we were not seeking to introduce that sort of hearsay
2 testimony. That would be appropriate coming from the
3 victim, not anyone else.

4 THE COURT: Well, so the nurse or whoever did
5 the -- the rape professional did it and can testify as
6 to her examination and what she did and what she saw.
7 So, as far as the hearsay objection, I don't have as
8 much of a problem in this case. Going back to the
9 Simmons case, you had two minor children and that was
10 the only physical evidence. That was the only --
11 sorry, only evidence in the case convicting him. So, I
12 don't think that you have the question of whether or
13 not the victim can be cross-examined. But I would
14 agree that they can't bolster her testimony by -- is
15 she going to testify in this case, the victim, right?

16 MS. SWANSON: No.

17 THE COURT: She is not, okay.

18 MS. SWANSON: So the only statements that I'm
19 seeking to introduce are the ones that clearly fall
20 under any hearsay exception. I do believe that, you
21 know, she can -- the SANE exam nurse can say, she told
22 me that she was raped, that's why she was examining
23 her. And then time, place, what her findings were and
24 what they are consistent with.

25 THE COURT: Absolutely, I think that she can

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1 testify to that. I agree. I don't want to step on
2 the grounds or push the bottom line that they laid out
3 in Simmons. Just give me what was told at that time,
4 okay.

5 MS. SWANSON: I will get into her physical
6 appearance, demeanor, things of that nature.

7 THE COURT: That's fine. That is obviously what
8 the nurse or doctor observed, so she can testify to
9 what she saw herself. We are just talking about
10 hearsay objections.

11 MR. STAGGS: Your Honor, the next issue that I
12 would have would be testimony that I anticipate
13 Ms. Swanson is going to elicit from the victim's
14 daughter regarding disclosure at that time.

15 THE COURT: Was she the first person that she
16 called or who --

17 MS. SWANSON: She was the first person that she
18 spoke to. She drove over there right after the assault
19 and arrived without shoes on, soaking wet and screaming
20 that she had been raped.

21 MR. STAGGS: We would object to that, as that's
22 obviously hearsay. You know, the victim's house is [REDACTED]
23 [REDACTED] and where, my understanding, Ms. Lopez lived was
24 about four miles away. So Ms. [REDACTED] C.B. [REDACTED] would have had
25 to get in her car and drive, and I think that we're no

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1 longer under the active immediate influence of the
2 event, which would be necessary for the res gestae
3 exception to hearsay.

4 I think there's a significant break there, and I
5 think -- my concern is allowing -- and particularly,
6 I'm just learning that the victim is not going to be
7 testifying. Allowing other people to establish this
8 without Mr. Elam having the opportunity to
9 cross-examine his accuser, I think is absolutely
10 depriving him of his due process in this case.

11 THE COURT: Well, she is obviously going to
12 testify, correct?

13 MS. SWANSON: That's correct.

14 THE COURT: Is there any reason for her -- why
15 can't she get on the stand and say my mother showed up
16 at my house, clearly upset, and told me that she had
17 been sexually assaulted or whatever she said. You
18 know, then as a result of that, I took her to the
19 hospital. I'm assuming that's what they did. I don't
20 know.

21 MS. SWANSON: Well, no. But they took other
22 measures. But this clearly falls into 8032. There is
23 not some lengthy period of time. The victim was still
24 under the stress of the event clearly, and I will
25 certainly lay that foundation with Ms. Lopez, her

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1 daughter, about her appearance, her demeanor, and all
2 of that.

3 THE COURT: Okay. And let's just keep it limited
4 to that she said that she had been, you know, raped and
5 that's it. Or did she say something like, I have just
6 been raped or --

7 MS. SWANSON: Correct. And she also -- she said
8 that she had been awakened by an unknown black male
9 with longer dreaded hair.

10 MR. STAGGS: Well, Your Honor, the issue, I think,
11 becomes -- I don't think it would be an issue were
12 Ms. C.B. to get up and testify, and Lance had the
13 opportunity to confront his accuser. But based on what
14 Ms. Swanson has said here, he's not going to have that
15 opportunity. So you're allowing --

16 THE COURT: Also, there's no identification by the
17 daughter of him, so I really don't think there's
18 anything irrelevant about her saying, you know, a black
19 man with dreads, because she's still not identifying
20 anyone, and the victim isn't going to testify, she is
21 not going to identify him. So I don't think that
22 there's really any basis for that. I just --

23 Ms. Swanson, just be careful. You have a
24 confession already from him.

25 MS. SWANSON: Yes, I understand.

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1 THE COURT: You just want to make sure that you
2 get a conviction that is good.

3 MS. SWANSON: Right. And I just want to make sure
4 we are on the same page. But, you know, the
5 confrontation clause is only an issue if it's non
6 testimonial in nature or there is no -- I'm sorry.

7 Testimonial in nature, and does not fit under a
8 hearsay exception. And so that is not what we are
9 dealing with. I'm not eliciting anything from police
10 officers that were, you know, statements taken in
11 preparation for Court or anything like that.

12 These are statements that were made under the
13 stress of the rape to other people immediately
14 afterward, and so it's non testimonial, and proffered
15 in the confrontational clause does not apply.

16 THE COURT: I think what the concern that I hear
17 from Mr. Staggs, and I may be wrong, is that he's
18 worried about there basically having separation in the
19 time between the event and having been in the car. But
20 I would disagree with that. Because I'm going to
21 assume -- and, again, assumption is a terrible thing,
22 but the occurrence of the rape doesn't happen in a
23 split second. It is something that takes a time
24 period, and the confrontation between the two of them,
25 allegedly between the two of them, lasted at least for

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1 him coming in the window, and him tussling with her,
2 allegedly raping her, and then telling her to wash.

3 As far as the time frame of her getting in the car
4 and going to her daughter's place, it was still under
5 that excited utterance, and if it's still under that,
6 this is what just happened to me, I do think that we
7 don't need to get too much further than, you know, she
8 showed up at her daughter's, she said she was raped,
9 and they take actions from there. I don't think
10 there's a lot of value in her saying, like I said, in
11 any way, that it was a black male with dreadlocks
12 because the victim is not here to identify him, and the
13 daughter can't identify him. So --

14 MR. STAGGS: Yes, ma'am.

15 THE COURT: Just be careful with her, I guess, is
16 what I'm saying. She can't, "and my mama said," you
17 know, X, Y, and Z. You won't don't need it.

18 MS. SWANSON: Right. I mean, I was just going to
19 ask her, you know, after I lay the foundation, what her
20 mother said happened to her.

21 THE COURT: Again, though, I still am concerned.
22 I just think that they'd hop on her to -- I do.

23 MS. SWANSON: Wait. So what excited utterance am
24 I allowed to get into?

25 THE COURT: That she showed up and said, I was

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1 just raped, whatever her words were -- sexually
2 assaulted, I was raped, whatever it is, and what did
3 they do in response to that.

4 MS. SWANSON: Okay. Was Your Honor able to review
5 the jail phone call?

6 THE COURT: I apologize. Did you want to play
7 that in your opening or in the first couple of
8 witnesses?

9 MS. SWANSON: No, no. It's okay.

10 THE COURT: Okay. I'm sorry. The first break, we
11 will have to do that..

12 MS. SWANSON: It's only about eight minutes long.

13 THE COURT: I'm sorry. I just didn't do it.
14 Anything else?

15 MR. STAGGS: Not at this time.

16 THE COURT: Okay. So you are going to do
17 openings, and you have at least, like, the first two or
18 three witnesses. I don't know. One may be very
19 lengthy, so whatever. I want to make sure that we got
20 a couple people anyway.

21 MS. SWANSON: Yes, Your Honor.

22 THE COURT: Okay. Yes.

23 They have asked about taking notes. The jury has
24 asked to take notes, so I'm going to give them their
25 pads and pencils, and I'll give them my typical

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1 note-taking instructions. Okay?

2 MR. STAGGS: Yes, ma'am.

3 THE COURT: Okay.

4 MS. SWANSON: Your Honor, in reference to the
5 daughter's statement, I'm just going to request a
6 little bit of leeway to lead her, so that we do not get
7 too far afield.

8 THE COURT: Okay. And is she one of your first
9 witnesses or not?

10 MS. SWANSON: Yes. She is my first witness. Your
11 very first witness. You may want, before the jury
12 comes in, to take a break and have you go talk to her.
13 And just explain to her that you can't say, "My mother
14 said." She has to say what she heard and saw, and what
15 her observance was and that her mother was raped, and
16 the result of that is what we want to get. Okay?

17 (Pause.)

18 MR. STAGGS: Your Honor, just for the purposes of
19 the record, given the concerns and given the Court's
20 ruling, I think it's appropriate for me to request a
21 proffer of this testimony just to see where it's going
22 before, to avoid -- and, I understand, you know, some
23 of the time concerns, the constraints.

24 However, you know, with this situation, with the
25 disclosure, the victim is not going to be testifying,

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1 with some of the issues that we are bound to butt up
2 against here. And, you know, I understand --

3 THE COURT: I don't think that we need a proffer.
4 You can make a motion for a mistrial if she goes too
5 far, and I'll consider it.

6 MR. STAGGS: Thank you, Your Honor.

7 THE BAILIFF: The jury is entering the courtroom,
8 Your Honor.

9 (Jury enters courtroom at 9:45 a.m.)

10 THE BAILIFF: The jury is seated, your Honor.

11 THE COURT: Good morning, ladies and gentlemen. I
12 didn't look to see whether or not anything was in the
13 newspaper or in the news. Has anyone read anything,
14 seen anything, heard anything about this case? Anyone
15 on the jury?

16 (No response.)

17 THE COURT: All right. Thank you. I appreciate
18 it.

19 Ladies and gentlemen, what we are going to do this
20 morning is you are going to hear the opening statements
21 from the lawyers, which is what they believe the issues
22 are going to be in this case. And then the State is
23 going to begin to put witnesses up.

24 But before we do any of that, we need to swear you
25 in as the jury in the trial of the case. So if you all

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1 would please rise, raise your right hand, and accept
2 the oath that Jennifer is going to administer to you.

3 (Jury sworn.)

4 THE COURT: What I'm now going to tell you, ladies
5 and gentlemen, is just kind of a guidepost of what is
6 going to happen. This is not a charge on the law. I'm
7 going to instruct you on the law that's applicable to
8 this case at the end of the trial, when you heard all
9 the evidence and you've heard the arguments from the
10 lawyers. Again, this is just so you can know what to
11 expect.

12 Ladies and gentlemen, in this trial, your job as
13 the jury is to determine the facts of the case. I'm
14 the judge of the law, you are the judge of the facts.
15 If at any time I make any comment regarding the facts
16 of this case, you must disregard it. Because, again,
17 ladies and gentlemen, that is solely for you to
18 determine.

19 Additionally, at that end of the case, when I
20 charge you on the law, I'm the only judge of the law,
21 which means you have to accept it. You can't disagree
22 with it, you can't argue with me.

23 What I'm going to ask you to do at the very end of
24 this trial is to take the law as I give it to you and
25 apply it to the facts as you find them, and from there,

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1 render a true and just verdict under the oath you took.

2 I remind you, again, that over today and possibly
3 tomorrow as well, if you pass these lawyers or the
4 witnesses in the case, they have been instructed not to
5 speak to you. Again, you know that's because I don't
6 want there to be any misconception about anyone having
7 any improper communication.

8 Additionally, ladies and gentlemen, I'm going to
9 tell you every single time you leave this courtroom,
10 whether it's for the night or just for a break, that
11 you are not to discuss this case with anyone. And,
12 again, that includes each other, until you've heard all
13 the evidence, you've heard my charge on the law, and at
14 that point, it would only be appropriate for you to
15 speak about this case.

16 Now, ladies and gentlemen, in determining what the
17 true facts are in this case, which is what your job is
18 to do here, you are to decide whether or not the
19 witness's testimony is believable. It's my
20 responsibility as a matter of law to rule on certain
21 testimony and whether it's admitted. But once I have
22 admitted it, whether or not you believe it, it's for
23 you to determine.

24 Now, in deciding whether to believe a witness, you
25 have the right to consider the interest of that

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1 witness, the bias of that witness, or the prejudice
2 that witness may have. You can also see the things and
3 matters about which the witness is testifying, and you
4 can also look at the way the witness acts on the
5 witness stand, which is right here.

6 Ladies and gentlemen, you can use anything that is
7 in the record to help you evaluate the testimony of the
8 witnesses. Therefore, I ask that you pay close
9 attention so at the end of the trial you can accurately
10 remember the testimony as provided.

11 Now, Mr. Foreperson and members of the jury, you
12 have asked to be able to take notes. Folks, we have
13 given you the pads and pencils or pens to go ahead and
14 do that. I just need to caution you, ladies and
15 gentlemen, those notes are for your own use. When you
16 go, come and go from the courtroom during the trial,
17 you're going to leave those notes in your seats. At
18 the very end of the case, in your deliberations, you
19 will have your own notes.

20 But, again, I want to make sure you all
21 understand, some people are better at taking notes than
22 others. And no one is required to take notes.

23 I don't want you to rely on someone else's note
24 taking at the end of this case, during your
25 deliberations, if it conflicts with your own memory of

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1 what had happened or what you heard testified to.

2 Again, that is for you to use and to help you in
3 writing down things that you may think be important or
4 you want to make sure you remember. All right? So I
5 just caution you.

6 All right. Ladies and gentlemen, at this time,
7 the attorneys are both going to make opening
8 statements. As I told you, in these opening
9 statements, the attorneys are just going to tell what
10 they believe the issues are in this case. They are
11 going to tell you that they believe the evidence is
12 going to show. Both attorneys will make an opening
13 statement. And then after that, as I told you, the
14 State is going to begin calling their witnesses up to
15 the stand, and that is where the evidence comes from,
16 ladies and gentlemen, from the witness stand as well as
17 any other physical evidence entered in as an exhibit in
18 this case. All right?

19 So with that said, ladies and gentlemen, if at any
20 time, anyone needs a break, please let me know. This
21 is not an endurance contest. I can easily take a quick
22 break. I just want to tell you that when we take a
23 break, we all take a break. Okay?

24 So just to let you know, but it's absolutely fine.
25 All right?

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1 So at this, we are going to go ahead and begin the
2 trial of this case.

3 Ms. Swanson.

4 MS. SWANSON: Thank you, Your Honor. May it
5 please the Court.

6 THE COURT: Yes, ma'am.

7 OPENING STATEMENT BY THE STATE

8 MS. SWANSON: It was a spring night in Old Town
9 Bluffton on a side street, [REDACTED] Avenue, where the
10 victim in this case, [REDACTED] C.B. [REDACTED], was violently
11 raped in her own home. She was violently raped by the
12 man that sits in this courtroom, Lance Elam.

13 Lance Elam sits in this courtroom indicted for
14 burglary in the first degree as well as criminal sexual
15 conduct in the first degree. That means aggravated
16 rape, rape that occurs at nighttime or while entering
17 someone's home.

18 Burglary first is burglary first, that's a
19 burglary in the entering without consent of someone's
20 dwelling that occurs in the nighttime hours, or with an
21 aggravator, such as rape.

22 April 27th of 2017 was a Thursday, and Lance Elam
23 had been working as a self-contractor for Hargray. He
24 had been riding around the Old Town Bluffton area, even
25 though he had not been working there. He had been

OPENING STATEMENT BY THE STATE

1 working on Hilton Head Island.

2 And at about 11:00 that night, the victim in this
3 case, [REDACTED] C.B. [REDACTED], shows up at her daughter's
4 house soaking wet, no shoes on, traumatized, having
5 been raped. The rapist had tried to clean up after
6 himself, taking her underwear, taking her sheets,
7 making her bath, and taking her cell phone.

8 The taking of that cell phone was a mistake
9 because family members quickly went to tracking that
10 iPhone, and they were able to track that iPhone to a
11 post office parking lot right down the street.

12 The man that was found there, Lance Elam, he was
13 found with his work truck, he was found with the
14 sheets. He was found with the phone. He was found
15 with the underwear. He was caught red handed.

16 It turns out that in his haste to get away he had
17 run over something and had gotten a flat tire. Flat
18 tire that he couldn't fix because the tire was off the
19 rim. He was stuck.

20 Well, when the family members got to the parking
21 lot and saw Lance Elam holding sheets outside of his
22 car, they called the police. They stayed there and
23 they detained him when they got there about five
24 minutes later or so.

25 A search warrant was gotten for the car, all of

OPENING STATEMENT BY THE STATE

1 those items were found, and investigators spoke with
2 Mr. Elam. They interviewed him for the first time for
3 about an hour. He denied everything. He said, well, I
4 don't know what happened. Somebody -- you know, I got
5 a flat tire, somebody must have put those sheets in my
6 car. I was just trying to get home. I didn't have sex
7 with anyone. You're not going to find my DNA anywhere
8 or in anyone.

9 But it didn't take long before Lance Elam started
10 shouting for investigators and wanted to talk some
11 more. And this time he confessed because he knew he
12 was caught.

13 You are going to hear that chilling, disturbing
14 confession where he enters the victim's house through
15 an unlocked window, the only unlocked window that he
16 could find. He sneaks around for a while to make sure
17 there are no dogs, no men, no other people. He goes
18 into her bedroom and he watches her. He steps on a
19 creeky floor board and that wakes her. She wakes up
20 screaming because there's a stranger in her room. And
21 he jumps on her like an animal. Those are his words
22 that you are going to hear.

23 You are going to hear the details of the sexual
24 assault, how she fought back, and how he tried to get
25 away with it. Though the victim was clearly

OPENING STATEMENT BY THE STATE

1 traumatized, she was eventually convinced to submit to
2 a rape exam, and vaginal swabs were taken. DNA swabs
3 were also taken from Lance Elam's mouth and from his
4 hands, his left and right hands. What those revealed
5 was Lance Elam's seminal fluid on the victim's vaginal
6 swabs, and her touch DNA on his hand.

7 This happened, police got the right guy. You are
8 going to hear from the experts that analyzed that
9 forensic evidence a little bit later today.

10 Now, it is my job to prove that Lance Elam is
11 guilty beyond a reasonable doubt. And the way I do
12 that is I present testimony through witnesses who take
13 the stand. So there's testimonial evidence as well as
14 physical evidence that you are going to be seeing and
15 hearing about. And it is what you determine the facts
16 to be based on that testimony and evidence, which is
17 what is going to guide you and what you put to the law
18 that Judge Mullen charges you with at the end of the
19 case.

20 Your job as jurors is to be the fact finders,
21 determine what happened that night. Determine if we
22 have met our burden. This is not going to be a long or
23 complex case, but I'm always going to ask you to keep
24 your common sense about you. Okay? You know,
25 sometimes -- sometimes we can get bogged down in

OPENING STATEMENT BY THE STATE

1 details. Sometimes it seems like the evidence is too
2 strong. But it doesn't matter, it's our burden to
3 prove someone guilty.

4 And I think at the end of this case you're going
5 to find that this is a circumstance, this is a case
6 that surpasses reasonable doubt. And at the end of it
7 I'm going to be asking you to find Lance Elam guilty of
8 burglary in the first degree as well as criminal sexual
9 conduct in the first degree.

10 Thank you.

11 THE COURT: Thank you. Mr. Staggs.

12 MR. STAGGS: Thank you, Your Honor. May it please
13 the Court.

14 THE COURT: Yes, sir.

15 OPENING STATEMENT BY THE DEFENSE

16 MR. STAGGS: Good morning, ladies and gentlemen.
17 Ms. Swanson just laid out a story for you and then
18 asked you to keep your common sense, and keep an open
19 mind. And that is going to be very important in this
20 case because nothing that either Ms. Swanson or I tell
21 you is evidence. You will see the evidence on the
22 stand, and you'll see the evidence introduced through
23 physical evidence and testimony.

24 However, I do ask that each and every last one of
25 you keep in mind that there are two sides to every

OPENING STATEMENT BY THE DEFENSE

1 story, that things are nowhere near as neat and clean
2 as they may appear at first glance.

3 I represent Lance Rontavius Elam. Lance is
4 married, he has three children. And Ms. Swanson was
5 right, Lance was in the post office parking lot that
6 night. He absolutely was. And Lance did give two
7 statements to Bluffton police and Detective Odom, but
8 that happened over a span of hours.

9 You are going to hear that Lance was taken into
10 custody around midnight. The first interview does not
11 begin until roughly 5:00 in the morning, and that goes
12 on for about an hour. And then there's some
13 undetermined amount of time before this second
14 interview takes place.

15 But what I'm going to ask you, because what I want
16 you to do is keep an open mind about the circumstances
17 that were occurring around these interviews, around
18 everything that was going on.

19 Ms. Swanson talked a little bit about her burden
20 of proof and that the State is required to prove each
21 and every element of every offense charged beyond a
22 reasonable doubt. That is her job.

23 I have a job. My job is to make sure that this is
24 seen in a much broader context, because things don't
25 happen in a vacuum. And then, y'all have a job, and

OPENING STATEMENT BY THE DEFENSE

1 that is to go back and look at everything that has been
2 presented and everything that hasn't been presented to
3 you, and determine whether or not the State did, in
4 fact, meet their burden.

5 And I don't believe they can in this case, ladies
6 and gentlemen. I think that there's too much unknown.

7 So at the close of this case, I am going to get
8 back up here and ask you to use your common sense to
9 evaluate what you have seen and what you heard. And I
10 believe that you will in your talks find that there is
11 too much reasonable doubt, and you will find Lance Elam
12 not guilty. Thank you.

13 THE COURT: Thank you, Mr. Staggs.

14 Solicitor.

15 MS. SWANSON: The State calls Chynna Lopez.

16 Thereupon,

17 CHYNNA LOPEZ

18 was called as a witness, having been first duly sworn,
19 was examined and testified as follows:

20 THE CLERK: Please state your name for the record.

21 THE WITNESS: Chynna Lopez Delara (phonetic).

22 DIRECT EXAMINATION

23 BY MS. SWANSON:

24 Q Chynna, how do you know [REDACTED] C.B. ?

25 A That is my mom.

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 Q And how old is your mother?

2 A She is in her 30s. She doesn't like to say she's
3 over 25. So I don't know.

4 Q Are you close with your mother?

5 A Yes. I go see her everyday.

6 Q Everyday?

7 A Uh-huh. (Indicating affirmatively.)

8 Q And where does your mother live?

9 A She lives in Old Town Bluffton.

10 Q Okay. What is the address?

11 A [REDACTED].

12 Q I'm going to show you a picture that has been
13 marked as State's Exhibit 4 and ask if you recognize the
14 residence in this picture.

15 A That's her house.

16 Q Okay.

17 MS. SWANSON: State would move 4 into evidence at
18 this time.

19 MR. STAGGS: No objection.

20 THE COURT: Without objection, it is in evidence.

21 *(Whereupon, State's Exhibit No(s). 4 marked for*
22 *identification and received in evidence.)*

23 MS. SWANSON: And move to publish.

24 THE COURT: You may.

25 MS. SWANSON: And I'll publish that in just a

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 minute.

2 THE COURT: Okay.

3 BY MS. SWANSON:

4 Q Was she living at [REDACTED] in April of 2017?

5 A Yes, ma'am.

6 Q And where were you living?

7 A I lived at the Lakes of Edgewater.

8 Q And how far away from your mom's house is that?

9 A About five, ten minutes.

10 Q Who were you living with at the Lakes of
11 Edgewater?

12 A I lived with my friend, Kaley, and her husband,
13 Miguel, and my husband, Jose, and my daughter.

14 Q And who was your mom living with on Girard?

15 A She lived by herself.

16 Q Had she lived by herself long?

17 A Oh, we just moved out of her house a few months
18 prior.

19 Q And is her house located in Beaufort County?

20 A Yes.

21 Q I'm going to publish State's 4 at this time.

22 And so this is your mom's house on Girard?

23 A Yes.

24 Q Is it Girard or Girard?

25 A I say "Girard," but you can say Girard.

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 Q Okay. Do you recall seeing your mother the night
2 of April 27, 2017?

3 A Yes, ma'am.

4 Q All right. How did she come to your house?

5 A She drove to my house after I got off of work, and
6 she was banging on the door, crying and screaming,
7 basically.

8 Q Okay. Do you remember what time of night this
9 was?

10 A It was around -- I got off of work around nine, so
11 it was probably around ten.

12 Q Was it dark outside?

13 A Yes.

14 Q Physically, what was her appearance like? What
15 was she wearing?

16 A She was in a scrub top and pants and a jacket, and
17 she was soaking wet.

18 Q Do you recall if she had shoes on?

19 A No.

20 Q Okay. What was your understanding of what had
21 just happened?

22 A She was violated, and she was in shock. She
23 didn't remember how she got there.

24 MR. STAGGS: Objection, Your Honor. The witness
25 is speculating.

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 THE COURT: Okay. How did she appear to you?

2 BY MS. SWANSON:

3 Q How did she appear to you? Did she appear in
4 shock?

5 A Yes.

6 Q Okay. And when you say you understood that she
7 had been "violated," do you mean physically, sexually?

8 A Physically, because I wasn't allowed to touch her.
9 She would just yell and move back every time I would try and
10 comfort her.

11 Q After you made con- -- after you made contact with
12 your mom, what did you and Jose do?

13 A She wanted to go back to her house, so we took her
14 back, and we went through her house, and then I was just
15 looking around to see if anything was gone or anything was
16 different. And her bed was moved, and there was, like, no
17 sheets, no pillows, anything on the bed, and she had no
18 towels or anything in her bathroom, and it was just -- there
19 was water everywhere.

20 Q What else was she missing?

21 A She said that her jewelry box was missing,
22 watches, and when we got there, there was a toolbox that was
23 out front that was my husband's that he left in the house
24 when we moved out, and that was in the back of the garage,
25 and the garage was unlocked.

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 Q Was she able to locate her cell phone?

2 A No. It wasn't in the room where she had it. It
3 was -- she keeps it under her pillow when she sleeps, and it
4 wasn't there. So we had to use the Find My iPhone app, and
5 is that's how we found it.

6 Q Okay. And did you have that Find My iPhone app on
7 your phone?

8 A Yes. And I just logged into her account from my
9 app.

10 Q Okay. And so were you able to find a location of
11 her iPhone?

12 A It gives you, like, a general area. So we went to
13 that general area and that's where we found it.

14 Q Okay. Now, when you say "we" went, did you
15 physically go to that general area? Who actually went to
16 the general area?

17 A My grandfather and my husband.

18 Q Okay. Let me ask you this, where is your husband
19 right now?

20 A He is in the Army basic training in Fort Benning,
21 Georgia.

22 Q So he's not here in South Carolina today?

23 A No.

24 Q Okay. Did you give a screen shot to police of
25 that iPhone location?

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 A I think I did. I honestly don't remember.

2 Q I am going to show you what's been marked as
3 State's Exhibit 6 and ask if this is a screen shot that you
4 provided to law enforcement.

5 A Yeah, I remember seeing that.

6 Q Okay. And so that is a fair and accurate
7 depiction of what was on your phone?

8 A Uh-huh. (Indicating affirmatively.)

9 MS. SWANSON: State would move 6 into evidence at
10 this time.

11 MR. STAGGS: No objection.

12 THE COURT: Without objection.

13 *(Whereupon, State's Exhibit No(s). 6 marked for*
14 *identification and received in evidence.)*

15 BY MS. SWANSON:

16 Q Do you recall, Chynna, what your mom's sheets
17 looked like?

18 A I believe that they were just white. And she had
19 like -- I think she had like a duvet cover, but I don't
20 remember.

21 Q Okay. Now, at some point, did police arrive to
22 your mother's residence?

23 A Yes.

24 Q Okay. And who else was there?

25 A My grandma was with me, and my grandpa and my

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 husband were in -- I believe that they went to the post
2 office, because that is where the Find My iPhone app told
3 them it would be. And I was at home with her at her house,
4 my mom and just me and my grandmother.

5 Q Okay. And were you and your grandmother there
6 when law enforcement was attempting to talk with your mom?

7 A Yes.

8 Q Okay. And did you offer, or did you tell your mom
9 anything at that time?

10 A I just told her that she needed to try to
11 cooperate, but she's very strong willed. So it was kind of
12 hard at first.

13 Q You were trying to convince her to tell police
14 what happened?

15 A Yeah.

16 Q What was her demeanor with police at that time?

17 A She just didn't want to talk about it at all. She
18 didn't want to answer pretty much anyone's questions, and
19 she only spoke to one lady. When the one lady came, she
20 spoke with her, but the first lady who tried to speak with
21 her, she didn't want to speak with her because I guess -- I
22 don't know.

23 Q Okay. I'm going to show you a picture that's been
24 marked as State's Exhibit 5, and ask if this looks familiar?

25 A Uh-huh. (Indicating affirmatively.)

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 THE COURT: Say "yes," for the record.

2 A Yes.

3 THE COURT: Thank you.

4 BY MS. SWANSON:

5 Q And what is it a picture of?

6 A That is my mom sitting on the stairs, and that is
7 me and grandmother and some lady -- that was the first lady
8 that was trying to talk to her.

9 Q And that's a fair and accurate depiction of how
10 the scene was when law enforcement arrived that night?

11 A Yes.

12 Q Okay.

13 MS. SWANSON: State would move 5 into evidence at
14 this time.

15 MR. STAGGS: No objection.

16 THE COURT: Without objection.

17 *(Whereupon, State's Exhibit No(s). 5 marked for*
18 *identification and received in evidence.)*

19 MS. SWANSON: And move to publish.

20 THE COURT: You may.

21 BY MS. SWANSON:

22 Q All right. And so we are looking at [REDACTED],
23 Chynna?

24 A Yes.

25 Q And your mom, a law enforcement officer, and you

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 speaking with your mother?

2 A Yes.

3 Q And is this your mother right here?

4 A Yes.

5 Q And what is she sitting next to?

6 A That was her getting the cage.

7 Q Okay. Was she worried about her animals that
8 night?

9 A Yes. That is the whole reason why we had to go
10 back.

11 Q You said that you visit with your mother everyday?

12 A Yes.

13 Q So do you know her habits pretty well?

14 A Yes.

15 Q Can you just tell us a little bit about her
16 personality. Does she go out? Does she have a lot of
17 friends? Does she have boyfriends?

18 A No. She goes to work early in the morning and
19 then she will go home, and she will work on her house, or
20 she will watch Netflix. Occasionally, if she wants to go to
21 the store, I'll go with her.

22 If she does go to a friend's house, it would
23 just be like Jam, that's her friend from college. And so
24 she will go to his house and go home, or he will come over.

25 But for -- I mean, if she goes to the movies,

DIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 it's, like, once in a blue moon. She's always either at
2 work or home. So those are the two places where I go to
3 find her, if I can't get ahold of her.

4 Q Have you ever known her to frequent bars?

5 A No.

6 Q Have you known her to date online?

7 A No.

8 Q Have you known her to have boyfriends?

9 A She's had a few boyfriends, but they don't -- we
10 don't really see them. She will talk to them, like -- she
11 will text them, but they never really show up in person or
12 go on dates or anything like that.

13 Q Okay. And how long ago would that have been?

14 A She still talks to them, but she just says they
15 are like her friends. She doesn't really go and see them.

16 Q Right. Some male friends that she --

17 A Yeah. The only one that she talks to in person
18 would be Jam, because they have known each other for over 20
19 years.

20 Q Okay. Had you ever heard Lance Elam's name
21 before?

22 A No, I hadn't.

23 MS. SWANSON: Thank you, Chynna. I have nothing
24 further at this time. Please answer any questions that
25 Mr. Staggs may have for you.

CROSS EXAMINATION OF CHYNNA LOPEZ BY MR. STAGGS

1 CROSS EXAMINATION

2 BY MR. STAGGS:

3 Q Good morning, Ms. Lopez.

4 A Good morning.

5 Q You testified that your mother arrived at your
6 house around ten?

7 A Uh-huh. (Indicating affirmatively.)

8 THE COURT: Is that a yes?

9 THE WITNESS: Yes.

10 THE COURT: Thank you.

11 BY MR. STAGGS:

12 Q And the first thing, you went back to Girard
13 Avenue?

14 A Yes.

15 Q And that was prior to contacting law enforcement?

16 A Yes.

17 Q And you never left Girard Avenue that evening,
18 right, once you went over there?

19 A Just to take her to the clinic. But while they
20 were there, no, I didn't leave. I stayed with her.

21 Q You didn't go to the post office?

22 A No. No, sir.

23 Q Do you know what time police were called?

24 A It had to have been around 10:45 probably. I'm
25 not positive.

CROSS EXAMINATION OF CHYNNA LOPEZ BY MR. STAGGS

1 Q Okay.

2 MR. STAGGS: Beg the Court's indulgence.

3 (Pause.)

4 MR. STAGGS: I have nothing further.

5 THE COURT: Thank you, Mr. Staggs.

6 Anything further?

7 A Just briefly.

8 REDIRECT EXAMINATION

9 BY MS. SWANSON:

10 Q Chynna, it was at night, right? Mr. Staggs asked
11 you about what time it was when police were called. Are you
12 certain of the time? Could it have been an hour later?

13 A It could have, yes, ma'am.

14 Q And he also asked you if you went anywhere else
15 and you stated the clinic. What clinic are you referring
16 to?

17 A It was -- I don't remember what the name of it,
18 but it was on, like, the same strip. It was by Sonic and
19 Sheridan Park.

20 Q What was the purpose -- who did you take to the
21 clinic?

22 A Just my mother, and my husband drove with us.

23 Q Okay. And for what purpose did you take her to
24 the clinic?

25 A To get the kit.

REDIRECT EXAMINATION OF CHYNNA LOPEZ BY MS. SWANSON

1 Q Are you talking about the sexual assault kit?

2 A Yes, ma'am.

3 MS. SWANSON: Thank you.

4 MR. STAGGS: Nothing further, Your Honor.

5 THE COURT: All right. You may step down,

6 Ms. Lopez.

7 MS. SWANSON: Thank you. And I would ask that
8 Chynna be allowed to be released from her
9 sequestration, should she wish to remain in the
10 courtroom.

11 THE COURT: Any objection?

12 MR. STAGGS: No objection.

13 THE COURT: Okay. She may, if she would like.
14 Call your next witness.

15 MS. SWANSON: Thank you. State calls David
16 Bachman.

17 Thereupon,

18 DAVID BACHMAN

19 was called as a witness, having been first duly sworn,
20 was examined and testified as follows:

21 THE CLERK: If you would state your name for the
22 record.

23 THE WITNESS: David Bachman.

24 MS. SWANSON: May I approach, Your Honor?

25 THE COURT: You may.

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 DIRECT EXAMINATION

2 BY MS. SWANSON:

3 Q Mr. Bachman, who is [REDACTED] C.B. [REDACTED] in relation
4 to you?

5 A My daughter.

6 Q And who is your wife?

7 A Sylvia.

8 Q Bachman?

9 A Yes, ma'am.

10 Q And where do you guys live?

11 A On Hilton Head, [REDACTED].

12 Q How did you -- did you end up going to [REDACTED]
13 on April 27th of 2017?

14 A Yes, ma'am.

15 Q All right. And how did you come to go over there?

16 A My granddaughter had called us in the evening and
17 said that --

18 Q Without saying what she said --

19 A Oh, okay. My granddaughter called us, said she
20 needed us.

21 Q And whose residence is [REDACTED]?

22 A My daughter's.

23 Q Who does your daughter live with?

24 A No one.

25 Q And about how long does it take you to get to her

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 residence?

2 A Probably 25 minutes.

3 Q And so when you say your granddaughter called you,
4 are you referring to Chynna?

5 A Yes, ma'am.

6 Q Okay. And did you guys leave right away?

7 A Yes.

8 Q Was it late at night?

9 A Yes, ma'am.

10 Q And when you got to [REDACTED], what did you find?

11 A My granddaughter and my daughter and her husband
12 were sitting out in front of the house.

13 Q Were they speaking to your daughter?

14 A Yes, ma'am.

15 Q How did your daughter appear?

16 A She was very upset, and very emotional.

17 Q How could you tell?

18 A Well, by her crying and by the things she said.

19 Q Once you spoke to Jose and Chynna, what did you do
20 next?

21 A Well, we were just talking about things, and it
22 was mentioned that the phone was missing, and that the
23 sheets and the towels were missing. And my wife mentioned
24 that if the phone was a newer phone, then maybe they could
25 trace it, which I don't know how you do it, but my daughter,

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 or my granddaughter, she took her phone out and she managed
2 to find it, where it was at.

3 Q Okay. And so once the -- once your daughter's
4 phone was tracked, did you go, try to attempt to locate it?

5 A Yes. Jose took the phone, and then I took my car
6 and we got in it, and we drove over to locate where the
7 phone was at.

8 Q And where did you go?

9 A We went to the post office. I guess, originally,
10 it registered that it was at the bank, and then he said it's
11 at the post office, so we went to the post office in
12 Bluffton, and that's where it took us to.

13 Q And about how far of a drive from [REDACTED] is it
14 to the post office?

15 A I don't know, but it couldn't be more than like
16 three or four or five minutes.

17 Q So fairly close?

18 A Yes, ma'am.

19 Q And whose car did you take to the post office?

20 A We took my car.

21 Q All right. Mr. Bachman, I'm just going to show
22 you a map for demonstrative purposes. Can you see that?

23 A Yes, ma'am.

24 Q And does that make sense? Your daughter's
25 residence and then the post office?

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 A Yes, ma'am.

2 Q Okay. And so that's where you drove to that
3 night?

4 A Yes, ma'am.

5 Q And what did you find once you got to the post
6 office?

7 A We went to the post office, we did see a gentleman
8 standing on the passenger side of a white colored pickup
9 truck, and he was folding something. And then when we
10 actually saw the truck there, then my granddaughter's
11 husband called the police and told them where we found the
12 phone and what was going on. And then we turned around and
13 came back out of the lot, and parked across the street.

14 Q So your daughter's husband was the one who called
15 the police?

16 A Yes, ma'am.

17 Q Okay. And --

18 A Well, my granddaughter's husband.

19 Q Oh, I'm sorry. Your granddaughter's husband.
20 Jose?

21 A Right.

22 Q Called the police?

23 And what caused you to move across the street
24 to wait on the police?

25 A Well, I just didn't really know what to do. So I

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 thought I would pull across the street, and hopefully the
2 police would come pretty soon and I would wait and see if he
3 pulled out, then I would want to be able to follow him, if
4 necessary.

5 Q And did the person that you came across, who was
6 folding something in the parking lot, every move while you
7 were waiting on police?

8 A No. He never moved his truck, or I don't know,
9 because we could just could see the, you know, post office.
10 We really couldn't see what he was doing after that.

11 We did -- let me rephrase that. On the way
12 out, we did stop for a second, and he started to walk
13 towards us, but we were about, probably about, 200 feet
14 away. So we just moved on, and that's when we pulled out,
15 when he started to walk towards us.

16 Q Can you describe the man that you saw folding
17 sheets?

18 A No, not really, because it was pretty dark, and we
19 were a couple hundred feet away from him.

20 Q Did you see anyone else in the parking lot that
21 night when you arrived?

22 A No. There was no one else there.

23 Q I want to show you a couple pictures and start
24 with State's 7, and ask if this picture is familiar to you?

25 A Yeah. He had a lot of stuff in the back of his

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 truck. This is it.

2 Q That's the truck that you saw in the post office
3 parking lot?

4 A Right. Yes, ma'am.

5 Q And is that a fair and accurate depiction of how
6 it appeared that night?

7 A Yes, ma'am.

8 MS. SWANSON: State would move 7 into evidence.

9 MR. STAGGS: No objection.

10 *(Whereupon, State's Exhibit No(s). 7 marked for*
11 *identification and received in evidence.)*

12 BY MS. SWANSON:

13 Q And then also, I'm going to ask if it is the same
14 truck and a fair and accurate depiction of that truck in
15 State's Exhibit 8.

16 A Yes, ma'am.

17 MS. SWANSON: And I would move 8 into evidence at
18 this time.

19 MR. STAGGS: No objection, Your Honor.

20 THE COURT: No objection.

21 *(Whereupon, State's Exhibit No(s). 8 marked for*
22 *identification and received in evidence.)*

23 MS. SWANSON: And request to publish.

24 THE COURT: You may.

25 MS. SWANSON: All right. I am publishing

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 State's 7.

2 BY MS. SWANSON:

3 Q And when you arrived, was the passenger side door
4 open?

5 A Yes, ma'am.

6 Q And this is State's 8, just another picture of the
7 white truck.

8 So when Bluffton Police Department officers
9 arrived, were you interviewed by them?

10 A Yes, ma'am.

11 Q Was Jose interviewed by them?

12 A Yes, ma'am.

13 Q Did you guys provide written statements to them?

14 A Yes, ma'am.

15 Q Are you close with your daughter?

16 A Yeah, pretty close.

17 Q All right. How would you describe her?

18 A I mean, now or then or --

19 Q Then. What were her habits like? Did she go
20 out a lot?

21 A She pretty much kept to herself. She had bought a
22 house and she just likes to go to work and pretty much come
23 home and stay there, work on her house.

24 Q Did she socialize much that you were aware of?

25 A No. She really doesn't socialize very much.

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 MS. SWANSON: Thank you, Mr. Bachman. Please
2 answer any questions that Mr. Staggs might have.

3 THE WITNESS: Yes, ma'am.

4 MR. STAGGS: I have no questions of this witness.

5 THE COURT: All right. You may step down, sir.
6 Thank you.

7 THE WITNESS: Thank you.

8 THE COURT: We will take a very brief recess.

9 Ladies and gentlemen of the jury, we're going to
10 take a very brief recess. I need to tell you not to
11 discuss this case.

12 Mr. Foreperson, try to remain behind briefly. All
13 right? The rest of you, please leave your pads in your
14 seats. You might want to write your juror number on
15 them to make sure you got the right one. Okay?

16 THE BAILIFF: Put your juror number on the
17 outside, and I will have you step down here. The rest
18 follow me, please. Leave your notebooks.

19 (The jury exits the courtroom at 10:32 a.m.)

20 THE COURT: Y'all may be seated.

21 Mr. Williams, I understand that you indicated to
22 the bailiff that you perhaps may know that witness. He
23 looked familiar.

24 THE FOREPERSON: Yes.

25 THE COURT: And do you know him?

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 THE FOREPERSON: Yes.

2 THE COURT: How do you know him?

3 THE FOREPERSON: We both lived at Marsh Side
4 Apartments many years ago. We were probably at parties
5 together. Social acquaintances, not good friends. He
6 may well still be in my contacts.

7 THE COURT: Okay. But you did -- you didn't
8 recognize his name when it was called out earlier as a
9 witness, it didn't ring a bell to you in any way?

10 THE FOREPERSON: No.

11 THE COURT: But when you saw him, you recognized
12 him; is that correct?

13 THE FOREPERSON: Yes, correct.

14 THE COURT: When was the last time you spoke with
15 him?

16 THE FOREPERSON: Two decades ago. A long time
17 ago.

18 THE COURT: Okay. You haven't run into him in
19 these years, or anything like that? Nothing like that?

20 THE FOREPERSON: No, not that I recall. It seems
21 the last time I talked to him, he probably called me at
22 my office. But like I say, it was maybe not two
23 decades -- 10, 20 years ago.

24 THE COURT: All right. What I'm going to do, sir,
25 is ask you just to step out with the bailiff for just a

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 moment. Let me talk to the attorneys, and then we will
2 decide how we are going to go forward. Okay?

3 THE FOREPERSON: Okay.

4 THE COURT: I appreciate you. Don't go back with
5 the rest of the jury. Thank you.

6 THE BAILIFF: The jury is clear, Your Honor.

7 THE COURT: All right. Mr. Staggs, what do you
8 want to do with him?

9 MR. STAGGS: Your Honor, I think we'd ask to have
10 this juror excused and seat one of the alternates.

11 THE COURT: Okay. I think in all fairness, we
12 have two alternates, I think that's the appropriate
13 thing to do. And I'll just explain to the jury that I
14 had to relieve him. So I think that's a good idea.

15 Okay. That sounds good.

16 Why don't the rest of us go ahead, and I'm going
17 to bring him back in here, I'm going to excuse him, and
18 then we will take about ten minutes just for you all.
19 Okay?

20 MS. SWANSON: Okay.

21 THE COURT: All right. So bring him back in here.

22 MS. SWANSON: And I didn't want to ask the Court
23 formally, but Mr. Bachman is going to stay in the
24 gallery, and I'm seeing that that's okay with
25 Mr. Staggs?

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 THE COURT: We are not going to bring him back.

2 MS. SWANSON: Released from sequestration.

3 MR. STAGGS: Yes, that's fine.

4 MS. SWANSON: Thank you.

5 THE COURT: Absolutely. Absolutely.

6 Thank you. Mr. Williams, out of an abundance of
7 caution, we are going to go ahead and excuse you from
8 the trial of this case. I appreciate your candor, of
9 course, and I know that you know the importance of it.

10 So thank you. I am going to go ahead and excuse
11 you for the rest of the week. We have all the jurors
12 we need. I appreciate it.

13 I want to make sure you haven't spoken to any
14 other jurors. Obviously, you were here when you
15 recognized him, so you didn't have an opportunity to
16 speak to them, correct?

17 THE FOREPERSON: Correct.

18 THE COURT: Okay. I appreciate it.

19 (The juror exits the courtroom at 10:36 a.m.)

20 THE COURT: We are going to go ahead and take a
21 ten-minute break and then we will come on back, if
22 that's okay, about 20 minutes till.

23 (Whereupon, a brief recess was taken.)

24 THE COURT: So I chose to take the opportunity
25 during the break to listen to the tape. It's a jail

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 phone call from Mr. Elam to his wife. Is that not what
2 it was?

3 MR. STAGGS: (Nods in the affirmative.)

4 THE COURT: What was your objection to it being
5 played, sir?

6 MR. STAGGS: Your Honor, with the understanding
7 that there is -- there is the notice that it's being
8 recorded, it's more of a policy argument that the
9 spousal privilege should attach in these cases. Mostly
10 putting it on the record.

11 I understand that there has been case law that
12 goes against that. However, I do believe that, you
13 know, we have carved out this perception when I receive
14 phone calls from the jail, they are not recorded. I
15 believe the spousal privilege should apply, just the
16 same in that situation.

17 And so I would ask the Court to suppress those
18 phone calls on the basis of spousal privilege.

19 THE COURT: Well, respectfully, we all know what
20 the case law says, and it is allowed, and it's clearly
21 stated that this is being recorded.

22 I think even at one point whoever originally
23 answered the phone, said in the background, "Don't say
24 anything." And he continued to talk and continued to
25 talk to his wife. So, anyway, I think it's

DIRECT EXAMINATION OF DAVID BACHMAN BY MS. SWANSON

1 appropriate, and I think you can play them.

2 So are you ready for your next witness?

3 MS. SWANSON: Yes, Your Honor.

4 THE COURT: Let's go. Let's go ahead.

5 Mr. Staggs, are you ready to go?

6 MR. STAGGS: Yes, ma'am.

7 THE COURT: Mr. Elam, are you ready to go?

8 THE DEFENDANT: (Nods in the affirmative.)

9 THE COURT: Okay. Let's bring the jury in,
10 please, sir.

11 THE BAILIFF: The jury is entering the courtroom,
12 Your Honor.

13 (The jury enters the courtroom.)

14 THE BAILIFF: The jury is seated, Your Honor.

15 THE COURT: The State may call your next witness.

16 MS. SWANSON: Thank you. State calls Jeff
17 Dickson.

18 Thereupon,

19 JEFF DICKSON

20 was called as a witness, having been first duly sworn,

21 was examined and testified as follows:

22 THE CLERK: Please state your name for the record,
23 please.

24 THE WITNESS: My name is Jeff Dickson.

25 DIRECT EXAMINATION

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 BY MS. SWANSON:

2 Q Good morning, Officer Dickson. How are you?

3 A Good morning.

4 Q Tell us who you work for.

5 A I'm sorry?

6 Q Tell us who you work for.

7 A The Bluffton Police Department.

8 Q And how long have you worked there?

9 A This month will make 13 years.

10 Q Were you on duty the night of April 27th, 2017?

11 A Yes, ma'am, I was.

12 Q And what were you doing -- what were you doing
13 that night?

14 A I was on patrol. I was actually on Bluffton Road
15 observing late night traffic downtown.

16 Q About what time was that?

17 A Probably, I think, right around midnight.

18 Q Okay. And do you recall getting dispatched to the
19 Bluffton Post Office parking lot?

20 A Yes, ma'am.

21 Q All right. And tell us about that.

22 A We -- we were dispatched to the post office in
23 reference to a person that was supposedly involved in an
24 incident, and the person was supposedly in the post office
25 parking lot around the vehicle.

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 Q What kind of vehicle was he around?

2 A A white pickup truck is what was described to
3 dispatch.

4 Q All right. What is the physical location of the
5 Bluffton Post Office?

6 A It is located at 25 Thurman Lane downtown
7 Bluffton.

8 Q All right. And did you respond to that location?

9 A Yes, ma'am, I did.

10 Q About how long did it take you to get there?

11 A Probably about 60 seconds, maybe two minutes at
12 the most.

13 Q When you got there, what did you observe?

14 A I observed a -- as soon as I pulled in, made the
15 right, I observed a black male standing on the -- outside a
16 white pickup truck. The white pickup truck had the front
17 passenger door open.

18 The black male actually had a road guard vest
19 on, and at the time I was kind of curious as to what he was
20 doing in the post office parking lot, especially at
21 midnight.

22 Q Was there anyone else in the parking lot?

23 A Nobody else in the parking lot, around the post
24 office, nowhere.

25 Q Around his car?

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 A Not around the car.

2 Q Do you recall what his hair looked like?

3 A It was short and in dreads at the time.

4 Q Okay. I am going to show you a series of
5 pictures. These have all been marked State's 9 through 13.
6 If you can just pan through those and tell me if you
7 recognize these?

8 A Yes, ma'am. In this first picture here, it is the
9 white pickup truck with all the tools and equipment in the
10 back.

11 Q All right.

12 A And, again, the items in the back of the pickup
13 truck, on the second one. And, again, the third picture has
14 the front passenger door open.

15 And, again, items on the floor and inside the
16 truck, looking in, and the rear flat tire that he had on the
17 truck.

18 Q Okay. All right. And are those fair and accurate
19 depictions of what you observed when you came on scene?

20 A Yes, ma'am.

21 MS. SWANSON: State would move 9 through 13 into
22 evidence at this time.

23 MR. STAGGS: No objection.

24 THE COURT: Thank you.

25 MS. SWANSON: And I would also move to publish.

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 THE COURT: You may.

2 MS. SWANSON: Thank you.

3 *(Whereupon, State's Exhibit No(s). 9-13 marked for*
4 *identification and received in evidence.)*

5 BY MS. SWANSON:

6 Q All right. So we will start with State's Exhibit
7 9. And, Officer Dickson, is this the pickup truck that you
8 saw the man standing next to?

9 A Yes, ma'am.

10 Q And this is State's 10, and what did you say that
11 was?

12 A All the equipment that he needed for work inside
13 the back of the truck.

14 Q All right. Were there any -- was there any
15 identification on the outside of that pickup truck?

16 A I believe there was a side decal. I'm not really
17 sure. I don't recall.

18 Q That's okay.

19 A As far as -- I think it was a Hargray decal.

20 Q This is State's 11, and is that how you found the
21 passenger side door?

22 A Yes, ma'am. It was wide open.

23 Q State's 12.

24 A The contents inside the truck.

25 Q On the floor board, passenger side?

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 A Yes, ma'am.

2 Q And State's 13?

3 A The rear flat tire.

4 Q Thank you.

5 Did you come across Jose Lopez and David
6 Bachman at the scene?

7 A Yes, ma'am. Once the subject was detained at the
8 scene, the two gentlemen in question, they were parked
9 across the street, according to them, over at Sherwin
10 Williams, and they arrived shortly after the subject was
11 detained.

12 Q Okay. And so did you take their statements, or
13 you just did the initial interview?

14 A We just did the initial interview at the time, and
15 started them with written statements.

16 Q Okay. And was the truck secured while it was
17 awaiting a tow to the Bluffton Police Department?

18 A Yes, ma'am. Nobody actually went in the truck
19 while it was on scene there, and I did make sure that nobody
20 did go around the truck or in the truck at the time until
21 investigators could process that.

22 Q Okay. And so did you actually stay with the truck
23 until the tow truck came?

24 A Yes, ma'am. I stayed with the truck until the tow
25 truck loaded it up and transported the truck to our Sally

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 port, where it was secured there.

2 Q All right. And were you able to identify the man
3 that was standing outside the car?

4 A Yes, ma'am. I did that as soon as I made contact
5 with him.

6 Q All right. And who was he?

7 A Name of Lance Elam.

8 Q Okay. And do you recognize him in the courtroom
9 today?

10 A Yes, ma'am, I do.

11 Q Can you point him out?

12 A The gentleman right there.

13 Q All right. And has his appearance changed at all?

14 A Yes.

15 Q How so?

16 A His dreads are no longer. He has short hair.

17 Plus, on top of that, he's grown a beard since.

18 Q Thank you.

19 MS. SWANSON: I have nothing further at this time.

20 Please answer any questions Mr. Staggs may have for
21 you.

22 THE WITNESS: Yes, ma'am.

23 MR. STAGGS: Your Honor, I have no questions for
24 this witness.

25 THE COURT: Any objection to this witness being

DIRECT EXAMINATION OF JEFF DICKSON BY MS. SWANSON

1 excused?

2 MS. SWANSON: None from the State.

3 MR. STAGGS: None, Your Honor.

4 THE COURT: You are excused, sir. Thank you.

5 THE WITNESS: Thank you, Judge.

6 MS. SWANSON: Thank you. State calls Laura

7 Rutland.

8 Thereupon,

9 LAURA RUTLAND

10 was called as a witness, having been first duly sworn,

11 was examined and testified as follows:

12 THE CLERK: State your name for the record.

13 THE WITNESS: My name is Laura Rutland.

14 DIRECT EXAMINATION

15 BY MS. SWANSON:

16 Q Good morning. Is it Sergeant Rutland?

17 A Yes, ma'am.

18 Q Sergeant, what agency are you with?

19 A Bluffton Police Department.

20 Q And how long have you been there?

21 A Eight years.

22 Q Were you on duty the night of April 27th, 2017?

23 A Yes, I was -- well, I'm sorry. No, I wasn't.

24 Q How did you become on duty the night of April

25 27th?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A I was in. I worked on call basis, and I was
2 called by Detective Baker Odom.

3 Q What sort of call were you responding to?

4 A It was a sexual assault.

5 Q And where did you respond?

6 A [REDACTED] in the town of Bluffton.

7 Q About what time was that?

8 A Can I refer to my notes?

9 Q Absolutely.

10 A I was called at approximately 12:16 a.m., and I
11 was probably only 15 minutes from there, so approximately
12 12:30.

13 Q Is [REDACTED] in the Beaufort County limits?

14 A Yes. Beaufort County, town of Bluffton.

15 Q Town of Bluffton.

16 I'm going to show you what's been entered as
17 State's 4 and ask if this is the residence that you
18 responded to?

19 A Yes.

20 Q Okay. And is that is [REDACTED]?

21 A Yes.

22 Q All right. And then let me ask you what you found
23 when you got there.

24 A When I got there I observed a female that I
25 estimated to be late 40s, early '50s. She was sitting on

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 the front steps of her house with three other people. She
2 was leaning on a small animal cage, and I observed her to be
3 wet. Her hair was wet, and she looked very distraught. I
4 learned that this was the victim from Detective Odom.

5 Q All right. And so what -- how did she appear
6 distraught?

7 A She didn't want anybody near her. When I
8 approached her to try to talk to her, she was very resistant
9 in wanting me anywhere near her. She seemed fearful, just
10 confused, and didn't want me near her at all. So I just --
11 I backed away.

12 Q Okay. And what did you do as a result?

13 A Being a younger female and she was older, we did
14 have an older female investigator that also works for
15 Bluffton, and I thought that she might do better in trying
16 to communicate with the victim. So I requested that we call
17 her in to assist me in trying to talk to her.

18 Q All right. Did you offer EMS to the victim?

19 A Yeah.

20 Q Did she wish to be checked out by EMS?

21 A No. She did not want anybody to evaluate her or
22 anything.

23 Q Okay. And I'm just going to show you what has
24 been entered as State's Exhibit 5 and ask if this is the
25 scene that you came upon when you first arrived?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A Yes. That -- I took that right after I backed
2 away.

3 Q Okay. Right after you called in for
4 re-enforcement?

5 A Yes.

6 Q All right. Did you ask for consent to search the
7 residence?

8 A Yes.

9 Q All right. And who did you ask for consent from?

10 A The victim's daughter.

11 Q All right. And did you receive consent to search?

12 A I did.

13 Q What did you do to process the house, and what did
14 you observe once you got in there?

15 A The first thing I did was I photographed the
16 exterior of the house. On the back of the house, I could
17 see handprints and fingerprints on every exterior window on
18 the back of the home.

19 I also observed that there was a missing
20 window screen on two of the windows, and two other windows
21 had bent or damaged window screens that looked like it was
22 an attempt to remove them.

23 As I kept walking around the back of the
24 house, there was, like, a wooden mud room attached to the
25 back of the house. The window to the right, I observed the

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 most handprints. I also observed handprints and
2 fingerprints on the inside of that window, as well as some
3 wooden blinds on the interior that had dust, and I could see
4 fingerprints in the dust.

5 Based on that, I determined that was the
6 point of entry due to the fingerprints on the inside. I
7 then went inside the home.

8 Q Let me stop you right there real quick. I want to
9 show you some -- you took pictures of the exterior?

10 A Yeah.

11 Q Okay. I'm going to show you a series of photos,
12 State's Exhibits 16 through 18, and ask if these are photos
13 that you took that evening and what they are photos of?

14 A Okay. So this first one here is right when I go
15 to the back of the house, this is the first window in the
16 mud room.

17 Q Okay. If you can just keep it pointed towards you
18 for right now --

19 A Oh, okay. I'm sorry.

20 Q I'm sorry. And then I'll publish it to the jury.

21 A Okay. Yeah.

22 Q But are these photos that you took of the exterior
23 of the residence?

24 A Yes.

25 Q All three of them?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A Yes, they are.

2 Q And are they fair and accurate depictions of the
3 way it appeared that night?

4 A Yes.

5 MS. SWANSON: The State would move 16 through 18
6 into evidence at this time.

7 MR. STAGGS: No objection.

8 THE COURT: Without objection. You may publish.

9 MS. SWANSON: Thank you.

10 *(Whereupon, State's Exhibit No(s). 16-18 marked*
11 *for identification and received in evidence.)*

12 BY MS. SWANSON:

13 Q Thank you, Sergeant Rutland. I'm going to start
14 with State's 16, and then if you can look up at the screen
15 and tell us what we are looking at.

16 A So that's the first window on the back of the
17 residence, and that's the wooden mud room I was describing.

18 Q Right here?

19 A Yes. And that's all the back of the house.

20 Q All right. And does this depict what you
21 concluded to be the point of entry?

22 A No. It is on the other side.

23 Q Okay. On the other side.

24 A But you can see one of the window screens had been
25 removed.

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 Q All right. Okay. And then, what is this
2 depicting?

3 A That is a closer angle of the mud room and the
4 removed screen.

5 Q All right. And this is Exhibit 17, and
6 Exhibit 18.

7 A And that's a close-up of the window where the
8 screen was removed, and you can see a handprint.

9 Q Okay. Did you try and do anything with the prints
10 that you found on the windows?

11 A Yes.

12 Q Tell us what you did.

13 A Once I photographed them, I coated them with
14 fingerprint powder, the black powder that makes it more
15 visible to the human eye, and it allows you to put some
16 clear tape over the top of it and lift that fingerprint. I
17 did that with the prints that had the most detail. And then
18 the other prints that were more smudges I used sterile DNA
19 swabs in an attempt to collect DNA from the remaining
20 prints.

21 Q Okay. And did you turn those into evidence?

22 A Yes.

23 Q And did you request that those items be analyzed?

24 A I did.

25 Q All right. Did they get sent off to SLED?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A They did.

2 Q And what happened with them?

3 A They got sent back from SLED, based on the amount
4 of evidence we had already submitted.

5 Q Okay. Let's move to the inside of the residence.
6 When you went inside the residence, what did you see?

7 A Once I was inside, I located what was the victim's
8 bedroom, the master bedroom, and I could see the clear signs
9 of a struggle had occurred. Her mattress had no sheets on
10 it, and it was diagonally on the bed frame. It was hanging
11 off the bed frame.

12 And I observed a towel on the floor next to
13 the bed. When I went into her bathroom, I observed fresh
14 water in the shower, as well as clothing on the floor.

15 And -- yeah, on the bathroom floor. And I,
16 of course, took photographs of all those items and collected
17 them, the clothing in the bathroom and shower.

18 Q All right. I'm going to show you two more
19 pictures.

20 State's 19, do you recognize what's contained
21 in this picture?

22 A Yes.

23 Q And is that a fair and accurate depiction of how
24 the bedroom appeared when you walked in?

25 A Yes.

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 MS. SWANSON: State would move 19 in.

2 MR. STAGGS: No objection.

3 THE COURT: Without objection.

4 *(Whereupon, State's Exhibit No(s). 19 marked for*
5 *identification and received in evidence.)*

6 BY MS. SWANSON:

7 Q Do you recognize what is contained in State's 20?

8 A Yes.

9 Q Did you take this picture?

10 A Yes.

11 Q Is that how the front door was when you went into
12 the residence?

13 A Yes.

14 Q Is it a fair and accurate depiction?

15 A Yes.

16 MS. SWANSON: State would move 20 into evidence.

17 MR. STAGGS: No objection.

18 THE COURT: Without objection, admitted into
19 evidence.

20 MS. SWANSON: Thank you.

21 *(Whereupon, State's Exhibit No(s). 20 marked for*
22 *identification and received in evidence.)*

23 BY MS. SWANSON:

24 Q Sergeant Rutland, how did you gain entry to the
25 house?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A I believe it was the back door.

2 Q Was it open?

3 A I don't recall.

4 Q Okay. I'm going to show you a picture of

5 Exhibit 20. Which door is this?

6 A That's the front door.

7 Q And was it locked?

8 A Yes.

9 Q There is a deadbolt on it?

10 A Yes.

11 Q And it's left in a locked position?

12 A Yes.

13 Q Okay. And then I'm going to publish State's 19.

14 And this is the bedroom that you referred to earlier?

15 A Yes. That is the victim's bedroom.

16 Q And that's how you found the mattress askew?

17 A Yes.

18 Q Let me show you what's been marked as State's 15

19 and ask if you recognize what is contained in this picture.

20 A Yes.

21 Q And what is that picture?

22 A That's [REDACTED].

23 Q Is it an overhead of it?

24 A It is, yes.

25 MS. SWANSON: So I would offer 15 into evidence at

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 this time.

2 MR. STAGGS: No objection.

3 THE COURT: Without objection.

4 *(Whereupon, State's Exhibit No(s). 15 marked for*
5 *identification and received in evidence.)*

6 BY MS. SWANSON:

7 Q And if I may, Your Honor, I would like to ask the
8 witness to step down.

9 THE COURT: Sergeant, you may step down.

10 MS. SWANSON: Thank you. And move to publish.

11 THE COURT: You may.

12 MS. SWANSON: And, Sergeant, if you want to just
13 come over here, I would like for you to point out where
14 you determined the point of entry to be.

15 So is this the mud room area right here, the back
16 portion of the house?

17 A Yes.

18 Q Okay. And so can we mark where you determined the
19 point of entry to be?

20 A There is a window right there.

21 Q Okay. And was that window unlocked?

22 A Yes.

23 Q All right. So after you collected the items that
24 you testified to in the house, did you then assist with
25 processing anything else?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A Yes, I did.

2 Q And what was that?

3 A It was the Defendant's truck.

4 Q Okay. Where was the truck located?

5 Well, first of all, did you all retrieve a
6 search warrant to search it?

7 A Yes.

8 Q Okay. And about what time did you execute that
9 search warrant?

10 A Approximately 6:15 in the morning.

11 Q Where was the truck located when you were
12 executing the search warrant?

13 A It was in the Sally port of the Bluffton law
14 enforcement center.

15 Q Okay. I'm going to show you a series of pictures,
16 State's 21 through 24, and ask if you recognize these and if
17 they are fair and accurate depictions of how the truck
18 appeared while you guys were executing that search warrant?

19 A Yes.

20 Q Okay.

21 MS. SWANSON: The State would move 21 through 24
22 in at this time and move to publish.

23 THE COURT: You may.

24 *(Whereupon, State's Exhibit No(s). 21-24 marked*
25 *for identification and received in evidence.)*

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 BY MS. SWANSON:

2 Q All right. Sergeant, I'm going to start with
3 Exhibit 21. And is that the Sally port of the Bluffton
4 P.D.?

5 A Yes, it is.

6 Q And this is the truck that was towed that you guys
7 were processing?

8 A Yes.

9 Q All right. Exhibit 22, what are we looking at
10 here?

11 A That was the front left tire of the truck. It was
12 all flat.

13 Q What are we looking at in 23?

14 A That is the passenger's side of the truck.

15 Q What are the items in the floorboard?

16 A That is the victim's bed sheets.

17 Q And State's 24, what are we looking at here?

18 A That is a -- that is a Wal-Mart grocery bag and a
19 bottle of Fix-a-Flat.

20 Q All right. So when you processed the truck, what
21 exactly did you find, and what did you collect?

22 A The first item recovered was the victim's bed
23 sheets, bunched into a ball, lying on the passenger
24 floorboard. We unrolled the bed sheets onto a large piece
25 of brown construction paper on the floor. And when we did

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 so, a pink pair of women's underwear was found inside the
2 sheets.

3 Q Okay. And when you say "we," who all was involved
4 in the processing of the truck?

5 A Myself and Sergeant Kelly Heany.

6 Q All right. And were you present for the
7 collection of all the evidence?

8 A Yes, I was.

9 Q Okay. So I'm going to show you 25 and 26.

10 State's 25 and 26, are those items that you
11 recall collecting from the truck?

12 A Yes.

13 Q That you just testified about?

14 A Yes.

15 Q And how they appeared?

16 A Uh-huh. (Indicating affirmatively.)

17 MS. SWANSON: State would move 25 and 26 into
18 evidence.

19 THE COURT: Without objection?

20 MR. STAGGS: No objection.

21 THE COURT: Without objection they're admitted.

22 *(Whereupon, State's Exhibit No(s). 25-26 marked*
23 *for identification and received in evidence.)*

24 MS. SWANSON: Thank you.

25 BY MS. SWANSON:

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 Q All right. So I'm publishing 25. And so that's
2 the ball of sheets that you took from the floorboard?

3 A Yes.

4 Q Were you wearing gloves at the time?

5 A Yes, I was.

6 Q And then this is 26. What are we looking at?

7 A That is the underwear.

8 Q Okay. Now, was there both a flat and fitted sheet
9 that was removed from the truck?

10 A Yes. A flat bed sheet with rocket ship design,
11 and a fitted bed sheet with rocket ship design.

12 Q I'm going to show you State's 33 and 34 and ask if
13 these were the fitted sheet with rocket ships and flat sheet
14 with rocket ships removed from the truck?

15 A Yes.

16 MS. SWANSON: Okay. The State would enter 33 and
17 34 into evidence at this time.

18 MR. STAGGS: No objection.

19 THE COURT: Without objection, they are into
20 evidence.

21 *(Whereupon, State's Exhibit No(s). 33-34 marked*
22 *for identification and received in evidence.)*

23 BY MS. SWANSON:

24 Q I'm also going to show you State's 27 and 28 and
25 ask if these are pictures of those items?

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 A Yes, ma'am.

2 Q And the way they appeared on April 27th, 2017?

3 A Yes.

4 MS. SWANSON: State would move 27 and 28 into
5 evidence and move to publish.

6 MR. STAGGS: No objection.

7 THE COURT: All right. You may.

8 MS. SWANSON: Thank you.

9 *(Whereupon, State's Exhibit No(s). 26-27 marked*
10 *for identification and received in evidence.)*

11 BY MS. SWANSON:

12 Q Now, this is State's 27. And now pictures of all
13 of these items were taken, and so that's why we are not
14 cutting these bags open, right?

15 A Correct.

16 Q And did you suspect that there were any bodily
17 fluids on these items?

18 A Yes, we did.

19 Q And then this is State's 28, what are we looking
20 at here?

21 A That is the fitted sheet. And as we unrolled it,
22 I observed that stain and suspected it to be blood.

23 Q All right. Did you remove a duvet cover with blue
24 and white stripes from the truck?

25 A Yes.

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 Q As well as a fitted mattress topper?

2 A Yes.

3 Q I'm going to hand you State's 35 and 36. Can you
4 please describe what these items are?

5 A Yes. This is the duvet cover. It's got blue and
6 white stripes, and it was found on the floorboard of the
7 passenger side of the truck.

8 And this is a fitted mattress topper with --
9 also with a bloodstain.

10 Q And that's State's 36?

11 A Yes.

12 Q And that was found inside the truck?

13 A Inside the passenger floorboard of the truck.

14 MS. SWANSON: State would move 35 and 36 into
15 evidence.

16 THE COURT: Without objection?

17 MR. STAGGS: No objection.

18 THE COURT: Thank you.

19 *(Whereupon, State's Exhibit No(s). 35-36 marked*
20 *for identification and received in evidence.)*

21 BY MS. SWANSON:

22 Q I'm going to show you State's 29 and ask if you
23 recognize what's in this photo?

24 A Yes.

25 Q Is that a fair and accurate depiction of the

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 fitted mattress cover that you retrieved from the
2 floorboard?

3 A Yes, it is.

4 MS. SWANSON: I would offer 29 into evidence at
5 this time.

6 THE COURT: No objection?

7 MR. STAGGS: No.

8 MS. SWANSON: Move to publish?

9 THE COURT: You may.

10 *(Whereupon, State's Exhibit No(s). 29 marked for*
11 *identification and received in evidence.)*

12 BY MS. SWANSON:

13 Q What are we looking at in 29?

14 A That is the fitted mattress topper. And as it was
15 unrolled, I observed the dark bloodstain.

16 Q Okay. I'm going to hand you State's 37 and ask if
17 you can describe what this item is.

18 A This is a white comforter and a gray blanket that
19 were found behind the passenger's seat of the truck, and
20 they were folded together.

21 Q And those were taken out of the truck during the
22 processing?

23 A Yes.

24 Q State would move 37 into evidence.

25 THE COURT: Without objection. Thank you.

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1 *(Whereupon, State's Exhibit No(s). 37 marked for*
2 *identification and received in evidence.)*

3 BY MS. SWANSON:

4 Q I am going to show you State's 30 and ask if you
5 recognize what is in this picture?

6 A Yes.

7 Q Okay. And is that where the gray blanket and the
8 duvet were found?

9 A Yes.

10 MS. SWANSON: State would move 30 into evidence.

11 THE COURT: Without objection?

12 MR. STAGGS: No objection.

13 MS. SWANSON: Move to publish.

14 THE COURT: Thank you.

15 *(Whereupon, State's Exhibit No(s). 30 marked for*
16 *identification and received in evidence.)*

17 BY MS. SWANSON:

18 Q Sergeant Rutland, what are we looking at here?

19 A So that is the back of the passenger -- behind the
20 passenger seat in the truck, and that is the gray blanket,
21 and also the victim's cell phone.

22 Q Right here?

23 A Yes. And underneath the phone is a box that
24 contains two watch bands.

25 Q Was the cell phone and the two watch bands

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 retrieved from the back of the truck?

2 A Yes, they were.

3 Q Now, I'm going to show you State's 31 and 32, and
4 ask if you recognize these items, or what is contained
5 within this picture?

6 A Yes.

7 Q And are those items that were found and where they
8 were found in the truck?

9 A Yes. They were behind the passenger seat.

10 MS. SWANSON: Okay. The State would move 31 and
11 32 into evidence at this time.

12 MR. STAGGS: No objection.

13 THE COURT: Move to publish.

14 MS. SWANSON: Move to publish.

15 *(Whereupon, State's Exhibit No(s). 31-32 marked*
16 *for identification and received in evidence.)*

17 BY MS. SWANSON:

18 Q If you can just tell us what we are looking at in
19 State's 31.

20 A Yes. So that is behind the passenger's seat. I
21 had taken out the gray blanket and took a closer up photo of
22 the victim's phone and the box containing the watch bands.

23 Q Okay. And then this is State's 32.

24 A And that is another photo of the other side of the
25 victim's cell phone, and a closer photo of the watch bands.

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 Q Thank you.

2 I am going to hand you what has been marked
3 as State's 39. Can you please describe what this item is?

4 A Yeah. This is the white box of watch bands, from
5 behind the passenger seat in the truck.

6 MS. SWANSON: State would move 39 into evidence.

7 MR. STAGGS: No objection, Your Honor.

8 *(Whereupon, State's Exhibit No(s). 39 marked for*
9 *identification and received in evidence.)*

10 BY MS. SWANSON:

11 Q Was the victim's cell phone eventually released
12 back to her?

13 A Yes, it was.

14 Q So it was taken into evidence, photographed, and
15 released?

16 A Correct.

17 Q Thank you.

18 All right. Now, during the execution of the
19 search warrant, do you recall anything happening?

20 A Yes. Prior to finishing the search of the truck,
21 I overheard the Defendant yelling from the holding cell
22 area, and I asked Detective Odom to go check on him.

23 Q Okay.

24 MS. SWANSON: Thank you, Sergeant Rutland. I
25 think that's all I have at this time. Please answer

DIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 any questions from Mr. Staggs.

2 THE COURT: Mr. Staggs.

3 MR. STAGGS: Thank you, Your Honor. I have just a
4 few questions.

5 CROSS EXAMINATION

6 BY MR. STAGGS:

7 Q Sergeant Rutland, you testified that you executed
8 the search warrant on the truck beginning at 6:15?

9 A Yes.

10 Q And that took place in the Sally port at the
11 Bluffton Police Department?

12 A Correct.

13 Q Okay. About -- where are the holding cells as
14 opposed to the Sally port?

15 A Well, where the truck was at, diagonally to the
16 left is where the holding cell doors are, the entry to the
17 holding cells.

18 Q And that's how you could hear Lance at the time?

19 A Correct.

20 Q Ms. Swanson asked you a number of questions and
21 we've seen the photograph of the phone. Did you examine the
22 contents of that phone in any way, shape, or form?

23 A I did not.

24 Q Did you request that the contents of the phone be
25 examined?

CROSS EXAMINATION OF LAURA RUTLAND BY MR. STAGGS

1 A I did not make that request.

2 Q Okay. Now, you also testified that you determined
3 there was a point of entry, I believe, and you circled it
4 for us here?

5 A Yes, correct.

6 Q All right. And you determined that based on the
7 number of handprints?

8 A Based on handprints being on the inside and
9 outside of the window.

10 Q But there were a number of handprints all
11 throughout, right?

12 A Correct.

13 Q And you asked -- when you collected those, you
14 asked that they be tested as well?

15 A I did.

16 MR. STAGGS: May I have a moment, Judge?

17 (Pause.)

18 MR. STAGGS: That is all I have for you.

19 MS. SWANSON: Just briefly, Your Honor.

20 REDIRECT EXAMINATION

21 BY MS. SWANSON:

22 Q Sergeant Rutland, were you able to determine
23 whether or not the other windows that had fingerprints on
24 them were locked?

25 A I don't recall.

REDIRECT EXAMINATION OF LAURA RUTLAND BY MS. SWANSON

1 Q Okay. Thank you.

2 MS. SWANSON: I have nothing further.

3 THE COURT: Anything further?

4 MR. STAGGS: No, ma'am.

5 THE COURT: Thank you. You are excused.

6 Does anyone need a break, ladies and gentlemen?

7 Y'all okay?

8 Everyone is okay? Very good.

9 Please call your next witness.

10 MS. SWANSON: State calls Jennifer Stokes.

11 Thereupon,

12 JENNIFER STOKES

13 was called as a witness, having been first duly sworn,

14 was examined and testified as follows:

15 THE CLERK: If you would, just state your name for
16 the record.

17 WITNESS: Jennifer Stokes.

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Good morning. Jennifer, what do you do for work?

21 A I am a family nurse practitioner. Also, a sexual
22 assault nurse examiner.

23 Q And how long have you been doing each one of
24 those?

25 A Oh, my gosh. Since 2006 is when I became

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 certified as a sexual assault nurse examiner, and I have
2 been a nurse for 20 years. But I recently got my nurse
3 practitioner within the last four.

4 Q What different facilities have you worked at
5 through your career?

6 A Mostly emergency department, urgent care. I have
7 also worked with Department of Defense as well as Department
8 of Veterans Affairs.

9 Q All right. And about how many sexual assault
10 exams have you completed?

11 A Upwards of a hundred.

12 Q And you received special training in conducting
13 sexual assault exams?

14 A Yes, ma'am.

15 Q Okay. And I believe you testified you were
16 certified in 2006?

17 A Correct.

18 Q Okay. And they call you a SANE nurse; is that
19 right?

20 A Yeah. Just recently they did switch it, where
21 it's a Sexual Assault Forensic Examiner. But we are all
22 members of the International Association of Forensic
23 Nursing.

24 Q And have you ever testified in court before?

25 A I have.

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 Q How many times?

2 A Two other times, I believe it was. Most of those
3 were with DOD though.

4 Q Federal court?

5 A Uh-huh. (Indicating affirmatively.)

6 Q Okay. And were you qualified as an expert?

7 A I was.

8 Q In sexual assault examinations?

9 A Yes, as well as women's health. Yeah.

10 MS. SWANSON: Your Honor, at this time, I would
11 offer Nurse Stokes as an expert in sexual assault
12 examinations.

13 THE COURT: Mr. Staggs?

14 MR. STAGGS: No objection.

15 THE COURT: All right. Ladies and gentlemen, in
16 this case, Ms. Stokes is being qualified as an expert
17 in the area of sexual assault examinations. That
18 allows her to give her opinion and the reasons for her
19 opinions. And that is for you to use as you feel
20 appropriate compared to other evidence.

21 BY MS. SWANSON:

22 Q Did you have the opportunity to conduct a sexual
23 assault exam on [REDACTED] C.B. on April 27th of 2017?

24 A I did.

25 Q Okay. And how did you come to examine her?

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 A I received a phone call from -- I can't remember
2 if it was from Detective Rutland or Detective Heany
3 requesting that I meet them at the clinic to perform the
4 exam.

5 Q Okay. And what time did the exam begin?

6 A I want to say approximately -- I would need to
7 refer to my notes.

8 Q Sure. Do you have it in front of you?

9 A I do. I have a copy.

10 Q Sure, not a problem.

11 A 2:30 a.m., approximately.

12 Q Okay. And what time did the exam end?

13 A Approximately 5:40 a.m.

14 Q Okay. Does it normally take quite that long?

15 A Well, the exam concluded right at approximately
16 0436. Everything in regards to my kit was handed over at
17 0540. It does take approximately -- depending on injury,
18 anywhere between an hour and a half to, you know, two and a
19 half hours to perform the forensic exam.

20 Q Okay. And without getting into the details of
21 what the victim told you, did you talk with the victim prior
22 to the exam?

23 A At length, yes, I did.

24 Q All right. And what did you say to her?

25 A A significant amount of time was spent trying to

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 convince her to allow me to perform the exam. She was very
2 angry, very, you know, scared.

3 Q Okay. And -- in the hundreds of other sexual
4 assault victims that you have examined, is that unusual?

5 A It -- I would not say that it is unusual. She was
6 very, very angry, so it took, you know, a good 45 minutes,
7 at least, of just sitting down talking with her face to face
8 to try to get her to understand that, you know, although she
9 was feeling the way she was right now, that later that this
10 would be important, and it was for her general health that I
11 needed to see what was happening.

12 Q Okay. And what was your understanding of the type
13 of assault that you were examining her for?

14 A Sexual assault.

15 Q All right. Rape?

16 A Yes.

17 MR. STAGGS: Objection, Your Honor. We move to
18 strike that. She answered the question previously.

19 THE COURT: Okay. I guess you could ask her to
20 describe sexual assault for me, I guess, if that's what
21 you're --

22 MR. STAGGS: Absolutely.

23 THE COURT: We will strike her answer and we'll go
24 ahead and just ask her the medical matters.

25 BY MS. SWANSON:

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 Q Right. Okay.

2 What specifically type of sexual assault were
3 you examining her for?

4 A Rape.

5 Q And is that penile penetration, digital
6 penetration?

7 A All of the above. Penetration with an object. It
8 is, unconsensual assault of a sexual nature.

9 Q Okay. Did she indicate to you that she had used
10 any alcohol or drugs?

11 A She denied.

12 Q What was the location of the assault?

13 A Her home.

14 Q Did she indicate about when the assault occurred?

15 A Approximately 12:30 a.m.

16 Q And describe for us the evidence collection kit,
17 what it is, and how you collect the swabs that were later
18 given over to Bluffton Police Department for analysis.

19 A The sexual assault kit is -- it is a sealed kit
20 that comes with several different swabs. You have choices
21 from vaginal, you know, rectum, as well as oral. You have
22 the ability to not only collect swabs, but urine as well as
23 blood, and in case there's such a -- you know, the
24 patient -- or excuse me, the victim was drugged.

25 And then, each individual swab is not only --

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1 do I take it, but it's also then sealed into each -- into an
2 individual envelope with an evidence label, as well as then
3 sealed inside the kit. So there is multiple sealed evidence
4 labels, and each one of those, excuse me, are dated, timed,
5 as well as initialed.

6 MS. SWANSON: Beg the Court's indulgence.

7 BY MS. SWANSON:

8 Q All right. Nurse Stokes, I'm going to cut these
9 big plastic bags open that have been sealed, so that you can
10 look inside and identify these items.

11 I want to first hand you State's Exhibit 40,
12 if you can identify the items contained in that bag.

13 A So this right here, this is what we use for our
14 DNA collection. As I stated, there are individual sealed
15 envelopes inside this one. This is marked with the red
16 label here. So, therefore, at the state level, when they
17 examine it, that they know that there's biological in here,
18 and that is what the red lettering is for.

19 So this would contain anything from a bite
20 mark swab to a vaginal swab, oral, rectal. Anything along
21 those lines in regards to anything that would be liquid
22 nature -- of a liquid nature.

23 This right here is what we call our trace
24 section. What we do here is, it's anything that we find
25 that would not normally be there. So when we -- if there

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 is, you know, pubic hair, we comb pubic hair, we collect
2 anything that comes out into a sterile -- it is called a
3 chux pad, and we fold that, that goes into an envelope.

4 You know, anything that we remove under
5 fingernails. We scrape fingernails. That goes onto a
6 sealed paper, then it's sealed again with an evidence label.

7 Any head hairs or pubic hairs would go in
8 here, so on. You know, physical assessment, when I look, if
9 I see anything that looks like, you know, a pubic hair,
10 anything like that, they are then collected and sealed.
11 That is what these are.

12 These here are -- I believe these are the --
13 no.

14 Q All right. Those may be from South Carolina Law
15 Enforcement Division.

16 A Yeah, those are just mine.

17 Q I just wanted to make sure you could identify the
18 portions of the sexual assault kit, that those were the
19 vaginal swabs that you took from Ms. C.B. that night, and
20 that you sealed them before turning them over.

21 A Absolutely. And they were sealed with my
22 initials.

23 Q Okay. Thank you.

24 THE COURT: Uh-huh. (Indicating affirmatively.)

25 BY MS. SWANSON:

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 Q And then if you can identify what is contained in
2 State's 41, please.

3 A Okay. This would be a blood sample that I
4 collected due to the fact that, again, you know, her mental
5 state and where she was at, I thought it best to go ahead
6 and collect something just because she just very much wanted
7 to get the exam over with.

8 I'm sure, you know, you will be submitting my
9 notes, so you will see exact verbiage, so I don't need to
10 use that.

11 MR. STAGGS: Objection.

12 BY MS. SWANSON:

13 Q So the purpose of collecting the blood spot is to
14 get a profile on the victim?

15 A Correct. Absolutely.

16 Q And that was the blood that you collected from
17 [REDACTED] C.B. [REDACTED]?

18 A Yep.

19 Q Thank you. All right.

20 MR. STAGGS: Your Honor, may we approach?

21 THE COURT: You may.

22 MR. STAGGS: Thank you.

23 (There was an off-the-record discussion held.)

24 THE COURT: Ladies and gentlemen, the witness just
25 made a comment about she would be submitting her notes.

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1 I can tell you that in criminal trials, the nurse
2 pathology notes are not allowed to be admitted to the
3 jury. That is why they are here live testifying. So
4 she can testify to what she did, but the notes will not
5 be submitted to you.

6 So I just want to make sure you understand, and
7 you don't expect them back there with you. Okay?

8 Thank you.

9 BY MS. SWANSON:

10 Q Nurse Stokes, if I can point you towards Page 5
11 of 8 of your report. What adjectives did you use to
12 describe [REDACTED] C.B. [REDACTED]'s general demeanor?

13 A Disheveled appearance, angry.

14 Q And before that, the boxes that you checked were?

15 A So, her general demeanor, trembling, angry,
16 sobbing, tense.

17 Q And what were her responses to questions like?

18 A She responded briefly and reluctantly.

19 Q And how was her eye contact?

20 A Poor.

21 Q All right. Were you able to determine whether or
22 not she was injured?

23 A I was.

24 Q All right. And tell us about her injuries.

25 A She had pain to the right arm. She also had

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1 significant pain to her right hip, as well as generalized
2 body aches.

3 Q And when you were conducting the pelvic exam, did
4 she have any swelling or pain in that area?

5 A She did. The entire perineal area was noted to be
6 very red and very deiminase (phonetic), meaning swollen.

7 Q And that is -- please describe what area that is
8 for the jury.

9 A That would be -- that would encompass the entire
10 vaginal area as well as the area between the vaginal opening
11 and the rectal opening.

12 Q All right. And what sort of injuries did you note
13 on the diagram of her genital region from your medical
14 examination?

15 A She had what is called a micro tearing to the
16 perineum, which is the area between the vaginal opening and
17 the rectal opening. She had noted what is called petechiae
18 hemorrhaging, which is almost like bruising. It was also
19 noted significant inside the vaginal wall, as well as the
20 cervix.

21 Q And in your experience, what are those types of
22 injuries consistent with?

23 A Forced penetration.

24 Q Did you collect any pubic hairs?

25 A I did.

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1 Q How many?

2 A One.

3 Q Did the victim have pubic hair?

4 A No, ma'am.

5 Q Was she shaven or waxed?

6 A She was shaven.

7 Q Did you recommend that she be transported for
8 medical treatment?

9 A I did. I recommended for her to be transported to
10 the emergency room. I felt it would be necessary to perform
11 some X-rays that I did not have the capability to do within
12 the clinic.

13 Q Thank you.

14 MS. SWANSON: Nurse Stokes, that is all I have at
15 this time. Please answer any questions that Mr. Staggs
16 may have for you.

17 THE COURT: Mr. Staggs.

18 MR. STAGGS: Thank you, Your Honor.

19 CROSS EXAMINATION

20 BY MR. STAGGS:

21 Q Nurse Stokes, you just told us that the swelling
22 around the perineum was consistent with forced penetration,
23 but it can be consistent -- that doesn't mean it's not
24 consensual, correct?

25 A It is. What I actually stated was the micro

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1 tearing was consistent.

2 Q Okay. This was around 2:00 in the morning, 2:30?

3 A Approximately 2:30 a.m., yes, sir.

4 Q And you testified that you conducted -- was it
5 over 100?

6 A I said, "Upwards of a hundred."

7 Q You just submitted everything you collected. You
8 didn't do any tests, right?

9 A No, sir. I submitted everything.

10 MR. STAGGS: Your Honor, I don't have any further
11 questions of this witness at this time.

12 THE COURT: Ms. Swanson.

13 MS. SWANSON: No, Your Honor.

14 THE COURT: You may be excused, ma'am. Thank you.

15 THE WITNESS: Thank you.

16 THE COURT: Ladies and gentlemen, I think it is a
17 good time to take a break. Do not discuss the case, it
18 wouldn't be appropriate to do so.

19 Ladies and gentlemen, I had to go ahead and
20 release your foreperson, Mr. Williams, from the case.
21 So my first alternate will now take his place, Juror
22 Number 308.

23 That doesn't mean you have to be the foreperson,
24 if you don't choose to. When you all go back there, I
25 need you to choose another foreperson for me.

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1 I will also let you know that I understand that we
2 need to break by 5:00 today. If anyone needs to leave
3 earlier than that, that's absolutely fine. Just let me
4 know. I think we are right on track, so I'm not
5 concerned in any way.

6 But if you could, just select a foreperson. And,
7 again, Juror Number 308, thank you for sitting. You
8 are actually on the formal jury. Thank you, sir.

9 You are excused back to the jury room. Leave your
10 notes. Do not discuss the case.

11 THE BAILIFF: Leave your notes and please follow
12 me.

13 (The jury exits the courtroom at 11:55 a.m.)

14 THE BAILIFF: The jury is clear, Your Honor.

15 THE COURT: Thank you. I appreciate it.

16 Anything you need to put on the record, sir?

17 MR. STAGGS: Your Honor, at this time, I'd request
18 a mistrial based on Jennifer Stokes' testimony
19 regarding her notes and her notes being submitted into
20 evidence.

21 I understand that the Court gave a curative
22 instruction to the jury striking the testimony,
23 however, I feel like a mistrial is the only appropriate
24 remedy at this point.

25 THE COURT: Respectfully, I gave curative

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1 instruction, and I let them know that she was here and
2 that was her testimony, and that was the evidence that
3 was given to her. So --

4 MR. STAGGS: Thank you.

5 THE COURT: Thank you, y'all.

6 Let's take about ten minutes or so. Are you good
7 to run until roughly 1:00?

8 MS. SWANSON: Yes. That would be great. We have
9 Baker Odom then. I anticipate he will be about the
10 length that we had during the Denno hearing.

11 I do have two photos that may be more contentious
12 than the others that I would like to briefly address,
13 if I may. And I can crop this photo, but there is a
14 photo of an injury that the Defendant had on his leg,
15 as well as a photo of how the Defendant appeared back
16 in April of 2017, when he was at the location.

17 THE COURT: Okay. So your objection is going to
18 be that we can see the orange jumpsuit that he's in; is
19 that correct?

20 MR. STAGGS: From that photograph, yes, ma'am.

21 THE COURT: Okay. So could we crop it so we don't
22 see the orange jumpsuit? That will take care of that
23 one, and there's no exhibit number on it yet.

24 And then the second one --

25 MR. STAGGS: My objection is twofold. He's

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1 clearly in handcuffs in the back.

2 THE COURT: And in a squad car. Is that a squad
3 car?

4 MS. SWANSON: It is. That was when he was being
5 detained. It is the only photo that we have of him at
6 the scene. There's already been testimony that he was
7 detained.

8 MR. STAGGS: There's also already been testimony
9 about his appearance at the time, Judge. And I believe
10 that that is sufficient.

11 THE COURT: I think they're entitled to see the
12 dreadlocks, because that is an issue. So I'm going to
13 ask the Solicitor if you can just crop it. Your whole
14 point is to show the dreadlocks, correct?

15 MS. SWANSON: Yes, yes.

16 THE COURT: You need to crop it where I can't tell
17 that it is a patrol car, and that you can't tell that
18 his arms are in handcuffs.

19 MS. SWANSON: Okay. Thank you, Your Honor.

20 THE COURT: And then when you do all that, show
21 me. And show Mr. Staggs. Okay?

22 Let's take ten minutes. Okay?

23 MS. SWANSON: Thank you.

24 THE COURT: Thank you, y'all.

25 (Recess.)

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 THE BAILIFF: The jury is entering the courtroom,
2 Your Honor.

3 (The jury enters the courtroom.)

4 THE BAILIFF: Your Honor, the new foreperson is
5 Mr. Green.

6 THE COURT: Okay. The new foreperson is
7 Mr. Green.

8 All right. Welcome back, ladies and gentlemen.
9 You all may be seated.

10 Now is a good time to take a lunch break. I'm
11 sorry to send you back out there.

12 Ladies and gentlemen, over the lunch hour, I'm
13 asking that you don't discuss this case with anyone,
14 and that includes each other.

15 If you happen to call someone over the lunch hour,
16 you are not to say anything to them about what has
17 occurred this morning. But I'm asking you to go grab a
18 bite to eat. There are a few things that we need to do
19 to streamline the rest of this case, and we are going
20 to do that over the lunch hour. So we will take a
21 little longer one that we normally do.

22 I'm asking you all to be back in your jury room at
23 2:00. That gives you about an hour and 35 minutes.
24 The bailiffs are happy to tell you anywhere you can go
25 locally and grab a bite to eat. There are a number of

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 places right around here, and you even have a little
2 more time if you want to go somewhere sit down.

3 But we are going to do that, and we will back at
4 2:00. I'm still on time to leave at five today. So I
5 don't want anyone to be concerned about that.

6 So you will leave on time and do not worry. Just
7 go have a nice lunch and relax. Okay? We appreciate
8 it. Thank you. Leave your note pads in your seat.

9 (July exits the courtroom at 12:21 p.m.)

10 THE BAILIFF: The jury is clear, Your Honor.

11 THE COURT: We will go ahead and break, and for
12 the record, the lawyers asked if I will speak to them
13 during the lunch hour, just before I came back.

14 It is a little bit different, but my understanding
15 is that the victim is not going to testify in this
16 case. The Defense asked for a little bit more time
17 over the lunch hour to kind of, you know, regroup. So
18 we are going to go ahead and do that.

19 If you all will be here about five minutes of two,
20 I need you back. If you come up with anything in the
21 meantime, we can inform the jury and also let Julia
22 know and Ms. Swanson, you, too.

23 And we will go from there. They can be prosecuted
24 without the victim. There is enough evidence in this
25 case, and it is appropriate to go forward.

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1 But I understand that it is a little bit different
2 for the Defense. So we will give you time. And for
3 the lunch hour, please grab those photos get them
4 cropped so I can look at them again to make sure that
5 they are okay.

6 MS. SWANSON: Yes, Your Honor.

7 THE COURT: Did you already do it?

8 MS. SWANSON: Yes, Your Honor. I'll pass them up.

9 (Exhibits shown to Defense counsel.)

10 THE COURT: Thank you. Very good. All right.

11 MR. STAGGS: Thank you, Your Honor.

12 THE COURT: Thank you, Mr. Staggs. All right. We
13 will be at ease until 2:00. Okay? Thank you.

14 (Lunch recess.)

15 THE COURT: All right. Would you like to be heard
16 for the further argument from Mr. Staggs. He gave my
17 office a copy of. What further argument would you like
18 to make?

19 MR. STAGGS: Just very briefly, Your Honor. Just
20 the understanding that the voluntariness of the
21 statement is not at question. The admissibility is a
22 separate issue. And then in this case the Defense
23 would contend that the State has not provided
24 sufficient independent evidence, which would serve to
25 corroborate any of the contents of Mr. Elam's

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1 statement.

2 So the issues that we would have is if the jury
3 could reasonably reach a conclusion of guilt based on
4 his statement alone, with no other corroborating
5 evidence. And that is improper. So we would ask you
6 to suppress his confession.

7 THE COURT: Let me tell you what I'm thinking, and
8 this is one thing you can offer in. I know it might
9 kind of up-end your witness order. But it seems in
10 this case, what we have obviously is his confession.
11 We have officers who have testified that they found her
12 phone, and the sheets, and everything else he had with
13 him and only him at the post office.

14 So at that point, I parallel this case to the one
15 where the community center, the blood was found in the
16 dress just underneath, and it just gave it -- the
17 Supreme Court said it was just a suspicion that didn't
18 rise to the level.

19 But it would seem to me that once in this case we
20 have the DNA expert -- are we going to have someone
21 testify as to the DNA match, if there is one?

22 MS. SWANSON: Yes, Your Honor.

23 THE COURT: And so it would seem to me that once
24 we have enough, that I would say even if it's all just
25 circumstantial evidence, that at that point we should

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1 be able to then no question get into the statement.

2 Because it is a confession.

3 I know you are going to say that rose top of your
4 order.

5 Do you know what I'm saying, kind of?

6 MS. SWANSON: I do understand what you are saying,
7 but I think that this is not the proper time for that
8 argument. The proper time for the argument about
9 corpus delicti is at the directed verdict stage, and
10 that decision would be made by Your Honor, not by the
11 jury. And if there's not enough corroborating evidence
12 that the State has presented that corroborates the
13 Defendant's statement, which has been held admissible,
14 is free and voluntary, then Your Honor would direct a
15 verdict towards the two -- the Defendant.

16 THE COURT: Right.

17 Also, so the sergeant testified as to the touch
18 DNA that was pulled. Did they also have touch DNA on
19 him as well at the scene?

20 MS. SWANSON: The victim's DNA was found on both
21 the Defendant's left and right hands, as well as his
22 seminal fluid in her vagina.

23 THE COURT: All right. What about on the window
24 sills or on the screens around the house?

25 MS. SWANSON: Well, all of -- there was so much

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1 that was taken, and I will have SLED testify to this,
2 but --

3 THE COURT: They sent them back, is what I heard,
4 because there was so much, right?

5 MS. SWANSON: Correct. And what they do is, they
6 test the most intimate items first, and if there is a
7 link, they stop testing.

8 THE COURT: All right. Well, I hear your
9 argument. I could see certain circumstances in some
10 cases where that would be a concern, where only a
11 confession would be the only -- what I would consider
12 to be strong evidence.

13 But I got to tell you, this case, we all know what
14 the evidence is, and what we know is coming as well.
15 So I think there's going to be a lot of substantial
16 evidence obviously linking Mr. Elam with this case.

17 So, Solicitor, tell me as far as how the rest of
18 the day is going to kind of unfold. Your next plan is
19 to call Odom; is that correct?

20 MS. SWANSON: That is correct. And then --

21 THE COURT: Are you going to play the tapes
22 through him?

23 MS. SWANSON: Yes, Your Honor. And then I was
24 going to --

25 THE COURT: And what about -- go ahead. I'm

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 sorry.

2 MS. SWANSON: Wilfong afterward, the SLED people
3 after that, and then jail phone call after that. And I
4 would end on the jail phone call.

5 THE COURT: Yeah.

6 MR. STAGGS: Your Honor, just to sort of piggyback
7 on the Osborn case, I understand the Court's ruling. I
8 would just like to have, for the record, you know, the
9 added lack of ability to confront his accuser in this
10 case. I think added to the extra element here in terms
11 of allowing the statement in, I understand that
12 there's -- there are other pieces of evidence.

13 But without that opportunity to directly question
14 an accuser, there's not really been any testimony that
15 that wasn't taken by consent. And I understand that
16 that is the -- or with consent, and I understand.

17 THE COURT: What was taken by consent?

18 MR. STAGGS: The items in the house. There's
19 nothing that has been said, to this point anyway, that,
20 you know, that Ms. C.B. has not gotten up here and
21 said, I didn't want this to happen. And I understand
22 that is an unpopular position to take.

23 However, I think that that matters, and that is
24 sort of the basis for -- I believe the jury could reach
25 a conclusion of guilty on his statement alone without

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 him having the opportunity to confront his accuser.

2 THE COURT: You could poke holes in the State's
3 case, somehow arguing that it was consensual, but they
4 don't have to prove that it wasn't.

5 I mean, they have to prove that it was criminal
6 sexual conduct in the first degree.

7 MR. STAGGS: Right.

8 MS. SWANSON: And Sergeant Rutland did testify
9 that she did ask for a consent to search the house.

10 THE COURT: Is that what you're talking about?
11 Because she did say that she consented to the search of
12 the house.

13 MS. SWANSON: Right. And Mr. Elam has no standing
14 to challenge a search of somebody else's residence.

15 THE COURT: I don't think that's what he was going
16 to. At first, I thought he was. But then it rises to
17 the list to be consented to the sexual act.

18 MR. STAGGS: Yes, ma'am.

19 THE COURT: And I understood. I was there, too,
20 until he kept going. So I understand why you thought
21 that.

22 Again, the State has to prove their case. And I
23 think they can put up their case, you know, the best
24 that they have. I'm just not so sure how you explain
25 why she isn't testifying. I'm sure -- I don't know who

DIRECT EXAMINATION OF JENNIFER STOKES BY MS. SWANSON

1 else is maybe testifying, but anyway. Okay.

2 MR. STAGGS: Thank you.

3 THE COURT: All right. That is for the record.

4 And they are not all here yet, Rick?

5 THE BAILIFF: No, ma'am.

6 THE COURT: What time are the SLED people getting
7 here?

8 MS. SWANSON: 3:00.

9 THE COURT: 3:00. Okay.

10 Are you going to make sure you get them up before
11 today is over with so they can be done and get back?

12 MS. SWANSON: Yes, Your Honor.

13 THE COURT: Okay.

14 (Pause.)

15 THE BAILIFF: The jury is entering the courtroom,
16 Your Honor.

17 (The jury enters the courtroom at 2:02 p.m.)

18 THE BAILIFF: The jury is seated, Your Honor.

19 THE COURT: Welcome back, ladies and gentlemen. I
20 trust that you were able to grab a bite to eat. We
21 will go ahead and continue with the case today.

22 Ms. Swanson.

23 MS. SWANSON: Thank you, Your Honor. State calls
24 Baker Odom.

25 Thereupon,

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 BAKER ODOM

2 was called as a witness, having been first duly sworn,

3 was examined and testified as follows:

4 THE CLERK: State your name for the record,
5 please.

6 THE WITNESS: Officer Baker Odom.

7 DIRECT EXAMINATION

8 BY MS. SWANSON:

9 Q Officer Odom, who do you work for?

10 A Bluffton Police Department.

11 Q How long have you been working for Bluffton Police
12 Department?

13 A A little over six years.

14 Q And back in April of 2017, what was your position?

15 A I was a detective with the Bluffton Police
16 Department.

17 Q And have you since just transferred within the
18 agency?

19 A I have.

20 Q Were you on duty as a detective on April 28th of
21 2017?

22 A I was on call, and I received a call-out on that
23 day.

24 Q All right. Tell us about that.

25 A It was -- actually, I guess, shortly after

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 midnight, so on April 28th is when I received a call-out,
2 about 12:15, 12:16 in the morning. I received a call from
3 the patrol sergeant stating that they had detained an
4 individual who was a suspect in a sexual assault that was
5 over near the Bluffton Police Department on Thurman Way, and
6 had located a vehicle there as well.

7 I knew that other detectives were on the way
8 to speak with the victim, so I proceeded to the police -- or
9 to the post office to take a look at the vehicle. But when
10 I got there I found a white Ford pickup, the passenger door
11 was open, and had a -- not just flat, but almost shredded
12 front tire on the front driver's side. The person who was
13 presumably the owner, or at least was driving the vehicle,
14 was already detained in the back seat of the patrol car at
15 the time.

16 Once I was there, I began taking photographs
17 of the vehicle. Like I said, the passenger door was open,
18 so I was able to get some photographs of the inside of the
19 vehicle, and could see in plain view what appeared to be
20 sheets in the vehicle as well. I --

21 Q And you were here for the testimony of Officer
22 Jeff Dickson who arrived at the post office, right?

23 A Yes, I was.

24 Q And you were here viewing the pictures of the
25 truck that were taken at the Bluffton post office, right?

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 A Yes, I was.

2 Q Okay. Were those the pictures that you took out
3 there that night?

4 A They were.

5 Q And so that is how the truck appeared?

6 A Yes.

7 Q Okay. I'm going to show you what has been marked
8 as State's Exhibit 42, and ask if this is a picture of how
9 the suspect, Lance Elam, appeared that night?

10 A Yes. This is a picture I took of him that night.

11 Q And that's a fair and accurate depiction?

12 A It is.

13 MS. SWANSON: State would request that 42 be
14 entered and published.

15 MR. STAGGS: Subject to my previous objection.

16 THE COURT: Yes. It is admitted, and you can
17 publish it.

18 *(Whereupon, State's Exhibit No(s). 42 marked for*
19 *identification and received in evidence.)*

20 BY MS. SWANSON:

21 Q And this is State's 42.

22 All right. So after you went to Thurman Way,
23 which is where the post office is located -- or, I'm sorry.
24 Did you speak to any witnesses at the post office?

25 A I briefly spoke with Mr. Lopez and Mr. Bachman,

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 Mr. David Bachman, and I was informed they already provided
2 statements to the other officers. And so I didn't take any
3 detailed statements from them that night.

4 Q All right. So after you left Thurman Way, what
5 did you do at that point?

6 A Well, immediately prior to leaving Thurman Way, I
7 made sure the vehicle was secured, and then we got it towed
8 to LEC, to the law enforcement center, the Bluffton P.D.

9 I then went to the Bluffton P.D. and met with
10 Detective Wilfong, and we proceeded to get a search warrant
11 for the vehicle and various other paperwork that had to be
12 done that night. Also, we knew that the sexual assault kit
13 was being performed, the exam was being performed, and that
14 was something that -- we wanted to see where that went prior
15 to doing an interview with Mr. Elam.

16 Q Okay. And so did you eventually come to interview
17 Mr. Elam?

18 A We did.

19 Q And what time was that?

20 A That was approximately 5:00, 5:10 in the morning,
21 at that point.

22 Q I am going to show you what's been marked as
23 State's Exhibit 1 and ask that you identify this form.

24 A This is a written advisement of Miranda rights
25 that sometimes we will use for interviews, particularly with

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 more serious offenses. It has Mr. Elam's name at the top,
2 the case number, and then in various spots along the form
3 where, you know, we will read a line of the Miranda warning,
4 and somebody can then initial next to it saying they
5 understand it.

6 After we've read that, there's also a spot
7 for them to say again that they do understand the rights
8 that have been explained to them, and yes or no. And having
9 these rights in mind, do you wish to talk now, yes or no.
10 And then his signature and my signature as a witness at the
11 bottom.

12 Q So that is a copy of the form that you provided
13 Mr. Elam prior to his first interview?

14 A Correct.

15 Q And you read over those rights with him?

16 A Straight down the page, yes.

17 MS. SWANSON: The State would enter State's 1 at
18 this time.

19 MR. STAGGS: No objection.

20 THE COURT: Without objection, it's admitted.

21 *(Whereupon, State's Exhibit No(s) 1 marked for*
22 *identification and received in evidence.)*

23 BY MS. SWANSON:

24 Q And if you can just go through that form, like you
25 did at five in the morning with Mr. Elam.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 A Sure. So normally what I'll do is I will have a
2 copy of this, but I'll -- the form that he's going to
3 actually sign, I'll place in front of him and have him read
4 it with me as I'm reading down it.

5 So it has, "You have the right to remain
6 silent," and there's a line next to it for him to initial.

7 "Anything you say can and will be used
8 against you in a court of law." Another initial.

9 "You have the right to talk to an attorney
10 for advice before we ask you any questions," initial.

11 "If you can't afford an attorney, one will be
12 appointed for you before any questioning, if you wish."

13 Another initial.

14 "If you decide to answer any questions now
15 without an attorney, you will still have the right to stop
16 answering at any time. You also have the right to stop
17 answering at any time until you talk to an attorney."

18 Another initial.

19 Then after he's initialed that, I'll read the
20 next question, "Do you understand each of these rights as
21 I've explained them to you," yes or no. He initialed and
22 checked off "yes."

23 And "Having these rights in mind, do you wish
24 to talk to us now," yes or no. And he initialed and checked
25 off "yes," and, you know, like I said, signed and dated it.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 Q Who else was in the room when you read him these
2 rights, or when these rights were read to him?

3 A Detective Wilfong.

4 Q Was that first interview recorded?

5 A It was.

6 Q Did he admit to having anything to do with the
7 sexual assault?

8 A No. Not in the first interview, no.

9 Q Did he say anything about the sheets that were
10 found in his truck?

11 A Yeah. So his story basically was that he had been
12 at work. He then was driving down Burnt Church Road at one
13 point, heard his car had a flat tire, ends up pulling over
14 in the post office parking lot, walks to Wal-Mart to get
15 Fix-a-Flat, comes back to his truck, tries to use
16 Fix-a-Flat. And after that, he looks at his truck and
17 realizes that someone has placed these sheets in his truck.

18 Q Okay. And did you all request a DNA sample from
19 Mr. Elam?

20 A We did.

21 Q I want to show you State's Exhibit 2 and ask for
22 you to identify this document.

23 A This is a consent to search for DNA evidence form
24 that we use sometimes. This is a copy of the one that I
25 provided to Mr. Elam, and he signed it, he printed his name,

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 and then you have myself and Detective Wilfong as witnesses.

2 MS. SWANSON: Okay. And at this time, the State
3 would enter 2 into evidence.

4 MR. STAGGS: No objection.

5 THE COURT: Without objection, it is in evidence.

6 *(Whereupon, State's Exhibit No(s). 2 marked for*
7 *identification and received in evidence.)*

8 BY MS. SWANSON:

9 Q If you can go over that form like you did with
10 Mr. Elam early that morning.

11 A Sure. So this form has case number at the top,
12 you know. Like I said, it's consent to search for DNA
13 evidence. Basically I make it clear, you know, you are not
14 required to give it to us, but if you would like to provide
15 DNA evidence, I'd like you to go over this form.

16 What the form says is, I," and there's a
17 blank for him to write his name in, "Lance Elam, hereby
18 grant consent for Officer," and in this case it says
19 "Odom/Wilfong, of the Bluffton Police Department to collect
20 buccal oral swabs from me in order for my DNA profile to be
21 developed for comparison purposes. I'm aware that the
22 sample developed by me may be used as evidence in a court of
23 law. This consent is being given by me freely, voluntarily,
24 and without threats or promises of any kind."

25 And then his signature and printed name, as

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 well as mine and Detective Wilfong.

2 Q Thank you. And did you, in fact, take swabs from
3 Mr. Elam at that point in time?

4 A I did.

5 Q All right. And did you take a buccal swab first?

6 A Yes, I did.

7 Q And can you explain to the jury what a buccal swab
8 is?

9 A It is just a -- usually what I'll do is I'll hand
10 the other person, whoever it is that's getting us the
11 sample, I'll hand them the long Q tip. And I'll ask them to
12 rub it on the inside of both your cheeks, real quick -- it
13 doesn't take much effort at all -- give it back to me. I'll
14 have gloves on my hands, and then I hold them first, air dry
15 it a little bit. You can't put it in there too wet for
16 whatever reason, I guess -- mold, that sort of thing.

17 Air dry it, put it in the box that they have
18 for us, seal it up, put evidence tape on the box, and that's
19 how we do it.

20 Q Okay. Did you take more than one buccal swab?

21 A I did.

22 Q Okay. And can you please tell the jury why?

23 A So in this case, after the initial interview, when
24 we were leaving the room, somehow that first buccal swab got
25 left in the room. At that time I wasn't able to review the

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 video to see if we had video proof that nobody went in there
2 and tampered with it. And so since the chain of custody was
3 broken, I couldn't prove for sure at that particular moment
4 that it was not tampered with. I chose to then get a second
5 buccal swab from Mr. Elam.

6 Again, voluntarily. And with that one, I
7 took it straight to the evidence room, made sure it got put
8 into evidence immediately so there was no break in the chain
9 of custody.

10 Q So that was sealed upon the taking of the swab
11 from him?

12 A Correct.

13 Q And he consented to giving you another buccal swab
14 of his mouth?

15 A That's correct.

16 Q Did you also take swabs of his right and left
17 hand?

18 A Yes, I did.

19 Q I'm going to hand you State's 44 and ask if you
20 can identify the items in here. They are in a SLED
21 processing bag, so I would like to keep them all together.
22 But can you identify those items, please?

23 A So this is an evidence bag labeled, "DNA swabs,
24 buccal left-hand, right-hand," sealed by me. On the back
25 here is evidence tape dated April 28th, 2017, with my

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 initials on it as well.

2 Q Okay. And were those swabs sent off to the South
3 Carolina Law Enforcement Division for analysis?

4 A They were.

5 Q Okay. Thank you.

6 MS. SWANSON: That is 44 for identification
7 purposes at this point.

8 BY MS. SWANSON:

9 Q Did you observe any injuries on the defendant?

10 A Yes. He had a small cut on one of his legs.

11 Q All right. I'm going to hand you State's Exhibit
12 43 and ask you if you recognize what is depicted in this
13 picture?

14 A I do.

15 Q And what is it?

16 A This is a photograph of that injury to his leg.

17 Q And is that a fair and accurate depiction of it?

18 A It is.

19 MS. SWANSON: State would move 43 into evidence
20 and request to publish.

21 MR. STAGGS: Subject to the previous objection.

22 THE COURT: Over prior objection, it is admitted.

23 *(Whereupon, State's Exhibit No(s). 43 marked for*
24 *identification and received in evidence.)*

25 BY MS. SWANSON:

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 Q Did you have a discussion with Mr. Elam in that
2 first interview about this cut on his leg?

3 A Yeah. During the first interview, at one point we
4 asked him if there was any reason why we would find his DNA
5 in the sheets that we knew were in his truck, because we saw
6 them prior to the search warrant. And he said that possibly
7 because of that cut, we would find blood on the sheets that
8 belonged to him.

9 Q How did he explain that that cut happened?

10 A I believe he said that when he was -- it was -- I
11 believe it was while he was trying to fix his tire. It was
12 something with the truck, and the issues he was having with
13 his truck that night. He cut his leg at some point during
14 that, and the blood would have gotten on the sheets when he
15 was removing them from the truck after he supposedly found
16 them in the truck.

17 Q Did you ask him if he had had sex with anyone that
18 night?

19 A We did.

20 Q What was his answer?

21 A He told us that he hadn't had sex with anybody,
22 and that we shouldn't find DNA of that sort on anyone or
23 anywhere.

24 Q All right. So were you present with Sergeant --

25 MR. STAGGS: Your Honor, may we approach?

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 THE COURT: Okay.

2 (There was an off-the-record discussion held.)

3 BY MS. SWANSON:

4 Q Officer Odom, you were with Sergeant Rutland and I
5 think it was Lieutenant Heany at the time while they were
6 processing the items that they took out of the car, right?

7 A I was there for a portion of it, the search
8 warrant, yes.

9 Q Were you there for when they were unfolding the
10 sheets that were taken from the car?

11 A Yes, I was.

12 Q And there for the collection of the pink
13 underwear?

14 A Yes, I was.

15 Q I'm going to show you State's 38 and just ask if
16 you can identify this item?

17 A This is labeled, "Pink panties, floorboard of
18 truck," recovered by Kelly Heany or K. Heany and sealed by
19 her as well.

20 Q That is all I need you to do.

21 A Okay.

22 MS. SWANSON: State would move 38 into evidence at
23 this time.

24 THE COURT: Subject to your prior objection.

25 MR. STAGGS: Subject to my prior objection, Your

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 Honor.

2 *(Whereupon, State's Exhibit No(s). 38 marked for*
3 *identification and received in evidence.)*

4 BY MS. SWANSON:

5 Q Now, while y'all were processing the truck and
6 doing various paperwork, what happened?

7 A So during the -- actually, while I was out there
8 watching them process the truck, we began to hear Mr. Elam
9 making some noise from the holding area. There's only one
10 door that separates the holding area from the Sally port,
11 and then, of course, the door behind the cell that he is in.

12 So we heard him yelling in there, and so I
13 went in there to check on him, to see what was going on. At
14 that point, he told me that he was ready to talk, and he
15 wanted to tell us something.

16 Q And did you, again, advise him of his Miranda
17 warning?

18 A Detective Wilfong advised him of his Miranda
19 warnings at this point, yes.

20 Q And was that done verbally?

21 A It was.

22 Q Was it done on a recording?

23 A Yes, it was.

24 Q Did he at any time ask for a lawyer?

25 A No, he did not.

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 Q Did he at any time -- was he coerced by either you
2 or Detective Wilfong at any time?

3 A No, he was not.

4 Q Was he ever made any promises by you or Detective
5 Wilfong?

6 A Definitely, not. No.

7 Q Did any statements or conversations between you
8 and Mr. Elam, were any of those not recorded?

9 A No. Other than me taking that other DNA sample,
10 no other conversations happened.

11 Q Okay. All right. I'm going to show you what has
12 been marked as State's Exhibit 3, and ask for you to
13 identify this item.

14 A This is a disc containing the audio of the second
15 interview with Mr. Elam, initialed by me yesterday.

16 Q Okay. Is that a fair and accurate depiction of
17 the audio recording from that second interview?

18 A It is.

19 MS. SWANSON: State would move 3 into evidence.

20 MR. STAGGS: Subject to prior objection.

21 THE COURT: Admitted.

22 MS. SWANSON: And move to publish.

23 THE COURT: You may.

24 *(Whereupon, State's Exhibit No(s). 3 marked for*
25 *identification and received in evidence.)*

DIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 (Audio of interview played.)

2 MS. SWANSON: Thank you, Officer Odom. I don't
3 have any more question at this time for you.

4 THE COURT: Mr. Staggs.

5 MR. STAGGS: Thank you, Your Honor.

6 CROSS EXAMINATION

7 BY MR. STAGGS:

8 Q Officer Odom, you testified that you arrived on
9 the scene around midnight, a little bit after midnight?

10 A Yes, sir. That's correct.

11 Q And you told us a little bit about the first
12 interview with Lance started at 5:00 a.m.?

13 A Roughly, 5:10, somewhere in there.

14 Q When did the second interview start?

15 A The second interview was approximately 45 minutes,
16 maybe an hour after the first one ended.

17 Q All right. And the first one lasted about an
18 hour?

19 A That's correct.

20 Q I also believe you testified that you were
21 watching the search warrant be executed. Did you
22 participate in the execution of the search warrant of the
23 truck?

24 A No, I did not.

25 Q All right. But you were in the Sally port?

CROSS EXAMINATION OF BAKER ODOM BY MR. STAGGS

1 A That's correct. While they were conducting the
2 search warrant, Sally port, it is a pretty large area, I was
3 there watching to see what they uncovered.

4 Q And were you able to see where Lance was being
5 held at the time?

6 A No. There's no way to see the holding area from
7 there.

8 Q But you heard him?

9 A That's correct.

10 Q And where was Officer Wilfong at the time?

11 A I couldn't tell you. You would have to ask
12 Detective Wilfong.

13 Q So by the time you began the first interview with
14 Lance, was the -- had the search been concluded on the
15 truck?

16 A You said, when we began the first interview?

17 Q Yes, sir.

18 A I believe that it had actually not even begun yet.
19 I believe it began towards the end of the interview or
20 shortly after we finished the interview..

21 Q And then was it finished by the time the second
22 interview started?

23 A Yes, it was -- started or ended? It was not
24 completed by the time the second interview started. It was
25 completed by the time the second interview ended.

CROSS EXAMINATION OF BAKER ODOM BY MR. STAGGS

1 Q And that was about 20 minutes, what we just heard?

2 A Correct.

3 Q All right. Officer Odom, do you know what time
4 Lance was eventually taken to the Detention Center?

5 A It would have been shortly after that second
6 interview. We were close to taking him up when he started
7 asking to speak to us.

8 Q Okay. Was anybody sitting with Lance during the
9 time that you and Detective Wilfong were out in the Sally
10 port?

11 A We have cameras in the holding cells, sometimes
12 people will be monitoring those. I'm not sure if anyone was
13 in this case. Either way, we have a log, and generally
14 speaking someone will go check on a prisoner every 30
15 minutes or so, if no one is actually actively monitoring the
16 cameras.

17 In this case, I couldn't tell you which one
18 was going on. But like I said, there was 45 minutes to an
19 hour between the two interviews, so he may have been checked
20 on once during that time.

21 Q I'm glad you mentioned about the cameras. The
22 first interview was actually video recorded, correct?

23 A Correct.

24 Q And then, but the second one was not?

25 A Well, it was video recorded, however -- and I know

CROSS EXAMINATION OF BAKER ODOM BY MR. STAGGS

1 this because when I was typing my report, I was watching it
2 from the system, watching the video of the second interview.

3 However, it appears, and I learned this in
4 preparation for court, that when that interview was
5 transferred over to a disc from the system, somehow the
6 video itself didn't transfer, it was just audio. I don't
7 know how that happened, or what it involved there.

8 Q And you, as the lead investigator, would request
9 any video -- any recording whatsoever. You would be
10 responsible for requesting that?

11 A That's correct.

12 Q Did you request any video from the holding cell?

13 A No, I did not.

14 Q And that is either before or after the first
15 interview, correct?

16 A Correct. That is not common practice to get
17 holding cell video unless something of significance happened
18 in a holding cell, like a fight or something like that.

19 MR. STAGGS: Okay. Beg the Court's indulgence.

20 THE COURT: Yes, sir.

21 (Pause.)

22 BY MR. STAGGS:

23 Q Detective Odom, Lance told you he had been working
24 all day, right?

25 A That's correct.

CROSS EXAMINATION OF BAKER ODOM BY MR. STAGGS

1 Q And so do you know whether he was awake the entire
2 time from the time that he got there at midnight?

3 A At the police department, I'm not sure if he was
4 awake the entire time or not.

5 Q All right.

6 MR. STAGGS: Those are all the questions I have,
7 Your Honor. Thank you.

8 MS. SWANSON: Just briefly.

9 REDIRECT EXAMINATION

10 BY MS. SWANSON:

11 Q To your knowledge, did anyone else besides you and
12 Detective Wilfong have any contact with Mr. Elam about what
13 happened that night or what he was accused of?

14 A Beyond the initial officers who detained him, no.

15 Q Okay. And the video that did not make it over the
16 system, there was some problem with the video portion, was
17 there anything on the video that the jury or the Court needs
18 to know about?

19 A No.

20 Q Was there anything that was not reflected in the
21 audio?

22 A No, there wasn't.

23 Q Was there any physical coercion or anything of
24 that nature?

25 A No, there was not.

REDIRECT EXAMINATION OF BAKER ODOM BY MS. SWANSON

1 Q Okay. Thank you.

2 MS. SWANSON: That's it.

3 MR. STAGGS: I don't have any further questions.

4 THE COURT: Okay. You can step down, sir.

5 MR. STAGGS: Thank you.

6 MS. SWANSON: State calls Matt Wilfong.

7 Thereupon,

8 MATT WILFONG

9 was called as a witness, having been first duly sworn,
10 was examined and testified as follows:

11 THE CLERK: If you would state your name for the
12 record, please.

13 WITNESS: Deputy Matt Wilfong.

14 DIRECT EXAMINATION

15 BY MS. SWANSON:

16 Q Deputy Wilfong, how are you?

17 A Good, ma'am. How are you?

18 Q Good.

19 Tell us where you were working in April, on
20 April 28th of 2017.

21 A With the Bluffton Police Department as a
22 detective.

23 Q Okay. And as a detective, did you have the
24 opportunity to participate in an interview with Lance Elam?

25 A I did.

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 Q All right. Can you identify Lance Elam?

2 A Yeah, he's sitting over there.

3 Q Okay. And that is the same man that you
4 interviewed?

5 A That's correct.

6 Q Okay. Who did you interview Mr. Elam with?

7 A Detective Odom.

8 Q All right. And did you advise him of his Miranda
9 warnings?

10 A I did.

11 Q All right. I'm going to show you what's already
12 been entered as State's Exhibit 1 and ask you if this is a
13 copy of the Miranda warnings that you advised Mr. Elam with?

14 A Yes, it is.

15 Q And that was from the first interview, correct?

16 A Correct.

17 Q And so when you begin to question, and let me show
18 you -- let me ask you this. Did you ask most of the
19 questions or did Detective Odom?

20 A I asked most of the questions during the
21 interview.

22 Q And did you question Mr. Elam about a sexual
23 assault that occurred that night?

24 A Yes, I did.

25 Q And did he, in his first interview, admit to any

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 involvement in that sexual assault?

2 A No, he did not.

3 Q All right. What did he tell you he had been doing
4 that night?

5 A Basically he was working with Hargray. He had a
6 couple jobs that he did. He was in Sun City, then he had to
7 run to, I think, Lowe's and Home Depot to pick up some parts
8 or equipment or something to that effect, and that he wasn't
9 really in Bluffton at all.

10 Q At some point, did you ask him about the sheets
11 that were found in the truck?

12 A I did.

13 Q Okay. And what was his explanation for those
14 sheets?

15 A That while he was at Wal-Mart buying Fix-a-Flat
16 for his tire that, I guess, had -- he had a flat tire,
17 somebody had put them in his truck while he was away from
18 the truck.

19 Q Okay. And at some point, did you all request a
20 DNA sample from him?

21 A Yes, we did.

22 Q And did you advise him or give him a consent to
23 search form for DNA?

24 A Yes, I did.

25 Q All right. And I'm going to show you State's

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 Exhibit 2, which has been entered, and ask if this is the
2 consent form that you provided him during that first
3 interview?

4 A Yes, this is the consent form that I presented
5 him.

6 Q Okay. And is your signature on that form?

7 A Yes. It's under the witness block, right beside
8 of my printed name.

9 Q Okay. Thank you.

10 And so did you then have a discussion with
11 Mr. Elam about DNA and whether or not his DNA would be found
12 on any of those items in that truck?

13 A Yes, we did.

14 Q What did he have to say about that?

15 A He said that we shouldn't find any fingerprints or
16 DNA anywhere in Bluffton.

17 Q Okay. Did you ask him if he had had sex with
18 anyone that night?

19 A I did.

20 Q What did he say?

21 A He said no.

22 Q All right. At any time during the first or second
23 interview, did Mr. Elam request an attorney?

24 A No, he did not.

25 Q Did he -- well, did you promise him anything?

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 A No, I didn't.

2 Q Eventually, how did the first interview end?

3 A Basically it ended that he, you know, wasn't with
4 anybody, didn't have sex, and we put him back -- took him
5 back to the holding cells at the Bluffton Police Department.

6 Q All right. Now, prior to the interview -- the
7 interview occurred around 5:00, right?

8 A Correct.

9 Q And the truck was towed about 1:00. So there were
10 a few hours in between the truck being towed and him being
11 taken and detained, and the interview occurring. What was
12 going on in those hours?

13 A A lot of things. I was getting called out because
14 I wasn't there that late in the morning. There was some
15 investigators on scene, there was investigators going with
16 the victim to the sexual assault exam. There was detectives
17 doing search warrants. You know, just a whole lot of
18 evolving parts that were taking place at that time.

19 Q Was anybody talking to Mr. Elam or pressuring him
20 during those hours?

21 A No, ma'am.

22 Q To your knowledge, did anyone besides the officer
23 that detained him on scene, you, and Detective Odom have any
24 conversations regarding his actions that night?

25 A No, ma'am.

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 Q Nothing that wouldn't be audio recorded?

2 A Correct.

3 Q There was no physical coercion that took place
4 that nobody knows about?

5 A No, ma'am.

6 Q All right. There is a second interview with
7 Mr. Elam, right?

8 A That's correct.

9 Q Okay. And about how long after the first
10 interview did that take place?

11 A I'm not really sure. To estimate, maybe, I don't
12 know, a half hour or so. I don't know. We were processing
13 the vehicle and doing more paperwork and getting search
14 warrants and stuff.

15 Q And where was Mr. Elam at this time?

16 A In one of the holding cells at the police
17 department.

18 Q Was anyone with him?

19 A No, ma'am.

20 Q Did he have access to water?

21 A Yes.

22 Q The bathroom?

23 A Yes. There's a bathroom inside.

24 Q And so how did the second interview occur?

25 A We were out in the bay -- and the bay is where we

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 had the vehicle towed into. We could hear him yelling for
2 us. So we go back in. Detective Odom goes back in, he says
3 he wants to talk to us again.

4 So we bring him out of the holding cell,
5 straight into the interview room where the first interview
6 was conducted.

7 Q Okay. And you take him into the interview room
8 because that has recording devices in it?

9 A Video and audio, yes, ma'am.

10 Q Okay. And when you began to -- or prior to the
11 second interview taking place, did you read the Miranda form
12 again to him?

13 A Correct, I did.

14 Q Okay. Did you have him fill out a separate form?

15 A No, I did not. I read them verbally to him, at
16 which time he stated he understood and wished to speak with
17 us without an attorney.

18 Q Okay. And was it the same form that he had just
19 signed about an hour before?

20 A Yes.

21 Q And did he seem to understand everything?

22 A Yes, he did.

23 Q You listened to the recording of the second
24 interview, right?

25 A Yes, ma'am.

DIRECT EXAMINATION OF MATT WILFONG BY MS. SWANSON

1 Q And is that a fair and accurate depiction of how
2 the interview went?

3 A Yes, it was.

4 MS. SWANSON: I have nothing further at this time.

5 THE COURT: Mr. Staggs.

6 CROSS EXAMINATION

7 BY MR. STAGGS:

8 Q Deputy Wilfong, you just testified that the first
9 interview concluded, and then you were processing the
10 vehicle, or the vehicle was being processed. Did you
11 participate in that?

12 A I didn't participate. I was in the room with it.
13 I didn't actually gather any evidence or anything out of the
14 vehicle.

15 Q So you were in the Sally port?

16 A Yes.

17 Q All right. And is your testimony that you could
18 hear Lance?

19 A We all could hear him. There was several of us in
20 the Sally port. We could hear somebody yelling back there.
21 So I'm pretty sure Detective Odom went back in there, he
22 said he wanted to talk to us again.

23 Q And approximately how long did that happen before
24 y'all made your way back to the interview?

25 A I didn't understand the question, how --

CROSS EXAMINATION OF MATT WILFONG BY MR. STAGGS

1 Q Well, you told us that Detective Odom left and
2 then came back and said he wants to talk to you, right?

3 A Yeah.

4 Q About how long was that before the recording
5 starts?

6 A Like a minute, maybe. I mean, to walk from one
7 door to the other.

8 Q Deputy Wilfong, were you wearing your service
9 weapon at the time you conducted this interview?

10 A I don't recall.

11 Q Would it be unusual for you to have been wearing
12 it?

13 A No.

14 Q All right. Do you know what time Lance was
15 transported from Bluffton?

16 A Not without looking at the report.

17 MR. STAGGS: That is all I have, Your Honor.

18 THE COURT: Anything further?

19 MS. SWANSON: Just one question.

20 BY MS. SWANSON:

21 Q Mr. Staggs asked you if you were wearing your
22 service weapon. Did you ever threaten Mr. Elam with your
23 service weapon?

24 A No, ma'am.

25 Q Did anyone?

CROSS EXAMINATION OF MATT WILFONG BY MR. STAGGS

1 A No, ma'am.

2 Q With any type of physical coercion or assault?

3 A No, ma'am.

4 MS. SWANSON: Thank you.

5 THE COURT: Anything further?

6 MR. STAGGS: No, ma'am.

7 THE COURT: All right. Any objection to Deputy

8 Wilfong being excused?

9 MR. STAGGS: No, ma'am.

10 MS. SWANSON: No, Your Honor.

11 THE COURT: You are excused, Deputy.

12 THE WITNESS: Thank you, Your Honor.

13 MS. SWANSON: The State calls Jeff Maxwell.

14 Thereupon,

15 JEFF MAXWELL

16 was called as a witness, having been first duly sworn,

17 was examined and testified as follows:

18 THE CLERK: If you would please state your name

19 for the record.

20 WITNESS: Jeffrey Maxwell. M-A-X-W-E-L-L.

21 DIRECT EXAMINATION

22 BY MS. SWANSON:

23 Q Thank you.

24 Officer Maxwell, please tell us where you

25 work.

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 A I work at the Beaufort County Detention Center.

2 Q And what is your position there?

3 A I am the intelligence officer.

4 Q And as part of the intelligence officer, do you
5 report and monitor jail phone calls?

6 A Yes, ma'am.

7 Q All right. Can you tell us how the jail phone
8 call system works?

9 A When somebody is entered in the computer system,
10 they have a number that is assigned to them. That number
11 will follow them no matter how many times they come to jail.

12 Once they get booked into our facility, the
13 phone system puts out a four-digit pin number. They then
14 enroll in the system, and they use a voice verification, to
15 where they have to say their name and also "United States."
16 So when they go to get the phone system activated, they have
17 to go through all that sequence each time they get on the
18 phone.

19 Q And that's to ensure that only that person uses
20 the pin number?

21 A Yeah. And if somebody else uses it, there is an
22 alert that comes up on the system for me.

23 Q All right. And those phone calls are recorded and
24 housed in the normal course of business?

25 A Yes, ma'am.

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 Q And did you pull a jail phone call of Lance Elam
2 from April 28th of 2017?

3 A Yes, ma'am.

4 Q I'm going to ask you to identify State's Exhibit
5 45.

6 A That is a CD I listened to on the 6th.

7 Q And is that a fair and accurate depiction of the
8 phone call that you pulled?

9 A Yes, ma'am.

10 MS. SWANSON: State would offer 45 into evidence
11 and request to publish.

12 MR. STAGGS: Subject to my previous objection.

13 THE COURT: Admitted. Thank you.

14 *(Whereupon, State's Exhibit No(s). 45 marked for*
15 *identification and received in evidence.)*

16 (CD phone call published to the jury.)

17 MS. SWANSON: Thank you. I have nothing further.

18 MR. STAGGS: No questions for this witness.

19 THE COURT: You may be step down, Deputy. Thank
20 you.

21 Anybody need a short break? Are you sure?

22 (No response.)

23 MS. SWANSON: I have just two more witnesses.

24 THE COURT: You have two more witnesses. Okay.

25 Do you want to take a short break now and then

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 take those two witnesses, and then -- are you okay?

2 MS. SWANSON: Okay.

3 THE COURT: Let's take a little break, you guys.

4 I don't know. I'm seeing kind of different things.

5 Let's do this. Let's go ahead and take a break.

6 My understanding is these next two witnesses are not
7 going to be unduly long. So let's go ahead and take a
8 break. Maybe a ten-minute break, and we will come
9 back. Refresh ourselves, get coffee, if you will, and
10 we will be right back with you.

11 Do not discuss the case.

12 THE BAILIFF: Please leave your notebooks.

13 (The jury exits the courtroom.)

14 THE BAILIFF: The jury is clear, Your Honor.

15 THE COURT: Thank you.

16 We are going to be about ten minutes. I am
17 reading.

18 It talks a lot about the White case and the White
19 case decided by the U.S. Supreme Court. But it's good
20 to read and it did anticipate questions like this in
21 cases like this.

22 I'm thinking when they started talking before of
23 the White case, they talked about it was always
24 envisioned that a child would be the one on the stand,
25 but they also considered the possibility that, you

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 know, because of fear or trauma, that a victim -- most
2 of what they talk about that in this is the whole idea
3 about hearsay statements that are allowed under hearsay
4 exceptions, which we had talked about before.

5 I think, in our case, we limited it to date and
6 time as far as the nurse, and I don't think other than
7 that, there was much of anything that was hearsay that
8 could be decided as some type of utterance.

9 So it was certainly predicted and it was written
10 in 1993.

11 It predicted that this is kind of what would
12 occur, that people would start prosecuting the cases
13 without the victim.

14 The interesting thing that I found is that one of
15 the things that protected the Defendant, the Defendant
16 has the right to call the victim as well. So, you
17 know, whether or not you want to is a whole other
18 issue, but you have that right.

19 So that is just an interesting fact. I don't know
20 if that's practical, but interesting. So you might
21 want to take a look at it. Okay?

22 MR. STAGGS: Yes, ma'am.

23 THE COURT: I appreciate it y'all.

24 Take ten minutes and we will be back. Two more
25 witnesses then the State will rest?

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 MS. SWANSON: Correct.

2 THE COURT: Who do you anticipate putting up?

3 MR. STAGGS: I would like to have some time to
4 discuss the possibility of Lance testifying, with
5 Lance. Beyond Lance, I don't anticipate any witnesses.

6 THE COURT: Does he have any prior record that we
7 need to discuss that we need to have out on the record?

8 MR. STAGGS: He has one driving offense out of
9 Charlotte.

10 MS. SWANSON: Yeah, just driving offenses. And
11 then, of course, the door that could be opened.

12 MR. STAGGS: Right. The pending.

13 THE COURT: If he talks about good character and
14 all of that. Okay.

15 I'll give you a little bit of time to talk to him,
16 but obviously you all need to discuss this. Obviously
17 we are not arguing charges today, but I would like all
18 the testimony --

19 MR. STAGGS: To be completed.

20 THE COURT: If we're, you know, not at 5:00. So
21 we need to have that decision.

22 MR. STAGGS: Well, I can't imagine that we will be
23 at 5:00 this evening.

24 THE COURT: That's what I was going to ask with
25 these two witnesses.

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 Who do you have from SLED?

2 MS. SWANSON: A serologist and a DNA analyst. The
3 serologist just basically prepped the swabs, and then
4 the analyst comes up with the numbers.

5 THE COURT: Okay. All right. So let's take ten
6 minutes. Okay?

7 MS. SWANSON: Thank you.

8 THE COURT: Thank you.

9 (Recess.)

10 THE BAILIFF: The jury is entering the courtroom,
11 Your Honor.

12 (The jury enters the courtroom at 3:30 p.m.)

13 THE BAILIFF: The jury is seated, Your Honor.

14 MS. SWANSON: The State calls Jessica Stowe.

15 Thereupon,

16 JESSICA STOWE

17 was called as a witness, having been first duly sworn,
18 was examined and testified as follows:

19 THE CLERK: If you would, please state your name
20 for the record.

21 WITNESS: Jessica Stowe. S-T-O-W-E.

22 DIRECT EXAMINATION

23 BY MS. SWANSON:

24 Q Thank you. Agent Stowe, how are you?

25 A I'm good. How are you?

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 Q Thank you for being here this afternoon.

2 Who do you work for?

3 A I work for SLED, South Carolina Law Enforcement
4 Division, as a forensic serologist.

5 Q And can you tell the jury what a forensic
6 serologist does?

7 A Yes. Serology is the identification of body
8 fluid, such as blood, semen and saliva. So as a serologist,
9 we get all types of evidence. We could get guns, knives,
10 sexual assault kits, all types of clothing, car parts,
11 looking for what relevant body fluid is present.

12 We then take small samples of those fluids,
13 perform certain tests, and if they could potentially have a
14 DNA profile, we then forward them to the DNA analyst within
15 our department.

16 Q Okay. And can you describe your training and
17 background in the field of serology?

18 A Yes. I have a bachelor's in biology, with a minor
19 in chemistry from the University of South Carolina.
20 Actually, I graduate this Friday from the University of
21 Florida with a Masters in microbiology and cellular science.

22 Upon being hired at SLED, I participated in
23 SLED's in-house training program. I was trained by a court
24 qualified DNA analyst and evidence processing technician in
25 all aspects of being a forensic serologist. The training

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 lasted about a year, and then I was given a five-part test,
2 which encompassed all aspects of my job.

3 Upon passing that test, I was then deemed
4 able to perform independent casework.

5 Q Okay. And so how long have you been at SLED?

6 A About six and a half years.

7 Q And have you ever testified as an expert in
8 serology before?

9 A Yes.

10 Q About how many times?

11 A Probably around 18 to 20 times.

12 Q Okay.

13 MS. SWANSON: Your Honor, at this time I would
14 offer Jessica Stowe as an expert in serology and
15 evidence processing.

16 MR. STAGGS: No objection.

17 THE COURT: Ladies and gentlemen, in this case
18 Ms. Stowe has been proven qualified to testify as an
19 expert witness in the areas of serology and evidence
20 collection; is that correct?

21 MS. SWANSON: Yes.

22 THE COURT: Thank you.

23 Ladies and gentlemen, again, that allows her to
24 give her opinion and the reasons for her opinion. And
25 that is for you to use as you see appropriate compared

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 to other evidence in this case.

2 BY MS. SWANSON:

3 Q Jessica, did you have the opportunity to process
4 and analyze evidence in the case against Lance Elam?

5 A Yes, I did.

6 Q All right. I'm going to start by showing you some
7 items and ask if these were items that you processed, what
8 you did with it, and what your conclusions were.

9 I'm going to first hand you State's Exhibit
10 40, and this is -- well, the SLED lab numbers will be
11 contained within the envelope.

12 A State's Exhibit 40 is our L 176229, Container B.
13 I recognize it as our SLED specific labeling system. And
14 this is the sexual assault kit.

15 Q And what do you do with a sexual assault kit, and
16 what did you specifically do with this sexual assault kit
17 when it came in?

18 A Okay. When we receive a sexual assault kit, the
19 first step is to review all documentation related to the
20 case. This could be documentation from the hospital, where
21 the sexual assault kit was collected by the nurses, the
22 medical staff, as well as the incident report supplied by
23 the submitting agency.

24 We review what body fluids would be present
25 to look for, and then I request the evidence from our

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 controlled area, open the evidence -- I'm the first one to
2 open it -- and basically inside the kit is a bunch of
3 smaller items. You know, a vaginal swab, oral swab, rectal
4 swab, fingernail scrapings. Bunch of little items within
5 the one big item. And then I test each item appropriately.

6 Q And so this particular sexual assault kit,
7 State's 40, that was sealed when it came to you?

8 A Yes. It was actually in the sexual assault kit
9 box. It contained toxicology evidence and DNA evidence. I
10 separated out toxicology evidence, and we proceeded with the
11 DNA portion.

12 Q Okay. And so did you analyze vaginal swabs?

13 A Yes, I did.

14 Q All right. And tell us about that.

15 A For vaginal swabs, we were looking for -- or I was
16 looking for the presence of semen. Semen has a fluid
17 component and it has a cellular component. The fluid
18 component being proteins and enzymes that are found in high
19 concentrations, and the cellular component being the male
20 sperm cells, through productive cells.

21 So for the vaginal swab, I screened the swabs
22 for P30, the prostate specific antigen. And it was
23 positive. I then took that sample forward and looked for
24 the male sperm cells. That was negative, but then I
25 forwarded that sample to the DNA section.

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 Q And even though you couldn't see sperm cells, if
2 the P30 test was positive, would that be consistent with
3 seminal fluid?

4 A Yes. It does mean that this is very indicative of
5 semen being present. The absence of sperm in my sample is
6 not uncommon. We only test a small portion of the sample.
7 So just because I did not see it doesn't mean it's not
8 there. It certainly could be not there, but that's all my
9 testing says is that it was just negative.

10 Q Pubic hair, does SLED do any sort of analysis
11 these days with pubic hair?

12 A Yes, sometimes. With sexual assault kits, if we
13 have a positive protein sample, like I did here, we will not
14 focus on that right away. In my report, we have known pubic
15 hairs that was not analyzed, and then we have pubic hair
16 cuttings that also weren't analyzed. It doesn't mean we're
17 not going to, just means that at that time we had other
18 items we wanted to focus on first.

19 Q Okay. And then were there several items that you
20 forwarded on to the DNA section?

21 A Yes, there was.

22 Q Okay. And what did you do with those items prior
23 to forwarding them on to DNA?

24 A Prior to other than the evidence control portion,
25 or the testing -- the processing?

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 Q The processing.

2 A Okay. Well, there were various items. There was
3 a blood tube in the kit. I dried down a small portion.
4 Once it's dry, it then becomes stable and so we can have
5 access to the DNA profile that comes from that for a long
6 period of time.

7 Q And so that was the victim's blood.

8 A Yes. The dry blood from [REDACTED] C.B.

9 Q All right. And then --

10 A The vaginal swab that I just mentioned a moment
11 ago, those were forwarded.

12 Q And that's everything that was forwarded from
13 the --

14 A I also had fingernail scrapings that I forwarded
15 as well. Left hand and right hand, and that would be it as
16 far as the sexual assault kit goes.

17 Q Okay. And once you did the cuttings from those
18 swabs, you resealed them prior to them being forwarded over
19 to DNA?

20 A Yes, yes.

21 Q All right. And if you can just describe how the
22 bag that SLED uses works. Are they heat sealed and you
23 initial them?

24 A Yes, yes. You can see right here, the JHS and the
25 date. I actually had this kit twice, once to get that

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 liquid blood out and once the second time to actually
2 process the kit for body fluids.

3 And it's in a plastic heat sealed pouch. We
4 get the plastic up to it, melt the plastic together so
5 nothing can get in or out, and we seal it.

6 Q Okay. I'm going to hand you Item 41. If you can
7 just identify what this item is.

8 A State's Exhibit 41 is our Item 1.2, which is the
9 liquid blood standard from the DNA kit.

10 Q All right. And so that is what you developed the
11 dried blood spot from?

12 A Right. When it's in its liquid form it can break
13 down, so we want to stabilize it to make sure that that
14 doesn't happen.

15 Q And that was the exact vial that you established
16 that from?

17 A Yes.

18 Q And you were the first to open that vial?

19 A Yes.

20 Q Okay.

21 MS. SWANSON: State would enter 41 into evidence
22 at this time.

23 MR. STAGGS: No objection, Your Honor.

24 THE COURT: Admitted without objection.

25 *(Whereupon, State's Exhibit No(s). 41 marked for*

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 *identification and received in evidence.)*

2 BY MS. SWANSON:

3 Q I'll going to hand State's Exhibit 44 to you and
4 ask if these were items that you processed prior to
5 submitting to DNA?

6 A State's Exhibit 44 is our Container A. This vial
7 right here contains a buccal swab from Lance Elam, swab from
8 left-hand and swab from right-hand. There were no
9 processing associated with these, I simply prepped them for
10 DNA analysis.

11 Q And by that, you mean?

12 A I just took cuttings and then put them into tubes,
13 packaged up the tubes, sealed them similarly to what I just
14 mentioned, and then, that would go forward to the DNA
15 analyst.

16 MS. SWANSON: Thank you, Agent Stowe. I believe
17 that's all I have for you at this time.

18 THE WITNESS: Okay.

19 MR. STAGGS: No questions of this witness.

20 THE COURT: Any objection for Agent Stowe to be
21 excused?

22 MS. SWANSON: No, Your Honor.

23 MR. STAGGS: No, ma'am.

24 THE COURT: You are excused. Thank you.

25 Your next witness, please.

DIRECT EXAMINATION OF JESSICA STOWE BY MS. SWANSON

1 MS. SWANSON: State calls Sara Goodman.

2 Thereupon,

3 SARA GOODMAN

4 was called as a witness, having been first duly sworn,

5 was examined and testified as follows:

6 THE CLERK: Would you please state your name for
7 the record.

8 WITNESS: My name is Sara Goodman. Last name,
9 G-O-O-D-M-A-N.

10 DIRECT EXAMINATION

11 BY MS. SWANSON:

12 Q Agent Goodman, thank you for being here this
13 afternoon.

14 Can you please tell the jury where you work
15 and what you do there?

16 A Yes. I work at The South Carolina Law Enforcement
17 Division, commonly referred to as SLED. And I am a forensic
18 scientist in the DNA casework department.

19 Q All right. And what does that mean? What do you
20 do on a daily basis?

21 A So we receive items of evidence from law
22 enforcement agencies. So we process those items of evidence
23 for DNA, and then we will compare any known standards to the
24 evidence that we receive.

25 Q And can you describe your training and background

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 in the field?

2 A Sure. So I have a Bachelor's of Science degree in
3 biology and a Masters of Science in forensic science. And
4 upon employment at SLED, I went through a training program
5 that lasted a little over a year with another court
6 qualified DNA analyst.

7 Q All right. And how long have you been with SLED
8 now?

9 A I have been with SLED for about three and a half
10 years.

11 Q And have you testified as an expert in DNA
12 analysis before?

13 A Yes.

14 MS. SWANSON: At this time, I would offer Agent
15 Goodman as an expert in DNA analysis.

16 MR. STAGGS: No objection.

17 THE COURT: Ladies and gentlemen, in this case,
18 Agent Goodman is being qualified as an expert witness
19 in the area of DNA analysis. That allows her to give
20 her opinion and the reasons for her opinion, just like
21 other expert witnesses in this case, and that, again,
22 is for you to use as you see appropriate, and as
23 compared to other evidence in this case.

24 BY MS. SWANSON:

25 Q Okay. I'm going to first hand you what has been

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 marked as State's Exhibit 40 and ask if you had the
2 opportunity to examine and analyze samples contained within
3 that.

4 A Yes, I did.

5 Q Okay. And what did you analyze in State's 40?

6 A So this is the sexual assault kit, so I analyzed
7 the victim's known standard, and then vaginal swabs as well
8 as left and right-hand fingernail scrapings from the victim.

9 Q Okay. And were you the one to unseal that package
10 once it came from serology?

11 A Yes.

12 Q All right.

13 MS. SWANSON: The State would enter 40 into
14 evidence at this time.

15 MR. STAGGS: No objection.

16 THE COURT: Without objection.

17 *(Whereupon, State's Exhibit No(s). 40 marked for*
18 *identification and received in evidence.)*

19 BY MS. SWANSON:

20 Q And can you please tell us about your findings in
21 conjunction with the blood standard from [REDACTED] C.B.,
22 the vaginal swabs, as well as the fingernail clippings?

23 A Sure. So I developed the DNA profile from the
24 known standard of the victim. That was suitable for
25 comparison.

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 From the vaginal swab, from the non-sperm
2 fraction, the DNA profile is consistent with the DNA profile
3 of [REDACTED] C.B. [REDACTED]. From the sperm fraction, the DNA
4 profile is consistent with being a mixture of two
5 individuals.

6 The DNA profile foreign to [REDACTED] C.B. [REDACTED]
7 matches the DNA profile of Lance Elam.

8 Q And I should stop you right there and ask if you
9 analyzed what is contained in State's Exhibit 44?

10 A Yes.

11 Q And did that come to you sealed from serology?

12 A Yes.

13 MS. SWANSON: State would move 44 into evidence at
14 this time.

15 MR. STAGGS: No objection.

16 THE COURT: Without objection.

17 *(Whereupon, State's Exhibit No(s). 44 marked for*
18 *identification and received in evidence.)*

19 BY MS. SWANSON:

20 Q And does it contain a standard from Lance Elam?

21 A Yes, it does.

22 Q Okay. And so you were looking at both the
23 standard from [REDACTED] C.B. [REDACTED] and the standard from
24 Lance Elam, right?

25 A Correct, yes.

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 Q All right. And both of their individual DNA
2 profiles.

3 A Yes.

4 Q So let's go back to the vaginal swab.

5 A The DNA profile for [REDACTED] C.B. was entered
6 into the combined DNA index system, also known as CODIS.

7 The probability of randomly selecting unrelated individual
8 having a DNA profile matching this item is approximately one
9 in 120 quadrillion.

10 Q And so what does that mean? Is that called a
11 matched statistic?

12 A Yes.

13 Q All right. And can you explain that further for
14 the jury?

15 A Sure. So anytime that we match a DNA profile from
16 an item of evidence to a profile from a known standard, we
17 give it a statistic to give a weight to the match so that
18 one in 120 quadrillion is the weight for that match to Lance
19 Elam.

20 Q Okay. And how many zeros does 120 quadrillion
21 have in it?

22 A That is five sets of zeros, so 15 total.

23 Q And do you know how many people are living on
24 earth?

25 A There is about 7.6 billion people in the world at

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 the moment.

2 Q And how many zeros does 7.6 billion have in it?

3 A That has nine zeros.

4 Q So the matched statistic is stronger than the
5 amount of people on earth?

6 A Correct.

7 Q Did you find anything on the fingernail scrapings?

8 A For the left-hand fingernail scraping, the partial
9 DNA profile is consistent with the DNA profile of C.B.
10 [REDACTED].

11 For the right-hand fingernail scraping, due
12 to the limited information obtained, this DNA profile is not
13 suitable for interpretation.

14 Q All right. And then you further analyzed a swab
15 from the left hand of Lance Elam and a swab from the right
16 hand of Lance Elam. Can you talk about your findings there?

17 A Sure. So the swab from the left hand of Lance
18 Elam, the DNA profile is a mixture of at least three
19 individuals. C.B. is included as a possible
20 contributor to the major component to this mixture.

21 The probability of randomly selecting an
22 unrelated individual who could have contributed to the major
23 component of this mixture is approximately one in
24 1.5 million, and DNA attributable to Lance Elam is present
25 in this mixture.

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 And then for the swab from the right hand,
2 the DNA profile is a mixture of at least three individuals.
3 **C.B.** is included as a possible contributor to
4 the major component of this mixture. The probability of
5 randomly selecting an unrelated individual who could have
6 contributed to the major component of this mixture is
7 approximately one in 2.3 trillion, and DNA attributable to
8 Lance Elam is present in the mixture.

9 Q So in layman's terms, her skin cells of some sort
10 were found on both of his hands?

11 A Correct.

12 Q Okay. Could that be from someone fighting someone
13 off?

14 A It's possible.

15 MR. STAGGS: Objection, Your Honor. That calls
16 for speculation.

17 THE COURT: Okay. I think she could ask what are
18 ways that could he have got skin cells --

19 MS. SWANSON: Would it be consistent?

20 THE COURT: That's fine.

21 BY MS. SWANSON:

22 Q Would it be consistent with a sexual assault
23 victim trying to fight off a perpetrator?

24 A It's possible.

25 Q And would it also be consistent or possible that

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON

1 her DNA would end up on the perpetrator's fingers or hands
2 if he was putting them in her vagina?

3 A Yes, it's possible.

4 Q Okay. All right. Let's talk a little bit about
5 how SLED prioritizes the testing of evidence that is
6 obtained and submitted by law enforcement. Can you talk
7 about that?

8 A Specifically for sexual assault cases?

9 Q Correct.

10 A Okay.

11 Q Let's say you have bed sheets, a sexual assault
12 kit, possibly swabs from the interior of the house. How all
13 would you prioritize those items?

14 A So for sexual assault cases, we typically start
15 with the sexual assault kit because the swabs that come from
16 the body of the victims, so they are the most intimate
17 samples and are typically the most probative.

18 So if we get probative results from the kit
19 we usually will stop there unless specifically requested
20 that we test additional evidence.

21 Q So if a link is established, then the testing
22 stops?

23 A Yes.

24 Q Unless there's a specific request and a specific
25 reason for that request?

DIRECT EXAMINATION OF SARA GOODMAN BY MS. SWANSON.

1 A Yes.

2 Q Okay.

3 MS. SWANSON: All right. I have nothing further
4 for you, and I will take those items.

5 I believe I entered both of those. Okay. Thank
6 you.

7 THE COURT: They are in evidence, correct, Mona?

8 THE COURT REPORTER: They are.

9 MR. STAGGS: Thank you, Your Honor.

10 CROSS EXAMINATION

11 BY MR. STAGGS:

12 Q Agent Goodman, you work at a lab, right?

13 A Yes.

14 Q And Ms. Swanson just asked you how things could
15 get to different places. But that is not your job at all,
16 is it?

17 A No.

18 Q You just test for the presence, you don't
19 determine how something arrived wherever it is, correct?

20 A Yes.

21 Q Okay. All right. That's all I have.

22 THE COURT: Ms. Swanson.

23 MS. SWANSON: Nothing further, Your Honor. I
24 would ask that Agent Goodman be allowed to be excused.

25 THE COURT: All right. Any objection, Mr. Staggs?

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 MR. STAGGS: No objection.

2 THE COURT: You are excused. Thank you.

3 MS. SWANSON: At this time, the State rests its
4 case.

5 THE COURT: Ladies and gentlemen, at this time the
6 State has rested their case. There's a matter of law I
7 need to take up with the attorneys. After this we will
8 discuss what we are going to do going forward. It is
9 likely that we will break a little bit early today, but
10 we will see exactly how we are going.

11 Ladies and gentlemen, we are going to finish this
12 case tomorrow, I will tell you that, if there is a
13 question about that.

14 I'm going to send you back to the jury room.
15 Again, leave pads in your seats. Do not discuss the
16 case. I am going to bring you right back out here.
17 Okay. Thank you.

18 THE BAILIFF: Leave your notebooks and follow me.

19 (The jury exits the courtroom at 3:55 p.m.)

20 THE BAILIFF: The jury is clear, Your Honor.

21 THE COURT: All right. Any motions, Mr. Staggs?

22 MR. STAGGS: Yes, ma'am. At this time, the
23 Defense would renew all its pre-trial motions, all of
24 its objections to this point, and we would move the
25 Court for a directed verdict on the following grounds.

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 I do not believe that the evidence presented has
2 risen to the level of a jury question. Mr. Elam has
3 been deprived of his sixth amendment right under the
4 United States Constitution to confront his accuser.
5 There has been no testimony from the witness stand
6 indicating that this was anything other than a
7 consensual act, and we don't believe that this is a
8 jury question at all based on the absence of direct
9 accusation.

10 THE COURT: Anything else as far as your directed
11 verdict motion?

12 MR. STAGGS: No, ma'am.

13 THE COURT: All right. Ms. Swanson, what do you
14 say in reply to that?

15 MS. SWANSON: Yes, Your Honor. So I do believe
16 that there's substantial corroboration to Mr. Elam's
17 confession, including a lot of circumstantial evidence
18 that this was not only a home invasion, but a rape,
19 including the victim's demeanor as testified to by her
20 daughter, her father, Sergeant Rutland, who was first
21 on scene, as well as the sexual assault exam nurse.

22 There was also physical evidence of injury as well
23 as micro tearing and bruising and swelling in the
24 genital area, in addition to hip and arm pain, for
25 which the nurse actually thought she should go receive

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 more medical treatment and get X-rays done because she
2 was having trouble walking.

3 So that all goes to the forced nature of it, which
4 is also confessed to by the Defendant in his interview
5 with police, as well as the jail phone call with his
6 spouse or mother of his child.

7 There is -- there are signs of forced entry, signs
8 of someone trying to get into each window, which he
9 confirms he does. Screens had been taken off. He does
10 admit to pushing one of the windows up.

11 At one point the victim does tell him to get out.
12 It's very clear they don't know each other. He had no
13 permission to enter into the house, entered through a
14 window, remained there to rape her, and so the CSC is
15 aggravated in that nature, although he says that it was
16 nighttime, as well as Chynna and the other witnesses
17 who spoke to [REDACTED] C.B., the victim.

18 THE COURT: All right. Well, taking all of the
19 evidence in the light most favorable to the non-moving
20 party, there is adequate evidence and circumstance for
21 this jury to determine that Mr. Elam is guilty of the
22 burglary and the criminal sexual conduct in the first
23 degree. So I'm going to respectfully deny your motion,
24 Mr. Staggs.

25 At this time, you need to talk to your client

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 about whether or not he wishes to testify. What I
2 would like to do is give you about ten minutes. It is
3 five minutes till four. But if would like to speak
4 with him right now, find out if he wants to testify.
5 You indicated to me before that if he does not testify,
6 that there is no one else that you are going to put up;
7 is that correct?

8 MR. STAGGS: That is correct, yes.

9 THE COURT: What you can do, sir, is take the ten
10 minutes and talk to your client. We'll come back. I
11 will go through his rights with him, and actually go
12 over his rights with him and whether or not he wishes
13 to testify.

14 If he wants to testify, we will put him up and he
15 will testify. If he says no, you need to go ahead then
16 and just formally rest your case. The jurors will come
17 back out, I'll send them home, we will all come back
18 tomorrow morning. I'm suggesting we start about 10:00
19 tomorrow morning. That gives us a little bit more
20 time. I have already put together the jury charge, and
21 I don't see anything extraordinary in this case. But
22 certainly any particular requests you all have. You
23 know that's tough, but we can also talk about that.

24 Okay. Thank you.

25 (Pause.)

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 THE COURT: All right. Mr. Staggs, did you have
2 an opportunity to talk to your client about whether or
3 not he wants to testify?

4 MR. STAGGS: Yes, ma'am.

5 THE COURT: Mr. Elam, would you please rise,
6 please. Raise your right hand, I'm going to swear you
7 in.

8 THE COURT: Thank you, sir. Put your hand down,
9 but keep standing.

10 Thereupon,

11 LANCE ELAM

12 having been first duly sworn, was given his rights to
13 testify.

14 THE COURT: Sir, I'm going to ask you a number of
15 questions. I need you to verbally answer me so I can
16 hear you. All right?

17 Sir, we have now reached the stage of the trial
18 where you may present your defense. You have the right
19 to claim the protections that are afforded to you by
20 the fifth amendment to the Constitution of the United
21 States, which states, in part, that no person in a
22 criminal case shall be compelled to be a witness
23 against himself.

24 Basically what this means is that you cannot be
25 required or made to testify in this case. However, you

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 do need to understand that you have the right to
2 testify if you want to, in your own defense.

3 Sir, I expect you to talk to Mr. Staggs and
4 Ms. Gibbes about whether or not you wish to testify.
5 However, whether or not you wish to testify or not
6 testify is a personal decision that only you can make.

7 Sir, I just need you to know that if you choose
8 not to testify in this case, during my jury
9 instructions on the law to the jury I'm going to tell
10 them they can't even discuss or consider the fact that
11 you didn't testify.

12 The reason is you are not required to prove your
13 innocence. It goes upon the State to prove your guilt
14 as to these charges, beyond a reasonable doubt.

15 However, Mr. Elam, if you do choose to testify in
16 this case, you need to know and appreciate that just
17 like every other witness in this case you will be
18 subject to questioning and cross-examination by the
19 State on any issue that I believe is relevant to this
20 case. I just want to make sure you understand that.

21 Do you?

22 THE WITNESS: Yes, ma'am.

23 THE COURT: All right, sir. Have you had an
24 opportunity to talk with your lawyers and decide
25 whether or not you wish to testify?

CROSS EXAMINATION OF SARA GOODMAN BY MR. STAGGS

1 THE WITNESS: Yes, ma'am.

2 THE COURT: Do you want to testify, sir?

3 THE WITNESS: Yes, ma'am.

4 THE COURT: All right, sir. Is that your decision
5 that you made freely and voluntarily?

6 THE WITNESS: Yes, ma'am.

7 THE COURT: All right, sir. Very well. You may
8 be seated.

9 I find that it is a knowing choice, and I
10 appreciate Ms. Gibbes and Mr. Staggs explaining to him
11 his rights.

12 So with that said, let's bring the jury out and
13 then we will have him testify. Okay.

14 THE BAILIFF: The jury is entering the courtroom,
15 Your Honor.

16 (The jury enters the courtroom at 4:15 p.m.)

17 THE BAILIFF: The jury is seated, Your Honor.

18 THE COURT: Mr. Staggs.

19 MR. STAGGS: Thank you, Your Honor. The Defense
20 calls Lance Elam.

21 THE COURT: Come on forward and be sworn,
22 Mr. Elam.

23 Thereupon,

24 LANCE ELAM

25 was called as a witness, having been first duly sworn,

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 was examined and testified as follows:

2 THE CLERK: If you would, just state your name for
3 the record, please.

4 WITNESS: I'm Lance Elam.

5 DIRECT EXAMINATION

6 BY MR. STAGGS:

7 Q Hey, Lance. How are you?

8 A All right. How you doing?

9 Q I'm doing okay.

10 Lance, can you tell the jury how old you are?

11 A I'm 31.

12 Q Thirty-one years old. Are you married?

13 A Yes, sir, I'm married.

14 Q Do you and your wife have any children?

15 A Yes, sir.

16 Q How many kids do you have?

17 A We have two kids. We have a boy and a girl.

18 Q And where were you working at the time you were
19 arrested?

20 A At Hargray, as a subcontractor.

21 Q How long have you been there?

22 A About a year and a half. Almost two years.

23 Q Pretty steady work?

24 A Yes, sir.

25 Q Lance, we have heard a lot today about April 27th

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 of last year. What was going on on April 27th of last year?

2 A Well, to start, me and [REDACTED] C.B. (sic), we -- I
3 always take that route. I come from Tarhill, South
4 Carolina, that is the shortest way I can go. Going on that
5 way, I usually stop at that Parker's gas station right there
6 in Bluffton.

7 Q Let me stop you for just a second.

8 When you say, "[REDACTED] C.B. e," (sic) are you
9 referring to Ms. [REDACTED] C.B.?

10 A Yes.

11 Q Go ahead.

12 A Well, we met at the Parker's, and we met there for
13 an entire month and -- just about a month. I won't say an
14 entire month, but just about a month.

15 And I met her, she was putting gas in her
16 car, and I was on the other side of the gas station, on the
17 other side of the gas pump, and we gave eye contact and, you
18 know, I could tell that she was wanting to talk and I
19 proceeded to talk to her, and we engaged in conversations.
20 And we wanted to be discrete with what we were doing because
21 I had already let her know that I was married, and I have
22 kids, and I have them. And she -- she didn't offer to tell
23 me anything that much, but she did tell me that, you know,
24 she lived around the area.

25 So, things didn't -- on that actual day, we

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 had agreed to meet up at the Mickey's right there off 278 in
2 Hilton Head.

3 So I got off of work that day at 12:00. I
4 got off early. I was the lead contractor for Hargray at the
5 time. I had three workers working with me, and I let them
6 go early. I stayed back, because I had to finish a few jobs
7 at Hilton Head Plantation.

8 After that, I had already agreed with C.B.
9 (sic) to meet her at Mickey's, where I actually used my
10 debit card to purchase four beers. I had two and she had
11 two. But she never drunk hers, I only drunk two of mines.

12 After that, she agreed, I agreed that I would
13 meet with her that night when I get off of work. I told her
14 that I had to go to Sun City, I had a few pipes that I had
15 to repair over there, and then I was going to -- I would be
16 over there.

17 Eventually I told her -- she -- we had
18 discussed previously, that she didn't want me to ask her for
19 any money. My car was in the shop at the time, and she had
20 already in the course of the month opted to give me some
21 money. She gave me three hundred bucks.

22 I needed 800 that day because I had -- that
23 day, I had a slow week. So I needed to get my car out the
24 shop on that Saturday, or they was going to -- they was
25 going to basically auction it off.

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 So I was already planning to do whatever I
2 have to do to, you know, persuade her to give me the \$800,
3 because she's already given me 300 on the strip, without me
4 having to do anything.

5 So I -- after I left Sun City, as they
6 mentioned, I went to Lowes, got the stuff, and then I --
7 after I finished the jobs, I went to Bluffton.

8 I parked at the Dollar General and I walked
9 over there to her house. How I knew that was her house, I'm
10 not going to just walk to a random house, not knowing who or
11 what is in the house. And as indicated in the motion by her
12 daughter, I walked through the back door.

13 I never went through a window, I walked
14 through the back door. As I came in the house, **C.B.**
15 (sic) was there to meet me. We both were talking before we
16 did anything else, and we was talking about, she asked me
17 how my day was, I told her that it was long. And she
18 basically went into -- to basically asking me was there
19 anything she could do for me? I was like, "Well, yes.
20 There is something you can do for me. I said, I asked you
21 -- I know you told me not to ask you anymore, but I need
22 some money. I need help getting my car out the shop."

23 And she basically felt like -- she was, like,
24 "Well, is this all about money?"

25 And I was, like, "Well, no."

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 So after that I kind of like -- she -- I
2 could tell she was getting kind of aggressive. So I
3 basically just left the subject alone. I left it alone for
4 a little bit, and then that's when we opted into, you know,
5 a little sexual contact.

6 First, we started kissing and then, you know,
7 we had sex. And after we had sex, I, again, asked her for
8 the money and she basically told me, "Well, if this is all
9 it's about, if you are not willing to do something for me,
10 then I can't give you the money."

11 And I was, like, "Well, I'm not leaving my
12 family, **C.B.**" (sic) And she basically got aggressive.
13 She got mad.

14 And I want to go off the record to tell you
15 that **C.B.** (sic), not to be funny or rude in any type of
16 way, at the time, I was a 153 pounds. **C.B.** (sic) was
17 about 225, 235, somewhere right in the area. I -- I mean,
18 without some type of struggle, with some type of domestic
19 violence, I'm not going to rape a woman like that.

20 So I -- what we had was consensual. And she
21 had a life, you know, aside from what her family knew about
22 her. She wanted to keep it discrete, I wanted to keep mine
23 discrete. That's why I never offered to call her. That's
24 why we never exchanged numbers, because my wife and me was
25 using the same cell phone, so we kept everything discrete.

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 We just basically agreed to meet at the Parker's every
2 morning and discuss that way.

3 So she -- she got mad at me because I didn't
4 want to leave my family. She basically, you know, began
5 to -- after we had already had sex, she began to get mad.
6 Like, she got to the point to where she -- she kind of was
7 losing her breath. And when she was losing her breath, she
8 came to her knees and she fell down. And I didn't know what
9 was going on with her. I didn't know she had any medical --
10 medical history. I didn't know.

11 I didn't recognize it until I went on the
12 other side of the bed. Once I noticed that that was a
13 breathing machine down there, I know she had asthma, because
14 my son, he used to have that as well when he was younger.
15 He had to use it to help him breathe.

16 So that's when I just went off impulse. And
17 I just grabbed a cup of cold water, and I just poured it on
18 her chest, and I poured a little bit on her head to kind of
19 cool her down. And I helped her up -- I didn't carry her.
20 I can't. She was heavy. I can't carry her. I picked her
21 up, and she walked with her own two feet to the bathroom.

22 I didn't put her in the tub, I only advised
23 her to get in the tub because I said that it would cool her
24 down.

25 She then -- she washed. I did not wash her.

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 I had no weapon, and the only reason why I had the
2 flashlight is because where the backyard was dark, and I
3 didn't want to step on a snake.

4 Q Okay. So tell me this, Lance. We have heard your
5 statement today. Why would you tell Detective Odom and
6 Detective Wilfong something different?

7 A I was scared.

8 Q And that was fairly early in the morning?

9 A I mean, to be honest with you, I didn't handle it
10 in the beginning, like I was -- if I did this, I would have
11 never come back to my truck. I'm very aware of iPhones. I
12 had three of them myself. I know they have -- an iPhone
13 have where you can find the phone, and I actually turned
14 around at the nickle pumpers (phonetic) upon leaving the
15 house where a cop was sitting at the gas station. There was
16 a trash can right there on the other side. I'm not going to
17 keep the sheets inside of my truck if I did something like
18 this.

19 More importantly, I'm not going to come back
20 to the same truck where I know that they can find me with
21 the phone inside the truck. I'm not going to keep these
22 items in the truck when I know they are not going to do
23 nothing but take me to jail. I would have did something to
24 them. I'm just saying.

25 Q Okay. Is there anything else you want to tell us?

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 A Yes. I mean, upon being arrested, they had the
2 cuffs so tight on me to the point to where I felt like my
3 hands was falling off. So that was inside of the truck. I
4 didn't even know why they were arresting me. All I know is
5 I seen a bunch of cops swarming me. And the guy back there
6 with the black on, I believe he was the one that was talking
7 to me at the time. He was the first one I talked to. He
8 just started just checking me. He never told me why he was
9 arresting me, he never told me anything. He just basically
10 just -- just asked me if I had any weapons. And I told him
11 no.

12 I asked them why they were arresting me, but
13 he would never tell me. They put me inside the truck and I
14 heard on the dispatch that it was a rape case. And then
15 that's when I began to get -- I got mad. I got real mad,
16 because I kept saying, this is -- that's not me. That is
17 not what I done.

18 And I heard my name, so they took me to the
19 actual Bluffton precinct, where they put me in a cell, and
20 in the cell, it was really cold in there. Very cold. And
21 they left me there. And they left me there for about 30
22 minutes. And when they interviewed me, they both were --
23 they both had all they weapons on them, like they were --
24 they had all they equipment on.

25 I mean, they were very aggressive with me.

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 They -- and that's why I wanted to see the video. It was
2 very important. That's why I kept trying to get it because
3 you would be able to see from the cell to the time of the
4 interview that they were really aggressive. But you can
5 tell in the first one --

6 MS. SWANSON: Your Honor, I'm going to object.

7 The Defense does have the ability to enter the video,
8 should they wish.

9 THE WITNESS: I would love that.

10 BY MR. STAGGS:

11 Q All right, Lance. So you speak to Odom and
12 Wilfong for about an hour.

13 A Yes.

14 Q Okay. But you -- you denied knowing Ms. C.B.
15 at the time, right?

16 A I mean, I felt -- I mean, they kept asking me
17 about my family's residence. They kept mentioning
18 [REDACTED], is that your residence?

19 And they basically called my wife's name. I
20 didn't even know how they even knew her. So I felt like it
21 was a safety issue and I -- I just went along because after
22 they basically did the first interview, after I didn't say
23 what he wanted me to say, he was like, "You know that's not
24 the truth."

25 Like, Detective Wilfong just got really

DIRECT EXAMINATION OF LANCE ELAM BY MR. STAGGS

1 aggressive with me. And he was, like, "You know that's not
2 the truth. You know that's not the truth. Tell me what I
3 want to hear."

4 And he said, "I'm going to cut the recorder
5 back on and you're going to tell me exactly what happened
6 that night. You're going to tell me exactly what happened
7 tonight." And, you know, I just -- I just felt pressured.

8 Q So your second statement was a result of you
9 feeling pressured?

10 A Yes.

11 Q Okay. That's your testimony.

12 Is there anything else you want this jury to
13 know about your case?

14 A I mean, to be honest with you, I'm sorry that
15 **C.B.** (sic) -- that she felt misled. She is a sweet
16 woman, for real. She is a very sweet woman. But she knows
17 as well as I do, that's the reason why she's not here today,
18 that this is not a rape case. I didn't rape anyone, nor did
19 I burglarize a house.

20 Q Okay.

21 MR. STAGGS: Those are all the questions that I
22 have.

23 THE COURT: Ms. Swanson.

24 MS. SWANSON: Thank you.

25 CROSS EXAMINATION

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 BY MS. SWANSON:

2 Q All right. Lance, you are Lance Rontavis Elam,
3 right?

4 A Yes.

5 Q And you actually have a presence on YouTube, don't
6 you?

7 A Yes. As a singer, yes.

8 Q Right. You kind of fancy yourself a ladies man,
9 recording artist, right?

10 MR. STAGGS: Objection, Your Honor. It's
11 irrelevant. His YouTube presence is irrelevant and
12 outside the scope of direct.

13 THE COURT: Okay. It can be. But this is
14 cross-examination. It can be outside the scope of
15 direct.

16 As far as the other relevance, I don't know where
17 you are going with it, Solicitor, but if you can tie it
18 together.

19 MS. SWANSON: Right. Well, he is testifying that
20 he is a ladies man, and he's having this covert
21 relationship with my victim, and I --

22 THE COURT: I'll give a little bit of room. Just
23 go ahead and link it up for me.

24 MS. SWANSON: Sure.

25 So on YouTube, you have several videos posted,

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 right?

2 A Yes.

3 Q Hits such as Skin to Skin.

4 A I am an R&B singer.

5 Q Hands On You. And Give It To Me. Is that right?

6 A Yes, but they are not explicit songs.

7 Q Okay. But they're songs about sexual contact with
8 women, correct?

9 A Well, preferably with my woman. I was --

10 Q Okay. Okay. Not with [REDACTED] C.B. (sic), with your
11 woman?

12 A No. No, not with [REDACTED] C.B. (sic); but, yes, with my
13 woman.

14 Q All right. If you thought [REDACTED] C.B. (sic) was so
15 disgusting, then why did you have sex with her?

16 A I never thought she was disgusting.

17 Q All right. If you thought she was big and it
18 wasn't worth it -- isn't that what you told your wife,
19 Candia?

20 A Well, what I told her was that there's no way that
21 I could rape a woman that exceeds me in weight without some
22 type of domestic violence, is what I meant. I was not
23 teasing her weight.

24 Q But you heard the nurse testify to the injuries
25 that she sustained the night of April 27th, didn't you?

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 A Well, I don't understand how she got the injuries.
2 I was more injured, honestly.

3 Q All right. Well, we saw the bloody leg injury; is
4 that what you are referring to?

5 A Well, it hurt a lot.

6 Q Yeah. The little scab on your leg?

7 A Well, it wasn't that little.

8 Q All right. Well, we have a picture of it.

9 But did you receive any medical attention for
10 that scrape on your leg?

11 A Well, I was being hauled off to jail, they didn't
12 give me anything.

13 Q Okay. And the jail doesn't have a medical ward or
14 a medical unit?

15 A Well, honestly, I never even -- I was so in
16 distress, I just went to sleep and woke up, and never
17 thought to talk about it or ask anyone about it. It was my
18 first time in the jailhouse. I didn't know how things
19 worked.

20 Q And so actually -- so you went to sleep when you
21 went to jail, woke up and made a phone call, your first
22 phone call to your wife, Candia, right?

23 A Yes.

24 Q And in that phone call that we heard, we hear you
25 tell her that, "It's already a done deal. I told them the

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 truth. I'm caught."

2 Is that not correct?

3 A Well, I said that because -- yes, it is correct
4 that I said that.

5 Q Thank you.

6 A But I said that because I felt their safety was
7 being, you know -- they safety was --

8 Q Whose safety?

9 A My wife, because basically they kept calling --
10 they kept showing the address to them, to me. And that's
11 why I didn't want her to come to the jailhouse.

12 Q Have you heard any testimony about your wife, your
13 address, or anything of that nature throughout this trial?

14 A Well, you are not going to hear it because the
15 video is not there.

16 Q Okay. So let's go to that first interview. Do
17 you recall when Wilfong was talking to you and said after
18 about an hour, "So that's your story, and you're sticking to
19 it."

20 And you answered, "Yeah. My DNA not going to
21 be in nobody. I did not have sex tonight with nobody."

22 A Well, he is a cop, you know. I was -- like I told
23 you, I was exceedingly scared.

24 Q Okay. Well, this is when you are denying it. So
25 remember, the first interview is when you actually deny

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 everything. Do you recall that?

2 A I mean, who tells the police anything?

3 Q Right, until you called them back to your cell and
4 asked to talk to them again. Do you recall that?

5 A After I was forced.

6 Q All right. Forced because they had weapons on you
7 and they are policemen?

8 A No. Forced because of they are verbally -- what
9 he was saying verbally to me.

10 Q And so it was during this first interview where
11 you denied everything that you were forced?

12 A No. This was after the first interview, off the
13 record. Basically he cut the -- when he cut the tape
14 recorder off, in that time frame.

15 Q Okay. So even though they testified that they
16 were doing paperwork, searching the car, actually pulling
17 all this physical evidence against you out of the car, the
18 physical evidence that you collected from the house to
19 ensure that nobody knew you raped this poor woman who was in
20 her house alone.

21 A Let me ask you something. If I raped her --

22 Q You don't ask me questions, sir.

23 THE COURT: Hold on. You back up.

24 You don't ask any questions, sir. You have to
25 answer the questions, yes, no, I don't know. Then

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 you're more than welcome to explain your answer after
2 that.

3 She is going to ask the question and you're going
4 to answer it. All right?

5 THE WITNESS: Yes, ma'am.

6 THE COURT: Thank you.

7 MR. STAGGS: Your Honor, may we approach for a
8 moment?

9 THE COURT: No. We are fine right now. You know,
10 you're fine right now. You can continue. Everyone
11 just keep your spot, and let's keep going forward.

12 THE WITNESS: What were you saying, Ms. Swanson?

13 BY MS. SWANSON:

14 Q What I was saying, Mr. Elam, was you were saying
15 that all of these conversations, this pressure, this being
16 forced is going on while they are pulling all of this
17 physical evidence out of the truck that you were driving,
18 your employer's truck, the evidence that you took from the
19 home of [REDACTED] C.B. [REDACTED] so that you wouldn't get caught for
20 raping her. Correct?

21 A As they told you, they wasn't involved -- they
22 wasn't involved in the searching of the truck. They were
23 busy interrogating me. That's what they told you, right?
24 They didn't search the truck.

25 MS. SWANSON: Again, I'm going to ask that he not

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 direct questions towards me.

2 THE COURT: Okay. I don't think he can follow
3 your question. You need to ask a shorter question, and
4 he can then answer it.

5 MS. SWANSON: All right. Well, I'm not going to
6 pit the witnesses against each other.

7 THE COURT: That's correct, you are not.

8 MS. SWANSON: Right.

9 BY MS. SWANSON:

10 Q So let me just get your testimony straight so that
11 the jury can make their own decision.

12 Your testimony is that sometime between the
13 first interview, where you deny everything, and the second
14 interview, there is some covert pressure that is given that
15 is off camera that nobody has testified about. Is that
16 right? Is that your testimony?

17 A Yes.

18 Q Okay. And then you decide, rather than telling
19 police the truth, which is what you are saying you are
20 testifying to today, you would rather call yourself a
21 rapist; is that correct?

22 A No, that's not correct.

23 Q So in the second interview, instead of telling the
24 truth, which is what you are saying you are telling the jury
25 today, you would rather call yourself a rapist.

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 A I'm not calling myself.

2 MR. STAGGS: Objection, Your Honor.

3 THE COURT: Basis.

4 MR. STAGGS: There's been no testimony that Lance
5 called himself a rapist at any time.

6 THE COURT: Okay.

7 MS. SWANSON: Well, he did say that he sexually
8 abused a woman.

9 MR. STAGGS: Your Honor, may we approach?

10 THE COURT: You can approach just for a minute.

11 Both of you.

12 (There was an off-the-record discussion held.)

13 BY MS. SWANSON:

14 Q All right. So let's just talk about the second
15 interview. You heard the second interview, and that was
16 your voice, right?

17 A Yes, ma'am.

18 Q And so you said that you were scoping out the
19 garage area, right? And that you were battling it and
20 battling it, correct?

21 A That is what I said.

22 Q Yep. Okay. And that you did up that window
23 around back.

24 A That is what I was told to say, yes.

25 Q Okay. And so you took those screens off of the

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 windows, correct?

2 A No, I did not.

3 Q But you told police you did, right?

4 A I was told to say that, yes.

5 Q Okay. And you stuck your fingers in C.B.

6 's buttohole and vagina, correct?

7 A No, that is not correct.

8 Q Okay. But you told police that, right?

9 A That is what I was told to say. As you can see in
10 her statement, that she said that I didn't do those things
11 to her.

12 Q What statement are you referring to?

13 A In her motion. Look at what she said when they
14 asked her about it. She will tell you that I did not do
15 anything to her buttohole and I --

16 MS. SWANSON: I would move to strike that, because
17 there is no statement of C.B.

18 THE WITNESS: Yes, it is.

19 THE COURT: Hold on. There is nothing in
20 evidence.

21 Now, he opened the door, but that is not -- only
22 what is in evidence and what has been here in person is
23 at trial.

24 THE WITNESS: Well, I'm just telling you she said
25 I didn't.

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 MS. SWANSON: He is still saying that she didn't.

2 THE COURT: Okay. Again, it is not in evidence.

3 Ask him questions, and you need to respond.

4 BY MS. SWANSON:

5 Q Are you aware that she told law enforcement that
6 she was raped?

7 A I read that.

8 Q Okay. A number of times.

9 A Yes.

10 Q Okay. So when you left her house, you took all of
11 the bed sheets, you wiped up your semen from the floor, and
12 you took a watch case and her iPhone, correct?

13 A That's what was there. I didn't know I had those
14 things.

15 Q Wait a minute. You didn't know you had those
16 things?

17 A Which is her iPhone.

18 Q But you told police that you took her iPhone
19 because you didn't want to go to jail, and you wanted to get
20 a head start, correct?

21 A You can't get a head start with an iPhone that you
22 can track.

23 Q Well, how long have you had to think about this
24 now? Since April 27th of 2017? Is that how long you had to
25 think about this new story that we are hearing for the first

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 time today?

2 A Not as long as you.

3 Q I'm sorry?

4 A I haven't think about it not as long as you, but
5 it's not a think. It's just what I'm telling you the truth.

6 Q Okay. Which is not documented in any statement
7 made by you since this horrible sexual assault occurred,
8 right?

9 A Well, that was because I wasn't able to get in
10 contact with Ms. Campbell at the time. I was trying to tell
11 her, but I haven't seen her that whole time. That is why
12 Mr. Staggs is now on my case.

13 Q Okay. But you fired Ms. Campbell several months
14 ago, before this case was even scheduled for trial, correct?

15 A Actually, they allowed her -- they released her in
16 September. That is why they pushed the trial back.

17 Q Okay. And so for several months now you have had
18 access to a lawyer, and had the chance to talk to your
19 lawyer, correct?

20 A He will tell you that we don't talk about anything
21 about what I talked about to Ms. Campbell.

22 MR. STAGGS: Your Honor, I object to any further
23 questions about my conversation.

24 THE COURT: I think he opened the door. I don't
25 think it was elicited, but let's move on.

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 MS. SWANSON: Sure.

2 BY MS. SWANSON:

3 Q Okay. So your testimony is that you don't know
4 that all of these items are in your car even though they're
5 all piled up on the passenger's seat when you get your flat
6 tire, right?

7 A Well, I know I have the sheets, but I don't know I
8 have the cell phone until I'm folding the sheets.

9 Q Okay. And I suppose you didn't know you had her
10 underwear either?

11 A No. Those things were balled up in the sheet that
12 she handed me.

13 Q Oh, she handed you the sheet?

14 A Yes, ma'am.

15 Q You weren't trying to clean up and save yourself,
16 were you?

17 A If I was trying to clean up -- if I was trying to
18 clean up and save myself, I would have got rid of it. I
19 wouldn't have gone and came back to it and was folding it
20 outside.

21 Q Well, actually, you told law enforcement that you
22 were trying to get rid of it, but you got a flat tire,
23 right?

24 A I still would have got rid of it.

25 Q And you were still trying to get out of the area,

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 correct?

2 A How? When I came back to the truck. I went to
3 Wal-Mart and came back. If I did this, I wouldn't have came
4 back.

5 Q You were living well outside of Bluffton at the
6 time, correct?

7 A I still know people in Bluffton.

8 THE COURT: You need to answer the question, sir,
9 yes or no.

10 THE WITNESS: Well, I don't understand the
11 question.

12 THE COURT: You can repeat it.

13 BY MS. SWANSON:

14 Q You were living well outside of Bluffton at that
15 time, correct?

16 A Yes, ma'am. Yes, ma'am. Tarhill, South Carolina.

17 Q And where is that?

18 A Closer to Ridgeland.

19 Q And you were not actually doing any work in
20 Bluffton or Old Town Bluffton, you were working on Hilton
21 Head that day, right?

22 A Right.

23 Q Do you recall having conversations with your wife,
24 saying, "All I can think about is it wasn't even worth it."

25 "This would be the first time I ever stepped

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 out on you for no reason at all. This woman, she is a big
2 woman. It wasn't even worth it."

3 Do you remember telling that to your wife?

4 A That is true.

5 Q And that you did not sexually assault her, that
6 you just sexually abused her; do you remember that?

7 A Well, that was the day after, and I was basically
8 saying that to protect her.

9 Q Right. Okay. So your conversation with her, when
10 you are telling her that you told the truth to the police,
11 that is because you are still under some sort of pressure
12 from the police?

13 A Well, yes. Because she was coming to the
14 jailhouse. I still felt like, because they had her address
15 and they knew her name, and they were already treating me
16 aggressively that I -- I just felt for her safety with me
17 being in jail.

18 Q Well, the only reason they had her address was
19 because you live together, right? That was your address,
20 too, correct?

21 A Well, I don't understand how they got it so fast.
22 I mean, they was just talking to me that night.

23 Q Is it not on your driver's license?

24 A I mean, that is, but not my wife's name.

25 Q Okay.

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 MS. SWANSON: Beg the Court's indulgence.

2 (Pause.)

3 BY MS. SWANSON:

4 Q All right. So you had more than one conversation
5 with Candia about this, right?

6 A About the incident?

7 Q Yes.

8 A Yes, ma'am.

9 Q Okay. And so the first one, the one that I
10 entered into evidence, that was on April 28th, the morning
11 after you were arrested. That wasn't the only one, was it?

12 A I can't remember.

13 Q I mean, you called her a lot?

14 A Yes, I did.

15 Q All right. Do you recall the conversation that
16 you had with her on April 29th, a couple of days after you
17 had been in the jail, where you say that "I sexually
18 assaulted her with my hands, but I never raped her. Now,
19 what they do got me for is burglary, for breaking in her
20 house."

21 Do you recall saying that to your wife?

22 A That is when I was basically opted on to telling
23 the truth about everything.

24 Q Okay. So this is two days after you had given
25 your second interview that you're saying you were super

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 pressured into by law enforcement. You'd been at the
2 detention center now for two days, right?

3 A That is not very long.

4 Q Okay. But you are still under that pressure, when
5 you are telling your wife what really happened?

6 A Well, yes. It was my first time in jail and I
7 still feared for her safety. And it is on phone
8 conversations in there when I actually tell her the truth as
9 well, and I tell her there is more to the case than she
10 actually know.

11 Q Like when you told her that you were a hero?

12 A Well, I mean, you can say that. I mean, because I
13 did save her life, but that's not something that I'm banking
14 on.

15 Q Right. So when she started having an asthma
16 attack after she was raped by you, you threw some water on
17 her, and you saved her life because you said you could have
18 just ran. Is that what you are referring to?

19 A Well, to be honest with you, she didn't just have
20 an asthma attack. She had a real severe attack on that
21 floor.

22 Q Do you think maybe it could have been a panic
23 attack?

24 A No. She wasn't panicking, she was mad.

25 Q All right. But when you described all of that to

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 your wife, you described yourself as a hero; did you not?

2 A I was. I did save her life.

3 Q Okay. So that's your testimony, you saved her
4 life. Thank you.

5 MR. STAGGS: No redirect, Your Honor.

6 THE COURT: You may step down, Mr. Elam.

7 Anything further from the Defense?

8 MR. STAGGS: Nothing, Your Honor. The Defense
9 rests.

10 THE COURT: All right. May I see the attorneys
11 briefly?

12 (There was an off-the-record discussion held.)

13 THE COURT: Ladies and gentlemen, at this time,
14 we're going to get ready to break for the evening. I
15 promised you that we would leave by 5:00. The Defense
16 has now rested their case as well.

17 I'm going to ask you to be here tomorrow at
18 10:00 a.m. And the reason why we're going to start a
19 little bit later tomorrow morning, ladies and
20 gentlemen, is because naturally I'm going to have to
21 listen to things before we argue the charge. And I
22 don't want you waiting out there on us. So it just
23 gives us a little bit more time to be prepared and get
24 ready.

25 Again, I need to tell you, you may not discuss

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 this case. You may not do any independent research.

2 You are not to watch anything, listen to anything, do
3 anything in reference to this case, either watch or
4 view anything.

5 Again, ladies and gentlemen, the only thing I ask
6 is that you go home and get a good night's sleep.

7 You're going to go ahead -- do you want them to
8 hand the notebooks to you? Everyone has a number, so
9 you can get them back properly tomorrow.

10 I look forward to seeing see you at 10:00 a.m. We
11 are going to complete the case tomorrow. All right?

12 Thank you.

13 (The jury exits the courtroom at 4:55 p.m.)

14 THE BAILIFF: The jury is clear, Your Honor.

15 THE COURT: Okay. All right. Y'all may be
16 seated.

17 I anticipate tomorrow morning, we're just going to
18 argue the charge, but you left it open. So if you have
19 a rebuttal witness, you may do that shortly.

20 I expect, Ms. Swanson, if you do think at any
21 point you do have a rebuttal, I need you to email
22 Mr. Staggs and the Court. All right?

23 With that said, I would like to go over the charge
24 with y'all very briefly. And in this case, I'm happy
25 to actually have Julia just email it to you, and you

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 can look at it overnight.

2 And only thing I ask when I do that is, try hard
3 not to, you know, quote it in your closing arguments.
4 I mean, that's why judges don't give them out, because
5 they don't want you, you know, quoting the Judge is
6 going to tell you exactly this.

7 So that's why we don't give it out, but I want you
8 to know what we say, you know, to make sure that it's
9 appropriate. So it is very straightforward, you know.
10 Your typical -- his charge is CSC in the first,
11 burglary in the first. I don't see any lesser includes
12 in this case. I think it's just very much and up or a
13 down.

14 And also, you know, obviously the duty of the jury
15 is to decide the facts; my job is to decide the law. I
16 talk to them about note taking, direct evidence and
17 circumstantial evidence, and credibility of witnesses,
18 expert witnesses. There are two charges in this case,
19 burglary first. Obviously, I define for them and give
20 them the elements of burglary first. In this case, the
21 aggravating circumstances, that it's nighttime that it
22 occurred.

23 And criminal sexual conduct in the first degree.
24 So -- and again, the aggravated force, we'll talk about
25 that as normal. And then just be fair and impartial.

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 Very straightforward.

2 So anything other than that, is there anything you
3 can think of from the State, Ms. Swanson, on this
4 matter?

5 MS. SWANSON: Sorry. Did I miss expert testimony?

6 THE COURT: I think that I jumped over it. I
7 don't think you missed it. I think that I didn't say
8 it.

9 MS. SWANSON: No, just normal.

10 THE COURT: Anything else, Mr. Staggs?

11 MR. STAGGS: No, ma'am.

12 THE COURT: All right. So I'm going to ask Julia
13 to email you guys, and so you can have it, read it, and
14 then we will go over it.

15 If you all can be here tomorrow morning, I'll be
16 here by 9:00. But if we can all kind of gather here
17 about 9:30 so we know what is going to happen. Okay?

18 I appreciate it, y'all. Good night.

19 MS. SWANSON: Good night. Thank you.

20 THE COURT: Oh, the verdict forms, very up and
21 down. Guilty or not guilty, burglary first; guilty or
22 not guilty as to criminal sexual conduct first. Okay?

23 Take a look at it. Okay? All right.

24 (Whereupon the Court was at recess for the day.)

25

CROSS EXAMINATION OF LANCE ELAM BY MS. SWANSON

1 12-12-2018 PROCEEDINGS

2 THE COURT: Good morning.

3 All right. So it is my understanding that there's
4 no objections to the jury charge; is that correct, from
5 to the State?

6 MS. SWANSON: Correct.

7 THE COURT: From the Defense?

8 MR. STAGGS: That's correct.

9 THE COURT: As well, any objections to the verdict
10 form from the State?

11 MS. SWANSON: That's correct.

12 THE COURT: From the Defense?

13 MR. STAGGS: None.

14 THE COURT: Very good. And my understanding is
15 there's also no rebuttal from the State and so we're
16 going to go straight into closings; is that correct?

17 MS. SWANSON: Correct. And I will do my first
18 closing and then reply after Mr. Staggs.

19 MR. STAGGS: And, Your Honor, we just ask that the
20 State open fully on the facts of the law.

21 THE COURT: She will.

22 MS. SWANSON: Right. And only to new argument.

23 THE COURT: Exactly.

24 MR. STAGGS: Your Honor, I have one other matter
25 I'd like to take up very quickly. I just want to make

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1 sure, before we get into closing arguments that
2 Ms. Swanson does not intend to argue anything as to why
3 Ms. **C.B.** did not come this week. I don't believe
4 that there's been any testimony to that effect, and I
5 just want to make sure that's not being put in front of
6 the jury.

7 THE COURT: Ma'am?

8 MS. SWANSON: I do think that I can argue a
9 logical inference based on her personality and the
10 trauma that she endured that night.

11 MR. STAGGS: I don't believe so. I don't think
12 that there has been any testimony that said that she
13 didn't come because of that.

14 I think any direct testimony -- or any direct
15 argument from the State that suggests that she was
16 traumatized, or too traumatized, to show up, I think
17 would unfairly prejudice Mr. Elam. I think it's
18 inappropriate based on the fact that those are facts
19 not in evidence.

20 THE COURT: Okay. She has a little bit of leeway
21 because I certainly heard testimony from the ER nurse,
22 the RN that was there. And number one, you were pretty
23 careful about going through all of the things that she
24 was.

25 But the thing that I got, probably the most in

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1 hearing is how angry she is, and how angry she's been
2 about this from the beginning.

3 Also, we have the first responder, younger female
4 police officer that said that she just couldn't -- I
5 think you can, in person -- I agree that I don't think
6 she can outright say -- you need to be careful is what
7 I'm trying to tell you. Just don't step -- and I know
8 you know that.

9 MS. SWANSON: I understand. And I feel certain
10 that Mr. Staggs will object if I say anything
11 objectionable. I do not intend to.

12 There was testimony about the victim's habits, you
13 know, that she went to work, she went home, she doesn't
14 really socialize, and those are things that I'm going
15 to talk about.

16 MR. STAGGS: And, Your Honor, just for the
17 purposes of the record, all of that testimony centered
18 around that evening, the evening in question, not going
19 forward. So that would be my objection to talking
20 about anything that has to do with this week.

21 THE COURT: Well, it all has to do with her
22 attack, and I think this whole week we have been
23 talking about her attack. So I think its fair, I think
24 it's fair game.

25 MR. STAGGS: Yes, ma'am. Thank you.

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1 THE COURT: Again, you need to be careful, though.

2 I mean, again, you can't --

3 MS. SWANSON: Yes, Your Honor.

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

5 MS. SWANSON: Nothing from the State.

6 MR. STAGGS: Nothing from the Defense, Your Honor.

7 THE COURT: Okay. Do we have our jurors?

8 THE BAILIFF: Yes, ma'am.

9 THE COURT: Very good. All right. You all ready
10 to go?

11 MR. STAGGS: Yes, ma'am.

12 THE COURT: For those of you there in the gallery,
13 just to let you know during the closing arguments, I'm
14 just asking that you kind of keep your seats, if you
15 can, and not move around or go in or out. It just
16 distracts from the lawyers.

17 And I will also ask you that when I charge on the
18 law, where I'm reading the laws applicable to this
19 case, the back doors are going to be locked. So just
20 to let you know, you can't get out.

21 So sometimes people try to leave, and they'll tell
22 you to sit down. Okay? So that's just to let you
23 know.

24 You will also see the lawyers often do a mass
25 exodus before I start charging on the law, because

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1 they've heard it all before. So that's just to let you
2 know.

3 All right. Let's bring the jury in.

4 THE BAILIFF: The jury is entering the courtroom,
5 Your Honor.

6 THE COURT: Thank you.

7 (The jury enters the courtroom.)

8 THE BAILIFF: The jury is seated, Your Honor.

9 THE COURT: Thank you. You all my be seated.

10 Good morning, ladies gentlemen. Thank you all for
11 being here promptly.

12 Ladies and gentlemen, at this time both sides have
13 rested their cases. Now, what you are going to hear
14 are the closing arguments from the lawyers and I am
15 going to charge you on the law that's applicable to
16 this case. All right.

17 So, in this case, because the State has the burden
18 of proof, the State is allowed to, what we call, open
19 in full, and then the Defense will make his closing
20 argument, and then the State is allowed a brief
21 response. All right.

22 So, Ms. Swanson, whenever you are ready.

23 MS. SWANSON: Thank you, Your Honor. May it
24 please the Court.

25 THE COURT: Yes, ma'am.

CLOSING ARGUMENT BY THE STATE

1 CLOSING ARGUMENT BY THE STATE

2 MS. SWANSON: This is fate, the flat tire that
3 Lance Elam got when he was getting away. This is fate.

4 This is the face of a rapist. That is the face of
5 a rapist. This is not consensual sex. And this is a
6 scene of a victim, who has been traumatized and in
7 shock, and her family is talking her off the ledge.

8 Lance Elam is no hero. He is a predator, a
9 burglar, and a rapist. He deserves no medal of honor,
10 he deserves to be sitting in this courtroom indicted
11 and being held accountable for what he did to C.B.
12 that night.

13 Let me start by addressing the numerous versions
14 of the stories that Lance Elam gave regarding the
15 events of April 27th, 2017. He is an admitted liar,
16 folks. He got on the stand yesterday and admitted that
17 he did not tell the truth a number of times because
18 he's given so many statements. And they can't all be
19 true. We know this.

20 He got on the stand yesterday and told the most
21 offensive version yet. A version that he had over a
22 year and a half to come up with. A version that he
23 came up with when he realized the victim wasn't going
24 to take the stand. A version that he came up with
25 after he knew and saw the evidence that was going to be

CLOSING ARGUMENT BY THE STATE

1 presented against him. A version that sort of fit in
2 that. He can't say he wasn't there anymore.

3 A version that nobody heard up until yesterday,
4 and a version that is not at all supported by the
5 evidence that is in the record. And it is the evidence
6 in the record that you must base your decision on and
7 base the facts on.

8 You get to determine the facts, but it must be
9 based on the evidence that you heard within this
10 courtroom, not made up evidence that Mr. Elam got on
11 the stand and tried to talk about.

12 Let's talk about his first interview with
13 Detective Odom and Wilfong. His first version was
14 deny, deny, deny. Someone put those sheets in my car.
15 Somebody must have done that when I was going to try
16 and fix my flat tire. I got a cut on my leg when I was
17 working on my truck. My DNA won't be anywhere in
18 Bluffton, and it certainly won't be inside of anyone
19 because I didn't have any sex that night.

20 Version two, the second interview with Detective
21 Wilfong and Detective Odom. Everyone is working on
22 processing the car, getting his paperwork done. They
23 had ended that first interview, kind of given up on
24 getting any sort of confession out of him. You know,
25 25 to 45 minutes passes, he's in the cell, multiple

CLOSING ARGUMENT BY THE STATE

1 people hear him yell out for detectives. Detective
2 Odom heard him, Sergeant Rutland heard him from the
3 bay, where they were processing the car. Detective
4 Odom goes over and checks on him. "What you need,
5 Buddy?"

6 "I want to talk."

7 They take him into the interview room and, wow,
8 there he goes. He talks. And the truth came out then.
9 They didn't even ask him any questions. He tells
10 investigators that he "fucked up," that he is "scared
11 shitless." And you know what, that is the truth.

12 He scoped the place out and was battling the urge
13 to do it. He tried to enter through a number of locked
14 windows. He removed the screen, entered through an
15 unlocked window. He checked the house for dogs and
16 men. He watched her sleep and then jumped on her like
17 an animal.

18 I'm sure you remember this recording, and if you
19 don't you can listen it to again. It is in evidence.
20 I'm not going to play it for you again because you just
21 listened to it yesterday, and it's so disturbing. I'm
22 pretty sure that it must stick in your crawl.

23 After they tussled, she was yelling at him to get
24 out. He proceeded to hold her down, force his fingers
25 and penis in her vagina, in his words, butthole.

CLOSING ARGUMENT BY THE STATE

1 Understandably, she has some sort of breathing
2 attack, asthma, panic, perhaps just because she had
3 just been raped. He throws some water on her, makes
4 her bathe. Remember, he said when he came in the
5 bathroom light was on so she could see. So it wasn't
6 pitch black dark. He makes her bathe, he turns the
7 light off. He has a flashlight, and he shines the
8 light on her because he doesn't want her to see his
9 face.

10 He then says he tried to clean up after himself
11 because why else would you take all of the sheets off
12 of the bed, down to the mattress cover, pile them up in
13 your car and flee? Does that sound like consensual
14 sex? Does that sound like a relationship?

15 Also takes her underwear and cell phone because he
16 didn't want to go to jail, he wanted to get a head
17 start, he wanted to get out of the area. And as fate
18 would have it, he gets a flat tire.

19 So he didn't get a chance to get out of the area,
20 he didn't get a chance to get rid of all of the
21 evidence that would have linked him to this home
22 invasion and rape.

23 Most importantly, he tells you in that interview,
24 that he did not know her. Do you know why you should
25 believe that? Because when he got on the stand

CLOSING ARGUMENT BY THE STATE

1 yesterday and told you that he had some covert
2 relationship with this woman, he called her " C.B. ."
3 Well, guess what, that is not her name. Her name is
4 C.B. .

5 You also heard a jail phone call with his wife.
6 This is after he's away from the Bluffton PD officers,
7 he's freaking out. You know, he's been caught and his
8 family is wondering what in the world is going on. He
9 asked her to go outside somewhere private so that he
10 can talk about something private with her. And that is
11 hard for him to say because it's out of his character.
12 And he tells her that he went in the house with Robert,
13 but it went a different way, and his wife sounded
14 horrified, and says, "what way did it go?"

15 "Well, I just sexually abused her. I didn't beat
16 her up or nothing." You can re-listen to that
17 conversation as well.

18 All right. Who wants to admit to their family
19 falsely that they are a rapist? Does that make any
20 sense? Does it make sense that Lance Elam is so scared
21 of what may be coming down the pipe, what may happen to
22 him, that he decides to declare himself a home
23 invader/rapist?

24 He was already going to jail. They were doing the
25 paperwork. He knew he was going to jail. He was

CLOSING ARGUMENT BY THE STATE

1 waiting to be transported.

2 The testimony from yesterday afternoon, just a
3 quick recap, and I know you guys just heard it. You
4 know, ladies man, Lance, locks eyes with who he calls
5 **C.B.** at a gas station and can tell that, you know,
6 she just -- she wants to have sex with him. And they
7 engage in some sort of covert sexual relationship for
8 over a month, because that is what happens in the real
9 world?

10 Why do we need all these online dating sites? Are
11 you kidding me? Does that make any sense? His version
12 is that he goes to her house because he needs some
13 money. She gets aggressive with him, and then
14 apparently becomes amorous and engages in some
15 consensual sex with him right after she gets
16 aggressive.

17 He tells her he's not leaving his wife. She gets
18 aggressive again. Lance never becomes aggressive with
19 her, despite the injuries that the sexual assault nurse
20 noted and testified to. And then inexplicably, she
21 piles up all of her bed sheets, all of this stuff, and
22 what? Hands it to him to put in his car? Gives him
23 her phone, gives him her underwear, everything that
24 would link him to this sexual assault? Does that seem
25 odd to you? Come on.

CLOSING ARGUMENT BY THE STATE

1 My favorite version, which we talked about when he
2 was on the stand, is a few days later when he declares
3 himself a hero. That he saved [REDACTED] C.B. [REDACTED]'s life instead
4 of just getting away. And he admitted telling his wife
5 that he had embraced that hero status.

6 Let me ask you this: Which of these versions are
7 corroborated by the evidence in the record and anything
8 that you have heard in court? His confession.

9 He is caught, and the evidence is overwhelming.
10 He's backed into a corner, and his testimony yesterday
11 was a complete lie. He must think that you all have no
12 common sense, or that he can talk to you like he can
13 talk to one of his ladies in his R&B songs.

14 He must be disappointed. He was going to be a
15 bigshot R&B artist. Rape is not power. He's now just
16 regular Joe, subcontractor for Hargray.

17 Maybe it's disappointment in his life that led to
18 this. We don't know, we can't crawl into his head.
19 But what it is, is it's disturbing and it's criminal.

20 So I do want to go through the testimony and the
21 evidence that was put before you yesterday. We started
22 with Chynna Lopez. That is [REDACTED] C.B. [REDACTED]'s
23 daughter. And she tearfully related the night that her
24 mother came over to her house, no shoes on, soaking
25 wet, screaming, sobbing, banging on her door. She had

CLOSING ARGUMENT BY THE STATE

1 been assaulted.

2 She wanted to go back to her house to check on her
3 animals, the guinea pigs that she was found cradling
4 when she was traumatized waiting on police.

5 She appeared to be in shock. When Chynna got to
6 the house, she saw water everywhere. The bed was
7 askew, her mother's rocket ship sheets were missing, as
8 well as the duvet cover, the mattress pad.

9 Her mom's phone was missing, too. They track it.
10 David Bachman, her father, comes to [REDACTED] C.B.'s house
11 once he gets a phone call from his granddaughter, and
12 he and his son-in-law go where the iPhone tracked. And
13 lo and behold, they see Lance Elam next to the white
14 truck, folding a bunch of sheets.

15 The police are called, the police go out to that
16 scene and they detain Lance Elam. They tow the truck,
17 get a search warrant, process it. And all of these
18 items were found in it. All of these items that may
19 contain forensic information, DNA, something to link
20 Lance Elam to this rape.

21 Laura Rutland is on call. Detective Odom asks her
22 to respond to the victim's residence because they want
23 a female officer. And when she responds, she sees
24 Sylvia and Chynna, the victim's mother and daughter,
25 talking to her, sitting on the ground talking to her,

CLOSING ARGUMENT BY THE STATE

1 trying to calm her down. C.B. was distraught, wet,
2 fearful, confused, and leaning on the guinea pig cage.

3 After trying to communicate with her, it became
4 clear that she wanted no one near her. She didn't want
5 to be touched after she had just been violently raped.
6 She didn't want EMS to check her out.

7 Laura called in someone else to try and talk to
8 her, an older female police officer, and she moved on
9 to processing the house. And what we heard first about
10 was the exterior of the house, where there were
11 fingerprints on almost every window, where it looked
12 like somebody was trying to get in on almost every
13 window in the back.

14 Screens were removed, screens were popped off, and
15 one of those windows was unlocked. The front door was
16 locked. And if you recall in Lance's interview, he
17 says he did go through one of those back windows, and
18 it was one that was unlocked. He tried several, he
19 went through a back window that was unlocked. And then
20 when he left the residence, he went through the back
21 door. He unlocked the back door and left. The front
22 door was still locked, and there's even a picture of
23 it.

24 Inside, and you can review all of these photos in
25 the jury room, you have this struggle, clear signs of a

CLOSING ARGUMENT BY THE STATE

1 struggle in the bedroom. We have talked about the bed,
2 it's askew, off the frame. All the sheets are gone.

3 Next, we heard from the sexual assault nurse,
4 Jennifer Stokes, who spent quite a bit of time talking
5 to the victim trying to convince her that this was
6 important. She had been assaulted, it is important to
7 gather this evidence now, because this evidence doesn't
8 stay for long.

9 She was examining her for an unconsensual sexual
10 battery that the victim described took place at night
11 in her own home. She was disheveled, angry, sobbing,
12 intense, which was not unusual, Nurse Stokes testified,
13 in the hundreds of sexual assault exams that she's done
14 on victims.

15 C.B. had injuries. Nurse Stokes actually
16 wanted her to go for x-rays. She had pain in the right
17 arm and the hip. She thought she needed further
18 medical evaluation. And in the pelvic examination, she
19 noted swelling, a lot of swelling. There was micro
20 tearing, bruising, all consistent with forced
21 penetration.

22 Detective Odom gets on the case. He was on call
23 and initially responded to the post office. They do a
24 number of things to gather the facts. You know, he
25 testified that between one in the morning and five in

CLOSING ARGUMENT BY THE STATE

1 the morning, when Lance Elam was first interviewed,
2 they were obtaining a search warrant, processing the
3 house. The victim was getting the rape kit done. They
4 began to process the car. Had not finished it by the
5 time that interview took place.

6 They were busy. This occurred late at night.
7 There was information to gather, and these folks wanted
8 the information when they went into that interview
9 room. They wanted to confront him with the evidence.

10 They went over his rights, just like they are
11 supposed to. Twice, even. And you heard the testimony
12 about how that first interview ended and how the second
13 interview began.

14 He wanted to speak. Listen. Listen to that
15 second interview. Does it sound coerced? Again, they
16 barely asked him any questions. Does it sound
17 scripted? No, it's just rolling off of his tongue.
18 How in the world did these officers come up with some
19 script for him to follow in that amount of time, when
20 they are investigating an extremely violent home
21 invasion rape, and doing all these other things? That
22 doesn't make any sense.

23 He was told to say all that, he told you
24 yesterday. No, he wasn't. That's what happened, and
25 when the truth comes out, it comes out fast.

CLOSING ARGUMENT BY THE STATE

1 Seventeen-minute script. Who wrote that for him?

2 Detective Wilfong corroborated the chain of
3 events. He was also present for the interviews and
4 told you what occurred. And then finally we heard from
5 SLED, the SLED experts, and the fact that Lance Elam's
6 seminal fluid was found inside [REDACTED] C.B. [REDACTED]. She
7 was raped. Her DNA was also found on both of his
8 hands.

9 Judge Mullen is going to tell you that you get to
10 evaluate the credibility of witnesses. All right. And
11 that is up to you to determine what and what not to
12 believe. You get to look at things like their
13 demeanor, how they answered questions, whether or not
14 they got aggressive when they were being questioned.

15 This is simply no huge mistake or misunderstanding
16 or a miscommunication. It is just not.

17 You also heard how traumatized [REDACTED] C.B. [REDACTED] was that
18 night. Is it any wonder that she may not want to be in
19 the same room as her rapist? And you know what, a
20 victim doesn't have to testify. It is just rare that
21 we have a strong enough case to go forward without her
22 testimony.

23 You heard her family describe her habit of keeping
24 to herself -- going to work, going home, not really
25 socializing very much. Coming to a courtroom full of

CLOSING ARGUMENT BY THE STATE

1 people to talk about her sexual assault may not be in
2 her personality. It may not be something she can
3 handle.

4 Now, I want to briefly talk about the law.
5 Whatever you hear from the attorneys is not what you
6 need to take apart. Really, it is going to come from
7 Judge Mullen. But essentially, as you have heard,
8 Lance Elam is indicted for burglary in the first degree
9 and criminal sexual conduct in the first degree. That
10 is aggravated burglary and aggravated rape.

11 Aggravated burglary is entry into a dwelling, a
12 house, of another without consent during the nighttime,
13 with the intent to commit a crime. Okay? It doesn't
14 mean he had to intend to commit a specific crime upon
15 entry.

16 You know, okay, I mean, if we take his word for
17 it, "Well, I really just went in there to rob and then
18 it turned into something else."

19 Well, it doesn't matter. He committed a crime,
20 and he was going in there with the intent to commit a
21 crime.

22 Criminal sexual conduct in the first degree is
23 aggravated rape. That is forced penetration with any
24 body part, any object, no matter how slight, that is
25 accomplished with aggravated force. Pinning her down,

CLOSING ARGUMENT BY THE STATE

1 physically assaulting her.

2 As I told you in my opening, it is the State's
3 burden to prove Lance Elam guilty beyond a reasonable
4 doubt. And what that means is that you need to be
5 firmly convinced that he committed these crimes.

6 Now, it's not the State's burden to prove to you
7 beyond any possible doubt. Reasonable doubt. And that
8 is why I ask you to keep your common sense about you
9 when you listen to the facts of this case.

10 There are few things that the Defendant mentioned
11 in his ramblings on the stand that are simply not in
12 evidence and are not evidence. You can only consider
13 what was admitted into evidence and what you actually
14 heard in this courtroom as evidence to rely on for your
15 decision making.

16 Now, Mr. Staggs is going to have the opportunity
17 to speak with you and provide his argument. I am going
18 to briefly come back and respond to any new arguments.
19 But in the meantime, I trust that you will maintain
20 your common sense and speak the truth in your decision.

21 THE COURT: Mr. Staggs.

22 MR. STAGGS: Thank, Your Honor. May it please the
23 Court.

24 THE COURT: Yes, sir.

25 CLOSING ARGUMENT BY THE DEFENSE

CLOSING ARGUMENT BY THE DEFENSE

1 MR. STAGGS: Good morning, ladies and gentlemen.
2 Ms. Swanson just wrapped up her statement to you by
3 asking you to speak the truth. Well, that is not
4 exactly what your job is. Your job is to consider what
5 you heard, what you have seen, what you haven't heard,
6 what you haven't seen, and determine, in light of all
7 of that, whether the State has proven beyond a
8 reasonable doubt that Lance Elam committed a criminal
9 sexual conduct in the first degree and burglary in the
10 first degree.

11 And beyond a reasonable doubt is, it is a legal
12 term, but it's not trivial. It's not trivial. It is
13 very -- it is very important. It is important to all
14 of us here, it's important to Lance Elam, and it is
15 important to everyone of you as well. That is the
16 standard we have, and I like to think about it a little
17 bit this way, as far as reasonable doubt goes.

18 I grew up in Kentucky. I came down here for a
19 lawsuit and never left. But my mother is from
20 Massachusetts, and every spring break, which, in
21 Kentucky was the first week in April, we would go up
22 and see her people in Massachusetts. And we had an
23 uncle who would take us out on the lake. And, you
24 know, in the winter, you'd want to go swimming.

25 But, again, Massachusetts, and you are on a lake.

CLOSING ARGUMENT BY THE DEFENSE

1 It's April and so somebody -- somebody would have to
2 get up and jump first. And as the oldest boy, it was
3 typically me. And I'd get up there, and my brothers
4 give me a hard time about it, but I wouldn't jump right
5 at first. I would hold off because that water was
6 cold.

7 That is the type of doubt, it is the hesitation to
8 act. That is reasonable doubt. And the Judge will
9 talk to you a little bit more about that here in a
10 little while.

11 But you have to be so firmly convinced that you
12 would jump in, knowing how cold the water was. And
13 what convinces you is the evidence, and like
14 Ms. Swanson said, it is evidence in the record, and
15 some of that is testimony. And you heard from Lance
16 and you heard from Detective Odom and you heard from a
17 number of people in addition to seeing all this
18 physical stuff here.

19 But there were only two people in that house at [REDACTED]
20 [REDACTED] that night, and only one of them spoke to you.
21 So let's talk about what we heard from Lance, because
22 we heard a lot of different things from Lance.

23 Odom and Wilfong both got up here and said we
24 conducted the first interview at five, he denied
25 everything. We stopped the interview. We didn't -- it

CLOSING ARGUMENT BY THE DEFENSE

1 wasn't going anywhere, we stopped the interview.

2 Well, let's think about what happened before that.

3 At midnight, Lance is in the parking lot of the post
4 office in Bluffton, when a massive police presence
5 shows up and he's taken into custody. That is at
6 midnight.

7 Sometime around 12:45, the testimony was, he was
8 transported over to the law enforcement center, over to
9 the Bluffton PD. And he's put in a holding cell, and
10 he sits there and the officers all testified that there
11 were a lot of other things going on. They had a lot of
12 stuff to do, paperwork, conducting the investigation.

13 We don't know what happened between 4:45 and 5:00,
14 but we do know at 5:00 that Odom, Detective Wilfong,
15 and Lance all go into a room, and they started having a
16 conversation. And that goes -- that goes for an hour.
17 And we have heard that at the end of that they put him
18 back in the cell.

19 Now, what is interesting to me is during this time
20 we heard a number of officers testify that they could
21 hear Lance. We also know that during this time in the
22 Sally port, somewhere within earshot, there's a search
23 being conducted of the truck. And just about almost
24 everything you see here is being pulled out of that
25 truck, and there are a number of officers working on

CLOSING ARGUMENT BY THE DEFENSE

1 the search, witnessing the search. A number of them,
2 including Detective Odom and Detective Wilfong.

3 So by the time we get around to this, the
4 confession, the second interview, law enforcement has
5 all of this information, Lance has been sitting first
6 for about four hours. The second time, we don't know
7 how long he's sitting in that holding cell. We don't,
8 because we don't know what time the second interview
9 starts.

10 We know we don't have a video of it, and we know
11 that we don't have a video of what was going on in the
12 holding cell in those times in between. But we have --
13 we have that second interview. And that second
14 interview is disturbing. It is chilling to hear. I'm
15 not -- I'm not going to tell you otherwise.

16 But it cannot be considered, absent the
17 circumstances that brought us to that point. It didn't
18 happen in a vacuum, and what happened before matters.

19 So we go through that second interview and it's 17
20 minutes long, as Ms. Swanson said, and at that point,
21 it's over. Law enforcement has everything they need,
22 Lance goes back to the holding cell again. And
23 eventually he makes his way over here to County
24 Detention Center.

25 And then, we have the following day, the phone

CLOSING ARGUMENT BY THE DEFENSE

1 call between a man and his wife. A wife who he has
2 admittedly told y'all today, he stepped out on at that
3 point. A wife who asked him over and over again, "What
4 did you do?"

5 "What did you do," and he answers the best way he
6 can. He's been in jail for 24 hours. It's not a
7 situation he was familiar with. And he gave her the
8 best answer that he could. He told you yesterday he
9 was trying to -- but I mean, those recordings are what
10 they are, but the circumstances that surround that.

11 And yesterday Lance got up to testify, and he
12 didn't have to do that. And, in fact, had he chosen
13 not to, Her Honor would tell you that you are not
14 allowed to consider that at all. It's not even allowed
15 to be discussed in your deliberations.

16 But he got up and he testified, and he subjected
17 himself to cross-examination from Ms. Swanson, and we
18 all saw it. She seemed a little frustrated throughout
19 most of it. But he told you what happened. He told
20 you what his experience was, before and after midnight,
21 when the Bluffton Police Department rolled into that
22 post office parking lot.

23 What you did see, what you didn't. What you did
24 hear and what you didn't.

25 Ms. C.B. did not come in here and testify.

CLOSING ARGUMENT BY THE DEFENSE

1 There were two people in the house that night. Now,
2 Ms. Swanson told you that the State can prosecute a
3 case without a victim. She's right. They can, but we
4 are guaranteed the right to confront our accuser when
5 you are accused.

6 MS. SWANSON: Your Honor, I'm going to object to
7 this. There was -- there is no confrontation clause --

8 THE COURT: You can come up.

9 (Attorneys approach the Bench.)

10 THE COURT: Ladies and gentlemen, you need to
11 disregard what he was discussing or began discussing,
12 talking about the confrontation clause. All right? It
13 is not appropriate for this case.

14 MR. STAGGS: When we started this yesterday
15 morning, I told you we all have jobs to do.
16 Ms. Swanson had a job to do, I have a job to do, Judge
17 Mullen has a job to do, and now y'all have a job to do.
18 I have asked you to keep an open mind. I ask you to
19 look at this in the context of everything that was
20 going on. And I believe that in your deliberations you
21 will find that the State has not met this burden that
22 they talked so much about, and I'm going to ask you to
23 return a verdict of not guilty on both of the charges.

24 Thank you, ladies and gentlemen.

25 THE COURT: Thank you, Mr. Staggs.

CLOSING ARGUMENT BY THE DEFENSE

1 UNIDENTIFIED SPEAKER: Before it goes any
2 further --

3 THE COURT: Ma'am, stop.

4 UNIDENTIFIED SPEAKER -- I knew about that woman.

5 THE COURT: Ma'am, sit down now. Ma'am, sit down
6 now.

7 Mike, take her out. Now.

8 Ma'am, you are to leave now. Now. Ma'am, leave
9 now.

10 UNIDENTIFIED SPEAKER: I counseled him --

11 THE COURT: Ma'am, you need to leave now.

12 (Speaker escorted out of courtroom.)

13 THE COURT: Ladies and gentlemen of the jury, we
14 are going to take a short recess. Do not discuss this
15 case. It wouldn't be appropriate to do so. Please put
16 your notes in your seats.

17 THE BAILIFF: Take your notebooks, follow me,
18 please.

19 (The jury exits the courtroom at 10:45 a.m.)

20 THE BAILIFF: The jury is clear, Your Honor.

21 THE COURT: Mike, we need to take her into
22 custody. So I need you to bring her back. I don't
23 fear that she's going to run or fight you, so don't put
24 her in handcuffs. Explain to her she's in custody,
25 read her her rights. All right? And you need to put

CLOSING ARGUMENT BY THE DEFENSE

1 her somewhere.

2 THE COURT: Mr. Staggs, who was that, do you know?

3 MR. STAGGS: Yes, ma'am. That is Mr. Elam's
4 grandmother.

5 THE COURT: Okay. All right. We are just going
6 to take about five minutes or so. I'm just going to
7 let the jury disassociate that with their mind. We'll
8 be back.

9 When you guys have her in custody, we're going to
10 have to hold her for a little bit, and then obviously
11 I'm going to have to have a contempt hearing.

12 So after we charge them and have done everything,
13 yes. All right. We will be at ease for five minutes.

14 (Brief recess.)

15 MR. STAGGS: Judge, I had a conversation with the
16 remainder of the family and told them that that
17 behaviour is not appropriate and will not be tolerated.

18 THE COURT: Thank you.

19 MR. STAGGS: Yes, ma'am.

20 MS. SWANSON: Your Honor, regarding the outburst,
21 are you going to say anything about disregarding it,
22 that it was not testimony, she was not a witness in the
23 case?

24 THE COURT: I will do it. I couldn't fully get
25 what she said. The only thing that I started to hear

CLOSING ARGUMENT BY THE DEFENSE

1 was, I know about that woman or something about that
2 woman.

3 MS. SWANSON: Correct. I don't know what the jury
4 heard. I'm not requesting a mistrial, but if the
5 defense wanted to call her as a witness they could
6 have.

7 MR. STAGGS: We absolutely could have, we did not.

8 THE BAILIFF: The jury is entering the courtroom,
9 Your Honor.

10 (The jury enters the courtroom at 11:00 a.m.)

11 THE COURT: Ladies and gentlemen, to begin with,
12 you are to disregard that woman's comments earlier,
13 they were not appropriate. They are stricken from the
14 record. Everyone has an opportunity to call witnesses
15 in the case and she was not a witness. I remind you
16 that all of the evidence in this case came through the
17 witness stand as well as any other physical evidence
18 that was produced in the case and you are to disregard
19 anything that you may have heard her say.

20 And ladies and gentlemen, as you know, I have been
21 battling a terrible cold and I will try to be loud
22 enough for you and I will use a loud voice if I
23 possibly can. If at any time in the charge of the law
24 you cannot hear me, just wave your hand.

25 MS. SWANSON: Your Honor, I am supposed to reply.

CLOSING ARGUMENT BY THE DEFENSE

1 THE COURT: Yes. I apologize. I jumped ahead of
2 you. You may go head and the State has the burden of
3 proof beyond a reasonable doubt to prove their case so
4 they are allowed a brief reply.

5 MS. SWANSON: Thank you. I will not keep you
6 long. I want to reply to a few things that Mr. Staggs
7 said. The first thing that he said, he doesn't want
8 you to be concerned about the truth. Well, the State
9 does. In prosecuting this case, I want you you to be
10 concerned with the case. If I were you I would like to
11 hear less about Mr. Stagg's family's vacations to
12 Kentucky and more about how we didn't prove the case.
13 All right.

14 Based on the evidence here you should have no
15 problem of jumping into that cold water that he spoke
16 about. We do know what happened when Lance was over at
17 the Bluffton Police Department, we know what happened
18 because this officer testified about it. Sergeant
19 Rutland testified about it and Detective Wilfong
20 testified about it. So did Dickson. All right. We
21 know what happened. That is in the record.

22 There's absolutely nothing in the record to
23 substantiate Lance Elam's ludicrous claims. When the
24 tough gets going, the defense gets crative and
25 desperate times call for desperate measures.

CLOSING ARGUMENT BY THE DEFENSE

1 All right. What I want you to base your decision
2 on is all of the evidence that we have presented. And
3 I trust that you are going to make the right decision,
4 that Lance Elam is not going to get away. I'm asking
5 you to find him guilty of burglary in the first degree
6 and criminal sexual conduct in the first degree. Thank
7 you.

8 JURY CHARGE

9 THE COURT: Now, ladies and gentlemen, I'll try my
10 best to be loud enough for you to charge you on the law
11 that is applicable to this case. I'll also tell you,
12 Mr. Foreperson, that you will have a copy of this
13 charge. It's printed out for you back when you
14 deliberate the case, so you will have that with you,
15 just to let you all know.

16 Mr. Foreperson and Members of the Jury, you have
17 followed very patiently and listened very intently to
18 the presentation in this case. I want to thank you for
19 that. It now becomes the duty of the trial judge,
20 under the Constitution of this State, to charge you and
21 instruct you in the law that is applicable to this
22 case. And it's your duty as jurors to accept and apply
23 the law as I'll now state it to you.

24 As jurors, it is your exclusive duty to decide all
25 of the issues of fact in this case. You must determine

JURY CHARGE

1 the effect, the value, the weight, and the truth of the
2 evidence. Both the State and the defendant, Mr. Elam,
3 have a right to expect that you will carefully consider
4 and evaluate the evidence and apply the law of the case
5 to the evidence. And again, by doing that, both the
6 State and the defendant, Mr. Elam, will receive a fair
7 and impartial trial in this matter.

8 Now, the State of South Carolina by the
9 Bills of Indictment in this case charges the defendant,
10 Lance Elam, with criminal sexual conduct in the first
11 degree and burglary in the first degree.

12 Now, I remind you that the defendant was charged,
13 arrested and indicted in this case, is not evidence in
14 this case and cannot be considered by you as evidence
15 of guilt in this case, nor does it create any
16 presumption or inference of guilt.

17 The indictment is simply the formal written
18 instrument which contains the charge made against the
19 defendant. It is the formal document by which this
20 case is brought into this court.

21 The defendant has pled not guilty to these
22 indictments, and that plea puts the burden on the State
23 to prove the defendant guilty beyond a reasonable
24 doubt. A person charged with committing a criminal
25 offense in South Carolina is never required to prove

JURY CHARGE

1 himself innocent.

2 I charge you that it is an important rule of law
3 that a defendant in a criminal trial, no matter what
4 the seriousness of the charge may be, will always be
5 presumed innocent of the crime for which an indictment
6 was issued unless guilt has been proven by evidence
7 satisfying you, the jury, of that guilt beyond a
8 reasonable doubt. This presumption of innocence does
9 not end when you begin your deliberations, but it
10 accompanies the defendant throughout the trial until
11 you reach a verdict of guilt based on evidence
12 satisfying you of that guilt beyond a reasonable doubt.

13 Now, the presumption of innocence is like a robe
14 of righteousness placed about the shoulders of the
15 defendant which remains with the defendant until it has
16 been stripped away by evidence satisfying you of the
17 Defendant's guilty beyond a reasonable doubt.

18 The presumption of innocence is not mere legal
19 theory. It is not just a legal phrase. It is a
20 substantial right to which every defendant is entitled
21 unless you, the jury, are satisfied from the evidence
22 of the Defendant's guilt beyond a reasonable doubt.

23 So, what is a reasonable doubt in the law? A
24 reasonable doubt is the kind of doubt that would cause
25 a reasonable person to hesitate to act in their most

JURY CHARGE

1 important decisions.

2 The State has the burden of proving the defendant
3 guilty beyond a reasonable doubt. The term reasonable
4 doubt must be given its plain and ordinary meaning.
5 However, to the extent that I may define it for you,
6 again, a reasonable doubt is the kind of doubt that
7 would cause a reasonable person to hesitate to act in
8 the most important of their personal decisions. The
9 defendant is entitled to every reasonable doubt arising
10 in this case. If, upon any issue of fact essential to
11 a conviction, you have a reasonable doubt as to how
12 that issue should be resolved, you must resolve that
13 reasonable doubt in favor of the defendant.

14 Some of you may have served as jurors in civil
15 cases where you were told that it is only necessary to
16 prove that a fact is more likely true than not true,
17 such as by the greater weight or preponderance of the
18 evidence. In criminal cases, the State's proof must be
19 more powerful than that. It must be beyond a
20 reasonable doubt.

21 Suspicion, no matter how strong, is insufficient
22 to convict a person charged with a crime. That the
23 facts and circumstances presented may seem suspicious
24 and the Defendant's guilt may seem probable, this is
25 not sufficient in the law to convict.

JURY CHARGE

1 Proof beyond a reasonable doubt is proof that
2 leaves you firmly convinced of the Defendant's guilt.
3 There are very few things in this world that we know
4 with absolute certainty, and in criminal cases the law
5 does not require proof that overcomes every possible
6 doubt. If, based on your consideration of the
7 evidence, you are firmly convinced that the defendant
8 is guilty of the crime charged, you must find the
9 defendant guilty. If, on the other hand, you think
10 there is a real possibility that the defendant is not
11 guilty, you must give the defendant the benefit of the
12 doubt and find him not guilty.

13 I remind you that, during this trial, you and I
14 have certain duties to perform. As the Judge, it is my
15 responsibility to preside over the trial of this case.
16 And I also have the duty to rule on the admissibility
17 of the evidence offered during this trial. You are to
18 consider only the competent evidence before you. You
19 are to consider only the testimony which has been
20 presented from this witness stand and any exhibits
21 which have been made a part of the record in this case.

22 I have the additional duty to charge you the law
23 applicable to this case. I am the sole judge of the
24 law of this case, and it is your duty as jurors to
25 accept and apply the law as I now state it to you. If

JURY CHARGE

1 you have any idea as to what the law is or what the law
2 ought to be and it does not agree with what I now tell
3 you the law is, you must abandon this idea because you
4 are sworn to accept the law and apply the law exactly
5 as I state it to you.

6 In every case tried in this court before a jury,
7 the jury becomes the sole and exclusive judge of the
8 facts. A trial judge cannot intimate, comment on, or
9 make any statement to a trial jury about the facts in a
10 case. Since you, the jury, are the sole judge of the
11 facts in this case, you are not to infer from what I
12 have said during the progress of this trial in ruling
13 upon the admissibility of evidence, or otherwise, or
14 anything that I say now during the course of this
15 instruction to you that I have any opinion about the
16 facts in this case. The law does not allow me to have
17 an opinion about the facts in this case. This is a
18 matter solely for you, the jury, to determine. As
19 jurors, it is your duty to determine the effect, value,
20 weight, and truth of the evidence presented during this
21 trial.

22 Ladies and gentlemen, I have permitted you to take
23 notes during the trial of this case. Your notes should
24 be used only as aids to your memory and you should not
25 be allowed to take precedence over your independent

JURY CHARGE

1 memory of facts. The notes are only for each juror's
2 personal use in refreshing recollection of the
3 evidence. When in deliberations at the end of the
4 case, do not rely on the recollection of a juror who
5 took notes about the testimony of a witness solely
6 because the juror took notes. You should not be unduly
7 influenced by the notes of other jurors. As we all
8 know, notes can be wrong. Notes are not entitled to
9 any greater weight than each juror's memory of the
10 evidence. Those jurors who do not take notes should
11 rely on their independent recollection of the evidence
12 and should not be influenced by the fact that another
13 juror has taken notes. Keep in mind that every word
14 spoken in the courtroom is recorded verbatim and can be
15 replayed for you during deliberations if necessary.

16 There are two types of evidence which are
17 generally presented during a trial -- direct evidence
18 and circumstantial evidence. Direct evidence is the
19 testimony of a person who claims to have actual
20 knowledge of a fact, such as an eye witness. It is
21 evidence which immediately establishes a main fact to
22 be approved. Circumstantial evidence is proof of a
23 chain of facts and circumstances indicating the
24 existence of a fact. It is evidence which immediately
25 establishes collateral facts from which the main fact

JURY CHARGE

1 may be inferred. Circumstantial evidence is based on
2 inference and not on personal knowledge or observation.

3 Crimes may be proven by circumstantial evidence.
4 The law makes no distinction between the weight or
5 value to be given to either direct or circumstantial
6 evidence. However, to the extent that the State relies
7 on circumstantial evidence, all of the circumstances
8 must be consistent with each other, and when taken
9 together, point conclusively to the guilt of the
10 accused beyond a reasonable doubt.

11 If these circumstances merely portray the
12 Defendant's behaviour as suspicious, the proof has
13 failed. The State has the burden of proving the
14 defendant guilty beyond a reasonable doubt. This
15 burden rests with the State regardless of whether the
16 State relies on direct evidence, circumstantial
17 evidence, or some combination of the two.

18 Ladies and gentlemen of the jury, it is your duty
19 to determine the credibility of witnesses who have
20 testified in this case. Credibility simply means
21 believability. It becomes your duty as jurors to
22 analyze and to evaluate the evidence and determine
23 which evidence convinces you of its truth. In
24 determining the believability of witnesses who have
25 testified in this case, you may believe one witness

JURY CHARGE

1 over several witnesses or several witnesses over one
2 witness. You may believe a part of the testimony of a
3 witness and reject the remaining part of the testimony
4 of that same witness. You may believe the testimony of
5 a witness in its entirety or reject the testimony of a
6 witness in its entirety. You may consider whether any
7 witness has exhibited to you any interest, bias,
8 prejudice, or other motive in this case. You may also
9 consider the appearance and manner of a witness while
10 on the witness stand.

11 Normally a person cannot give opinion testimony.
12 Normally, when a person testifies they must testify as
13 to what they either saw, heard, or sensed by smell, or
14 something of that nature. However, there is an
15 exception when someone is qualified because of
16 education or experience. They are permitted to give
17 their opinion in certain areas if the Court qualifies
18 them that way. And that evidence is for you to use in
19 any way you see fit and give the weight and credibility
20 you believe is appropriate.

21 There are two indictments in this case. Each
22 indictment charges a separate and distinct offense.
23 You must decide each indictment separately on the
24 evidence and the law applicable to it. The defendant
25 may be convicted or acquitted on one or both of the

JURY CHARGE

1 offenses charged. You will be asked to write a
2 separate verdict of guilty or not guilty for each
3 indictment.

4 To begin, the defendant is charged with first
5 degree burglary. The State must first prove guilty
6 beyond a reasonable doubt that the defendant entered a
7 dwelling without consent.

8 A dwelling is any building or portion of a
9 building in which a person ordinarily sleeps. In order
10 to prove that the defendant entered the dwelling, the
11 State does not have to show that a Defendant's entire
12 body entered the dwelling. The smallest entry is
13 sufficient. It may be any part of the body, such as a
14 hand or foot, or even an instrument, such as a hook or
15 other instrument. No force needs to be used to gain
16 entry. If a person enters a building without the
17 consent of the person in lawful possession, then they
18 have entered the building without consent. If a person
19 enters a building by using deception, artifice, trick,
20 or misrepresentation, to get consent to enter, this is
21 also an entry without consent.

22 Next, the State must prove beyond a reasonable
23 doubt that the defendant intended to commit a crime,
24 either a felony or a misdemeanor, at the time of the
25 entry. The mere entry into a dwelling without consent

JURY CHARGE

1 is not a burglary. If the intent to commit a crime is
2 formed after the entry, it is not burglary. On the
3 other hand, if a defendant intended to commit a crime
4 at the time of the entry, it is a burglary even if the
5 intent was abandoned after the entry. It does not
6 matter that the intended crime was not completed.
7 Intent may be shown by acts and conduct of a defendant
8 and other circumstances from which you may naturally
9 and reasonably infer intent.

10 Finally, the State must prove beyond a reasonable
11 doubt that the defendant entered or remained in the
12 dwelling in the nighttime. Nighttime is the period
13 between sunset and sunrise during which there is not
14 enough daylight to recognize a person's face, except by
15 artificial light or moonlight.

16 The defendant is charged with criminal sexual
17 conduct in the first degree. The first element which
18 the State must prove beyond a reasonable doubt is that
19 the defendant engaged in a sexual battery with the
20 victim. A sexual battery is sexual intercourse,
21 cunnilingus, fellatio, anal intercourse, or any
22 intrusion, however slight, of any part of a person's
23 body or of any object into the genital or anal openings
24 of another person's body, except when the intrusion is
25 accomplished for medically recognized treatment or

JURY CHARGE

1 diagnostic purposes.

2 If you find that the State has not shown beyond a
3 reasonable doubt that a sexual battery occurred, you
4 would stop deliberating and your verdict would have to
5 be not guilty.

6 If you find that a sexual battery did occur, you
7 must then decide whether the State has proven beyond a
8 reasonable doubt that the defendant used aggravated
9 force to accomplish the sexual battery. Aggravated
10 force means the use of physical force or physical
11 violence of a high and aggravated nature to overcome
12 the victim.

13 Mr. Foreperson, ladies and gentlemen of the jury,
14 as you retire to begin your deliberation, I wish to
15 express the hope that each of you will be mindful of
16 the importance of your responsibility here today. You
17 are not called upon to serve as jurors very often, and
18 the proper performance of the duty requires each of you
19 to reach the height of freeing your mind of all
20 improper influences.

21 Please don't get the idea that I am trying to
22 intimate to you how I might think you should decide
23 this case, because I have already told you, under the
24 laws of the State of South Carolina, you are the sole
25 judges of all questions of fact. It would be highly

JURY CHARGE

1 improper for me to influence you in the performance of
2 that duty.

3 But, ladies and gentlemen, as the presiding
4 officer of this court, I am vitally concerned that
5 whatever verdict you find will be the result of your
6 going into the jury room and confining your
7 consideration to the evidence and the law that you have
8 heard in this courtroom, weighing it fairly and
9 impartially, as I have every confidence that you will.

10 Remember, your verdict must be unanimoues, Mr.
11 Foreperson. It must be the verdict of all 12 jurors.
12 To that end, my law clerk Julia has prepared a verdict
13 form. It has the case caption and it simply states the
14 State of South Carolina versus Lance Fontavus Elam.
15 Sir, it has two questions, both of which must be
16 answered. The first one says, As to the charge of
17 burglary in the first degree, we find the Defendant,
18 Lance Elam -- and the first line says not guilty and
19 the second line says guilty.

20 Ladies and gentlemen, please do not infer how we
21 put not guilty or guilty means anything. Every trial I
22 just reverse the guilty and not guilty. The second
23 question is, as to the charge of criminal sexual
24 conduct in the first degree, we find the Defendant,
25 Lance Elam, guilty or not guilty. You just check the

JURY CHARGE

1 appropriate finding.

2 After that, Mr. Foreperson, there is a place for
3 you to sign on the verdict form and date it. Once the
4 jury has reached a unanimous verdict, I need you to
5 knock on the jury room door and we will accept you into
6 the courtroom to take your verdict. All right?

7 Ladiges and gentlemen, for the very last time I am
8 going to send you back to your jury room and I am going
9 to tell you not to begin disuccing the case. If there
10 is something further on the law that the lawyers want
11 me to charge you, I am going to bring you back out here
12 and I am going to charge you further.

13 If not, Mr. Foreperson, you are going to have the
14 verdict form as well as the physical evidence in this
15 case that's been entered. If you need gloves, you can
16 ask for them. I don't know if we have any. There are
17 photographs of the inside, all of the the contents, but
18 that's up to you whether or not you need them. I ask
19 that you use gloves and be careful, okay.

20 And ladies and gentlemen, thank you. We really
21 appreciate your determination of this. And
22 Mr. Foreperson, if there's anything that the jury
23 needs, simply ask the bailiffs and we will go ahead and
24 get what you need for you if we are able. All right.

25 And I'll also tell you, if it isn't back there

JURY CHARGE

1 with you in the jury room, you are not entitled to it.
2 So, asking me for anything else, I can't give it to
3 you. As I told you, Mr. Foreperson, you are also going
4 to have the jury charge back there with you. I want
5 you to make sure that you understand that you are to
6 focus on the entire jury charge, not any specific part.
7 It is meant to be read in its entirety. And, ladies
8 and gentlemen, you may also take your notebooks with
9 you at this point. All right. So, very shortly the
10 bailiffs will be back with you to give you all of the
11 the evidence and that will be your signal to begin
12 deliberations. All right, sir?

13 THE BAILIFF: Follow me. And you may bring your
14 notebooks.

15 (The jury exits the courtroom at 11:20 a.m.)

16 THE BAILIFF: Jury is clear, Your Honor.

17 THE COURT: Thank you Rick. Any exceptions or
18 additions to the charge from the State?

19 MS. SWANSON: None from the State.

20 THE COURT: From the defense?

21 MR. STAGGS: None from the defense.

22 THE COURT: Make sure that we have all of the
23 evidence.

24 We can start at one with the back-up list. That
25 gives everyone a break. Does that sound good? Go take

JURY CHARGE

1 the evidence and bring the alternate out.

2 (Whereupon, the alternate was released from
3 service.)

4 THE COURT: All right. We will be at ease until
5 we hear back from the jury. And we will start back
6 with criminal court at 1, even if the jury continues to
7 deliberate. Okay? Just for these people here, I'll
8 say this just ahead of time because usually when we get
9 a verdict things move a little more quickly.
10 Regardless of what the verdict is in this case, if you
11 can't contain yourself you need not to be here. I want
12 to make sure that you know that. If there's any
13 outbursts you will be taken into custody. All right.
14 I just need everyone to know that. I hate to have to
15 do that, and that is why it's so disappointing that the
16 woman stood up. That is probably the hardest thing
17 that I have to do is put a 75 year old woman in
18 custody. But that is what is required.

19 With that said, we will be at ease in this case.
20 Let me talk to one of y'all quickly. Mike, come talk
21 to me. Lauren is appointed to sit with her and we will
22 deal with this after the verdict. And, Mike, you are
23 no longer responsible for detaining her.

24 (Jury deliberates.)

25 THE COURT: All right. So, the jury, has

JURY QUESTION

1 requested to hear testimony. The first question was
2 that they wanted to hear the taped conversation with
3 Mr. Elam and his wife from the jail house. So, we have
4 got that queued up. Correct, Mona?

5 THE COURT REPORTER: YEs.

6 MS. SWANSON: I have that queued up.

7 THE COURT: The next one was they want to hear the
8 transcript of the Defendant's testimony on the stand.
9 And they want to hear the tape, the entire taped
10 conversation in the second interview with Officer
11 Wilfong, the police officers, and what they are saying.
12 Okay. Which are we doing first?

13 MS. SWANSON: I have the jail phone call queued
14 up. That is the first that they have requested. I
15 suppose that we can go with that one.

16 THE COURT: Okay. Let's bring the jury in.

17 MS. SWANSON: Would you, out of an abundance of
18 caution, would you like to tell the family not to make
19 a further outburst.

20 MR. STAGGS: I think that we have covered that.

21 THE COURT: Okay. Anyone shakes or bobs their
22 head, they are going to be put in custody.

23 MS. SWANSON: Thank you.

24 THE BAILIFF: The jury is entering the courtroom,
25 Your Honor.

JURY QUESTION

1 (The jury enters at 1:05 p.m.)

2 THE COURT: I have received three notes from the
3 jury. The first one wants the taped conversation, it
4 says, with wife from jail house. So, it is supplied by
5 the jail house and we will play that first and then I
6 will address the other two and we will play them all in
7 sequence, okay. This is the first one. It is a phone
8 call from the jail from Mr. Elam to his wife. Correct?

9 MS. SWANSON: Correct.

10 THE COURT: I appreciate it.

11 (Phone call being played for the jury. Now, it is
12 1:17 p.m.)

13 THE COURT: That is what you wanted to hear for
14 the first question. The second question is, can we
15 hear the entire transcript of the testimony on the
16 stand.

17 The last question that you asked for is the entire
18 taped conversation that Mr. Elam had with Mr. Wilfong;
19 is that correct?

20 THE FOREPERSON: Yes.

21 THE COURT: Okay. We will queue that up now. Are
22 you okay? Do you need a break?

23 THE FOREPERSON: Nope.

24 THE COURT: Are you good?

25 THE FOREPERSON: Yep.

JURY QUESTION

1 THE COURT: Okay.

2 (The taped interview now being played.)

3 THE COURT: Is that what you wanted to hear?

4 THE FOREPERSON: Yes, ma'am.

5 THE COURT: Okay. You can go back to your jury
6 room and continue deliberations. Did they get lunch?

7 THE BAILIFF: Yes, they had a little bit before
8 they came in, so they will go finish up.

9 THE COURT: Okay. Thank you.

10 *(Whereupon, Court's Exhibit No(s). 1-3 marked for*
11 *identification and received in evidence.)*

12 (The jury exits the courtroom at 2:10 p.m.)
13
14
15
16
17

18 THE COURT: All right. I'm just going to go ahead
19 and remind all the family members that are here again.
20 Obviously we don't know what the verdict is, but
21 whatever it is, please, please contain yourself. If
22 there is any kind of outburst or any problems, I'm
23 going to take you into custody. Okay?

24 So I'm just letting everybody know. If you can't
25 contain yourself, you need to remove yourself now.

VERDICT

1 Okay. All right. Thank you, ladies.

2 Okay. Let's go.

3 THE BAILIFF: The jury is entering the courtroom,
4 Your Honor.

5 (The jury enters the courtroom at 2:50 p.m.)

6 THE BAILIFF: The jury is seated, Your Honor.

7 THE COURT: Mr. Foreperson, I understand that the
8 jury has reached a verdict, sir.

9 THE FOREPERSON: Yes, ma'am.

10 THE COURT: Would you please hand it to the
11 bailiff. Thank you.

12 Would you please stand, Mr. Staggs and Mr. Elam.

13 In the case of the State of South Carolina versus
14 Lance Elam: As to the charge of burglary in the first
15 degree, we find the Defendant, Lance Elam, guilty.

16 In the charge of criminal sexual conduct in the
17 first degree, we find the Defendant, Lance Elam,
18 guilty.

19 You may be seated, gentlemen.

20 MR. STAGGS: Thank you, Your Honor.

21 THE COURT: Ladies and gentlemen of the jury, at
22 this time I am going to call your juror number. I'm
23 going to ask you if this is your verdict, and if it is
24 still your verdict. Okay? Everyone look at their
25 badge to make sure you remember what your number was.

POLLING OF THE JURY

1 Okay?

2 THE COURT: Juror Number 187. Sir, is this
3 verdict?

4 JUROR: Yes, ma'am.

5 THE COURT: Is it still your verdict?

6 JUROR: Yes, ma'am.

7 THE COURT: Thank you, sir.

8 Juror Number 231. Is this your verdict, ma'am?

9 JUROR: Yes, ma'am.

10 THE COURT: Is it still your verdict?

11 JUROR: Yes, ma'am.

12 THE COURT: Thank you, ma'am. You may be seated.

13 Juror Number 292. Ma'am, is this your verdict?

14 JUROR: Yes, ma'am.

15 THE COURT: Is it still your verdict?

16 JUROR: Yes, ma'am.

17 THE COURT: Thank you, ma'am. You may be seated.

18 Juror Number 370. Sir, is this your verdict?

19 JUROR: Yes, ma'am.

20 THE COURT: Is it still your verdict?

21 JUROR: Yes, ma'am.

22 THE COURT: Thank you, sir.

23 Juror Number 173. Sir, is this your verdict?

24 JUROR: Yes, Your Honor.

25 THE COURT: Is it still your verdict?

POLLING OF THE JURY

1 JUROR: Yes, Your Honor.

2 THE COURT: Thank you, sir. You may be seated.

3 Juror Number 328. Ma'am, is this your verdict?

4 JUROR: Yes, Your Honor.

5 THE COURT: Is it still your verdict?

6 JUROR: Yes, Your Honor.

7 THE COURT: Thank you.

8 Juror Number 351. Sir, is this your verdict?

9 JUROR: Yes, ma'am.

10 THE COURT: Is it still your verdict?

11 JUROR: Yes.

12 THE COURT: Thank you.

13 Juror Number 206. Sir, is this your verdict?

14 JUROR: Yes, ma'am.

15 THE COURT: Is it still your verdict?

16 JUROR: Yes, ma'am.

17 THE COURT: Thank you, sir.

18 Juror Number 135. Sir, is this your verdict?

19 JUROR: Yes, Your Honor.

20 THE COURT: Is it still your verdict?

21 JUROR: Yes, Your Honor.

22 THE COURT: Thank you, sir.

23 Juror Number 286. Sir, is this your verdict?

24 JUROR: Yes, ma'am.

25 THE COURT: Is it still your verdict?

POLLING OF THE JURY

1 JUROR: Yes, ma'am.

2 THE COURT: Thank you.

3 Juror Number 344. Ma'am, is this your verdict?

4 JUROR: Yes, Your Honor.

5 THE COURT: Is it still your verdict?

6 JUROR: Yes, Your Honor.

7 THE COURT: Thank you, ma'am.

8 Juror Number 308. Sir, is this your verdict?

9 JUROR: Yes, Your Honor.

10 THE COURT: Is it still your verdict?

11 JUROR: Yes, Your Honor.

12 THE COURT: Thank you, sir. You may be seated.

13 Is there anything further required of this jury
14 from the State?

15 MS. SWANSON: Nothing from the State.

16 THE COURT: From the Defense?

17 MR. STAGGS: Nothing from the Defense, Your Honor.

18 THE COURT: All right. Ladies and gentlemen, you
19 have decided this case for us. I appreciate it very
20 much.

21 At this point, what is going to happen is I'm
22 going to go ahead and I'm going to sentence Mr. Elam.
23 You are welcome to stay, or you are welcome to go. If
24 you would like to stay, just remain in your seats right
25 where you are. If not, I'm going to go ahead and

SENTENCING

1 excuse you back to your jury room, where you can get
2 your things and you'll be escorted out. All right?

3 Additionally, ladies and gentlemen, you are now
4 permitted to talk about the case when you go home. You
5 are allowed to tell people what you are doing. There's
6 nothing improper about that.

7 Sometimes, somebody may want to ask you about
8 testimony. You don't have to talk to anyone if you
9 don't want to, of course. No one will persist, I
10 assure you. If for some reason that did happen, you
11 just call the Clerk of Court's office, they will come
12 straight to me and I'll come after them. Okay? For
13 lack of a better word.

14 So does anyone choose to leave at this time, or do
15 you all want to stay for the sentencing? Does anyone
16 want to leave? It's okay if you do.

17 As I always tell the jury, it is your job to
18 decide the facts in the case, whether or not someone is
19 guilty or not guilty. Sentencing is my job. That's
20 what I do. So I do what's permitted under the law.
21 That is my responsibility.

22 You are welcome to stay or go. Either way. If
23 you want to excuse yourself, now is the time to do it.
24 Okay? Does anyone want to leave?

25 (No response.)

SENTENCING

1 THE COURT: No? Very good. All right. Y'all sit
2 tight. It's going to take a minute. We need to get
3 the sentencing sheets together.

4 Are you working on those, Ms. Swanson?

5 MS. SWANSON: Yes, Your Honor. I'm finishing up
6 right now.

7 THE COURT: Thank you.

8 MS. SWANSON: I'm going to hand them to the
9 Defense for review.

10 THE COURT: All right. At this time, it's my
11 understanding that he doesn't have any prior record,
12 correct?

13 MS. SWANSON: Correct.

14 THE COURT: But it's also my understanding that
15 there are a number of outstanding warrants for him in
16 North Carolina; is that correct?

17 MS. SWANSON: That is correct. When his DNA was
18 taken, it was entered in to the DNA database, and there
19 were hits out of Charlotte and Mecklenburg, North
20 Carolina, as well as Texas for unsolved burglaries and
21 rapes.

22 THE COURT: Thank you. Obviously, we are not
23 going to consider that. Those are just pending against
24 him, and those are something that he will have to face
25 at a later time.

SENTENCING

1 So Mr. Staggs, what would you like to tell me on
2 behalf of your client that obviously we haven't heard
3 at the trial. He's married, he has two children, a boy
4 and a girl. Obviously, I see his grandma is here in
5 the courtroom.

6 And would you introduce me to these ladies that
7 are here on his behalf?

8 MR. STAGGS: Yes, ma'am. Bernadette Brown is
9 Lance's mother. And these other two are her sister and
10 her sister-in-law.

11 Lance comes from an extremely tight-knit family
12 that has been very supportive throughout this entire
13 situation. They have spent lots of time in my office,
14 and with Ms. Campbell before. He comes from a very,
15 very strong, strong family.

16 Lance is a college graduate.

17 THE COURT: What college did he graduate from?

18 MR. STAGGS: Allen University.

19 THE COURT: Pardon?

20 MR. STAGGS: Allen.

21 THE COURT: Oh, Allen University. Okay.

22 MR. STAGGS: Yes, ma'am. In marine biology.

23 He, up until the time of his arrest, was a very
24 involved father and spent a lot of time actually taking
25 care of his grandmother, who was here earlier.

SENTENCING

1 As he has no prior record. Judge, we are asking
2 you to consider a sentence on the short end. We
3 understand, and Lance understands that 15 years is the
4 minimum that he's facing here. But given the totality
5 of the circumstances that brought us here, I would ask
6 Your Honor to consider something in the 15- to 20-year
7 range for this sentence.

8 He obviously, in my conversations with him before
9 now, we haven't discussed whether he wants to speak to
10 the Court directly or not. I have told him a number of
11 times that, you know, while we understand the jury's
12 potential verdict here, he absolutely maintains his
13 innocence and, you know, at the appropriate time, we
14 will be making the appropriate motion going forward.

15 And I think that he would wish to not speak at
16 this point, Your Honor. But we would ask you to
17 consider a sentence in the 15- to 20-year range.

18 THE COURT: All right. Well, he needs to stand
19 now.

20 Anything else from the State, any response, or
21 whether or not anyone else would like to speak?

22 MS. SWANSON: Right. The victim's parents have
23 been here all week long. The victim herself has been
24 obviously traumatized by this incident, and did not
25 think she could make it through court.

SENTENCING

1 They do not wish to address the Court. I think
2 the confession speaks for itself that Lance Elam is a
3 predator, and that he can't be trusted on our streets
4 or any street, and the State would request a life
5 sentence.

6 THE COURT: If you would pass up the sentencing
7 sheets, please.

8 On the charge of criminal sexual conduct in the
9 first degree, Indictment 2017GS7683, the sentence of
10 this Court is that you be committed to the Department
11 of Corrections for a period of 30 years.

12 On Indictment 2017GS07684, for burglary in the
13 first degree, sentence of this Court is that you be
14 committed to the Department of Corrections for a period
15 of life. Those are to run concurrent to each other.

16 Good luck to you, sir.

17 You can take him.

18 THE COURT: All right.. We are going to be at ease
19 in this matter for about five minutes or so. Please
20 make sure that everyone gets to their car safely, on
21 both sides.

22 MR. STAGGS: Your Honor, do I need to go ahead and
23 renew all my objections?

24 THE COURT: We are going to do it in, like, five
25 minutes. Okay?

SENTENCING

1 And let's take the jury back to their jury room
2 and I'll come just to say thank you to y'all. And then
3 we will let you go on your way. Okay?

4 (The jury exits the courtroom.)

5 (Pause.)

6 THE COURT: Bring the Defendant out.

7 THE BAILIFF: They took him away.

8 THE COURT: I was going to do post-trial motions.
9 Okay. Who do you have there? Gentlemen, come on up.
10 I will finish my hearing. And you can -- how hard is
11 it to get him back?

12 OFFICER: Five minutes.

13 THE COURT: I want to keep going with the other
14 people that we have got here. Perfect.

15 (Other matters heard during the interim.
16 Proceedings continue in the State v. Elam trial as
17 follows:)

18 THE COURT: All right. Mr. Staggs, whenever you
19 are ready.

20 MR. STAGGS: Thank you, Your Honor. At this time
21 the defense would renew all previous objections and
22 motions that we made throughout the course of the
23 trial. Based on those objections and motions, we would
24 move for a new trial at this point.

25 THE COURT: Okay. Ms. Swanson.

POST-TRIAL MOTIONS

1 MS. SWANSON: There was plenty of physical
2 evidence and DNA that corroborated Defendant's
3 confession and ample evidence from which this jury
4 could deduce a guilty verdict.

5 THE COURT: I'll deny your motion. Obviously
6 everything was made contemporaneously for any appeal.
7 And I would agree with my prior ruling to stand and
8 still deny your motion for a new trial.

9 MR. STAGGS: Thank you, Your Honor.

10 THE COURT: All right. You can take them.

11 MS. SWANSON: Thank you, Your Honor.

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POST-TRIAL MOTIONS

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CERTIFICATE

STATE OF SOUTH CAROLINA:

COUNTY OF BEAUFORT:

I, MONA L. MANLEY, Court Reporter, certify that I was authorized to and did stenographically report the foregoing proceedings and that the transcript is a true and complete record of my stenographic notes.

DATED this 30th day of March, 2019.

Mona L. Manley /s/

MONA L. MANLEY

Official South Carolina Court Reporter

Circuit Reporter for the 14th Circuit

(850) 893-6662

mmanley@scccourts.org

324

WITNESSES

B Odom- Bluffton PD

ARREST WARRANT NUMBER

2017A0720200118

Nelly B. Bosworth

Foreperson of Grand Jury

Date:

JUN 22 2017

VERDICT

GUILTY

True Bill

Sammy Green

Foreperson of Petit Jury

Date:

12/12/2018

INDICT

DOCKET NO. 2017GS0700683

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

July Term 2017

THE STATE

vs.

Lance Rontavis Elam

Indictment For

Criminal Sexual Conduct 1st Degree

SC Code: 16-3-652

CDR Code: 0160

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

2017GS0700683

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Beaufort County present upon their oath:

Criminal Sexual Conduct 1st Degree

That in Beaufort County, South Carolina, on or about April 27, 2017, the Defendant, Lance Rontavis Elam, did engage in sexual battery with the use of aggravated force upon [REDACTED] C.B., all in violation of Section 16-3-652 et al. of the Codes of Law of South Carolina.

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



Solicitor

True Bill

326

WITNESSES

B Odom- Bluffton PD

ARREST WARRANT NUMBER

2017A0720200119

Nelly A. Bosworth
Foreperson of Grand Jury

Date:

JUN 22 2017

VERDICT

GUILTY

True Bill

Summer Green
Foreperson of Petit Jury

Date:

12/12/2018

INDICT

DOCKET NO. 2017GS0700684

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

July Term 2017

THE STATE

vs.

Lance Rontavis Elam

Indictment For

Burglary 1st Degree

SC Code: 16-11-311

CDR Code: 0079

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)

INDICTMENT

COUNTY OF BEAUFORT)

2017GS0700684

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Beaufort County present upon their oath:

Burglary 1st Degree

That in Beaufort County, South Carolina, on or about April 27, 2017, the Defendant, Lance Rontavis Elam, did enter a dwelling without consent and with intent to commit a crime therein and the entering or remaining occurred in the nighttime, all in violation of Section 16-11-311, et al. of the Codes of Law of South Carolina.

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



Solicitor

True Bill

Up to 30 yrs

STATE OF SOUTH CAROLINA

COUNTY OF

Beaufort

STATE

Lance R. Elam

AKA:

Race:

Sex:

Age:

DOB:

SS#:

Address:

City, State, Zip:

DL#

SID#

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

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

TO:

CSC 16

In violation of § 16-3-652(1)(3) of the S.C. Code of Laws, bearing CDR Code # 0160

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS☒ Mandatory GPS ☐ §17-25-45
(CSC w/minor 1st or CSC w/minor 3rd)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.

TEST

Solicitor *Andrew Wallace* #72934

SC Bar #

Defendant *Lance R. Elam*

Attorney for Defendant

SC Bar # 10890

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 _____ 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 SCDoc.☐ 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 (Domestic Violence) to ship, transport, possess, or receive a firearm or ammunition.

SPECIAL CONDITIONS:

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

PTUP

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

_____ days/hours Public Service Employment

Payment Terms:

☐ Set by SCDPPPSObtain 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: _____

*Fine:

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso (Public Def/Probation)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

TOTAL

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2017-GS-07-683

AW#: 2017A0720200118

Date of Offense: 4/27/2017

S.C. Code §: 16-3-652(1)(3)

CDR Code #: 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

True Copy
J. Roseaneau, Clerk of Court
Beaufort County, SC

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date

2142
12-12-18

15 to Life

329

STATE OF SOUTH CAROLINA

COUNTY OF

Beaufort

STATE

Lance R. Elam

AKA:

Race:

Sex:

DOB:

SS#:

Address:

City, State, Zip

DL#:

SID#:

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

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

Burglary 1st degree

In violation of § 16-11-311(A)(3) of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS ☐ §17-25-45

(CSC w/minor 1st or CSC w/minor 3rd)

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:

72934

Solicitor

SO 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 days/months/years or ☐ 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 SCDOP.☐ 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 (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	\$ 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	\$ 25.00
Proviso (Public Def/Probation)	\$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(J) (Vehicle Assessment)	\$40/ea	\$ 375.00
3% to County (if paid in installments)		\$ 37.50
TOTAL		\$ 1257.50

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#:

17-GS-07-684

AW#:

2017A0720200119

Date of Offense:

4/27/17

S.C. Code §:

16-11-311(A)(3)

CDR Code #:

0079

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

(CSC w/minor 1st or CSC w/minor 3rd)

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:

72934

Solicitor

SO 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 days/months/years or ☐ 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 SCDOP.☐ 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 (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	\$ 100.00
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\$56-5-2942(J) (Vehicle Assessment)	\$40/ea	\$ 375.00
3% to County (if paid in installments)		\$ 37.50
TOTAL		\$ 1257.50

Clerk of Court/Deputy Clerk

Court Reporter:

SCCA/217 (04/2018)

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

Other:

☐ Appointed PD or appointed other counsel.
Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge:

Judge Code:

Sentence Date:

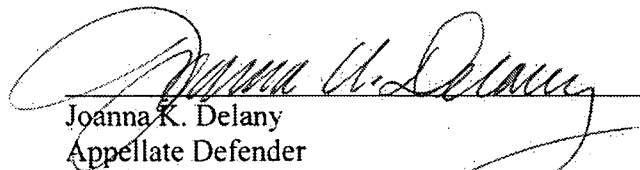
2172
12-12-18

True Copy
J. A. Rose
Clerk of Court
Beaufort County, SC - Jennifer Rose

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

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

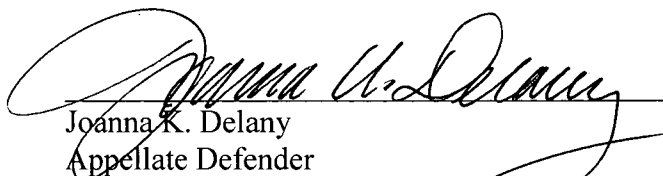
ATTORNEY FOR APPELLANT

This 3rd day of October, 2019.

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Joanna K. Delany
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 3rd day of October, 2019.