

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Marion County

Honorable William H. Seals, Circuit Court Judge

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SC Court of Appeals

THE STATE,

RESPONDENT,

V.

RUSSELL LEVON JOHNSON,

APPELLANT

APPELLATE CASE NO. 2017-002393

RECORD ON APPEAL

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INDEX

INDEX	i
TRIAL TRANSCRIPT DATED NOVEMBER 13 & 15, 2017	1
MOTION IN LIMINE	5
OPENING STATEMENT BY MS. PARKER	18
OPENING STATEMENT BY MR. FLOYD	23
TESTIMONY	
TONYA RICHBURG	
Direct Examination by Mr. Holt	27
OBJECTION	33
RULING BY THE COURT	34
TESTIMONY	
TONYA RICHBURG	
Direct Examination by Mr. Holt	35
Cross-Examination by Mr. Floyd	44
Re-Direct Examination by Mr. Holt	61
SHONDA GRIGGS	
Direct Examination by Mr. Holt	62
Cross-Examination by Mr. Floyd	71
Re-Direct Examination by Mr. Holt	73
ETHAN ALLEN	
Direct Examination by Mr. Holt	74
Cross-Examination by Mr. Floyd	77
BOBBY BETHEA	
Direct Examination by Mr. Holt	79
Cross-Examination by Mr. Floyd	90
Re-Direct Examination by Mr. Holt	104

Re-Cross Examination by Mr. Floyd	106
THE STATE RESTS	106
RENEWAL OF ALL MOTIONS	107
MOTION FOR DIRECTED VERDICT	107
RULING OF THE COURT	107
DEFENSE RESTS	109
CLOSING ARGUMENT BY MR. HOLT	110
CLOSING ARGUMNET BY MR. FLOYD	118
CHARGE ON THE LAW	123
ALLEN CHARGE	137
VERDICT	139
RENEWED MOTION FOR DIRECTED VERDICT	140
SENTENCING	142
STATE'S EXHIBIT NO. 1 (PHOTOGRAPH)	143
STATE'S EXHIBIT NO. 2 (PHOTOGRAPH)	144
STATE'S EXHIBIT NO. 3 (PHOTOGRAPH)	145
STATE'S EXHIBIT NO. 4 (PHOTOGRAPH)	146
STATE'S EXHIBIT NO. 5 (PHOTOGRAPH)	147
STATE'S EXHIBIT NO. 6 (SERIES OF PHOTOGRAPHS)	148
INDICTMENT	152
CERTIFICATE OF COUNSEL	154

THE FOLLOWING EXHIBITS ARE ON FILE WITH THIS COURT:

STATE'S EXHIBITS 1-6

STATE OF SOUTH CAROLINA	)	
	)	COURT OF GENERAL SESSIONS
COUNTY OF FLORENCE	)	2017-GS-33-00132
	)	
	)	
	)	
State of South Carolina	)	)
	)	
vs.	)	TRANSCRIPT OF RECORD
	)	
Russell Levon Johnson	)	)
<u>DEFENDANT</u>	)	November 13 & 15, 2017
		Marion, South Carolina

B E F O R E:

THE HONORABLE WILLIAM H. SEALS, JR., JUDGE; and a jury.

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

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Attorneys for the State

SCOTT FLOYD, CHIEF PUBLIC DEFENDER
Attorney for the Defendant

KESHIA REED
Official Court Reporter

I N D E X

<u>WITNESS</u>	<u>DIRECT</u>	<u>CROSS</u>	<u>REDIRECT</u>	<u>RECROSS</u>
Bobby Bethea In-Camera				
Mr. Holt	28			
Mr. Floyd		34		
Opening Statements				
Ms. Parker	56			
Mr. Floyd	61			
Tonya Richburg				
Mr. Holt	64		98	
Mr. Floyd		81		
Shonda Griggs				
Mr. Holt	99			
Mr. Floyd		108		
Ethan Allen				
Mr. Holt	111			
Mr. Floyd		114		
Bobby Bethea				
Mr. Holt	116		141	
Mr. Floyd		127		143

I N D E XWITNESSDIRECTCROSSREDIRECTRECROSS

Closing Statements

Mr. Holt 149

Mr. Floyd 157

Jury Charge 162

Verdict of the Jury 178

Sentence of the Court 181

Certificate of Reporter 182

EXHIBITS

<u>NO.</u>	<u>DESCRIPTION</u>	<u>ID.</u>	<u>EVD.</u>
S-1	Photo		103
S-2	Photo		103
S-3	Photo		103
S-4	Photo		103
S-5	Photo		103
S-6	4 Sheets of Photos		106
S-7	6 Sheets of Photos		120
S-8	Hammer		123
C-1	Miranda Rights Form		30
C-2	DVD of Defendant Interview		38
C-3	Note from Jury		175

1 what Mr. Floyd's doing is making a statement.

2 THE COURT: Tell you what I'm going to do, I'm
3 going to find that the defendant was Mirandized and that
4 he gave his statement freely and voluntarily. Of course,
5 the burden of proof is by a preponderance of the evidence
6 and nothing has been offered to me to show otherwise. All
7 of these technical difficulties certainly go the weight of
8 what it's worth. And I'm sure you'll have fun with that
9 when time comes.

10 MR. FLOYD: Yes, sir.

11 THE COURT: But I'm going to allow it. Anything
12 else at this time that we bring up before?

13 MR. FLOYD: Your Honor, other than than the
14 Jackson v. Denno hearing, I did, Your Honor, have a motion
15 in limine. Based on the information I've been provided,
16 Ms. Richburg wrote out a statement wherein she alleged
17 that Mr. Johnson committed some acts of violence against
18 her in Dillon County and in Marlboro County. According to
19 her, the violence against her occurred right outside of
20 Dillon and outside of Clio which I believe Clio is in
21 Marlboro County. Your Honor, I would just limit any
22 testimony about any domestic type abuse that she alleges
23 occurred in those counties because this court doesn't have
24 jurisdiction to hear allegations of domestic violence that
25 occurred outside of the county.

1 THE COURT: Let me hear from the State.

2 MR. HOLT: Thank you very much, Judge. And I'm
3 looking the State vs. Ziegler. It's a 1979 case 260
4 Southeastern 2nd 182. And what Ziegler stands for, Judge,
5 is that kidnapping is a continuing offense. It takes
6 place from where the young lady was stolen to where she
7 was returned. The domestic violence and abuse had
8 happened in between then is certainly evidence of
9 kidnapping. And the State feels that the jury cannot get
10 a full and fair accurate view of what happened if we can't
11 present evidence to show why she did not want to get away
12 from this gentleman and he beat her with a hammer. He cut
13 her with a knife. And while that might have occurred in
14 another jurisdiction, the domestic violence he's being
15 prosecuted for happened in the hotel -- in the Imperial
16 Motel here in Marion County, but all the other evidence is
17 evidence of kidnapping and we feel once you take that away
18 as Ziegler gives us the right to talk about the entirety
19 of the kidnapping, then the jury is denied a fair and
20 accurate representation of the res gestae of the crime
21 which was to keep her away.

22 THE COURT: Did all of the series of events
23 begin in Marion County?

24 MR. HOLT: Judge, all series of events began
25 when the young lady was taken from her home in Mullins and

1 did not end until she returned to Mullins at the Imperial
2 Motel.

3 THE COURT: Let me see your case and show it to
4 Mr. Floyd.

5 MR. HOLT: I've already showed the case to
6 Mr. Floyd, Judge, be happy to show him again.

7 MR. FLOYD: He showed it to me earlier, Your
8 Honor. I read over it.

9 THE COURT: How do you feel about that case?

10 MR. FLOYD: Your Honor, certainly they have a
11 count against him for kidnapping, but what I'm talking
12 about here -- I mean, kidnapping is holding someone
13 against their will or confining them. I'm talking about
14 specific acts of domestic violence which he's also
15 indicted for. There's two separate counts on this
16 indictment. And what my concern is, Your Honor, is if
17 they're allowed to testify about acts of domestic violence
18 that occurred in another jurisdiction, I don't know how
19 they're going to separate that out when they come to
20 deliberate on whether or not he committed domestic
21 violence here in Marion County.

22 THE COURT: You're okay with the kidnapping
23 going across lines is that what you're telling me based on
24 this case?

25 MR. FLOYD: Certainly, I understand with the

1 kidnapping is a continued event although my understanding
2 is when she first got in the car in Marion County she got
3 in the car willingly. So I mean as far as beginning here,
4 I don't know that it did, but, I mean, that's something, I
5 guess, we have to argue about, but you see my concern with
6 domestic violence. I don't know how the jury will be able
7 to separate...

8 THE COURT: Sounds like you okay with the
9 kidnapping going across the lines if it began here and it
10 came back here, but you not okay with the domestic
11 violence going into Dillon and Marlboro County..

12 MR. FLOYD: Correct. With her testifying about
13 the specific acts of being hit in the head with a hammer.

14 THE COURT: Why can't we limit it to Marion
15 County?

16 MR. HOLT: Judge, we can't and I tell you why
17 she was never tided up. A masked gunman never came into
18 her home. The jury needs to understand that this was
19 kidnapping and that the violence was a threat that kept
20 her in her place. If you take that away, then you deny
21 the victim the right to truly represent what happened to
22 her.

23 THE COURT: Let me take a short break and read
24 this and come back and we'll go from there.

25 (WHEREUPON, a break was taken.)

1 THE COURT: The way I read your case, Mr. Holt,
2 is that it would allow the kidnapping to go over the line.
3 So in this particular case, it from what I believe
4 Richland County to the federal library and they allowed
5 that.

6 MR. HOLT: Yes, sir, Your Honor.

7 THE COURT: And they allowed that, but if you
8 look at the very last paragraph, it says at the same time
9 we can conclude that the likelihood of prejudice as it
10 relates to the sexual misconduct charges sufficient to
11 warrant a new trial on this count. There is evidence of
12 two separate incidents of sexual misconduct one on the
13 fort property and one off the fort property. We cannot
14 ascertain from the record which of these incidents was
15 charged in the indictment and it accept by the jury as a
16 basis for conviction. Accordingly, a trial shall be held
17 in this county. That would lead me to believe that
18 they're trying to isolate the CSC to Richland County as
19 oppose to the fort, even though they allowed kidnapping to
20 go around. What's the difference in that in this case?

21 MR. HOLT: Judge, they allowed the kidnapping to
22 go around. The difference is you have several distinct
23 domestic violences. We want -- and you didn't hear this
24 we didn't proffer this information, but essentially she's
25 going to talk about how she was treated and he tried to

1 break her neck to the hotel room, that's domestic violence
2 we want to prosecute.

3 THE COURT: And that's here in Marion County?

4 MR. HOLT: And that's here in Marion County at
5 the Imperial Motel. The problem becomes the kidnapping
6 cannot be fairly prosecuted, the victim can't have her say
7 if she can't say what acts kept her in the car. Why
8 didn't she flee. Well, then it's going to come forward I
9 didn't flee because he had just beat me. I didn't know
10 where I was. We're not trying to prove that he hit her
11 with the hammer in the other county. We're not trying to
12 prove that he cut her arm up in the other county and we
13 think an instruction to the jury is simply that, you know,
14 he's not proven those two crimes, don't think about them
15 that way. You can only use them as evidence to prove the
16 kidnapping. And I think your average juror, Judge, your
17 average layperson they believe that a kidnapping only
18 occurs on a situation like they might have seen in
19 MacGyver where somebody's taken away and tied down in a
20 chair. But when you read the actual law, you hold the
21 person in a place using terror or something like that,
22 then that's a kidnapping. And I think that those things
23 ---

24 THE COURT: How do you feel about that those
25 acts of violence in another jurisdiction have nothing to

1 do with the domestic violence here, but they're concerned
2 only with Marion County? If we instructed the jury in
3 that regard? But it does go to holding her against her
4 will as to the kidnapping.

5 MR. FLOYD: Well, Your Honor, one thing that he
6 said was they weren't interested in prosecuting him for
7 hitting her in the head and cutting her in Marlboro or
8 Dillon County. The way this trial's headed and they're
9 planning on introducing pictures of her with a head wound
10 and a cut wound, which according to her occurs in a
11 different county.

12 THE COURT: All right.

13 MR. HOLT: To show why she didn't flee.

14 THE COURT: Okay.

15 MR. FLOYD: Your Honor, she could testify that
16 she didn't flee without specifically saying he cut me and
17 he hit me in the head with a hammer.

18 THE COURT: That's kind of how I feel.

19 MR. FLOYD: I mean, she can say ---

20 THE COURT: I felt threatened. I was confined.
21 He wouldn't let me go. He had already beat me in Marion
22 County.

23 MR. FLOYD: Correct.

24 MR. HOLT: And what I would say, Judge, is if
25 we're putting kid gloves on for the jury's very adult

1 situation here and adults are going to look at this and
2 say, well, I feel threatened when somebody yells at me at
3 Subway, but I get up and go where I want to go. There's a
4 difference when somebody can testify and say I felt
5 threatened because I got beat. And then when you have the
6 actual evidence of that beating, woo. Well, then it's
7 like woo. Well, now I know why she was scared to run
8 because I have evidence. These are all adults. They can
9 look at this evidence. I don't think it's prejudicial and
10 like I say I think when you look at the jury and you give
11 your closing argument or you give the stipulation however
12 you want to handle it. You say the cut wound, the stab
13 wound, the head wound are not the domestic violence the
14 State is prosecuting. I think the jury is adult enough
15 and they deserve what she went through. They took the
16 chance to collect this evidence. The jury deserves to see
17 it to know the severity, woo, that's why she couldn't
18 leave, look what happened to her. It was more than harsh
19 words. It was more than a scratch.

20 THE COURT: Why can't we put that in the charge
21 in a way that's satisfactory to you? Just flat out tell
22 them that those events are not domestic violence. We're
23 not prosecuting him on that -- those events specifically.
24 They are not to be considered.

25 MR. FLOYD: Your Honor, I mean, I just think

1 back to my original point, I don't think there's anyway
2 for the jury to separate all this out of their minds
3 without the defendant...

4 THE COURT: Well, what if I tell them that the
5 domestic violence events have to happen here in Marion
6 County? Particular events he's talking about happened in
7 another county and are not be considered by you in anyway
8 at all as to domestic violence only in regards to
9 kidnapping.

10 MR. FLOYD: Well, Your Honor, and I understand
11 but part of what she's saying about the kidnapping -- when
12 he says this kidnapping began in Mullins that's not going
13 to be the testimony as I understand it. She got in that
14 voluntarily with him in Mullins didn't begin here. The
15 way I understand it she's going to testify from the
16 statements I been provided she's saying that actually
17 began in Dillon County or in Marlboro when they were in
18 the car after she voluntarily got in it. So it's not like
19 he kidnapped her from her house and made a round trip, the
20 kidnapping actually began over there. My understanding is
21 that they're going to prosecute kidnapping for actions
22 that took place inside the hotel room in Mullins. So I
23 don't see why we even have to go in to any of it for them
24 to prove kidnapping, if that's what they're going for.

25 THE COURT: So you're saying kidnapping did not

1 even happen in Marion County?

2 MR. FLOYD: No, sir. Not initially. I mean,
3 she's claiming that at the very end when they were in that
4 motel room in Mullins, that he refused to let her leave
5 which of course if that's proven if he confined her in
6 that room that would be kidnapping, but she's saying that
7 she was confined in Dillon and confined in Marlboro and
8 was afraid to get out of the car in Dillon after they went
9 out of the store. Well, that's the first instance that
10 she talks about about being confined over there not here.
11 So it's not like he abducts her at her house, takes her
12 off and then brings her back. That's not what we have
13 here.

14 MR. HOLT: Judge, and I think that's a factual
15 matter. I think at one point, you know, we didn't, of
16 course, proffer testimony for this, didn't see it going
17 into this. But at one point he takes her cell phone from
18 her and throws the battery out. It's a factual matter for
19 the jury to decide that. And I think Mr. Floyd's argument
20 is appropriate after that evidence has been proffered in
21 trial. I think right now essentially what he's saying is
22 this is some type of 403 analysis and the evidence of the
23 abuse in the other counties is ---

24 THE COURT: He's saying that it happened in
25 another county, period.

1 MR. HOLT: It did happen in another county.

2 THE COURT: And it may have happened here too,
3 but he wants the other county incidents excluded.

4 MR. HOLT: He is saying that, but what I'm
5 saying is, of course, back to my main argument is that it
6 did happen. It's proof of the kidnapping and nobody's
7 going to believe that unless somebody tied you up, they
8 can keep somebody there. That's what a layperson
9 continuously believes what a kidnapping is ---

10 THE COURT: I'm going to charge them on
11 kidnapping.

12 MR. HOLT: Yes, sir, I understand that, but I've
13 got to prove the kidnapping. And I can't prove that
14 kidnapping if you don't allow the totality of the facts to
15 speak for themselves, not using those facts to prove the
16 domestic violence. The domestic violence will be proven
17 about what happened in the Imperial Motel, which is
18 clearly in Marion County.

19 THE COURT: He's saying the kidnapping happened
20 -- is possibly happened here in Marion County at the
21 hotel, but did the kidnapping -- she voluntarily got in
22 the car and went over line and that's where it started was
23 in Dillon County.

24 MR. HOLT: But I think it will be a factual
25 matter for the jury to decide exactly where the kidnapping

1 took place and when it took place. I think she will
2 testify to when she said where are we going. He's going
3 to say the store and then he keeps driving past that. She
4 wants to go home. He takes her phone from her, okay. I
5 think all that will come in at the trial, but I don't
6 think that's the case in this case.

7 THE COURT: I seems to me I could charge them
8 and put some sort of language in there that both of these
9 crimes had to have occurred here in Marion County. And if
10 the defense muddies the water that the kidnapping happened
11 somewhere else and not here, you can have a not guilty
12 verdict. But it seems real hard to draw the flash line
13 right down the middle as to how things happened and where
14 it happened and I haven't even heard the testimony yet.
15 How do you feel ability that?

16 MR. FLOYD: Well, Your Honor, I can't withdraw
17 my motion or my objection, but certainly I'll ---

18 THE COURT: Yeah, but I'm just trying to find an
19 answer that would suit you as well.

20 MR. FLOYD: Well, I'm not going to withdraw my
21 objection or my motion, but certainly if you allow all
22 this stuff in, then certainly I would request a charge.

23 MR. HOLT: Judge, and what the State is saying
24 is that the biggest problem apparently defense counsel has
25 is there's other crimes that happened in other

1 jurisdictions. I think a charge to go directly from Your
2 Honor could fix all of that and protect everybody on the
3 record on that respect.

4 THE COURT: Well, why don't we get going and
5 that will give me a little bit of time to think about it
6 as well. How about that?

7 MR. HOLT: Yes, sir.

8 THE COURT: All right. Let's go ahead and bring
9 out the jury.

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

11 THE COURT: Let's go ahead and have Mr. Anthony
12 Nelson if you come over here and take the front row first
13 seat, I'm going to make you the foreman of the jury. Once
14 that seat is vacant, now's a good time to do it. First
15 thing I want to let y'all know is that we have been out
16 here working sometimes what we think takes five minutes
17 ends up taking an hour, but we fleshed it as best we can
18 and now we're ready to roll with this trial. First thing
19 I want to do is have the clerk swear you in.

20 (WHEREUPON, the jury is sworn.)

21 THE COURT: Members of the jury, I want to talk
22 to you just for a few minutes to give you a little bit of
23 working knowledge as to how we're to go today and what
24 your job is and what my job is. The first thing I want to
25 tell you is that the State of South Carolina has the

1 MS. PARKER: Defense counsel. Ladies and
2 gentlemen of the jury, good morning. We're here this
3 morning to begin a trial for a case that involves a lady
4 and the defendant over there. And, of course, they knew
5 each other. They lived together at one time. They were
6 boyfriend and girlfriend, intimately involved,
7 romantically involved and all too often that's the case we
8 see in that system. They lived together and just prior to
9 this incident on September 15th 2016 and this would carry
10 over to the early morning hours of September 16th 2016.

11 A few weeks prior to that they had broken up and
12 she had moved out and she had moved the Mullins because
13 that relationship had been severed. And on the afternoon
14 of September 15th, she's at her new residence in Mullins,
15 where she's living at and the defendant just kind of pops
16 up unannounced, unannounced drives up. She's not sure how
17 he knew where she was now living. He just kind of pops up
18 and says, you know, would you ride to the store with me.
19 We got some things we need to talk about. And so she
20 willingly goes. She gets in the car and goes with him and
21 they're going to ride to the store. And they're going to
22 talk. And they're riding around and she's in his car and
23 he's agitated. And he's questioning her about, you know,
24 why did you cheat on me. Why did you do me like that.
25 Why did you take my money, something about some money,

1 just some issues with their relationship. He's agitated
2 and he's growing more and more agitated. He's growing
3 more and more aggressive, growing more and more aggressive
4 with her. And he keeps snorting this white powder up his
5 nose as he's driving and talking with her and yelling and
6 getting more agitated, getting more aggressive.

7 Her phone starts ringing see she's got children.
8 She left the children with another family member and some
9 other folks back at her residence and her cell phone is
10 ringing. And he gets agitated and takes her phone, takes
11 the battery out of her phone and then removes the battery
12 out of his phone, okay. And they continue to go down the
13 road. They're going down road. And, you know, we're in
14 Marion County. You know, we have neighboring counties
15 that neighbor us, so they're actually driving towards
16 Dillon, okay. And so at some point they do enter Dillon
17 County. And there's some things that happen there we're
18 not going to talk that much about that because our
19 jurisdiction for this court is Marion County. And so at
20 some point they leave Dillon County, drive back into
21 Marion County. And he gets a room at the Imperial hotel
22 or motel. I believe it's a motel and that's in the City
23 of Mullins Imperial Motel. And they go there and he gets
24 a room. It's actually room 120 and she goes with him
25 inside the room at the motel. And you will hear evidence

1 and you'll see some photographs. He actually from the car
2 takes a bottle of Windex and some gloves with him inside
3 of the room.

4 Once they were in the room, he assaults her. He
5 grabs her neck and twist it in a fashion likes he's trying
6 to snap her neck or break her neck. And he tells her no
7 one's ever going to find you. They're not going to find
8 you. And she's scared and she's fearful for her life.
9 And because of the violence that she's already endured and
10 because of the threats that were made against her, she's
11 afraid and she wants to go home, but he won't take her
12 home. She already asked him to take her home. She had
13 already in fact asked him to get her medical attention and
14 he didn't do that either. He, of course, over the course
15 of time had been drinking and snorting some substance up
16 his nose. He eventually passes out. And when he passes
17 out and when he finally goes to sleep is when Tonya
18 Richburg makes her escape. And once he's asleep and
19 passed out, she was able to leave that motel room and she
20 goes right next door knocks on the window, knocks on the
21 window. And there were some folks staying in the room
22 next to them. And a lady comes out and calls 9-1-1, sees
23 the condition that she is in and you will hear testimony
24 about the condition she was in and what type of physical
25 condition she was in when law enforcement arrived after

1 that 9-1-1 call was made.

2 Ladies and gentlemen, we were introduced to you
3 on Monday. I know now it's Wednesday. My name is Patti
4 Parker. I work for our Solicitor's office here in Marion
5 County. I work for our elected Solicitor Ed Clements and
6 I'm actually the only attorney on his staff that's
7 full-time in Marion County. We have other prosecutors
8 that also work some in Florence. I have the pleasure of
9 being in Marion County all the time. Mr. John Holt is
10 prosecuting this case. He's actually lead counsel.
11 You'll be hearing mostly from him from this point out, but
12 he also works for Ed. We're both assistant solicitors.
13 And we sat you on Monday. And the State and both the
14 defense we chose you. We thought that you could be fair
15 and impartial, listen to the evidence and consider
16 everything and render a just verdict and that's what we're
17 going to ask you to do here today.

18 I'll go ahead and tell you it's not going to be
19 a very long trial. And I say that to say this, I don't
20 want how brief the trial may be to in some way insinuate
21 to you it's not significant or it's not important because
22 it is. This trial is very important. It's important to
23 the State. It's important to Tonya Richburg and it's
24 also important to the defendant. And it's part of a fair
25 process that we have here in America and you are an

1 essential part of that process. And without, ladies and
2 gentlemen, without you here today, we wouldn't be able to
3 bring a resolution to this now and that is what all
4 parties want to do. So we just ask for your attention. I
5 feel certain you will give us that. You will hear
6 testimony from this witness stand. The testimony you hear
7 is evidence and maybe somethings like some tangible
8 objects that are evidence, some pictures you'll see also
9 evidence and we just ask that you consider all the
10 evidence and look at everything in this case. And really
11 when it's all said and done and before you go to
12 deliberate, you really just going to have one important
13 thing to answer. Does the physical evidence and does the
14 evidence that the State's gone show you back up what Tonya
15 Richburg says happened that day. That's really the most
16 important question you have to answer. Do you believe
17 her. Does the evidence show or support, corroborate what
18 she's saying and does that make sense, okay.

19 You have to consider a two-count indictment.
20 The defendant in this case is charged with kidnapping and
21 domestic violence first degree and that's going to be
22 limited to acts that occurred in Marion County. And so
23 it's going to be up to you to determine was there an
24 assault that occurred in Marion County. And did any time
25 did she want to leave that hotel room. And they were at

1 the Imperial hotel. Did she want to leave. Did he keep
2 her there against her will. Because before I went to law
3 school, before I prosecuted cases, you know, on TV we see
4 kidnappings and it's where somebody's snatched or maybe
5 tied up or a child is taken, but under South Carolina law,
6 kidnapping can also be where someone holds you against
7 your will, okay. Not necessarily a snatching away or
8 taking away because I already told you she's going to
9 testify that when he pulled up that afternoon, she went
10 with him voluntarily, willingly, got in the car. They
11 were suppose to go to the store, but I believe that the
12 evidence in this case is going to show that it's much more
13 than just going to the store. When she got in that car
14 that afternoon and the events that transpired after that,
15 is horrible what happened. And so at the conclusion of
16 this case, it's going to be two counts for you to consider
17 kidnapping, domestic violence first degree. And the State
18 is going to ask you to render a verdict of guilty. And we
19 believe that will be a verdict that speaks the truth.
20 Thank you.

21 THE COURT: All right, Mr. Floyd.

22 MR. FLOYD: Thank you, Your Honor. Mr. Holt.
23 Ms. Parker. Good morning, ladies and gentlemen. My name
24 is Scott Floyd. I introduce myself to y'all the other day
25 when we picked a jury. You know, there's been occasions

1 when I've heard unflattering or reports about something
2 somebody's done. Maybe, it's on the news. Maybe,
3 somebody's gossiping about somebody else and says, hey, so
4 and so did this isn't that terrible. Some news show comes
5 on and they allege that some politician did something or
6 another. You know, of course, we hear that and I think
7 sometimes it's human nature to automatically believe bad
8 things about other people just because we hear them. I
9 think that's just human nature sometimes, but -- and
10 that's the power of an accusation alone can have against
11 somebody. But, you know, power of an accusation doesn't
12 have any place in this courtroom because trials are
13 conducted not on accusations but on proof, okay. And
14 every time the person comes in here and charged with a
15 crime like Mr. Johnson is, he's sitting there at that
16 defense table charged with two counts in the indictment as
17 Ms. Parker said of domestic violence and kidnapping. He's
18 entitled to what's called presumption of innocence. In
19 other words, you have an obligation to presume Mr. Johnson
20 is innocent of what he's been charged with. And that
21 presumption of innocence stays with him throughout this
22 trial until the moment that y'all deliberate and decide
23 this case.

24 Now, you know, you certainly you heard the
25 accusations made against Mr. Johnson. Ms. Parker laid

1 some of those out for you, but, you know, the State has
2 the burden to prove everything that they said, okay.
3 Everything that they allege in that indictment they have
4 proved and they have to prove it beyond a reasonable
5 doubt, okay. It's their burden of proof and if you think
6 about it, you know, the State has the resources to
7 prosecute the case. They have trained police officers.
8 They have labs. They have all these things at their
9 disposal. They have the powers of the State behind them.
10 So if they accuse somebody of a crime, it's only right
11 that they should have come in here and deliver that proof
12 to you beyond a reasonable doubt. Mr. Johnson's an
13 individual person. He doesn't have the resources
14 available to him like the State does. So that's just a
15 fundamental of our legal system and quite frankly that's
16 what makes our legal system superior to anybody else in
17 the world.

18 Now, in addition to the burden of proof and the
19 reasonable doubt which I've already discussed, you know,
20 like I said the State's making these allegations. And
21 you're going to be presented with witnesses. And it's
22 primarily what you're going to hear is a version of the
23 story. I don't anticipate there's going to be lab
24 technicians and blood analysis and all this sort of thing
25 going on in this trial. I think it's really going to come

1 some of those out for you, but, you know, the State has
2 the burden to prove everything that they said, okay.
3 Everything that they allege in that indictment they have
4 proved and they have to prove it beyond a reasonable
5 doubt, okay. It's their burden of proof and if you think
6 about it, you know, the State has the resources to
7 prosecute the case. They have trained police officers.
8 They have labs. They have all these things at their
9 disposal. They have the powers of the State behind them.
10 So if they accuse somebody of a crime, it's only right
11 that they should have come in here and deliver that proof
12 to you beyond a reasonable doubt. Mr. Johnson's an
13 individual person. He doesn't have the resources
14 available to him like the State does. So that's just a
15 fundamental of our legal system and quite frankly that's
16 what makes our legal system superior to anybody else in
17 the world.

18 Now, in addition to the burden of proof and the
19 reasonable doubt which I've already discussed, you know,
20 like I said the State's making these allegations. And
21 you're going to be presented with witnesses. And it's
22 primarily what you're going to hear is a version of the
23 story. I don't anticipate there's going to be lab
24 technicians and blood analysis and all this sort of thing
25 going on in this trial. I think it's really going to come

1 down to the testimony of one or maybe two individuals
2 telling a story. And, of course, you'll have to decide
3 whether or not that's beyond a reasonable doubt. I just
4 ask you to keep an open mind until all the evidence is in
5 and until you hear arguments of this -- me and the State
6 to make up your mind about this case. And we feel sure
7 that at the end of it you will find Mr. Johnson not
8 guilty. Thank you very much. I appreciate your time.

9 THE COURT: The State will call your first
10 witness.

11 MR. HOLT: It if please the Court, Judge. The
12 State would call Ms. Tonya Richburg to the stand.

13 THE CLERK: Place your left hand on the Bible
14 and raise your right hand please. Do you solemnly swear
15 or affirm to tell the truth, the whole truth, and nothing
16 but the truth so help you God?

17 THE WITNESS: I do.

18 WHEREUPON,

19 Tonya Richburg,
20 after first having been duly sworn, testified as follows:

21 DIRECT EXAMINATION

22 BY MR. HOLT:

23 Q Ms. Richburg, how old are you?

24 A Forty-two.

25 THE COURT: All right, she's got to talk into

1 that microphone right now. Nobody's going to hear a thing
2 like that.

3 A Forty-two.

4 Q Okay. And where do you currently live?

5 A In Mullins.

6 THE COURT: Go ahead and pull that thing down.

7 BY MR. HOLT:

8 Q All right. Ms. Richburg, if you just -- and I
9 apologize and I know it's aggravating just make sure you
10 answer where everybody can hear you, okay.

11 A Yes, sir.

12 Q Okay. And when did you move to Mullins?

13 A In September of last year.

14 Q All right. So around September of 15th or 16th, did
15 you live in Mullins of 2016?

16 A Yes, sir. I was just moving in.

17 Q And where were you from?

18 A Loris -- where I originally from Longs because I was
19 a resident. I had reside from Longs.

20 THE COURT: Why don't you go ahead and twist
21 that mic. She is real soft spoken.

22 BY MR. HOLT:

23 Q And now where were you originally living?

24 A In Longs.

25 Q Longs?

1 A I was staying at a Loris motel before I move to
2 Mullins.

3 Q And how long were in the Loris motel?

4 A About a month.

5 Q About a month?

6 A Uh-huh.

7 THE COURT: Is that a yes or a no?

8 A Yes, sir.

9 THE COURT: All right.

10 BY MR. HOLT:

11 Q And at what point were you living with the defendant?
12 Where were y'all living?

13 A In Longs.

14 Q In Longs?

15 A Yes, sir.

16 Q Was he living in your house or were you living in his
17 house?

18 A He was at my house.

19 Q And about how long were y'all living together?

20 A From about four years.

21 Q About four years. Do you have any children in
22 common?

23 A No, sir.

24 Q Okay. And how long had you known Russell Johnson
25 total do you think?

1 A Ever since high school.

2 Q And on September 15th, 16th 2016, did Russell Johnson
3 show up at your new house?

4 A Yes, sir.

5 Q Okay. And can you tell the jury what happened after
6 that?

7 A When we came to my house, me and my children and my
8 children mentor was ---

9 THE COURT: Can everybody on the jury hear?
10 They can't hear. You can twist that thing around. If
11 anybody on the jury can't hear, just raise your hand.

12 BY MR. HOLT:

13 Q What happened after Russell picked you up?

14 A He said he wanted me to ride with him to the store
15 because we need to talk and I said about what. He was
16 like we need to talk about some things because I heard you
17 was moving on. You was done with me and other sort of
18 things and so I was like, okay. So I got in the car with
19 him. He said we gone ride to the store and come back. I
20 said okay, but, you know, I got to get back because my
21 kids' mentor was at the house and I got to get back to
22 them. And he was continuing to ride and I was like where
23 you going. And he was like we still need to talk about
24 some things that was going on. Why you stole some money
25 from me. And why you cheating on me and stuff like that.

1 I said, well, I ain't really want to talk about that
2 because, you know, I'm just moving in my house and I'm
3 trying to get everything situated. I'm trying to get
4 myself situated. So after that, my phone ring. And it
5 was my son's mentor and he was calling me to let me know
6 how long it was going to be before I got back.

7 THE COURT: She got to speak up a little bit. I
8 can't even hear her.

9 A I'm sorry. My phone was ringing and that mentor had
10 call me to see how long before I got back. And long
11 behold, he took my phone and took the battery out. And he
12 said you don't have to worry about this phone because
13 nobody's gone get in contact with you or me. So he took
14 my battery out my phone and out his phone and he was still
15 driving and I said where you going. And he said, well, we
16 gone go to Dillon, so I can get some wine. I was like
17 why. So he was like so we can sit and talk or whatnot.

18 Q Did you ask him to take you home at that time when he
19 threw the battery out your phone?

20 A Yes, sir. And I said, well, you need to take me home
21 so I can get home to my kids, so I can let this man go.
22 So he was like we be back. We be back. We ain't gone
23 take that long. I said okay. So he kept continuing to
24 drive to Dillon. And he came to a wooded area. Low and
25 behold, I didn't know where I was. I mean, at that time I

1 didn't know because I was like where am I at. And he
2 said, no, we just gone sit here and talk. So after that,
3 we was standing outside. We was sitting outside talking
4 and I ask, Noodle, I said what you want to talk about.

5 Q Hold on. You said you asked Noodle?

6 A Yes.

7 Q And who is Noodle?

8 A Russell Johnson.

9 Q That's your nickname for him?

10 A That's what everybody call him.

11 Q Okay.

12 A And after that I said, well, can you take me back
13 home because I need to get home to my kids. And he was
14 like, well, I want to know why you stole money from me and
15 why you cheating on me, what.

16 Q You stolen money from him?

17 A No, sir.

18 Q Had you cheated on him?

19 A No, sir.

20 Q Go ahead.

21 A And after that, he went to the store. He left there
22 and went to the store. And he went inside the store and
23 got a beer and came back out. And we left there and we
24 was going to somewhere else Clio. I don't know the name
25 of the county. And we was going down some back roads. I

1 don't even know where I was going. And we was going to
2 some area. It was a house on the left side and we was
3 going down a long dirt road. And I said where am I at.
4 He said I don't even know. So we went to a wooded area in
5 Clio and he got out the car. We went to a wooded area and
6 he got out the car and went to the trunk.

7 MR. FLOYD: Your Honor, I object to testimony
8 about what occurred in Clio. I believe that's in a
9 neighboring county.

10 MR. HOLT: Judge, I think she's already
11 testified to the fact that she asked repeatedly to go home
12 and that he had disabled her phone at this time.

13 THE COURT: Where did he sever her phone?

14 MR. HOLT: Shortly after leaving her house we
15 know that, Judge.

16 THE COURT: Come on up here let me tell you
17 something.

18 (WHEREUPON, a bench conference was held in the
19 presence of the jury, but out of the hearing of the
20 jury.)

21 THE COURT: Members of the jury, step into the
22 jury room for a just a moment. We need to take up one
23 matter and we'll be back with you.

24 (WHEREUPON, the jury retire to the jury room.)

25 THE COURT: All right. Go ahead and put your

1 objection on the record and we'll try to clear it up.

2 MR. FLOYD: Your Honor, I believe at this point
3 in her testimony she says they pulled off in a wooded area
4 in Clio in Marlboro County. I believe she's getting ready
5 to enter testimony about him committing some act of
6 violence against her. I'm simply objecting to that line
7 of testimony from her based on my previous motion and
8 objection, Your Honor.

9 THE COURT: What I'm going to do is I'm going to
10 allow events that happened in other counties in this
11 trial. The State v. Zielgler allows that in regards to
12 the kidnapping anyway. Furthermore, in regards to
13 domestic violence, I'm going to allow events that happened
14 in other counties only to prove kidnapping. Otherwise,
15 I'm going to give a clear charge that to prove domestic
16 violence in this case it must be from evidence that
17 happened in Marion County. Any of the domestic violence
18 acts that happened in another county can only pertain to
19 the kidnapping and not domestic violence. And I'll flesh
20 that out in much greater detail before we charge.

21 MR. FLOYD: Yes, sir, Your Honor. And just for
22 the record and I think to protect myself and the record, I
23 believe every time she begins to say it I just need to
24 object. I want go into detail. I'll just say that based
25 on my previous objection ---

1 THE COURT: And I'll just say overruled based on
2 what I said. All right, let's go ahead and bring out the
3 jury.

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

5 THE COURT: You may continue.

6 MR. HOLT: Thank you very much, Judge.

7 BY MR. HOLT:

8 Q Ms. Richburg, while he was driving you throughout the
9 county, was he using any substances or drinking any
10 alcohol?

11 A Yes.

12 Q And what was he doing?

13 A He was snorting cocaine.

14 Q Okay. And he was drinking as well?

15 A Yes, sir.

16 Q Now, you were just telling the jury that before we
17 interrupted that he had picked up a beer and that you were
18 in the car again. Can you tell us what happened after
19 that?

20 A After we left the store, we continued driving again.
21 And he was just steady driving, just steady driving. And
22 we went to another county Clio. And we was driving down a
23 long dirt road. And when we got down a long dirt road, it
24 was an old trailer on the left-hand side. It was
25 abandoned where nobody live there, but there was an area

1 just was nothing there. So he made like a u-turn there.
2 So he went back out of there and we went to another place
3 and it was a house down a long dirt road. And we went
4 down that dirt road into a wooded area and that's when it
5 was woods. He made a path through there.

6 Q So it wasn't a road?

7 A No, he just made his own path through there. So
8 after we got in there, we -- he got out the car and he
9 went to the trunk of the car and he grabbed a long metal
10 stick -- metal piece or something. It was a round metal
11 it was a long -- I remember it was a long handle where a
12 real sharp area, but he stabbed me in my chest. He
13 grabbed it and stab me in my chest. And I leaned over and
14 asked him what you doing, why you stab me for. And he
15 open the door and pull me out the car and ---

16 Q What was he telling you?

17 A That I cheated on him.

18 Q That you cheat on him. What else was he telling you?

19 A That nobody will never find...

20 Q That nobody would ever find you?

21 A No, sir.

22 THE COURT: She needs to answer yes or no.

23 BY MR. HOLT:

24 Q Just answer yes or no.

25 A Yes, sir -- no, sir, he say nobody will never find me

1 or him.

2 Q And what did he do next?

3 A And after he got me on the ground, he was kicking and
4 punching me in my side and my face. And then he got back
5 up after that, he went and got a hammer out of the trunk
6 of the car and he struck me in the back of my head twice.
7 And I told him and I asked him said, Noodle, stop why you
8 hitting me. And he asked me why you cheating on me and
9 all. And I said I never cheated on you. And why I stole
10 money from you. And I said I never stole anything from
11 you. And I asked him what about his daughter, what about
12 my children. And he said what about them.

13 Q Why did you ask him about the children? What were
14 you scared of?

15 A Something was going to happen to me.

16 Q Something like what?

17 A He was just going to kill me.

18 Q All right. And what happened next?

19 A And after he struck me in the back of the head and I
20 told him I said, Noodle, stop. And I said I promise I
21 won't do this and I promise I won't do anything to hurt
22 you.

23 Q And why did you tell him that?

24 A Because I felt like he was going to hurt me. He was
25 going to kill me right there in that area.

1 Q And what happened next?

2 A And after I told him that, he got up took the hammer
3 and put it back in the trunk of the car. And he put me
4 back in the car and put the seat belt on and we left.

5 Q And where did y'all go next?

6 A And I told him after I got in the car, I said,
7 Noodle, I need to go to the hospital. I feel blood
8 everywhere.

9 Q Would he let you go to the hospital?

10 A Not until I got back to Mullins.

11 Q And what happened?

12 A We was riding back to Mullins. We went through
13 Dillon. We went through Dillon. And when we got back to
14 Mullins, it was a church I remember that church. I drove
15 -- I said I need to stop because I got to go to the
16 bathroom and I used the bathroom.

17 Q Hold on. Where did you use the bathroom?

18 A At a church on the side of the road.

19 Q He just -- the church was open and you just walked
20 in?

21 A No, I use the bathroom on the outside because it was
22 cars going by. And I said -- when I got out the car, I
23 said, Noodle, please don't hurt me and he said I'm not.
24 I'm just gone help you to the hospital. So you won't --
25 so nothing won't be said or nothing will be heard or

1 anything like that. And when we was -- after I used the
2 bathroom, I got back in the car. And he said I should run
3 up a tree so nobody won't find us. And I said why would
4 you want to do that. And he said that way nobody want
5 know that, you know, nobody won't know we still here or
6 not.

7 Q You would both be dead?

8 A Yes. And I said about what about Dylan (sic). I
9 said what about Von (sic), Kelly (sic) and Corey.

10 Q Who are those people?

11 A Von, Kelly and Corey is my children and Dylan is his
12 daughter.

13 Q And what happened next?

14 A And after that, we got back in Mullins. And it
15 was -- we went to Knight Imperial. It was another motel
16 across the street from that motel. And he was like we
17 gone go to this other motel because it was a police at the
18 store right there that night. And we had went to the
19 Imperial Motel and he went -- no, let me back up. He went
20 to the store and went in and got a beer.

21 Q Why didn't you run away?

22 A I didn't know where I was. I didn't know where I
23 was. And I was just ready to get home to my kids. I was
24 scared and it was dark. And I was wanting to go home to
25 my kids.

1 Q And had you been bleeding?

2 A Yes.

3 Q Okay. Well, what happened next?

4 A When I left the store, we went and got a -- he went
5 and bought a shirt out of the store, a black T-shirt and
6 wrapped it around my arm to hold the blood in on my shirt.
7 And we went to the Imperial Motel and he went and got a
8 room.. We went to the room and went in the room. And I
9 was bleeding continuously. And I asked him I said,
10 Noodle, did you want to help me clean myself up and he
11 said no. He said because this is gone be your last night
12 here.

13 Q Did you clean yourself up?

14 A No, sir.

15 Q Did you try to wash any of the blood off?

16 A No, sir. I layed on the bed and he walked outside to
17 the car. And he got a Windex bottle and some blue gloves
18 and he came back in the room. And I stood up and he got
19 behind me and tried to pop my neck. I said, Noodle, what
20 are you doing.

21 Q How was he holding your neck?

22 A Like in a way like that. And I said what are you
23 doing. He said tonight is going to be your last night
24 here. And when I kill you, I'm gone turn around and kill
25 myself. And he had some white substance on the dresser

1 and he was snorting that. And he went and laid on the
2 bed. And I went and use the bathroom. And when I seen
3 him laying on the bed sleep, I ran out the room. I went
4 next door to ask for them to take me home. And they seen
5 blood on my shirt and my face. And they said they was
6 gone call the police and I ran from them. And that's when
7 I ran into the police officer.

8 Q And now were you in your right mind when you talk to
9 them?

10 A I was just saying I didn't want to get him in trouble
11 because I didn't want him to go to jail.

12 Q Did you ever get to go to the hospital that night?

13 A Yes, sir.

14 Q Who took you?

15 A The ambulance.

16 Q Did Noodle ever take you?

17 A No, sir. He was still in the room sleep. I left the
18 room. I left out the room and I ran into a police that
19 was at the store. And I said I need some help. And the
20 officer she help me. She was -- I was like my boyfriend
21 he still in the room. He was sleep. And I said I didn't
22 want to get him in trouble and what's when she said why
23 you holding your arm. And I said I think my arm is
24 broken. And they put something on my arm. And I was
25 telling him I had a bruise right here too as well. And

1 they took me to the emergency room Marion County.

2 Q What did they have to do to you at the emergency
3 room, do you remember?

4 A They had to sew my arm up and I wouldn't let them
5 touch my arm.

6 Q And have you had to have that arm looked at since
7 then?

8 A Yes, sir. When I got back home, the police officer
9 took me home that morning, Friday morning. I called my
10 mom and told my mom I couldn't move my arm. I didn't move
11 it for a couple days. And she said see if you can move
12 your fingers, but I just couldn't move my arm. So she
13 came over and took me to Florence. And the doctor came in
14 and said that my arm was broken in two places, so I had to
15 have surgery. And I stayed in there -- I went Wednesday
16 and I stayed until Friday.

17 Q And they had the surgeries?

18 A I had to have two surgeries.

19 Q When you saw Russell come into the hotel room could
20 anybody else see y'all?

21 A No, it was cars -- you know, people was already in
22 the room.

23 Q When he brought those gloves in and the cleaning
24 solution, what did you think?

25 A I didn't -- at that time I didn't know what was going

1 on, but I ask him what was he doing. What was he getting
2 ready to do with that. And he said, well, tonight will be
3 your last night here. And I said why and he said because
4 you don't deserve to live and I don't either. He said do
5 you ever...

6 Q Did you want to leave at that time?

7 A Yes, sir.

8 Q Were you allowed to leave?

9 A He wouldn't let me leave, but when I seen that he was
10 laying on the bed, I went and used the bathroom and I
11 snuck out of there. I didn't even make any sounds or
12 anything where he know that I was leaving the room. And I
13 went next door and knocked on the window and I asked them
14 could somebody take me home to my kids.

15 Q But you waited until he was good and asleep?

16 A Yes, sir.

17 Q Why didn't you go get your phone?

18 A I got it, but I couldn't find the battery, so I just
19 left it and I ran down the street.

20 Q And where were you running to?

21 A Just running somewhere just trying to get home.

22 MR. HOLT: Beg the Court's indulgence.

23 BY MR. HOLT:

24 Q When it was all said and done with, do you remember

25 -- well ---

1. MR. HOLT: Ms. Richburg, I don't have any
2. further questions. Would you answer any questions that
3. defense has please.

4. MR. FLOYD: May it please the Court.

5. THE COURT: Yes, sir.

6. CROSS-EXAMINATION

7. BY MR. FLOYD:

8. Q Ms. Richburg, how are you today?

9. A Fine.

10. Q Okay. I'm going to ask you some questions and if you
11. don't understand anything I ask you, you just let me know,
12. okay.

13. A Yes, sir.

14. Q If I'm not speaking loud enough or anything like that
15. let me know.

16. A Yes, sir.

17. Q Okay. Now, you said this began on the 15th of
18. September, 16th of 2016; is that right?

19. A Yes, sir.

20. Q A little over a year ago?

21. A Yes, sir.

22. Q Okay. And you said that Mr. Johnson just showed up
23. at your house out of the blue?

24. A Yes, sir.

25. Q Is that what you testified to?

1 A Yes, sir.

2 Q Okay. Do you recall texting him that day before he
3 arrived to your house?

4 A He had called me before he came. And he said, Tonya,
5 we need to talk. And I said about what. And he said we
6 just need to talk about some things. I said, okay, fine
7 cool. And he asked me where I was at. So evidentially he
8 must have known where I was because he rode by and he seen
9 me and he backed up and pulled in my yard.

10 Q Okay. I'm asking if you text him specifically asking
11 him to come by your house on the 15th of September? Did
12 you text his phone and ask him to come by his house?

13 A I didn't text him.

14 Q Come by your house rather?

15 A I didn't text him. He call me.

16 Q Okay. So you saying you didn't text him, but that
17 y'all communicated by phone and that you knew he was going
18 to come by; is that correct?

19 A He called me and said he needed to see me.

20 Q All right. So when he got there, you got in the car
21 with him; is that correct?

22 A Yes, because he ask me to come ride with him to the
23 store because we needed to talk.

24 Q Okay. Now, you went from your house to a store in
25 Dillon; is that right?

1 A We didn't even go to the store when I left the house.

2 Q Ma'am, you never did go to the store?

3 A No.

4 Q Okay.

5 A And I ask him I said if he wanted to go to the store,
6 I need to get back home because my kids mentor was getting
7 ready to leave. He had call me before I left and he was
8 calling me to let me know that he was getting ready to
9 leave. And after the phone was steady ringing, Russell
10 grabbed the phone and took the battery out and he said
11 nobody will have to get in contact with you or me.

12 Q All right. The first time that you spoke to a police
13 officer when you left the Imperial Motel it was Ms. Shonda
14 Griggs; is that right? The lady sitting here?

15 A Yes, sir.

16 Q All right. Now, when you first approached her, did
17 you tell her that your boyfriend had stabbed you and hit
18 you with a hammer in room 120 at the Imperial Motel?

19 A Not at the motel.

20 Q So you did not tell her that?

21 A Well, I did tell her I said I didn't want to get my
22 boyfriend in trouble. She ask me she said what's the
23 matter, I said I don't want to get my boyfriend in trouble
24 because we had get into it and I was holding my arm and I
25 told her that I didn't want to get him in trouble because

1 he was at the room and he was...

2 Q Okay. Now, did you tell Officer Griggs that you had
3 just moved from Virginia and you did not know what your
4 address was, but that you needed to get home to your baby?
5 Did you tell her that?

6 A No.

7 Q You never told her that?

8 A (No response).

9 Q Now, after you talk to Officer Griggs, you spoke to
10 Captain Graham at the Mullins Police Department?

11 A Yes, sir.

12 Q On the 16th?

13 A Yes, sir.

14 Q Is that right?

15 A Yes, sir.

16 Q You remember talking to him?

17 A Yes, sir.

18 Q Okay. Now, you told him that while you were in
19 Dillon County that you got a cut on the arm and hit in the
20 head with a hammer; is that right? That's what you told
21 him?

22 A I told him what?

23 Q That you got cut on the arm and hit in the head with
24 a hammer when you were in Dillon County. Did you tell him
25 that or not?

1 A Not him.

2 Q Okay. And then you told him y'all went to Clio; is
3 that correct? Did you tell him you went to Clio?

4 A Yes.

5 Q Okay. And did you tell him that you started getting
6 stabbed in Clio; is that correct?

7 A Yes.

8 Q Okay. All right. Now, at some point didn't you tell
9 the officers that you stopped at a store after this had
10 occurred?

11 A He stopped at a store and got another beer.

12 Q That's what I'm asking. Did you -- you told the
13 officers that?

14 A Yes.

15 Q Is that correct?

16 A Yes.

17 Q Now, you told that to Detective Bethea; is that
18 correct?

19 A Yes, sir.

20 Q And you talked to him what was it four days later
21 something like that? It was a number of days after; is
22 that correct, when you talk to Detective Bethea?

23 A I talk him after I left the hospital.

24 Q All right. Well, do you remember talking to
25 Detective Bethea?

1 A Yes, sir.

2 Q Okay. And you actually wrote a statement or had him
3 write out a statement about what happened; is that
4 correct?

5 A Yes, sir.

6 Q And I'm assuming that you read it and you signed it?

7 A Yes, sir.

8 Q Is that correct?

9 A Yes, sir.

10 Q Okay. Now, in that statement, did you tell
11 Investigator Bethea that Mr. Johnson had made threatening
12 statements to you? Did you write that out in that report
13 about this being your last night on earth and that sort of
14 thing? Did you tell him that when you wrote that
15 statement?

16 A No, sir.

17 Q And what you told him was that you went to Dillon; is
18 that right?

19 A Yes, sir.

20 Q Okay. And you were in a Saturn vehicle; is that
21 right?

22 A Yes, sir.

23 Q Okay. And you told him that Russell drove the car
24 into a wooden area in Dillon; is that right?

25 A Yes, sir.

1 Q That's what you told him?

2 A Yes, sir.

3 Q And then you told him that y'all left and he pulled
4 up to a store; is that right?

5 A Yes, sir.

6 Q And he went inside?

7 A Yes, sir.

8 Q But you didn't get out of the car at that point?

9 A No, sir.

10 Q Is that right?

11 A Yes, sir.

12 Q Okay. Cause you didn't know where you were, is that
13 what you told him?

14 A I knew where I was I was just in that area. I didn't
15 know.

16 Q Okay. And so when you left there you went to or you
17 told Detective Bethea you went Clio; is that right?

18 A Yes, sir.

19 Q Okay. Then you told him that you parked in another
20 wooded area around Clio; is that right?

21 A Yes, sir.

22 Q Okay. And that's when you told Detective Bethea that
23 you were stabbed with some sort of object and you were
24 eventually hit in the head with a hammer; is that right?

25 A Yes, I told him I was struck in my chest. And when

1 he opened the door and took my seat belt off to open the
2 door and I fell out the car because I was holding my
3 chest.

4 Q Okay. And then you told him that y'all went back to
5 Mullins; is that right?

6 A Yes, sir.

7 Q And that's where your house was; is that correct?

8 A Yes, sir, but I didn't go back home.

9 Q I understand. I'm just asking you Mullins is where
10 you lived?

11 A Yes, sir.

12 Q Is that right. But y'all went to a motel, correct?

13 A Yes, sir.

14 Q Okay. Did you go in and rent the hotel room when you
15 got to Imperial Motel?

16 A No, sir.

17 Q Okay. Who did go into the motel?

18 A Russell.

19 Q So he went in there?

20 A Yes, sir.

21 Q Okay. Did you get out of the car then?

22 A No, sir, because I didn't know where I was.

23 Q Okay. Well, you were in Mullins, weren't you?

24 A I didn't know.

25 Q Well, you testified earlier that you did know you

1 were Mullins, didn't you?

2 A At that particular time I didn't know because I was
3 already bruised up and hit in the head not thinking.

4 Q All right. So did you just testify that Russell
5 also went into a store in Mullins after y'all got back to
6 the motel?

7 A Before we got to the motel, he went on the Exxon
8 station and got a beer.

9 Q Before he got to the motel?

10 A Yes.

11 Q But it was in Mullins?

12 A Yes.

13 Q Is that right? Okay. So not only did he get out of
14 the car in Dillon. He got out the car at the Exxon
15 station in Mullins and then he got out of the car at the
16 motel room?

17 A Yes.

18 Q Is that correct?

19 A Yes.

20 Q Okay. And he left you there?

21 A Yes.

22 Q In the car?

23 A Yes.

24 Q Okay. What time was that when he got out of the car
25 and went into the Exxon station in Mullins? Do you have

1 any idea approximately what time it was?

2 A No, sir.

3 Q Okay. Do you know what time y'all checked into the
4 motel?

5 A No, sir.

6 Q All right. You said you stopped and got out at the
7 church somewhere in this journey. Where was that?

8 A I don't know. All I know is I was -- it was a
9 four-lane highway and it was a church there. And I ask
10 him could you pull over, so I could use the bathroom
11 because I was already using the bathroom in the car.

12 Q All right. Was that in between Dillon and Clio
13 coming back to Mullins?

14 A Yeah, it was on the way coming back.

15 Q It was on way back?

16 A Yes, sir.

17 Q Is that correct? Okay. And so you got out the car
18 at that point?

19 A Yes.

20 Q What did you do walk to the back of the church so you
21 couldn't be seen from the highway?

22 A No, I got out of the car. He got out the car to help
23 me out to use the bathroom. I use the bathroom right
24 there where I got out the car at.

25 Q Okay. All right. Now, you said that -- so how many

1 stops did y'all make? Do you remember? From the time he
2 picked you up in Mullins until the time he brought you
3 back to Mullins, how many stops did you make?

4 A I don't know.

5 Q How many do you remember?

6 A All I remember is when I use the bathroom when we was
7 getting out. I mean at the church.

8 Q Okay. Now, you said allege Mr. Johnson was drinking
9 and using what appeared to you to be cocaine; is that
10 correct?

11 A Yes, sir.

12 Q Okay. How about were you drinking and using cocaine?

13 A No, sir, I don't do that.

14 Q So you deny using cocaine or any other drugs when you
15 were with Mr. Johnson that night?

16 A I don't, no.

17 Q You do or don't deny it?

18 A I don't do drugs.

19 Q Okay. So you deny using drugs with him this evening
20 at all this happened?

21 A Yes.

22 Q You deny that?

23 A Yes.

24 Q Okay. And do you know deny getting out of one these
25 locations in an attempt to buy drugs do you deny that?

1 A No, sir.

2 Q You don't deny it?

3 A I don't, I didn't.

4 Q Okay. I'm asking you if you're denying it or not?

5 Do you deny that you got out of the car and went and
6 attempted to buy drugs when you were with Mr. Johnson?

7 A No, sir.

8 Q Okay. Do you deny getting into an altercation at one
9 of these locations attempting to buy drugs?

10 A No, sir.

11 Q You didn't get in a fight with anybody else?

12 A No, sir.

13 Q Okay. Did you testify there was cocaine in that
14 motel room, correct?

15 A Yes, sir.

16 Q You were aware of it being there?

17 A Yes, sir.

18 Q Okay. Now, you said when you went to the emergency
19 room that night; is that correct?

20 A Yes, sir.

21 Q The night of the 16th or early morning on the 16th?

22 A Yes, sir.

23 Q I should say?

24 A Yes, sir.

25 Q Did you ever provide the State with any medical

1 records or anything of that nature from any physicians at
2 that emergency room?

3 A What do you mean?

4 Q I'm asking you if you provided them with medical
5 records of about your visit to the emergency room? Did
6 you give anybody any records of that?

7 A I told the officer I went to the emergency room that
8 night.

9 Q Okay. Did you provide any written notes or records
10 from the doctors who saw you to them? Did you give them
11 any of those things?

12 A No, sir.

13 Q Okay. And you said that they stitched your arm up;
14 is that correct?

15 A Yes, sir.

16 Q All right. What else did they do?

17 A They stitched my arm. They was going to do a CAT
18 scan on my head, but I wouldn't let them do it. I mean, I
19 wouldn't -- that I wouldn't let them do it, it just that,
20 you know, I started throwing up at the hospital. And they
21 was trying to figure out why. So when I left and after
22 all that, I left police and the police officer took me
23 home.

24 Q All right. Did they take blood from you at the
25 hospital?

1 A I can't remember.

2 Q Okay. And you said you went to a doctor after you
3 went to the ER; is that correct?

4 A Yes, sir.

5 Q Okay. And did you ever provide the State or any of
6 these police officers with any written reports from that
7 doctor?

8 A No, sir.

9 Q Okay. So you never supplied anybody with any medical
10 reports about what your injuries were or what you were
11 treated for; is that correct?

12 A Okay, the first time I ---

13 Q I'm not asking you -- I'm just asking you I want to
14 make sure you never gave anybody any medical records from
15 any doctors explaining what you were treated for or what
16 your condition was?

17 A No.

18 Q Is that correct?

19 A Right.

20 Q Okay. When you got back to Mullins, isn't it true
21 that Mr. Johnson offered to take you to the hospital?

22 A Yes.

23 Q He did, didn't he?

24 A Yes.

25 Q Okay. Well, why didn't you take him up on that?

1 A Why, because he didn't want to get in trouble. He
2 said the only reason why I'm not gone take you to the
3 hospital is because I don't nobody -- you to tell them
4 what I did to you.

5 Q Okay. You just said he offered to take you to the
6 hospital?

7 A He did offer to take me to the hospital.

8 Q Okay. You mentioned your children earlier. How old
9 are your children?

10 A Twenty, 18, and 16.

11 Q Okay. So at the time this happened would have been
12 about a year younger been about 15?

13 A Well, no, my son was 17 during that time. My oldest
14 son was 17 and my baby was 16.

15 Q Okay. So when you got back to Mullins and you
16 refused or didn't go to the hospital after it was offered
17 to you, that's when you went to the motel room; is that
18 correct?

19 A Yes.

20 Q Okay. So you went to the motel room after that and
21 then you went and got in the bed; is that right?

22 A Yes.

23 Q Okay. And you laid down, right?

24 A (No response.)

25 Q And during that time, did you go to sleep at all?

1 A No.

2 Q Well, Russell left the room at least once, didn't he
3 during that time?

4 A He left and went outside and came back.

5 Q Okay. But I'm asking you he left the room at least
6 once after you laid down?

7 A Yes, yes, yes.

8 Q Okay. And when he got back, he had to knock on the
9 door to get in, didn't he?

10 A He had the key. He the one got the room.

11 Q I understand. He didn't leave the key in the room?

12 A He had everything with him.

13 Q Okay. Did he take his car keys?

14 A No.

15 Q He left them there. Okay. You and Mr. Johnson lived
16 together what four years is that what you said three or
17 four something like that?

18 A Yes, sir.

19 Q Okay. And during that time living over in Longs; is
20 that correct?

21 A Yes, sir.

22 Q That's in Horry County; is that right?

23 A Yes, sir.

24 Q Okay. And then you moved to Mullins?

25 A Yes, sir.

1 Q Okay. Now, and you may have said this earlier, but
2 was Mullins your hometown?

3 A No, sir.

4 Q Okay. Had you ever lived in Mullins before, did you
5 have family over here?

6 A I got family over here.

7 Q Okay. So where is your hometown?

8 A In Loris..

9 Q Okay. On September the 15th of last year, how long
10 did you actually been in Mullins? When did you obtain
11 your house or your apartment or whatever the case may be?

12 A In September..

13 Q So it was that same month?

14 A Uh-huh.

15 Q Okay. So you had just moved in there?

16 A Yes, sir.

17 Q Okay. I believe you said earlier something about
18 your cell phone being taken; is that correct? Did you
19 testify about your cell phone being taken earlier?

20 A Yeah, he took my cell phone and took the battery out.

21 Q What happened to it?

22 A What you mean what happened to it?

23 Q What happened to it after that? Did you see what he
24 did with it? You said he took it what did he do with it?

25 A He kept it with him.

1 Q Ma'am?

2 A He kept it with him.

3 Q Where?

4 A I don't know. He just had it in his possession.

5 Q So what kind of phone was it?

6 A It was an Obama phone. I mean, a phone.

7 Q Okay.

8 MR. FLOYD: Okay, thank you, Ms. Richburg.

9 Thank you for answering my questions, that's all I have.

10 Mr. Holt may have further questions for you.

11 THE COURT: All right, redirect?

12 MR. HOLT: Just briefly, Judge.

13 REDIRECT EXAMINATION

14 BY MR. HOLT:

15 Q Ms. Richburg, have you ever testified before? Do you
16 talk in front of people a lot?

17 A Some.

18 Q When this happened to you, were you taking notes on
19 it as it was happening?

20 A No not really.

21 Q And on the day he picked you up from your house,
22 about what time did all this start do you remember?

23 A It was like in the afternoon like two something.

24 Q Two something?

25 A Yes, sir.

1 Q And when you were finally able to get away, do you
2 remember what time it was?

3 A It was late that night.

4 Q Okay.

5 A It was late that night.

6 MR. HOLT: Thank you for coming here today,
7 okay.

8 THE COURT: Any recross?

9 MR. FLOYD: Nothing further, Your Honor.

10 THE COURT: You may step down.

11 (WHEREUPON, the witness leaves the witness
12 stand.)

13 THE COURT: Call your next witness.

14 MR. HOLT: Judge, at this time the State would
15 like to call Ms. Shonda Griggs to the stand.

16 THE CLERK: Do you solemnly swear or affirm to
17 tell the truth, the whole truth and nothing but the truth
18 so help you God?

19 THE WITNESS: I do.

20 THE CLERK: You can have a seat.

21 WHEREUPON,

22 Shonda Griggs,

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

24 DIRECT EXAMINATION

25 BY MR. HOLT:

1 Q Could you please give your whole name to the jury?

2 A Shonda Nicole Griggs.

3 Q And where are you currently employed?

4 A Mullins Police Department.

5 Q And in what capacity?

6 A I'm an investigator.

7 Q Now, were you employed with Mullins on September 15th
8 and 16th of 2016?

9 A Yes, sir.

10 Q And in what capacity were you employed with them at
11 that time?

12 A I was a sergeant on the road, a patrol officer.

13 Q Okay. Can you tell the jury what the duties of a
14 road officer will be?

15 A As a sergeant, I would supervise and I will go to
16 calls, 9-1-1 calls such as this one.

17 Q Okay. And 9-1-1 does it ring directly to the police
18 station or how does that work?

19 A It goes to the dispatcher and we are dispatch to it.

20 Q Okay. So you were dispatched to where on the night
21 of -- I call it the night September the 15th, but really
22 we're talking about the early morning hours of
23 September 16th. And can you tell the jury where you were
24 called to go that night?

25 A To the Imperial Motel which is on North Main Street

1 in Mullins.

2 Q Now, that's in the city limits of Mullins?

3 A Yes, sir.

4 Q And is that in county jurisdiction of Marion?

5 A Yes, sir.

6 Q And when you arrived there, what did you notice?

7 A Just before I arrived there, there's an Exxon station
8 on the right and I observed Ms. Tonya walking down the
9 road. She had blood all over her shirt and her hair was
10 in disarray and that's when I stopped and spoke with her.

11 Q Did she appear to be in her right mind at that time?

12 A She did not. She was in shock, in the state of
13 shock.

14 Q And what did you do after that?

15 A I asked her if she was okay. I had dispatched EMS to
16 come. And then she explained how she was stabbed and she
17 had a wound on her arm where that was bleeding and then
18 she also had marks on her head and scratches on her chest.

19 Q And what did ---

20 MR. HOLT: Judge, if I could approach the
21 witness?

22 THE COURT: You may.

23 BY MR. HOLT:

24 Q If I can show what's been marked for identification
25 purposes only is State's Exhibit 1, 2, 3, 4 and 5 and if

1 you could just briefly look at them I appreciate it. Did
2 you take any photos that night when you arrived on the
3 scene?

4 A Yes, sir, I took all these photos.

5 Q Don't tell us what they are quiet yet. You got to go
6 through a couple steps. And do you recognize State's
7 Exhibit for identification purposes only as one through
8 five?

9 A Yes.

10 Q Do you recognize them?

11 A Yes.

12 Q Since the last time you've seen them, have there been
13 any changes, alterations or deletions made to them?

14 A No.

15 Q Had they been modified in any way?

16 A No.

17 Q And can you tell the jury what those are?

18 A They're photos of the victim that I took whenever she
19 first arrived.

20 Q On what date? What night? What was the time and the
21 date?

22 A It's going to be 9-16-2016 at 3:10 a.m.

23 Q Okay. And they look the same now as they did then?

24 A Yes.

25 MR. HOLT: Judge, with the Court's permission,

1 the State would move items number one through five into
2 evidence.

3 THE COURT: Any objections?

4 MR. FLOYD: Your Honor, I object to mention the
5 photographs because they depict or alleged to depict
6 things which occurred outside the jurisdiction of Marion
7 County.

8 THE COURT: All right. We've already discussed
9 that overruled. State's 1 through 5 are in evidence.

10 (WHEREUPON, State's Exhibits Nos. 1, 2, 3, 4 and
11 5 were admitted into evidence.)

12 BY MR. HOLT:

13 Q All right. Investigator Griggs, would you pick each
14 picture up and show it to the jury and give us the name
15 and number so that the court reporter knows which one
16 you're showing and could you tell the jury what exactly it
17 is a picture of?

18 A This will be exhibit one. And this is the back
19 picture of the victim with white a T-shirt and blue jeans
20 with blood on the back of the white T-shirt. This is
21 exhibit two. This will be the back of her head. You can
22 see a mark here as to where she has blood also and there's
23 blood on the back of her shirt. Exhibit three shows the
24 side picture of her and the blood on her shirt and there's
25 also a scratch right here. Exhibit four shows blood.

1 throughout her shirt, a scratch here and there's also
2 fresh blood on her neck right here. And exhibit five
3 shows the blood on her shirt, the gash on her arm, the
4 scratch here. And then the dry blood and the fresh blood.

5 MR. HOLT: With the Court's permission, Judge, I
6 like to publish these to the jury?

7 THE COURT: You may.

8 BY MR. HOLT:

9 Q After you spoke to Ms. Richburg, what did you do
10 later on that night? What did you do next?

11 A After I spoke with her and then EMS arrived, when she
12 went with EMS to the hospital, then I went to Imperial
13 Motel.

14 Q And what did you discover when you went to Imperial
15 Motel?

16 A The room at which -- where she said that the subject
17 would be he was in the room. The door was cracked open
18 and I looked inside and could see the subject laying on
19 the bed.

20 Q Was he awake watching you or watching TV?

21 A No, he was not.

22 Q What was he doing?

23 A He was just laying there.

24 Q Was awake and speaking?

25 A No.

1 Q What did you do after you noticed him there?

2 A After that, I waited for my back up. We then went
3 inside the room. We called his name and announced
4 ourselves as police, called his name multiple times. He
5 did not answer. After approximately four or five times,
6 he finally woke up and that is when the officer placed him
7 in handcuffs.

8 Q After that, what did you do next?

9 A After he was placed in handcuffs, then he was
10 transported and I took photographs of the room.

11 Q All right. If I would show you what's been
12 previously marked as State's Exhibit 6, can you tell us
13 without telling us what they are and recognize State's
14 Exhibit 6?

15 A Yes.

16 Q And since the last time you seen it, have there been
17 any changes, alterations or deletions made?

18 A No.

19 Q And what exactly is State's Exhibit 6?

20 A Pictures of the outside and inside of the motel room.

21 Q And are those pictures that you took?

22 A Yes.

23 MR. HOLT: Judge, with the Court's permission,
24 the State would ask to introduce State's Exhibit 6?

25 THE COURT: Any objections?

1 MR. FLOYD: Your Honor, I object to the same
2 ground as earlier.

3 THE COURT: Overrule. Now, it's into evidence.
4 (WHEREUPON, State's Exhibit No. 6 was admitted
5 into evidence.)

6 MR. HOLT: Thank you very much, Judge.

7 BY MR. HOLT:

8 Q If you could pick up State's Exhibit 6 and just go
9 through them. You don't have to stop on every one, but
10 just significant ones if you could maybe explain to the
11 jury what those are?

12 THE COURT: She may step down if she like to get
13 a little closer to the jury.

14 BY MR. HOLT:

15 Q How many pictures are on each page there?

16 A There's nine pictures on each page. The first
17 picture shows that the room, the door, this shows the bed
18 where he was laying. This shows the shoes beside the bed,
19 another picture of the bed. This shows the table that was
20 on the opposite side of the room. And it shows where
21 there's a white powder substance. And then this shows
22 where there was a Windex bottle on the floor beside the
23 bed and there's also a blue glove on the bed.

24 Q Keep going.

25 A The next picture show two wash cloths on the side of

1 the bed and a glass of water. The wash clothes had blood
2 on them. And this is sheets. There's the blue glove and
3 the sheets also have blood on them. And that show more of
4 the blood spots all over the bed. And then this shows the
5 vehicle outside. The window on the passenger side was
6 busted out. There was blood all over the seat. And there
7 was an open beer bottle here and a white T-shirt here.

8 MR. HOLT: Permission to publish item six to the
9 jury, Judge.

10 THE COURT: You may.

11 BY MR. HOLT:

12 Q Okay. Investigator Griggs, after you took those
13 photos, what did you do next?

14 A I called Investigator Bobby out?

15 Q And did he arrive at the scene?

16 A He did.

17 Q And what did y'all start doing?

18 A At that time I turned it over to him.

19 Q Why did you do that?

20 A As an investigator -- as a road officer, we secure
21 the scene which I had already done when I took the photos.
22 And then we called an investigator out to further
23 investigate the scene.

24 Q So you had done everything that your job entitled
25 you to do?

1 A Yes, sir.

2 Q Would you do me a favor and please answer any
3 questions the defense counsel has?

4 A Yes, sir.

5 Q Thank you.

6 CROSS-EXAMINATION

7 BY MR. FLOYD:

8 Q Investigator Griggs, how are you today?

9 A All right.

10 Q Good. When you initially approached Ms. Richburg,
11 did she tell you that she had been stabbed and hit with a
12 hammer in room 120 at the Imperial Motel?

13 A Yes, sir. She stated that her boyfriend had stabbed
14 her and hit her with a hammer.

15 Q In room 120 at the Imperial Motel?

16 A Yes, sir.

17 Q Is that what you recorded in your report?

18 A Yes, sir.

19 Q Okay. And did she tell you she had just moved here
20 from Virginia?

21 A Yes, sir.

22 Q Okay. And she told you she didn't know what her
23 address was; is that right?

24 A Yes, sir.

25 Q Okay. And she also told you she needed to get home

1 to her baby; is that what she said?

2 A Yes.

3 Q Okay. All right. When you approached Ms. Richburg,
4 were you in a patrol vehicle?

5 A Yes, I was.

6 Q Is that equipped with like a camera, an in-car camera
7 where it records what's in front of you?

8 A Yes, sir, we do have those. At that time I did not.

9 Q You did not at that time. So there was no recording
10 of your encounter with her from an in-car camera in your
11 patrol vehicle?

12 A No, sir, not that I recall.

13 Q And at that time did y'all carry like a digital voice
14 recorder to record your encounters with individuals or
15 anything of that nature?

16 A No, sir.

17 Q On your person?

18 A No, sir.

19 Q Okay. So you wrote down what you were told in the
20 incident report; is that right?

21 A Yes, sir.

22 Q Okay. And y'all are as police officers y'all train
23 to fill these reports out and note what you find
24 significant about anything as far as any kind of incident;
25 is that correct?

1 A Yes.

2 Q Okay. And you wrote this to the best of your
3 knowledge is that accurate what you wrote in your report?

4 A Yes.

5 Q Okay. When would you have written that report?

6 A Before I went home at the end of the night shift and
7 that would have been seven o'clock that morning.

8 Q Okay. So it would have been within hours of your
9 encounter with Ms. Richburg?

10 A Yes, sir.

11 Q Is that correct?

12 A Yes.

13 MR. FLOYD: Thank you. That's all that I have.

14 THE COURT: Any redirect?

15 MR. HOLT: Yes, sir, Judge.

16 REDIRECT EXAMINATION

17 BY MR. HOLT:

18 Q Investigator Griggs, have you ever been hit in the
19 head with a hammer before?

20 MR. FLOYD: Your Honor, I object.

21 THE COURT: Sustained.

22 MR. HOLT: No further questions, Judge.

23 THE COURT: You may step down.

24 (WHEREUPON, the witness leaves the witness
25 stand.)

1 THE COURT: Do you have one more witness you can
2 call before lunch?

3 MR. HOLT: Yes, Your Honor, I believe we can get
4 PFC. Allen done.

5 THE COURT: All right.

6 THE CLERK: Do you solemnly swear or affirm to
7 tell the truth, the whole truth, and nothing but the truth
8 so help you God?

9 THE WITNESS: I do.
10 WHEREUPON,

11 Ethan Allen,
12 after first having been duly sworn, testified as follows:

13 DIRECT EXAMINATION

14 BY MR. HOLT:

15 Q PFC. Allen, where are you currently employed?

16 A Mullins Police Department.

17 Q And what's your whole name I'm sure it's not PFC?

18 A My name is Ethan Andrew Christian Allen.

19 Q And you're employed with the Mullins Police
20 Department?

21 A Yes, sir.

22 Q And how long have you been there?

23 A I have been with the Mullins Police Department for
24 two years and five months.

25 Q And how old are you?

1 A I'm 24 years old.

2 Q 24?

3 A Yes, sir.

4 Q Okay. And what's your current job title?

5 A I'm currently hold the rank of PFC, which is a basic
6 patrol officer. And I patrol the City of Mullins, go to
7 calls that we receive from the public, civil matter
8 disputes, basically any call for service.

9 Q And on September the 15th and September 16th of 2016,
10 did you hold that same job?

11 A Yes, sir.

12 Q Okay. And were you called out to the Imperial Motel
13 that night?

14 A Yes, sir, I was.

15 Q And what happened after you got that call? Do you
16 remember give or take about what time it was?

17 A It was around three o'clock in the morning. I
18 believe the initial call came out around 3:10. I was
19 actually working the other side of town, but I was on
20 south end of town. Officers we receive assignments from
21 our supervisor as far as which district of town to work.
22 Upon receiving that call, I respond to that call. And
23 upon my arrival, Sergeant Griggs was already speaking with
24 the victim at that time. And I just basically observed
25 her speak with the victim and got information.

1 Q And at the time that you observed her, did she have
2 blood on her person?

3 A She had an extreme amount of blood on her person.
4 She had dry blood, fresh blood as well. Basically, she
5 did appear to be in some state of shock. She didn't
6 appear to be completely lucid at the time. I notice one
7 major cut on her arm as far as, you know, the biggest
8 laceration that I could find. She had a very large amount
9 of dry blood all over her person.

10 Q Okay. And after you noticed her from talking with
11 Griggs, what did you do next?

12 A At that time I just stood by with Detective Griggs
13 and we awaited for EMS to arrive.

14 Q All right. And did you ever enter the hotel room 120
15 at the -- is it Imperial Motel?

16 A Yes, sir.

17 Q Did you ever go in the room?

18 A Yes, sir. Whenever we enter the room, the door was
19 adjacent upon our arrival. We did observe Mr. Johnson
20 laying face down on the bed and made several verbal
21 commands. It appeared he was asleep, passed out whatever
22 he was. He was unresponsive to our demands. I believe at
23 some point he was a little groggy. He gave some response,
24 but I'm not exactly positive on that. But at that time I
25 performed -- after arriving on site, I observed blood. I

1 put hand gloves on, standard protocol once we see blood.

2 I already had my gloves on, so at that time there's blood

3 all over the bedroom everywhere. I placed him in

4 investigative detention. He was detained at that time.

5 Q And where did you take him?

6 A We walked him outside and placed him in one of our

7 patrol vehicles.

8 Q All right. What did you do after that?

9 A We secured the crime scene and I waited for the
10 detective to arrive on that scene which was Detective
11 Bethea.

12 Q All right.

13 MR. HOLT: Please answer any questions defense
14 counsel might have.

15 CROSS-EXAMINATION

16 BY MR. FLOYD:

17 Q You didn't complete your own incident report about
18 this, did you?

19 A No, sir.

20 Q Okay. Did you have any sort of recording device on
21 you when you encountered Ms. Richburg?

22 A No, sir, I did not.

23 Q When you encountered Mr. Johnson?

24 A No, sir.

25 MR. FLOYD: That's all that I have for you.

1 Thank you.

2 THE COURT: You may step down.

3 (WHEREUPON, the witness leaves the witness
4 stand.)

5 THE COURT: Any other witnesses before lunch?

6 MR. HOLT: This will be a fine place to break,
7 Judge.

8 (WHEREUPON, a pause in the proceedings.)

9 THE COURT: All right. Members of the jury,
10 let's take a lunch break until 2:30. If you'll be back at
11 2:30, we'll start the trial. Do not discuss the case. Do
12 not research the case while you're on lunch break.

13 Everybody else remain where you are. The jury is excused.

14 (WHEREUPON, the jury excused for a lunch break.)

15 THE COURT: 2:30.

16 (WHEREUPON, a lunch break was taken.)

17 THE COURT: We ready?

18 MR. HOLT: Yes, sir.

19 THE COURT: Go ahead and bring them out let's
20 get going.

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

22 THE COURT: All right. The State will call your
23 next witness.

24 MR. HOLT: Thank you very much, Judge. At this
25 time the State would call Investigator Bethea of the

1 Mullins Police Department.

2 THE CLERK: Do you solemnly swear or affirm to
3 tell the truth, the whole truth, and nothing but the truth
4 so help you God?

5 THE WITNESS: I do.

6 THE CLERK: Thank you.

7 WHEREUPON,

8 Bobby Bethea,

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

10 DIRECT EXAMINATION

11 BY MR. HOLT:

12 Q Investigator, if you could please give your whole
13 name for the jury?

14 A Bobby Bethea.

15 Q And I'm not going to ask you how old you are all
16 right. I am going to ask you how long have you been in
17 law enforcement?

18 A 23 years.

19 Q And where did you work -- spend all those years in
20 Mullins?

21 A No, sir, I started out South Carolina Highway Patrol
22 and then the State Law Enforcement Division.

23 Q And State Law Enforcement Division that's more
24 commonly known as?

25 A SLED.

1 Q All right. And currently what position do you hold
2 with the Mullins Police Department?

3 A I'm a detective with the City of Mullins.

4 Q And what is the difference between the job a
5 detective would be and a responding officer?

6 A Well, normally a responding officer would answer
7 service calls or respond to an incident that was
8 dispatched to 9-1-1 communication. If it's a scenario
9 where they need to get their handle on the situation,
10 going to be something fresh, freshly committed if they
11 need to secure a crime scene and they would do that. And
12 then sometimes call investigators in that needs to be --
13 if something needs to be looked into.

14 Q Investigator, and were you -- what position did you
15 hold with Mullins Police Department on September 15th and
16 16th of 2016? What position were you in at that time?

17 A Detective.

18 Q Okay. And were you called out to the Imperial Motel?

19 A I was.

20 Q And about what time did you get the call to go out
21 there?

22 A Approximately around 3:20, 3:25 in the morning on the
23 16th.

24 Q And did you respond?

25 A I did.

1 Q And when you got there what is the first thing you
2 noticed, what did you start working on?

3 A Well, I kind of had an idea of talking to Sergeant
4 Griggs who was the first unit on scene, what was going on.
5 When I got there, I went immediately to the Imperial Motel
6 where the scene was. Noticed they open the door to room
7 120, also a vehicle parked out which was a Saturn bluish
8 silver in color. The window was broken out of the Saturn
9 on the right-hand side. At that time they had already
10 secured as a crime scene. At that time I left one of the
11 officers there to ask if he would secure a crime scene
12 while obtaining search warrants.

13 Q And how did you go about getting the search warrants
14 and tell the jury how that works?

15 A I went back typed up a probable cause affidavit. I'd
16 already been informed that they had removed somebody from
17 the motel room 120. They was in there and also with the
18 Saturn being out there, I felt like they give us probable
19 cause, so I need to get a search warrant to go into the
20 room and to go into the Saturn to obtain any kind of
21 evidence that might need to be process.

22 Q All right. And I'm going to show you what's already
23 been marked and entered as State's Exhibit 6 and these are
24 photographs of the hotel room and I just want to double
25 check with you and ask you if you believe that those

1 photos are a fair and accurate representation of what the
2 hotel room look like that night?

3 A Yes, sir.

4 Q All right. And I want to ask you if you can look at
5 what's been marked only for State's Exhibit -- for
6 identification as State's Exhibit 7 without. And without
7 telling us what they are, can you tell us if you've ever
8 seen them before?

9 A Yes, I have.

10 Q All right. And since the last time you seen them
11 have there been any changes, altercations or deletions
12 made to them?

13 A No, sir.

14 Q All right. And did you take those photographs?

15 A I did.

16 Q And can you tell the jury what they're photographs
17 of?

18 A The inside of the Saturn that was parked out with a
19 busted window.

20 Q You, of course, looked at that Saturn after you have
21 the search warrant?

22 A That's correct.

23 Q All right. And then who took those photographs do
24 you know?

25 A I did.

1 MR. HOLT: Your Honor, at this time the State
2 would like to present State's Exhibit 7 for evidence.

3 THE COURT: Any objections?

4 MR. FLÓYD: No, Your Honor.

5 THE COURT: State's Exhibit 7 is into evidence.

6 (WHEREUPON, State's Exhibit No. 7 was admitted
7 into evidence.)

8 BY MR. HOLT:

9 Q All right. And can you just maybe tell the jury
10 exactly what they're looking at there by showing them the
11 photographs and holding them up where they can see them
12 while you talk about them?

13 A You want me to come down?

14 Q Yes, you can step down.

15 A Basically, there's nine photos on each page and it's
16 mainly the interior of this vehicle. The first three
17 photos are the inside of the driver by the steering wheel
18 driver side, down in the floorboard there's a hammer,
19 appears to be a cell phone and what I would consider the
20 backing of a cell phone on one side on this side of the
21 hammer, another a few pictures of the inside of the
22 interior also at the driver's side. You get a little bit
23 of the passenger side. If you notice, there's a bag of
24 some type here. Then go to the back of the vehicle on
25 both sides and then the backseat of the vehicle. Second

1 page is more so exterior of the vehicle had a paper tag on
2 it. You can see the correlation of where it's parked
3 outside right here. Again just another picture of the
4 outside just a little bit further back. Again, you can
5 see the hammer and the phone and looks like some type of
6 phone backing. As we move inside, it's inside of the
7 room. There was a towel here on the counter top or some
8 type of receipt, that's some type of receipt to this room
9 laying. Also, when they do receipts up there, they'll
10 take your driver's license and run a copy on your receipt
11 so they'll know who you are that's staying there, took
12 pictures of the driver's license which is Russell Levon
13 Johnson. Well, actually it's a South Carolina ID card,
14 identification card. Just a couple pictures of the
15 outside of the vehicle, the back of the license plate had
16 a quality card, paper tag on it. Again here we go back to
17 the inside of the vehicle. If you notice, you can see
18 this from actually from the outside of the vehicle red
19 looking substance that appears to be consistent with blood
20 on each side, on the other side down on the seat. This is
21 the passenger seat. You can tell this is the driver seat
22 over here and then the passenger seat.

23 Q Was there any blood on the driver seat?

24 A Not that I can recall. It was mainly on the
25 passenger seat. And again the last page is just more

1 photos of the interior. You can kind of tell the interior
2 of the passenger side what's down here.

3 Q Okay.

4 A And the last page. Again, it's a little bit closer
5 up of the hammer that was sitting -- that was sitting in
6 the driver's floorboard with the two phones. It's just a
7 closer shot. And then you get right here and also in the
8 seat. I think, this is the front passenger seat. You see
9 there is a sharp looking metal object. People call these
10 objects different things. I call it -- it's a file that
11 you sharpen things. I call it chainsaw filing. You
12 sharpen the chainsaw file. It's a round file little thin.
13 It's got points on it. It's got a pointed end. And, of
14 course, I took a picture of the identification vin number.
15 This is the vin number to that vehicle.

16 Q All right. And then if you go ahead have a seat and
17 I'll handle that. And after you searched the car, did you
18 finish your investigation then or did you do anything
19 else?

20 A Did some other stuff. We actually collected some
21 evidence from that vehicle, process that vehicle and also
22 from inside the motel room.

23 MR. HOLT: And at this time, Judge, I like to
24 present State's Exhibit 8 -- I mean, I like to show it to
25 the witness.

1 BY MR. HOLT:

2 Q And I ask the witness did you collect that that
3 night?

4 A I did.

5 Q And do you recognize it?

6 A I do.

7 Q And can you tell the jury what it is?

8 A It is a claw hammer, a hammer, a typical normal
9 hammer. It's got a claw on one end of it. It's gray with
10 a black -- it's gray and blue handle. And I don't know
11 what kind of material the handle is made out of.

12 MR. HOLT: And, Judge, at this time the State
13 would move State's Exhibit 8 into evidence.

14 THE COURT: Any objections?

15 MR. FLOYD: Your Honor, in as much it relates to
16 an event which took place outside of the jurisdiction of
17 Marion County, I object it to.

18 THE COURT: All right. I'm going to overrule
19 that objection and we'll discuss that further.

20 (WHEREUPON, State's Exhibit No. 8 was admitted
21 into evidence.)

22 BY MR. HOLT:

23 Q You can pull that out just show it to the jury.

24 A Can I have a glove?

25 Q Sure.

1 A Again, it's what I call a normal hammer. I'm not a
2 hardward expert or nothing nor a construction person. It
3 has a claw end of it. And, of course, it's blue -- a
4 handle with blue and gray. And it's kind of like a
5 rubbery type handle on it.

6 Q All right. You can just put it back in the bag.
7 What did you do after that?

8 A Placed all the evidence that we collected placed it,
9 sealed it.

10 Q Did you have occasion to interview the victim? Does
11 that happen without telling us what anybody said?

12 A The night in question that I was there I did not
13 personally have an opportunity to interview the victim.

14 Q Okay. Did you do that later?

15 A I did.

16 Q All right. And did you have occasion to interview
17 the defendant?

18 A I did.

19 Q And did he admit to being in the car with her that
20 day?

21 A Yes, he did.

22 Q Did he -- well, how did your interview go with him?

23 A I interviewed him started to -- was attempting to
24 interview him let's see on September the 16th, which was
25 the same morning.

1 MR. FLOYD: Your Honor, I object to him
2 testifying about what he intended on the 16th. I mean, he
3 didn't interview him is my understanding.

4 THE COURT: What was your question?

5 MR. HOLT: And, Judge, I think I can clear it up
6 with a new question.

7 THE COURT: All right.

8 BY MR. HOLT:

9 Q Did you ever interview him in your office?

10 A Yes, I did.

11 Q Okay. And can you tell us a little bit about what
12 y'all talked about at that time?

13 A Okay. On September 21st 2016, we conducted a video
14 tape interview with Mr. Johnson and I asked him about the
15 incident that took place on the 15th or the 16th of that
16 morning of September. Mr. Johnson advised that he had
17 been -- prior to two weeks prior to the 16th or the 15th,
18 he had been to Florida for a couple of weeks to take care
19 of some situation with his daughter. And prior to that,
20 he had been living with a Tonya Richburg. They had lived
21 in Longs, South Carolina. When he got back, Ms.
22 Richburg had moved out. Subsequently, he found that she
23 was living in Mullins. And on the afternoon of the 15th,
24 he come over there to see her in Mullins. He stated that
25 he come by and picked her up and took her with him driving

1 in the vehicle, but he couldn't recall exactly where they
2 went because he was drinking and using cocaine. He does
3 recall driving into Mullins. He recall renting a room at
4 the Imperial Inn or Imperial Motel. When asked about --
5 he basically said or he did say that they didn't go back
6 -- they got a motel room there because Ms. Richburg did
7 not have any furniture at her residence at that time
8 because she had recently moved in. And when they got to
9 the -- that he actually rented the room. At that time
10 Mr. Johnson also stated when questioned about things that
11 went on in the vehicle -- any kind of incident in the
12 vehicle he couldn't recall.

13 MR. FLOYD: Your Honor ---

14 BY MR. HOLT:

15 Q Is that the end of your testimony in that matter?

16 A Yes.

17 Q All right. Now, did you record this -- how did go
18 about recording this?

19 A We have a video tape system in our interview room
20 that's also video and audio.

21 Q Okay. And were you able to successfully record both
22 audio and video?

23 A Yes.

24 Q Okay. Now, was that later was the audio able to
25 successfully be retrieved?

1 A Not at this time. Not on the disk that we play up
2 here. The CD's that we're playing up here.

3 Q Okay. All right. The room in which y'all interview
4 stuff is it a room specifically built for interviews or
5 does it serve a dual purpose in the City of Mullins?

6 A It serves a dual purpose. It's also a meeting room.
7 Sometimes they have different meetings in that room.

8 Q Who has those meetings?

9 A It could be any department head within the City. It
10 could be any kind of council, subcommittee with the
11 council. It could be some personnel at a police
12 department having meetings.

13 Q Okay. So the City of Mullins does not provide y'all
14 with an individual room built specifically for
15 interviewing defendants?

16 A No, sir.

17 Q Okay. All right.

18 MR. HOLT: Investigator, please answer any
19 questions that defense counsel might have.

20 THE COURT: Mr. Floyd.

21 MR. FLOYD: Thank you, Your Honor.

22 CROSS-EXAMINATION

23 BY MR. FLOYD:

24 Q Investigator Bethea, when you went to the motel room
25 at 120 at the Imperial Motel was that really the first

1 thing that you did in relation to investigating this case?

2 A To the best of my knowledge, I think I went there
3 first. I'm pretty sure I did.

4 Q Okay. And when you were there, you collected
5 evidence; is that right?

6 A Yes, sir, that's correct.

7 Q Okay. And I believe it says in your report you
8 collected some bed sheets maybe; is that correct?

9 A Correct, yes, sir.

10 Q Pillow cases?

11 A Yes, sir.

12 Q You collected wash cloths; is that right?

13 A Yes, sir.

14 Q You collected a pair of tennis shoes; is that right?

15 A Yes, sir, that's correct.

16 Q Okay. And a white powder substance you collected
17 that as well?

18 A That's correct.

19 Q Okay. And you also went and looked in the car; is
20 that right?

21 A Yes, sir.

22 Q Okay. And out of that you collected a paint scraper,
23 is that what you refer to it as in your report?

24 A Yes, sir.

25 Q Okay. And you collected a hammer?

1 A That's correct.

2 Q Okay. And was that all you collected as far as the
3 everyday that you collected, was that it?

4 A I collected -- I took two swabs, buckle swabs of
5 substances that appear to be blood on the seat. The
6 hammer, a round sharpening file that I shared a picture of
7 the -- what I call what you sharpen chainsaws with.

8 Q Okay.

9 A And I think that's it. Yes, sir, pretty much that's
10 it. I think we got it all.

11 Q All right. And you took the buckle swabs, collected
12 blood stains from the front passenger seat; is that right?

13 A I think so, yes, sir.

14 Q Okay. And did you send those to SLED to have them
15 tested?

16 A Yes, sir.

17 Q Okay. Did you ever receive results back?

18 A Not to my knowledge, no, sir.

19 Q Okay. Do you know why you didn't receive results
20 back?

21 A No, sir.

22 Q Okay. Did SLED ever send you a letter telling you
23 why you didn't get results back on that?

24 A No, sir.

25 Q They never sent you a letter?

1 A No, sir, I never received a letter from SLED.

2 Q Okay. Let me show you this.

3 A Okay.

4 Q Take a look at that letter?

5 A Okay.

6 Q Is that letter addressed to you?

7 A Yes, sir.

8 Q Okay. Where is it from?

9 A SLED South Carolina Law Enforcement Division.

10 Q Is that the correct address on that letter?

11 A Yes, sir.

12 Q So it's properly addressed?

13 A Yes, it is.

14 Q Okay. But you never received it?

15 A To my knowledge, I've never seen that letter.

16 Q Okay. The hammer that you collected did you dust
17 that for fingerprints. Did you swab that for DNA?

18 A No, sir, that's why I collected the whole hammer,
19 just send the whole hammer up there.

20 Q Okay. Did you send this hammer up there?

21 A Yes, sir.

22 Q You have any results about it?

23 A Not to my knowledge, no, sir.

24 Q Did you swab any of the tools that you found on the
25 fingerprints or DNA?

1 A I did not.

2 Q Did you send those to SLED?

3 A Everything that we had previously talked about that I
4 collected got sent to my knowledge.

5 Q You sent it all up there?

6 A Yes, sir.

7 Q Okay. But as far as you know, you never got any
8 results back on any of that?

9 A To my knowledge, no, sir.

10 Q Okay. So after you went to the hotel room and you
11 went out to the car, you collected whatever evidence you
12 did. What was the next thing that you recall doing in
13 regards to this investigation?

14 A Right after I left the hotel room?

15 Q Well, I'm just asking what was the next thing that
16 you did in regard to this investigation whenever that was?

17 A Yes, sir. Whenever after I collected the evidence, I
18 took it to the police department and went up there and met
19 Captain Graham which is my supervisor and met him up
20 there.

21 Q Okay. And what did y'all do?

22 A Well, at that point in time basically we needed to
23 wait before we conducted our interviews. Captain Graham
24 had already talked to Ms. Richburg while I was down
25 collecting evidence, so he had already talked to her, did,

1 an initial contact with her. And my plan was to speak
2 with Mr. Johnson the following morning because he had been
3 taken into custody.

4 Q Okay. So he had already interviewed her on the 16th;
5 is that correct, Mr. Graham, your supervisor?

6 A That's correct, yes, sir.

7 Q Okay. Do you know what time that was done?

8 A No, sir, not exactly what time. I mean, it had to be
9 am. I mean, I'm just guessing anywhere from four to 5:30
10 and that's just a guess.

11 Q That's a.m.?

12 A A.m., yes, sir.

13 Q All right. Because the initial contact was
14 Ms. Richburg was about what three o'clock in the morning
15 roughly?

16 A According to the incident report, I think they
17 arrived on scene at 3:10 a.m.

18 Q Okay. So on the 20th of September which was, I
19 guess, four days later after the 16th you interviewed Ms.
20 Richburg; is that right?

21 A That's correct.

22 Q Okay. And did you take a statement from her?

23 A Yes, sir, I did.

24 Q Okay. And you wrote that statement out; is that
25 correct?

1 A I did. Ms. Richburg had an injury to the arm and was
2 having trouble writing. So I actually wrote a statement
3 for her.

4 Q But you recorded what she told you?

5 A Yes, sir.

6 Q Okay. And you reported everything she told you?

7 A Yes, sir.

8 Q Okay. You didn't video tape that or attempt to; is
9 that correct?

10 A I'm pretty sure that's not videotaped. Usually, if
11 it's a witness -- I mean, a victim or something typically
12 we don't record that.

13 Q Okay. Now, do you have a copy of the statement that
14 she gave you?

15 A Yes, sir.

16 Q You have that with you?

17 A Yes, sir.

18 Q Okay. And she told you that Mr. Johnson picked her
19 up from her house; is that correct?

20 A Yes, sir.

21 Q Or her apartment whatever the case may be, her
22 residence?

23 A Yes, sir.

24 Q They rode to the building is that what she said?

25 A Yes, sir, he picked her up. She was gone ride to the

1 store and something about just ride with me to pick up
2 some wine is what the statement says.

3 Q And then she said after they were riding to Dillon he
4 drove the car into a wooded area in Dillon; is that
5 correct?

6 A Yes, sir.

7 Q That's what she told you?

8 A Yes, sir.

9 Q She maintained they had an argument?

10 A That's correct.

11 Q And then she said that they left the wooded area and
12 went to the store; is that right?

13 A That's correct.

14 Q Okay. And she said he went inside the store; is that
15 right?

16 A Yes, sir, went inside to get a beer.

17 Q Okay. And she said she didn't get out of the vehicle
18 attempt to leave anything of that nature; is that right?

19 A No, sir; according to her statement, she was scared
20 and didn't know where she was.

21 Q And then she said they left that store and rode
22 around Clio; is that correct?

23 A That's correct.

24 Q Clio is in Marlboro County?

25 A Yes, sir.

1 Q Is that right?

2 A Yes, sir.

3 Q And she said that they then parked in another wooded
4 area; is that right. Is that what she told you?

5 A Yes, sir.

6 Q Okay. And then she maintained that she was stabbed
7 with some sort of object and then hit with a hammer; is
8 that right?

9 A Yes, sir, while she was sitting in the car, he got
10 out of the car, went to the trunk and returned with a
11 sharp metal object, walked over to where she was sitting
12 in the car and stab me in the chest, that's her words.
13 And then he unbuckled her seat belt, open the door, and
14 stab me and fell out. She fell out of the car onto the
15 ground. He got on top of her and continued to hit her.
16 Then he got up and walked back to the trunk and got a gray
17 and black hammer and hit me twice in the back of my head.

18 Q Okay. Now, after that, they went to the Imperial
19 Motel or that's what she told you, right?

20 A Yes, sir.

21 Q Okay. And she told you that while she was in the
22 room Russell wouldn't let her leave; is that what she
23 said?

24 A Right, correct.

25 Q And then maintained to you that he grabbed her around

1 the neck; is that right?

2 A Right. He grabbed her around the neck while she was
3 sitting on the bed. Her words he was trying to pop my
4 neck.

5 Q All right. So that's everything she told you?

6 A Well, she also stated that he made a statement to her
7 while he was grasping her around her neck that nobody
8 knows where we are. Nobody's going to find you. Then he
9 said something he said I'm going to find some trees and
10 run into it so nobody can find us.

11 Q Run into some trees?

12 A Yeah, but it's just the way she was talking during
13 the statement. She kind of reiterated that that happened
14 while they were in the car and not the motel room.

15 Q Okay.

16 A She also ---

17 Q So that's all she said to you what you wrote here; is
18 that right?

19 A Besides that he was doing cocaine. And after he fell
20 asleep, she was able to sneak out of the room and get
21 away.

22 Q Okay. Did she say anything to you about her cocaine
23 use?

24 A No, sir.

25 Q Okay. Now, you took a statement from Mr. Johnson; is

1 that correct?

2 A I conducted an interview, not a written statement.

3 Q Okay. And that was on the 21st of September; is that
4 right?

5 A Yes, sir.

6 Q Okay. And during that interview, you took him into a
7 room equipped with video equipment; is that right?

8 A Yes, sir.

9 Q Okay. All right. And did you record that interview?

10 A I did, yes, sir.

11 Q Okay. And it had audio on it and video on it?

12 A Yes, sir.

13 Q Have you been able to provide video -- I'm sorry
14 audio of that interview?

15 A No, sir, not in here, no, sir.

16 Q Okay. So you have a tape or a disk which basically
17 shows him sitting at a table with you, but we have no
18 sound?

19 A Right. When I first reviewed it on our system, I had
20 sound and video and audio, but I mean, I'm not a tech
21 person. But for some reason, you can't hear the audio,
22 but the microphone was cut on.

23 Q Okay. And so the things you testified to earlier
24 about what Mr. Johnson said, they're not coming from that
25 video; is that correct?

1 A Yeah, they are coming from the video, yes, sir.

2 Q Okay. Well, have you been -- once again, have you
3 been able to produce a video with sound?

4 A No, sir.

5 Q And you can't play that statement for this court?

6 A That's correct.

7 Q Okay. So you took a statement from him and then at
8 some point later on you wrote down in this report what you
9 recall him saying; is that correct?

10 A Yes, sir.

11 Q Okay. Now, do you know when you took that -- well,
12 do you know when you entered into your report what you
13 recall him saying you know what date that was?

14 A No specific date, no, sir.

15 Q Okay. You have a copy of your incident report?

16 A Yes, I do.

17 Q Okay. Up here it has an entry that says date
18 interchanged?

19 A Right, yes, sir.

20 Q What is that refer to?

21 A In this case, the investigative notes in the incident
22 supplemental report is basically the same thing. The
23 investigative notes are taken as the investigation as you
24 do different things. It's just notes just like you would
25 be taking on a pad, but instead you're typing into a

1 computer so you keeping up chronologically. Whenever
2 there is a supplemental is what we addend of the case when
3 the case has been investigated, it's a supplemental report
4 that we attach to it. And what happens is a lot times
5 we'll just take -- instead of retyping everything that you
6 got, you retype in investigative notes, then what we do is
7 kind of copy paste the investigative notes to transfer
8 over to the incident supplemental. And I did that on the
9 28th and that's why the 28th is up there.

10 Q Okay. And so you entered everything in on the 28th?

11 A That's correct.

12 Q But your interview with Mr. Johnson is also
13 referenced on your investigative notes which are dated the
14 19th of September; is that right?

15 A Once she started with your investigative notes on the
16 19th, it doesn't change. I go back in there and edit each
17 step. The 19th is going to stay there because that's when
18 they originally happened.

19 Q Okay. So the soonest you wrote anything down was the
20 19th, that would have been the first time you started
21 writing anything down?

22 A That's correct.

23 Q Which was three days after the event?

24 A That's correct.

25 Q Okay. And so the last thing you wrote on this report

1 dealt with your interview with Mr. Johnson; is that
2 correct?

3 A That's correct.

4 Q So that would have been the last thing that you
5 entered?

6 A Yes, sir.

7 Q Okay. So it could have been as long as from the 21st
8 to the 28th before you wrote down what you recollected him
9 saying; is that right?

10 A It could have been. It could have been.

11 Q Yes, sir. I'm not asking you to tell me because you
12 don't know.

13 A Yes.

14 Q But it could have been a week?

15 A Yes, sir.

16 Q But at least it was three days?

17 A Not from the time I interviewed Mr. Johnson.

18 Normally, I interviewed him that morning normally unless
19 something come up. I have typed in later that afternoon
20 at the latest and unless something was pressing happened,
21 I would go in and type it up the following morning which
22 would have been the 22nd. So that's normally how we
23 operate.

24 Q Okay. But we don't know when you did it?

25 A Not exactly, no, sir.

1 Q Now, when you interviewed Mr. Johnson, he did tell
2 you that he offered to take Ms. Richburg to the hospital,
3 didn't he?

4 A Yes, sir.

5 Q You weren't there when he was put into detention in
6 the motel room; is that right?

7 A No, sir. The first time that I saw Mr. Johnson was
8 when he was brought back to law enforcement.

9 MR. FLOYD: Thank you, Detective Bethea, that's
10 all that I have at this time. Thank you.

11 THE COURT: Redirect?

12 MR. HOLT: Briefly, Judge.

13 THE COURT: Okay.

14 REDIRECT EXAMINATION

15 BY MR. HOLT:

16 Q Investigator, you're with Mullins Police Department,
17 correct?

18 A Yes, sir.

19 Q And what is your jurisdiction in?

20 A The City of Mullins.

21 Q And if you arrest somebody for a crime in the City of
22 Mullins, where is that case tried?

23 A Either in the City of Mullins depending on the case
24 or here in circuit court.

25 Q And circuit court of what county?

1 A Marion County.

2 Q If you find things used in a crime that happened in
3 another county, do you call investigators with that
4 county?

5 A Yes, sir, I do.

6 Q And did you notify any other investigators in this
7 case?

8 A I called and notified Dillon County and Marlboro
9 County.

10 Q And if you find evidence of a crime that happened in
11 Dillon or Marlboro County, do you prosecute that here in
12 Marion County?

13 A No, sir.

14 Q Okay. And you're not up here saying that the
15 defendant confessed to you, but the audio doesn't work,
16 are you?

17 A No, sir.

18 Q Okay. What are you simply saying that he told you?

19 A That he had picked her up in the car and he was in
20 the motel room with her.

21 Q And did he know how her injuries happened?

22 A He did not. He said he did not know how her injuries
23 happened.

24 MR. HOLT: Thank you very much.

25 RE CROSS-EXAMINATION

1 BY MR. FLOYD:

2 Q Detective Bethea, you are in fact prosecuting this
3 case in Marion County, aren't you?

4 A Yes, sir.

5 Q Okay. And the evidence you collected is your
6 responsibility, is it not?

7 A That's correct.

8 Q Okay. So what happens to it ultimately is your
9 responsibility because you're the lead investigator on
10 this case?

11 A Yes, sir.

12 Q Is that correct?

13 A Yes, sir.

14 MR. FLOYD: Thank you.

15 THE COURT: All right. You may step down.

16 (WHEREUPON, the witness leaves the witness
17 stand..)

18 THE COURT: Call your next witness.

19 MR. HOLT: Your Honor, at this time the State
20 would rest and call no further witnesses.

21 THE COURT: All right. Members of the jury, we
22 have to take up motions at this time. If you would step
23 into the jury room, when we come back, we will conclude
24 this trial. Do not discuss the case.

25 (WHEREUPON, the jury retire to the jury room.)

1 THE COURT: Any motions from the defense?

2 MR. FLOYD: Yes, Your Honor, I would just renew
3 all previous motions and objections made. Pleading my
4 original motion to quash the indictment and motion in
5 limine. Your Honor, I also move at this time for a
6 directed verdict on counts one and two of the indictment
7 for domestic violence first degree and kidnapping based on
8 the lack of evidence.

9 THE COURT: All right. In regards to your in
10 limine, I'm going to resend my previous ruling. I have
11 found a South Carolina code section 17-21-20. It states
12 that if the elements of the offense took place in more
13 than one county and each county has concurrent
14 jurisdiction. It even goes further in 17-21-10 the State
15 for example that an injury in one county and death in
16 another either county is fine to try the case. The State
17 vs. Allen 266 South Carolina 468 and if murder and
18 kidnapping happened in two counties, either county is
19 proper venue. The State vs. Gathers 269 South Carolina
20 105, kidnapping and rape in two counties either county is
21 proper venue. In this case, we have domestic violence and
22 kidnapping in Marion and possibly Dillon and possibly
23 Marlboro. So I think venue is proper here in Marion. As
24 far as the directed verdict motion goes, I think there's
25 enough evidence to send it to a jury.

1 MR. FLOYD: Your Honor, can I be heard on the
2 statute 17-21-10 and 20?

3 THE COURT: You may.

4 MR. FLOYD: Your Honor, I actually read these
5 venue statutes before I made that motion this morning.
6 And the way I read it is 17-21-10 and 20 is that it
7 applies to cases where death actually occurs. I don't
8 think either one of those statutes comply to this
9 situation that we have here in this case and so I would
10 just renew my objection.

11 THE COURT: That's why I backed it up with State
12 vs. Allen and State vs. Gathers which talked about murder
13 and kidnapping and kidnapping and rape, which happened in
14 two different counties and they said either county is
15 proper. So seems to me common sense would dictate that
16 Marion County would be a proper venue for this case.

17 How about your client have you talk to him about
18 whether he wishes to testify or not?

19 MR. FLOYD: I have, Your Honor.

20 THE COURT: All right. Let me go over his
21 constitutional rights and then he can tell me what he
22 wants to do.

23 If you can swear him in, Mrs. Clerk.

24 THE CLERK: Please come up and place your left
25 hand on the Bible and raise your right hand please. You

1 if that's okay with you?

2 MR. FLOYD: Yes, Your Honor.

3 THE COURT: So we'll bring the jury back.

4 You'll close. Defense will close. I'll charge and then
5 we'll pick another jury.

6 MR. HOLT: Yes, sir.

7 THE COURT: Go ahead and bring out the jury.

8 Oh, one more thing. Hold on, Mr. Evans. Have you all had
9 a chance to review the charge and the verdict form?

10 MR. HOLT: We have not.

11 THE COURT: You want to quickly look over it.
12 Come on up here.

13 (WHEREUPON, a pause in the proceedings.)

14 THE COURT: All right. Everything look good
15 from the State?

16 MR. HOLT: Yes, sir, Your Honor.

17 THE COURT: How about defense?

18 MR. FLOYD: Yes, Your Honor.

19 THE COURT: You can go ahead and bring out the
20 jury.

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

22 THE COURT: Defense will call your first
23 witness?

24 MR. FLOYD: Your Honor, the defense rest.

25 THE COURT: All right. State you're recognized

1 for your closing statement.

2 MR. HOLT: Thank you very much, Judge. If it
3 please the Court, Mr. Floyd. Ladies and gentlemen,
4 usually the closing arguments happen after four or five
5 day long trial we been sitting here talking to you. You'd
6 be a whole lot more bored than you are now at least you
7 have that to look forward to or to appreciate about this
8 case. Well, what I wanted to tell you is simply that the
9 fact that we can try something and put up all the
10 witnesses in one day should in no way lead you to believe
11 that something is not important to the State. This case
12 is important to the State. This case is important to the
13 victim. And this case is also important to the defendant.

14 On September 16th 2016, I'd say 16th y'all can
15 include the 15th in that. All of these events happened
16 from, I think, the victim said sometime early in the
17 afternoon around two o'clock until law enforcement was
18 contacted and involved sometime at night around three
19 o'clock. How many hours is that. Two to two would be 12,
20 so let's say 13 hours. Thirteen hour ordeal from the time
21 she willingly got in the defendant's car and nobody is up
22 here saying that to prove kidnapping a van has to slide up
23 in front of you and three or four armed people jump out
24 and throw you in that van. I think the majority of us are
25 familiar with television and any time we see a kidnapping

1 on television, that's what we think, but when somebody
2 places you away from where you want to be and they use
3 means to keep you from getting where you want to go and
4 there's two things that we're saying he did here. He took
5 her to a place where she didn't know. He took her out in
6 the woods away from where she was familiar, away from
7 where she could call somebody else for help. And in fact
8 she tried to call earlier in the day when things first
9 started sliding downhill and what did he do with her
10 phone. He took her phone away from her. And when he got
11 her alone, he didn't let her know where she was. And on
12 top of that, he used fear to keep her compliant and how
13 did he create that fear.

14 The first thing he did is showed her he wasn't
15 scared to stab her, took an old rusty file stabbed her
16 with it. The second thing he did was took a claw hammer,
17 a construction hammer and what those hammers are, I
18 believe, is a general hammer or a general frame hammer and
19 he knocked her upside the head twice. Mr. Floyd made a
20 big deal early on during a lot of his conversations with
21 the witnesses about people getting things exactly right.
22 And I think what you heard from most of the witnesses that
23 when they finally found the victim in this case, she
24 wasn't quite right. I think the photographs show that she
25 was in fact jacked up side the head, that she did in fact

1 lose a lot of blood. I would submit to y'all that using
2 common sense after a 13 hour ordeal where you're hit in
3 the head with a hammer, where you're stabbed, where a
4 young smaller fragile woman is taken by somebody bigger
5 and stronger than her to the woods and told that nobody
6 will find her, that after 13 hours she might not get
7 everything exactly right. And if y'all don't agree with
8 that, then may be you've lived a life different than I
9 because what I noticed is that when people go through
10 stressful situations, they respond by not being a hundred
11 percent.

12 And what I bring to those two events that
13 happened in other counties up before the stabbing and
14 beating with the hammer, they are important not because
15 they're domestic violence I'm here to prosecute. I'm here
16 to prosecute what happened in that hotel room, but they're
17 here to show you why she became compliant. You don't have
18 to tie somebody up. You don't have to put somebody in a
19 trunk. If you're willing to take them where they don't
20 know anybody and tell them you're going to kill them and
21 tell them it might be their last day and why don't I just
22 drive into a ditch and end all this for both of us where
23 nobody could find us and you're willing to scare them,
24 when somebody tells that to me, okay in my experience go
25 ahead go somewhere whatever, then that same person jacks

1 you upside the head with a hammer. Well, you know what's
2 gone happen after that, John Holt's gone get a lot more
3 compliant. I'm going to start listening to what you got
4 to so say when I know that the hammer's coming if I don't.
5 And when he did that, he kidnapped Ms. Richburg. You
6 don't need a rope if the chains of your violence and your
7 ability to take somebody to a deserted area and threaten
8 them is enough to keep them compliant. You don't need
9 ropes. You don't need tape. You don't need fancy drugs
10 or all these other things that you all might see on
11 television on a day-to-day basis.

12 Domestic violence first degree -- and before I
13 preface this usually I've got everything written down and
14 memorize, but what I will tell you is that the judge is
15 going to read you the law in the case. I'm going to sit
16 up and talk about the facts and how they relate to the law
17 that's my burden just like Mr. Floyd told you reasonable
18 doubt is alive and well in this case. I've got the
19 largest burden. He's going to get up and talk about how
20 he views the facts, but when it's all over with, the judge
21 is going to give y'all the exact law. And if you don't
22 like anything I say about the law or you think I might
23 misrepresent, you can ask him. And he's going to give it
24 to you.

25 Now, domestic violence first degree is when

1 somebody can cause bodily injury or they either cause it
2 or they attack you in such a way is that a reasonable
3 person could infer it would cause harm. Now, domestic
4 violence, in her own words and Mr. Floyd got this out from
5 her statement when he had Investigator Bethea on cross.
6 In her own words, and she told you he put his arms around
7 her neck like this and he tried to pop it. Well, you can
8 see not only is he larger, but he's physically stronger I
9 believe when the optics tell us all and he tried to pop my
10 neck. So how do we know that he intended to cause bodily
11 injury at that time.

12 Well, what else do the photograph tells us. She
13 told us that he walked in with some gloves and a bottle of
14 Windex. Now, I seriously doubt that he brought those
15 gloves in because he was going to work on her wounds. He
16 stabbed her with a rusty file. It didn't bother him to
17 not have gloves on when he was stabbing her or when he was
18 beating her or when he mishandled her. What do you think
19 that she thought that he implied by bringing those gloves
20 and the cleaning solution into the hotel room when he
21 tells her nobody's going to find you and nobody knows
22 where we're at. What do you think the implication was.
23 What do you think the reason for jerking her neck was to
24 imply harm, but should he get the benefit of the doubt,
25 should he be praised for being too drunk and too high to

1 carry it out. He should be. And what he did and what he
2 intended to do reasonably and foreseeably could have
3 created great bodily injury to the victim.

4 Kidnapping. I think we talked a lot about that
5 earlier. The judge is going to go over that and there's a
6 lot of weird words and kidnapping is one of those stupid
7 words where the words actually in the definition. And I
8 think you'll hear that. It's always something that
9 aggravates me if you have to use your own words to
10 describe it. But to confine, inveigle, decoy to use any
11 of those things to entrap somebody and take somebody away
12 against their will and without the authority of law.

13 Ladies and gentlemen, he had no legal authority
14 to pick this woman up and keep her after she wanted to go
15 home. How do we know that he kidnapped her. Well, she
16 asked repeatedly to go home. He never took her home. She
17 asked repeatedly to go somewhere else to the hospital. He
18 never took her to the hospital. And when she tried to
19 call somebody so that they would know where she was at
20 could help her, he responded by taking her phone apart.

21 Now, ladies and gentlemen, I want to ask you --
22 I want to tell you rather that reasonable doubt is not a
23 fanciful doubt or a weak doubt. It's a doubt with which
24 the words imply. It's a doubt that a reasonable person
25 could look at something and make their actions

1 accordingly.

2 What did Ms. Tonya Richburg tell you and then
3 what did the evidence show. He was drinking. She said
4 that. We found Bud Light in the car. He was doing
5 cocaine. Well, they found a white powder like substance
6 at the hotel room. And don't get bogged down because I'm
7 not the guy you call for a possession of cocaine charge.
8 This is a violent crime. I'm not sitting here trying to
9 say that is cocaine or that's not cocaine. I don't care.
10 I'm merely showing you that there's a pile of white stuff
11 on the table she said he was snorting it. Maybe, it
12 wasn't cocaine. Maybe, it was. What I'm telling you is
13 it was on the table.

14 She told you he cut me. It's blood all over the
15 place. She told you he stab me, wounds on her arms. She
16 told you he hit me in the head with a hammer. Well,
17 you're gone look at the pictures. You gone take them back
18 there with you. You can clearly see she said she got
19 jacked upside the head with a hammer. But here's the
20 biggest thing, I want y'all to think about. She's found
21 at three o'clock in the morning walking down the side of
22 the road somebody else finds her. And she's told y'all
23 this time he would not let me leave. Where do you find
24 him, put three witnesses up here to say he was passed out
25 in his hotel room. Do you think it's a coincidence that

1 while he's passed out, that's when you find her on the
2 side of the road.

3 Ask yourselves, ladies and gentlemen, when you
4 tell somebody and when somebody tells you that they're
5 going to end you, that nobody's going to find you and they
6 walk into the room with gloves and Windex, what you should
7 think. That when they beat you with a hammer, do you
8 think it would make you more compliant to listen to them
9 or less compliant. I'm gone tell you something, you know,
10 someone hits you in the head with a hammer you don't jump
11 up and start telling that person how it's gone be. You
12 sit down and listen in my experience in life. And that's
13 what y'all are here for.

14 However many years you spent on this earth, I
15 want you to think about what she's told you and how you
16 think it would play out in real life up side your head, I
17 start doing what you tell me to. I start listening. And
18 I don't want anybody to finish discussing this before you
19 had a look at these. And I know we passed them around you
20 saw them all. Because I'm going to tell you something,
21 that is not the face to me of a woman who was in command
22 of her options, who knew what she was doing, who decided
23 what was going to happen. You don't wrap your hands
24 around this woman's neck and proceed to try to pop it
25 while you got the gloves and the cleaning solution when

1 you have good intentions when you being honest.

2 Ladies and gentlemen, reasonable doubt is not a
3 fanciful doubt or a weak doubt. It's a doubt with which
4 the words imply. And if a reasonable person were to give
5 somebody a treasure chest to take care of and the
6 reasonable person gets back and all that stuffs gone and
7 broken into, he's wearing that stuff, it's not reasonable
8 to assume anything other than what happened. Thank you
9 very much for your time and your attention in this case,
10 ladies and gentlemen. I'm sorry we took up your day.

11 THE COURT: Defense is recognized.

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

14 THE COURT: Yes.

15 MR. FLOYD: Mr. Holt. Ladies and gentlemen, we
16 discussed the burden of proof in this case which is beyond
17 a reasonable doubt. And the State has tried to meet that
18 burden one way and one way only, which is put to Ms.
19 Richburg on the stand and have her tell you a story about
20 what happened today, but she didn't tell just one story,
21 she told three stories. And in judging her credibility of
22 her testimony, you take into account the consistency of
23 her statements that she's made about this. Not only she
24 testified today, she's given three statements, three
25 different law enforcement officers. I'll ask her about

1 all these statements on the stand. She gave one to
2 Officer Griggs and I also ask Office Griggs about it. She
3 encountered her on the street, first one to encounter her.
4 First thing she said, I'm from Virginia. I don't know my
5 address. I need to get home to see my baby first thing
6 she said. Also, my boyfriend hit me in the head and stab
7 me in my hotel room at the Imperial Motel in room 120.
8 That's what she told her.

9 Several hours later she talks to Investigator
10 Graham and I ask her on the stand you told Investigator
11 Graham several hours after talking with Officer Griggs
12 injuries didn't occurred in the motel room as far as the
13 stabbing and getting hit in the head with a hammer, no
14 those both occurred in Dillon County. Her cut on her arm,
15 hit her in the head with a hammer Dillon County. She
16 comes in four days later after that on the 20th and talks
17 to Investigator Bethea. And he just told you a few
18 minutes ago what she said that they went to Dillon County.
19 They had an argument in Dillon County, but then they went
20 to Clio pull down a dirt road and that's where all this
21 stuff happened. Three different versions of where and how
22 these injuries got inflicted on her. And the reason that
23 we're left with just her word and her statements is
24 because we don't really have any other way to verify
25 anything she said. And why is that. Well, she says he

1 took my phone and he took the battery out. They gave you
2 a picture of a phone. Where is the phone. I went over
3 all the evidence with Detective Bethea that he cataloged.
4 Did he say anything about keeping a phone. A phone that
5 was in a park that he had custody of and control of.
6 Don't know if a battery was in it or not. Why don't we
7 know that because they didn't get it or they didn't keep
8 it. They didn't show her story, that's their job. That's
9 their responsibility, that's the way they prove cases
10 beyond a reasonable doubt.

11 They collected blood evidence. They swabbed it.
12 They sent all these things to SLED supposedly. Do we have
13 anyone from SLED lab here to testify about fingerprints or
14 blood or whether any of that matches Mr. Johnson.
15 Nobody's heard a word about that. Once again, let's just
16 take Ms. Richburg's word for everything don't test the
17 evidence. And that applies even down to the injuries that
18 she received. Certainly, we can look at the pictures and
19 tell she sustained injuries, but do we know how severe
20 they are.

21 The judge when he charges you on the law of
22 domestic violence first degree, he will give you a
23 definition of great bodily injury, which is what that
24 statute requires. And it means bodily injury which causes
25 a substantial risk of death or which causes serious

1 permanent disfigurement or protracted loss of impairment
2 the function of bodily member or organ. I'm reading that
3 straight out of the statute.

4 Well, did we have any doctors come in here and
5 say that the injuries that Ms. Richburg sustained were
6 life threatening. Did they result in substantial risk of
7 death. Did they cause any serious permanent
8 disfigurement. We didn't have any doctors at all. Once
9 again, take her word for it. She didn't provide any
10 medical records. They didn't bring any witnesses up here
11 to testify, but yet you are just suppose to accept that
12 face value that she sustained those types of injuries and
13 there's no evidence for it. There's none. Of course, we
14 don't know that blood was taken from her or what would
15 have showed or anything of that nature because once again
16 they didn't bring doctors up here.

17 Now, Ms. Richburg also claimed that Mr. Johnson
18 kidnapped her, held her against her will, wouldn't let her
19 go anywhere. Well, was a person that's kidnapping
20 somebody going to leave them unattended. She said -- her
21 testimony was they stopped at least two stores one in
22 Dillon County, one when they got back to Mullins. At
23 least twice he got out of the car two times at stores.
24 She said, well, I didn't get out at the one in Dillon
25 County because I didn't know where I was. I was scared.

1 He also stopped at one in Mullins which is where she
2 lives. Yet, she didn't get out of the car then either.

3 He rented a motel room which means that they
4 would have had to get out of the car three times at least
5 to rent a hotel room. And she said that once they were in
6 the room he left at least once. He walked out of the
7 room, but the real quicker is he offered to take her to
8 the hospital. I mean, what kind of kidnapper is going to
9 offer to take his victim to the hospital. Why would he do
10 that. He offered to take her. She said she didn't want
11 to go. And, of course, you know, part of the explanation
12 was well I didn't want to get my boyfriend in trouble,
13 drugs in the room. Well, guess what who else was in the
14 room. Is it she didn't want to get her boyfriend in
15 trouble or did she not want to tell what really happened
16 because she didn't want to get in trouble. She was in
17 that room just like he was with those drugs. The first
18 time she sees a police officer who approaches her, I'm
19 from Virginia, I don't know what my address is. I want to
20 go see my baby, giving false information about where she's
21 from and where she lives. What was she trying to avoid.

22 Ladies and gentlemen, what this comes down to is
23 whether or not we can take Ms. Richburg's word at face
24 value and just believe everything she says without any
25 evidence to back it up that the police had that they

1 didn't do anything with. It's not even apparently in this
2 courtroom. I even have to rely on Investigator Bethea's
3 recollection of what Russell Johnson said because he
4 brings a disk in here and can't play audio which he claims
5 he recorded, but yet he sits here and tells us what he
6 recalls Mr. Johnson saying which he could have written
7 that down a week after it happened. I mean, that's really
8 the problem with this case. From the statement he took
9 from Mr. Johnson, to the evidence that was collected, to
10 the lack of evidence about any medical testimony. There's
11 nothing there except for what one person says. And I
12 submit to you, ladies and gentlemen, that that is not
13 reasonable doubt, that does not overcome reasonable doubt.

14 Mr. Johnson is entitled for the State meeting
15 its burden of proof. And they just haven't done that.
16 And I would ask that you go find Mr. Johnson not guilty on
17 both counts of the indictment. Thank you very much.

18 THE COURT: Members of the jury, it's now my
19 duty to instruct you on the law applicable to this case.
20 In that regard as jurors, it is your job to accept and
21 apply the law as I now give it to you. Furthermore, it is
22 your exclusive duty to decide all of the issues of fact in
23 this case and to determine the effect and value, weight
24 and proof of the evidence. Both the State and the
25 defendant have the right to expect that you will carefully

1 consider and evaluate the evidence and apply the law of
2 this case to it, so that in the end both the State of
3 South Carolina and this defendant will have received a
4 fair and impartial trial. I want you to understand that
5 when I use word the defendant I refer Russell Levon
6 Johnson.

7 The State in this case alleges two separate
8 offenses against the defendant. These offenses are count
9 one domestic violence first degree, count two kidnapping.
10 Each charge is a separate and distinct offense. You must
11 decide each charge separately on the evidence and the law
12 applicable to it uninfluenced by your decision as to the
13 other charge. The defendant may be convicted or acquitted
14 on any or all of the offenses charged. You will be asked
15 to write a separate verdict of guilty or not guilty for
16 each charge.

17 To these charges, the defendant has entered a
18 plea of not guilty. These pleas of not guilty places the
19 burden of proof on the State to prove the defendant guilty
20 to you beyond a reasonable doubt on each charge. It is
21 vital to understand the defendant is presumed under the
22 law to be innocent of the charges. It is a fundamental
23 rule of our law that the defendant regardless of the
24 seriousness of the charges against him is always presumed
25 innocent of the crimes for which he is charged unless and

1 until his guilt has been proven by evidence that satisfies
2 you beyond a reasonable doubt.

3 The presumption of innocence is not a mere legal
4 theory or legal phrase. The presumption of innocence is
5 very important and you need to understand that this
6 presumption accompanies the defendant from the time of his
7 arrest and appearance in this court and continues with the
8 defendant even after you retire to the jury room to
9 deliberate. In other words, the defendant receives the
10 benefit of the presumption of innocence until the very end
11 of this trial when you, the jury, will deliberate upon the
12 evidence and decide whether the State has proven his guilt
13 on each and every charge beyond a reasonable doubt.

14 Proof beyond a reasonable doubt is proof that
15 leaves you firmly convinced of the defendant's guilt.
16 There are few things in this world that we know with
17 absolute certainty. So even in criminal cases, the law
18 does not require proof that overcomes every possible
19 doubt. However, if based on your consideration of the
20 evidence you are firmly convinced that the defendant is
21 guilty of the crimes charged, you must find him guilty.
22 If on the other hand, you think there's a real possibility
23 that he is not guilty, you must give him the benefit of
24 the doubt and find him not guilty. Please understand that
25 reasonable doubt may arise from evidence which has been

1 presented in the case or from the lack of evidence in the
2 case. It's your responsibility to determine whether or
3 not reasonable doubt exist as to the guilt of this
4 defendant on both charges.

5 I charge you that the defendant is entitled to
6 every reasonable doubt arising in the whole case. If upon
7 any issues of fact essential to conviction and a verdict
8 of guilty, you have a reasonable doubt as to how that
9 issue would be resolved, it would be your duty to resolve
10 that reasonable doubt and in favor of the defendant. Thus
11 in summary, it's important to understand that the
12 defendant is not required to prove his innocence.
13 Instead, the State is required by law to prove every
14 essential element of the charges against the defendant by
15 evidence which satisfies you of his guilt beyond a
16 reasonable doubt, only then can you convict the defendant
17 and find him guilty.

18 During this trial as I have explain to you
19 previously, you and I have separate duties to perform. As
20 the trial judge, it is my responsibility to preside over
21 this trial. Therefore, I have the duty to rule upon the
22 admissibility of the evidence offered during the trial.
23 In that regard, you are to consider only the evidence
24 before you. Thus, you are to consider only the testimony
25 which has been presented from this witness stand together

1 with any exhibits admitted into the record of this case.

2 Furthermore, I have the additional duty to
3 charge you on the law applicable to this case. And in
4 that regard, it was your duty to accept and apply the law
5 as I am now stating it to you. If you have any
6 preconceived ideas as to what you think the law is or what
7 the law ought to be and it does not agree with what I tell
8 you the law is, you are under your oath obligated to
9 abandon these preconceptions and accept the law as I now
10 state it to you.

11 In this trial, you are the sole and exclusive
12 judge of the facts. I am the judge of the law. Do not
13 infer that I have any opinion about the facts from
14 anything that I have said during the course of this trial
15 in regards to this case. In this regard, the law simply
16 does not permit me to have an opinion about the facts. As
17 jurors, it is your duty alone to determine the effect,
18 value and weight of the evidence presented during the
19 course of this trial. Furthermore, it is your job as
20 jurors to determine the credibility and believability of
21 the witnesses who have testified in this case. You must
22 evaluate the evidence and determine which evidence
23 convinces you. In determining the believability of
24 witnesses who have testified in this trial, you may
25 believe one witness over many or many over one. You may

1 believe a part of the testimony of a witness and reject
2 the remaining part. You may believe the testimony of a
3 witness in its entirety or reject it in full. You may
4 consider whether the witness has an interest in the result
5 of the trial, whether the witness is prejudice toward
6 either party. The opportunity for the witness to have
7 seen the matters and things about which the witness may
8 testify. And the way the witness acts on the witness
9 stand.

10 Evidence may be direct or circumstantial.
11 Direct evidence is testimony by a witness about what the
12 witness personally saw or heard or did. Circumstantial
13 evidence is indirect evidence. That is it is proof of one
14 or more facts from which one can find another fact. You
15 are to consider both direct evidence and circumstantial
16 evidence equally.

17 I further instruct you the fact that the
18 defendant in this trial did not testify on its own behalf
19 is not a factor to be considered by you in any way during
20 your deliberations or in your consideration on the
21 question of guilt or innocence. In this regard, the
22 defendant has the constitutional right to remain silent.
23 In the exercise of this right, it must not be considered
24 by you in your deliberations. The fact that the defendant
25 did not testify should not even be discussed in the jury

1 room. The burden of proof as I have already stated to you
2 on the State. The defendant has no obligation to prove
3 his innocence. The burden of proof remains with the State
4 to prove the defendant's guilt beyond a reasonable doubt.
5 And the fact that the defendant did not testify is not a
6 factor to be considered by you in the guilt or innocence
7 of the defendant.

8 A statement alleged to have been made by the
9 defendant has been admitted into the evidence of this
10 case. While the Court has determined that the statement
11 is admissible, I instruct you that you make the ultimate
12 decision of whether or not the defendant made the
13 statement. If the defendant did not make the statement,
14 you must determine if the defendant did make the statement
15 you must determine whether the statement was made by the
16 defendant voluntarily or of his own freewill. This means
17 that the statement was not called by pressure, force,
18 fear, threat, coercion or intimidation or by hope or
19 promise of leniency or a reward of any kind.

20 In determining whether the statement was
21 voluntary, you should consider both the characteristics of
22 the defendant and the details of the questioning. Some of
23 the factors that you must consider are one age of the
24 defendant, the defendant's education or lack of education,
25 the defendant mental ability or capacity, defendant's IQ

1 or intelligence. The defendant's background and
2 environment, the place and length of detention, the nature
3 of the questioning and the advice or lack thereof to the
4 defendant of his constitutional rights including but not
5 limited to the right to remain silent. That at any
6 statement could be used against him in a court of law, the
7 right to have a lawyer present. That if you could not
8 afford a lawyer, a lawyer would be appointed to represent
9 him without any cost and that he can stop making a
10 statement at any time. You must carefully consider all of
11 the surrounding circumstances before you give any weight
12 to any allege statement.

13 The State has the burden of proof and beyond a
14 reasonable doubt that the allege statement was voluntary.
15 If you determine that it was, you may give it a statement
16 any further consideration that you deem proper. You must
17 decide what weight you can and should be given to the
18 alleged statement. If you determine the alleged statement
19 was not freely and -- it was not the free and voluntary
20 statement of the defendant, you should not consider the
21 statement at all.

22 The defendant is charged with first degree
23 domestic violence. The State must prove beyond a
24 reasonable doubt that the defendant caused physical harm
25 or injury to a member of the defendant's own household or

1 that the defendant offered or attempted to cause physical
2 harm or injury to a member of the defendant's own
3 household with the apparent present ability to cause harm
4 or injury under circumstances reasonably creating a fear
5 of imminent danger.

6 A household member is a spouse, a former spouse,
7 a person with whom the defendant has a child in common or
8 a person of the opposite sex with whom the defendant is
9 living or has lived with in the past. The State must also
10 prove that great bodily injury to the defendant's own
11 household member resulted or the act is accomplished by
12 means likely to result in great bodily injury to the
13 defendant's own household member. Great bodily injury
14 means bodily injury which causes a substantial risk of
15 death or which causes serious permanent disfigurement or
16 protracted loss or impairment of the function of a bodily
17 member or organ.

18 The defendant is also charged with kidnapping.
19 The State must prove beyond a reasonable doubt that the
20 defendant knowingly and unlawfully seized, confined,
21 inveigled, decoy, kidnapped or abducted or carried away
22 another person without authority of law. To do a thing
23 unlawfully, is to do it willfully against the law.
24 Knowingly means with knowledge consciously, not
25 accidental. Seize means to take hold or suddenly or

1 forcibly. Confine means to limit, restrict or enclose
2 within bounds, imprison or shut or keep in. Inveigle
3 means to lure, entice or lead astray by false
4 representation and promises or other deceitful means.
5 Decoy means to lure by or as if by decoy. A decoy is
6 something to entice a person into a trap. Kidnap is to
7 remove a person against his will by unlawful force or by
8 fault. Abduct means to carry off secretly or by force for
9 an illegal purpose. Carry away means to remove it. The
10 State does not have to prove that the defendant did all of
11 these things. Instead, if you find beyond a reasonable
12 doubt that the defendant did any of these things, you may
13 find the defendant guilty of kidnapping.

14 Ladies and gentlemen, I'm now drawing near the
15 end of my charge and I want you to clearly understand that
16 you are not partisans or advocates for the State of South
17 Carolina or this defendant. You do not serve as jurors to
18 reward your friends or punish your enemies. In this
19 regard, you have been selected by both the State and the
20 defendant to be fair and impartial jurors.

21 It is your duty by your joint deliberations to
22 determine the facts in this case, giving the defendant the
23 benefit of every reasonable doubt as to each and every
24 issue. Then to the facts which you determine to be
25 correct, you should take and apply the law which has been

1 given to you by this court and thus arrive at a verdict.
2 Thus, when you have accomplish these responsibilities, you
3 will have satisfied your oath as jurors and you will have
4 discharged your duty to this court.

5 Mr. Bailiff, if you would hand that to the
6 foreman. Now, Mr. Foreman, I have handed you the verdict
7 form. When you arrive at a verdict in this case, you will
8 write your verdict on the form. For the charges, if the
9 State has failed to prove the guilt of the defendant
10 beyond a reasonable doubt, your verdict will be two words
11 not guilty. However, should the State have proved their
12 against beyond a reasonable doubt, then your verdict would
13 be one word, guilty.

14 Mr. Foreman, once a decision has been made, just
15 check whichever choice is your verdict on both charges.
16 Also please understand that the verdict that you render in
17 this case must be the verdict of each and every juror. It
18 must be an unanimous verdict. All 12 jurors must agree on
19 the verdict which you authorize the foreperson to write
20 for the jury. Mr. Foreman and members of the jury, I want
21 you to further understand that the order in which the
22 choices a verdict appear on the verdict form are not
23 suggestive of any verdict on the part of this court. The
24 verdict in this case is to be determined by you and not
25 the Court. Furthermore, ladies and gentlemen, please

1 understand that even though I have given the verdict form
2 to the foreman, it is not his verdict alone. It is the
3 verdict of all 12 of you. And I emphasize again that
4 your verdict must be unanimous.

5 Now, you will retire to the jury room. However,
6 I would ask that you do not begin your deliberations at
7 this time. The law requires that I consult with the
8 attorneys first. After I have done so, the bailiff will
9 bring in the items of evidence and instruct you to begin
10 your deliberations at that time. Also should you have any
11 questions during your deliberations, you must put them in
12 writing and send them to me by way of the bailiff. The
13 court bailiff will be placed immediately outside of the
14 jury room door to provide security and assistance for you
15 during your deliberations. Once you have reached your
16 verdict, please knock on the juror room door and ask the
17 bailiff to advise the Court that you have reached a
18 verdict. And we will return you to the courtroom as
19 promptly as possible thereafter. Thank you. And you may
20 retire to the jury room, but again do not begin your
21 deliberations until told to do so.

22 (WHEREUPON, the jury retire to the jury room.)

23 THE COURT: Any objections to the charge from
24 the State?

25 MR. HOLT: None, Judge.

1 THE COURT: How about the defense?

2 MR. FLOYD: No objection, Your Honor.

3 THE COURT: All right. Why don't you take a
4 look at the matters that are into evidence and see if
5 they're in order. If they are, each of you let me know
6 and we'll send them back and tell the jury to begin and
7 bring out the alternates.

8 (WHEREUPON, a pause in the proceedings.)

9 THE COURT: All right. Is everything in order
10 form the State?

11 MR. HOLT: It is, Judge.

12 THE COURT: How about the defense?

13 MR. FLOYD: Yes, Your Honor.

14 THE COURT: Go ahead and send in the items of
15 evidence and tell them to begin and bring out the
16 alternates.

17 (WHEREUPON, the jury began deliberations at
18 4:09.)

19 THE COURT: All right. The two alternates I
20 want to let you know that you were my second string
21 quarter backs. If anybody got hurt or sick, I had to put
22 you in there. So you had to sit there and you had to hear
23 the whole thing and see everything, but we have all 12
24 jurors. They're healthy and they started their
25 deliberations. So you have completed your duties in

1 regard to this trial. I need for you give those badges
2 to the bailiff. And then I need for you to go sit out
3 there with the jury. We going to pick one more jury for
4 the week. Thank you.

5 (WHEREUPON, the two alternate jurors were
6 excused.)

7 (WHEREUPON, court at ease as the jury
8 deliberates.)

9 THE COURT: We have a question from the jury and
10 it says we seem to agree on charge one. We seem to be
11 divided on the charge of kidnapping. So they reached a
12 verdict on one, but not the other is what it sounds like.
13 What do you all want to do?

14 MR. HOLT: Judge, I guess, you have to give them
15 an Allen charge and see what happens.

16 THE COURT: Let's get the court reporter to go
17 ahead and mark that.

18 (WHEREUPON, Court's Exhibit No. 3 was marked for
19 the record.)

20 THE COURT: All right. Go ahead and bring the
21 jury in.

22 (WHEREUPON, the jury came into open court at
23 5:25 p.m.)

24 THE COURT: All right. Mr. Foreman, it's my
25 understanding that you reached a verdict in reference to

1 count one, but not to count two; is that right?

2 JURY FOREMAN: Yes, sir.

3 THE COURT: All right. In that regard, I want
4 to charge you that when a matter is in dispute, it isn't
5 always easy for even two people to agree. So when 12
6 people must agree, it becomes even more difficult. In
7 most cases, absolute certainty cannot be reached or
8 expected. However, you have a duty to make every
9 reasonable effort to reach a unanimous verdict. In doing
10 this, you should consult one another again. Express your
11 views again and listen to the opinions of your fellow
12 jurors. Tell each other how you feel and why, discuss
13 your differences with an open mind.

14 Although, the verdict of the jury must be
15 unanimous, every one of you has the right to your own
16 opinion. The verdict you agree to must be your own
17 verdict. The result of your own convictions and you
18 should not give up your beliefs firmly to be in agreement
19 with your fellow jurors. A majority should consider the
20 minorities possession and vice versa. You should
21 carefully consider and respect the opinions of each other
22 and re-evaluate your position for reasonableness or
23 reckless and impartiality. You must lay aside all outside
24 matters and re-examine the questions before you based on
25 the law and evidence in this case. If you do not agree on

1 a verdict in this case, I must declare a mistrial.

2 In that regard, it doesn't mean that anybody
3 wins. We could have to come back another day, with
4 another group of people no better or different than you.
5 We could have to pay myself and all judges, lawyers, and
6 everybody here to try this case again. So it would be a
7 big time effort on behalf of the court system to do it.
8 So in that regard, I would ask that you go back in there,
9 that you think about what you doing, make sure you're
10 trying to do what you think is right, re-evaluate your
11 position or whether it's correct or not correct and listen
12 to other people and keep an open mind and see if you can't
13 come to a reasonable conclusion and an unanimous verdict
14 in reference to count two. All right. If you would do
15 so, I'd ask that you retire to the jury room and continue.

16 (WHEREUPON, the jury retire to the jury room to
17 continue deliberations at 5:29 p.m.)

18 THE COURT: Any objections to the charge from
19 the State?

20 MR. HOLT: No, sir.

21 THE COURT: How about the defense?

22 MR. FLOYD: No, Your Honor.

23 THE COURT: All right. We'll wait and see what
24 happens.

25 (WHEREUPON, court at ease while the jury

1 continues to deliberate.)

2 THE COURT: All right. You ready, Mr. Holt?

3 MR. HOLT: Judge, the victim's advocate took her
4 across the street to get her some stuff, should be here in
5 two seconds.

6 (WHEREUPON, a pause in the proceedings.)

7 THE COURT: Let's go ahead and bring out the
8 jury.

9 (WHEREUPON, the jury came into open court with a
10 verdict at 5:47 p.m.)

11 THE COURT: All right. Mr. Foreman, has the
12 jury reached a verdict?

13 JURY FOREMAN: Yes, sir.

14 THE COURT: You be so kind as to hand the
15 verdict form to the bailiff. Thank you. I find the
16 verdict form in order if you publish it.

17 THE CLERK: The State of South Carolina County
18 of Marion in the Court of General Sessions Twelfth
19 Judicial Circuit, indictment number 2017-GS-33-00132, The
20 State of South Carolina vs. Russell Levon Johnson,
21 defendant, as to the charge of domestic violence first
22 degree, we, the jury, unanimously find the defendant
23 guilty. As to the charge of kidnapping, we, the jury,
24 unanimously find the defendant not guilty. Dated 11-15-17
25 Anthony Nelson foreperson.

1 Is this your verdict say ---

2 THE COURT: If you'll signify by raising your
3 right hand, if that's your verdict.

4 (WHEREUPON, all jurors' hands were raised.)

5 THE COURT: Need for further poling by the
6 State?

7 MR. HOLT: No, sir, Your Honor.

8 THE COURT: How about defense?

9 MR. FLOYD: No, sir, Your Honor.

10 THE COURT: All right. Members of the jury,
11 thank you so much for your service this week. You will
12 get paid. It will not be a whole lot, but you'll get
13 paid. But I can assure you the State of South Carolina
14 appreciates all you've done. The efforts you put forward.
15 And you have earned a three year exemption by being here.
16 So if you get called up here again anytime in the next
17 three years, you can exercise that exemption and not
18 serve. I hope you had a good weekend and a good Christmas
19 season and you're excused. Everybody else remain seated.

20 (WHEREUPON, the jury is dismissed.)

21 THE COURT: Any motions from the defense?

22 MR. FLOYD: Your Honor, I just renew all my
23 previous motions for a directed verdict, whatever motions
24 that I made I renew my objections. Thank you.

25 THE COURT: I deny those motions.

1 I'm ready when you are.

2 MR. HOLT: Thank you very much, Judge. Judge,
3 the victim in this case it was a lot for her to testify in
4 front of everybody. And I think that took a lot out of
5 her. She does not want to be heard now. This is one of
6 the rare times where when I'm sitting here and the victim
7 doesn't want to speak. I know you heard everything that
8 matters. I think Your Honor's well aware of the situation
9 and the way she was found that morning at 3:30 in the
10 morning. Judge, the State would respectfully request the
11 max and don't think that I'm far off in doing that. It's
12 zero to ten years 65 percent. The State would ask for the
13 entire ten.

14 THE COURT: What kind of record does he have?

15 MR. HOLT: Judge, he's got a record for
16 domestic violence, some of it older than ten years. One
17 of it within ten years and outside of the state some minor
18 stuff, Judge.

19 THE COURT: All right. Anything from the
20 defense?

21 MR. FLOYD: Your Honor, Mr. Johnson is 38 years
22 old. He's actually been living here for about four years,
23 Your Honor, here in this state. Prior to that, he live
24 for a time down in Florida. His family is here, Your
25 Honor. His father and mother and other members of his

1 family are here and they've always been very supportive of
2 Russell, Your Honor.

3 He's actually been in the detention center for
4 as of today, Your Honor, be 416 days according to my
5 calculations. I think that's right. He never posted bond
6 on these charges. So he's been incarcerated since the
7 date of his arrest. I mean, Your Honor, as far as the
8 facts go, I mean, we all heard the evidence in the trial.
9 Mr. Johnson maintains his innocence, I mean, so here we
10 are. Your Honor, we just ask if you could be lenient as
11 possible in your sentence.

12 THE COURT: All right. Sentence of the Court is
13 ten years. I'll give him 416 days credit.

14 MR. HOLT: Thank you very much, Judge.

15 MR. FLOYD: Thank you.

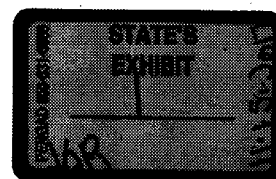
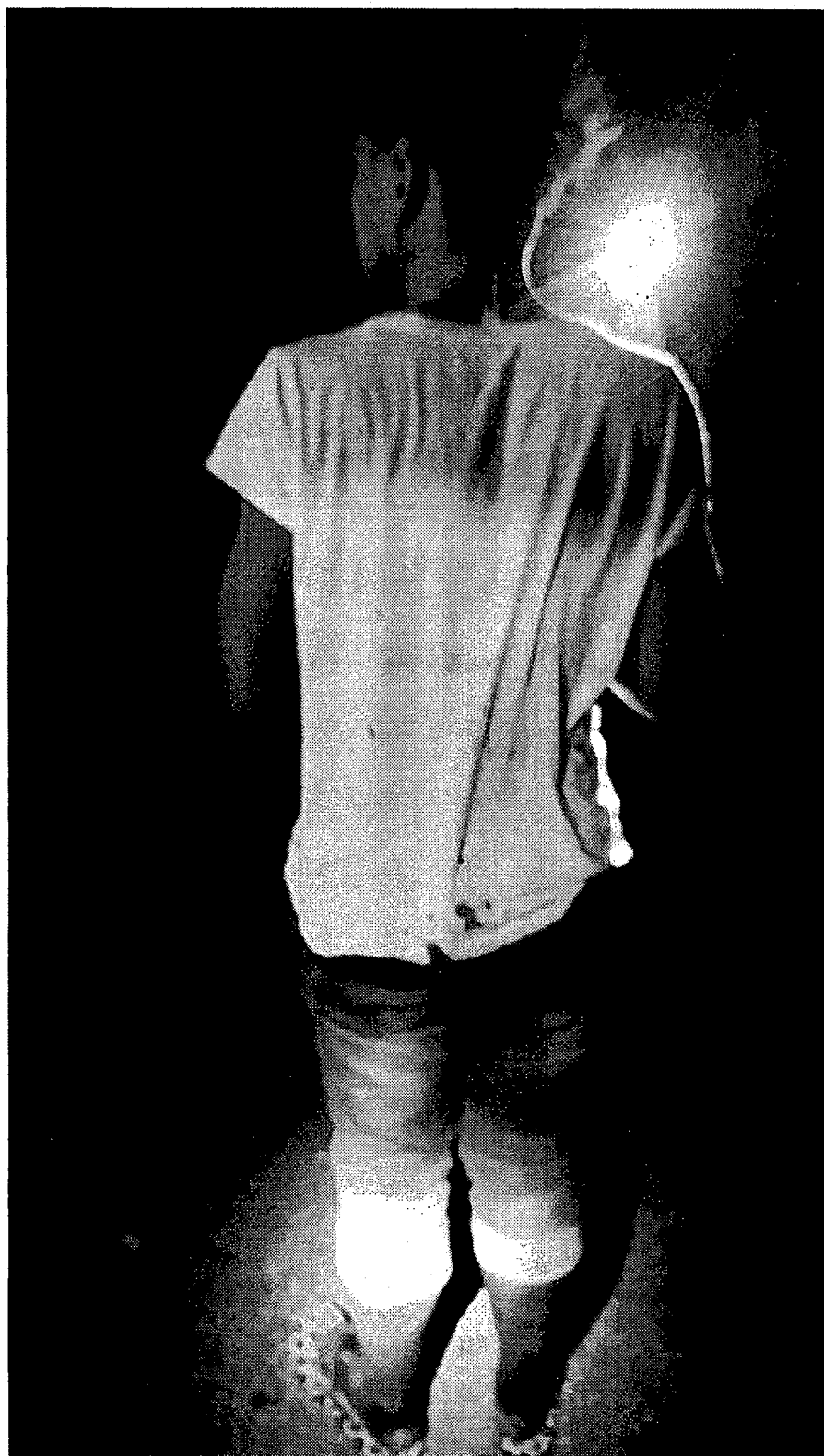
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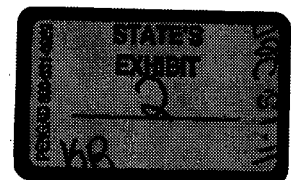
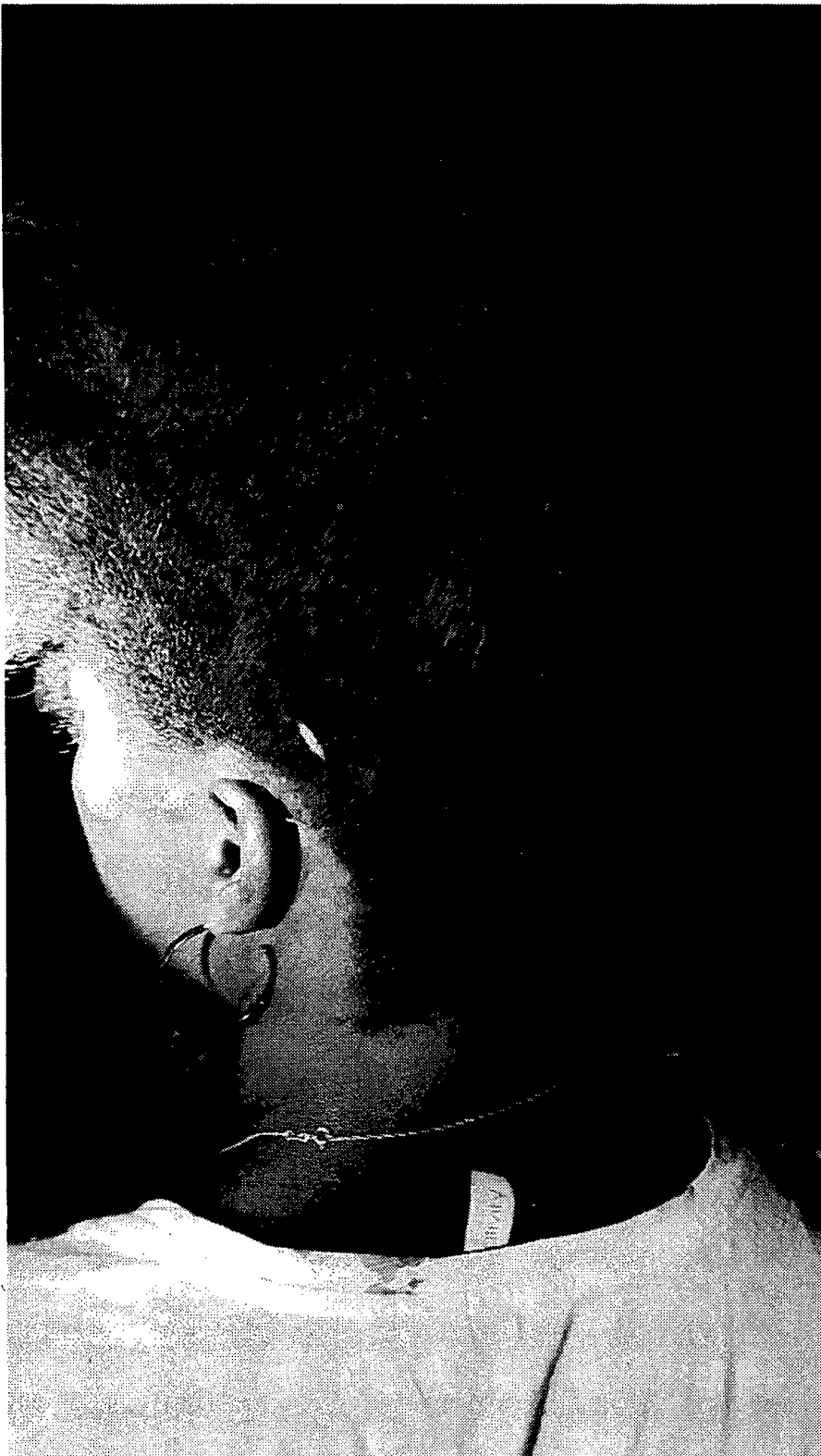
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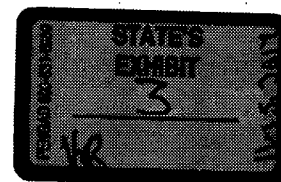
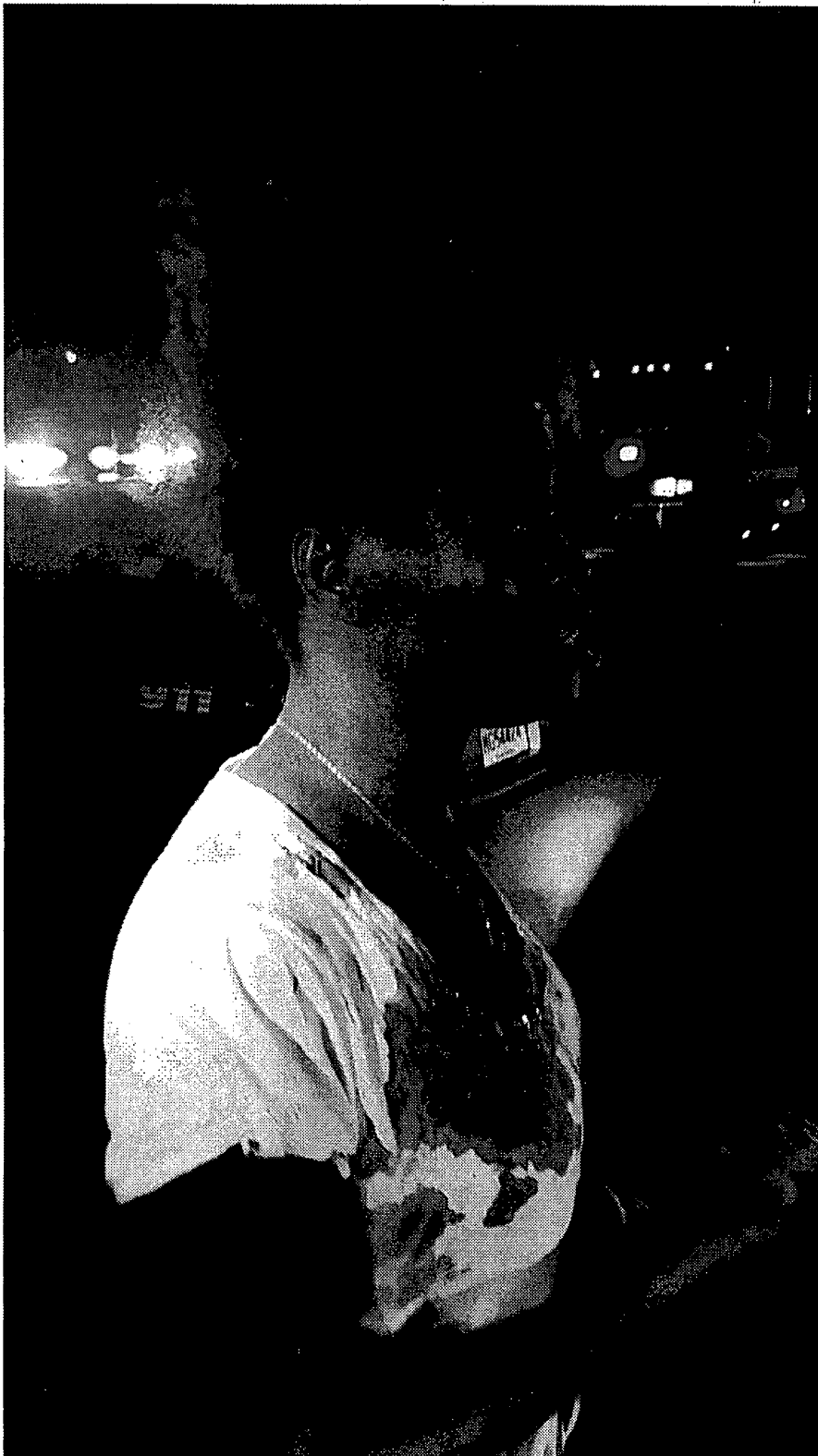


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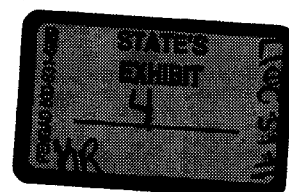
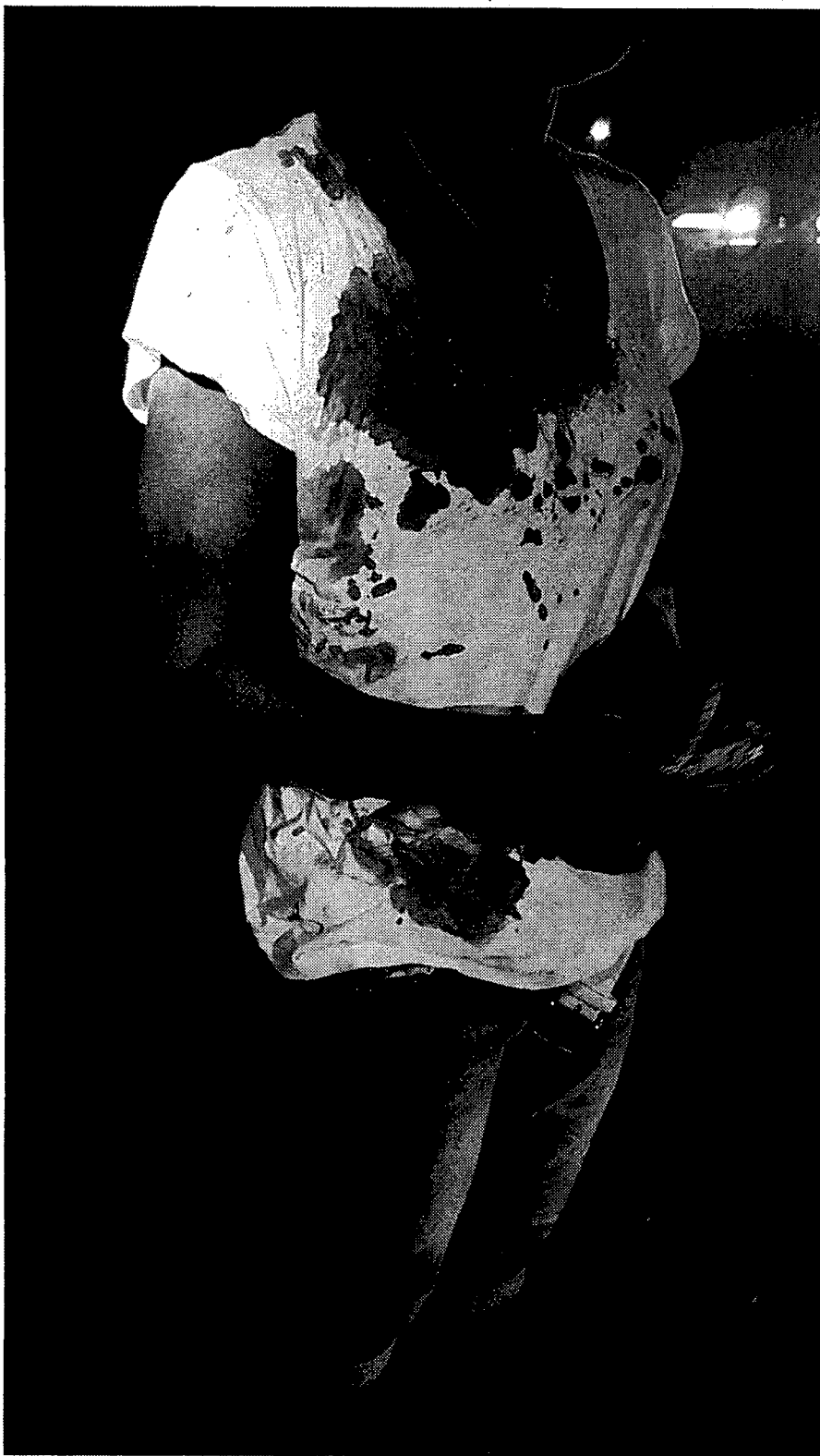
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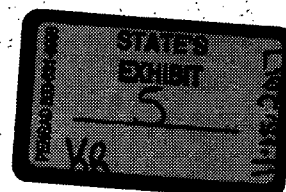
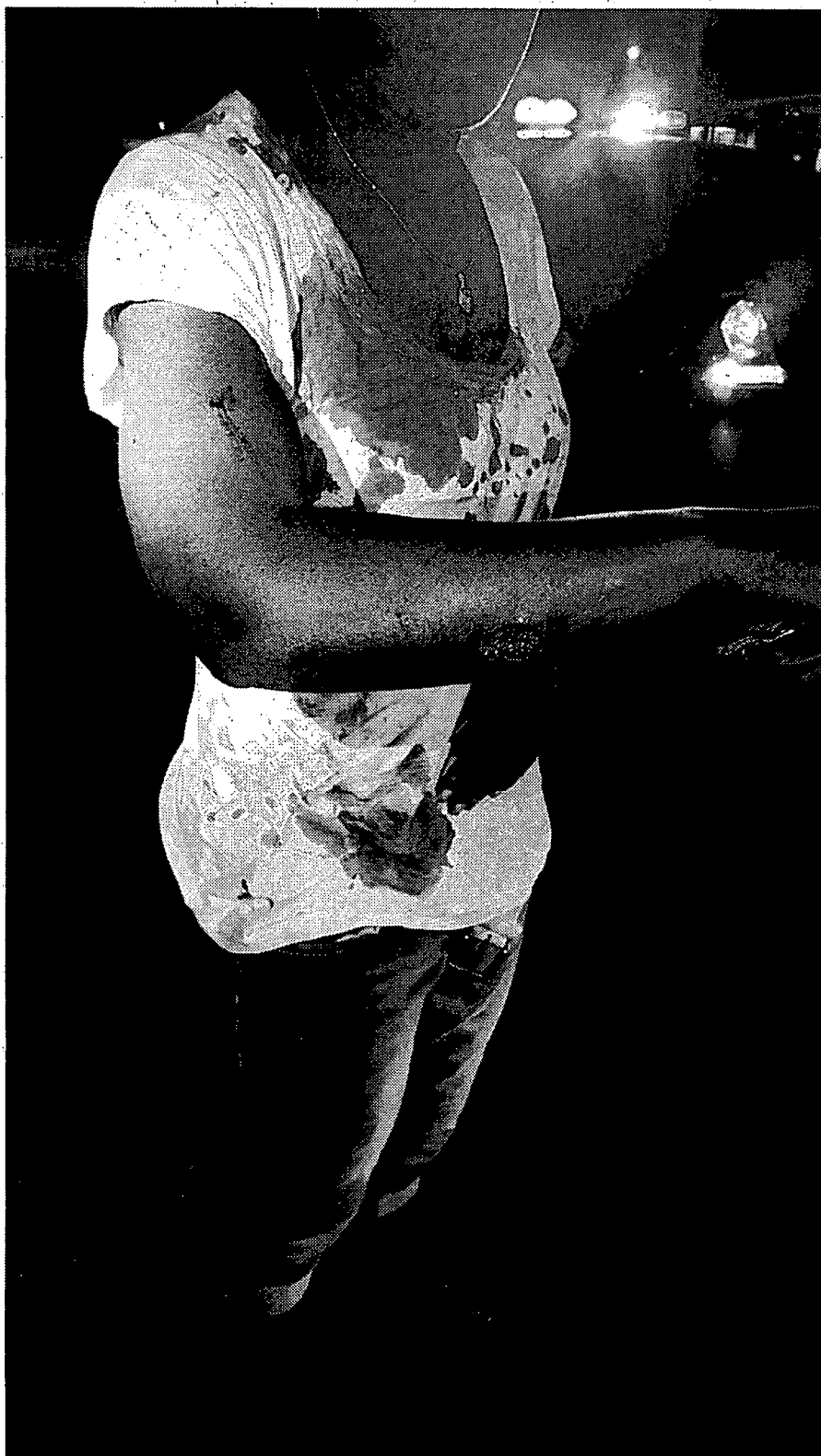


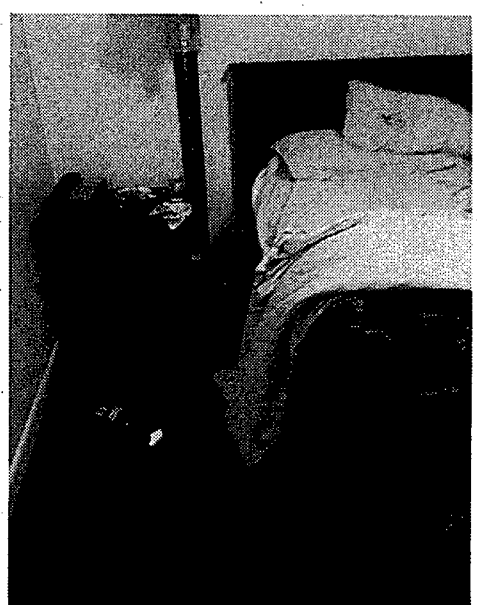
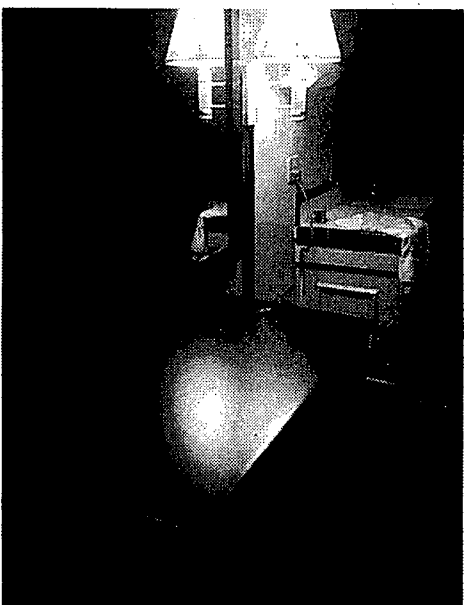
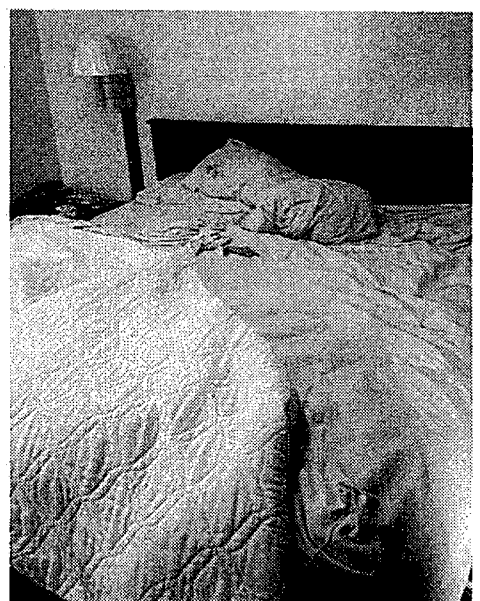
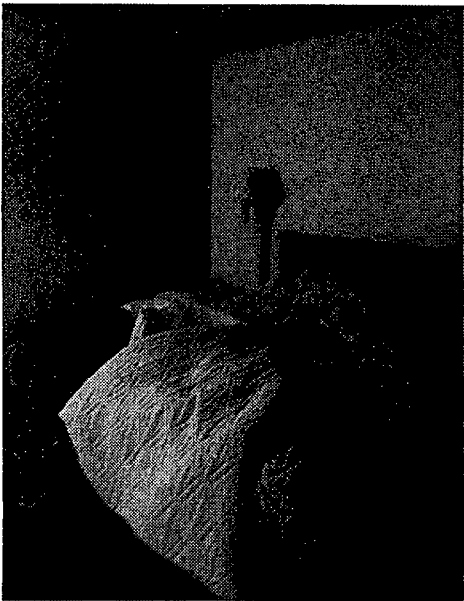
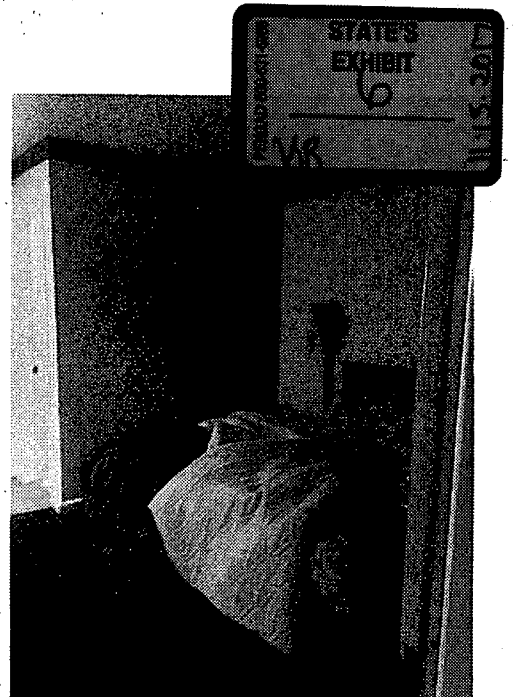
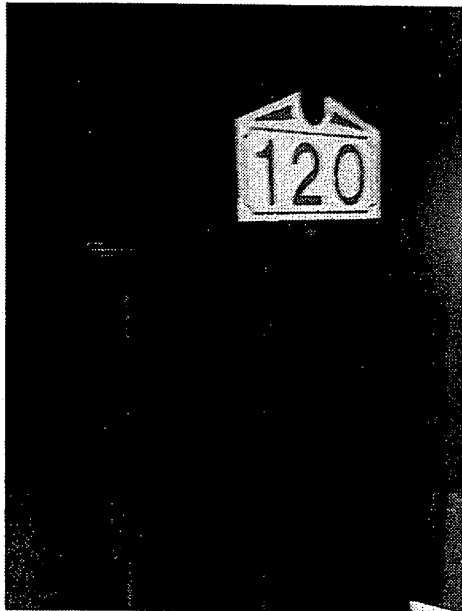
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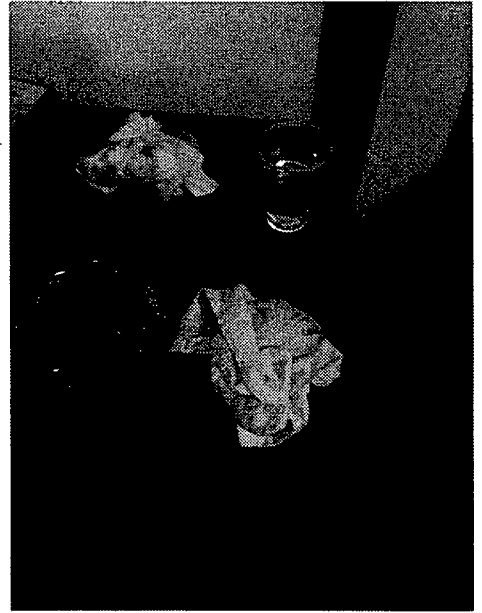
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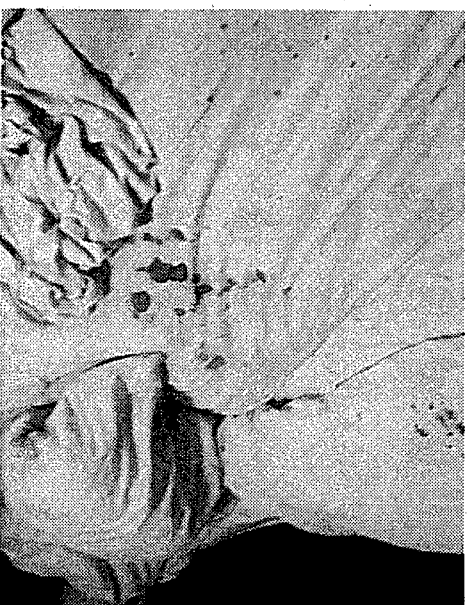
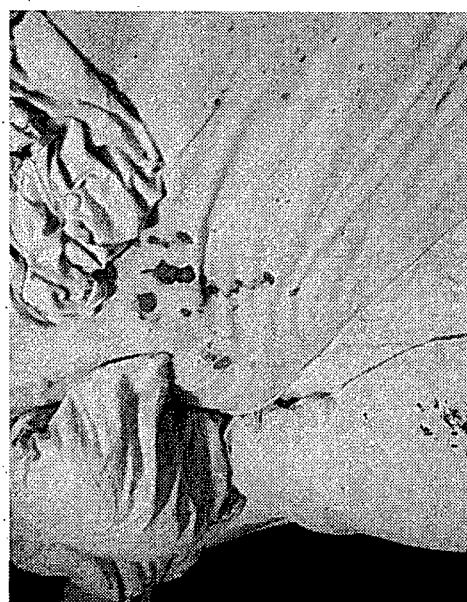
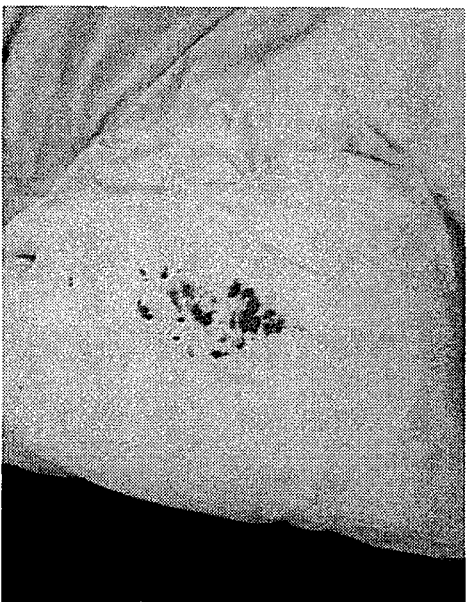
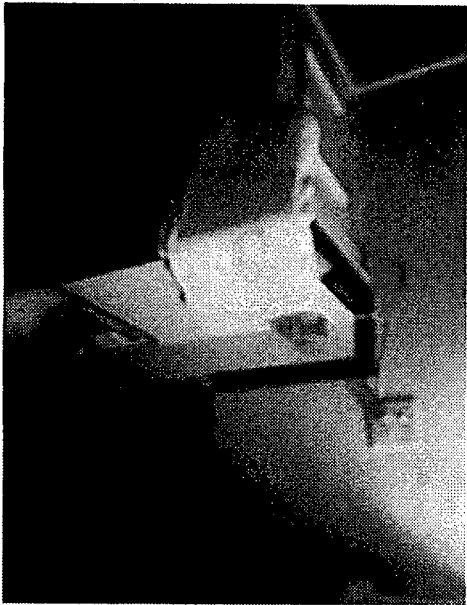
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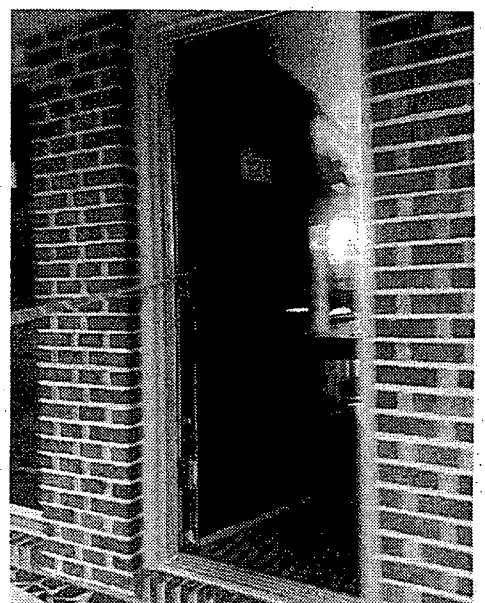
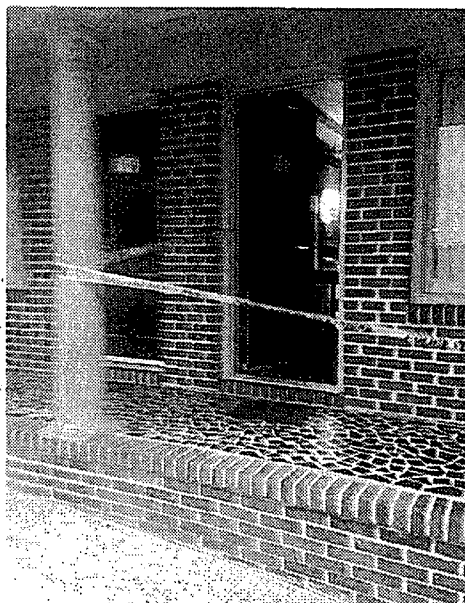
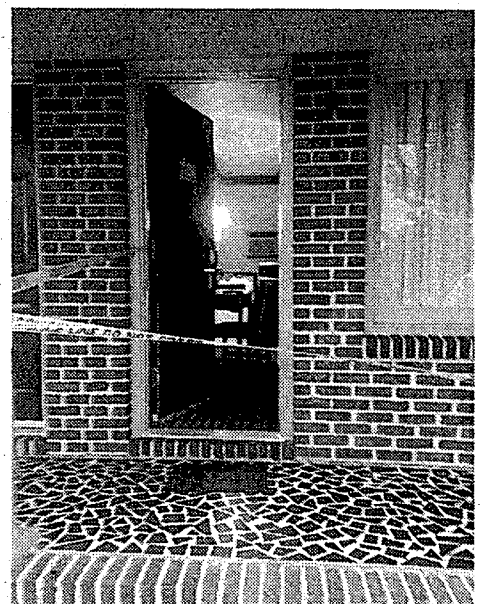
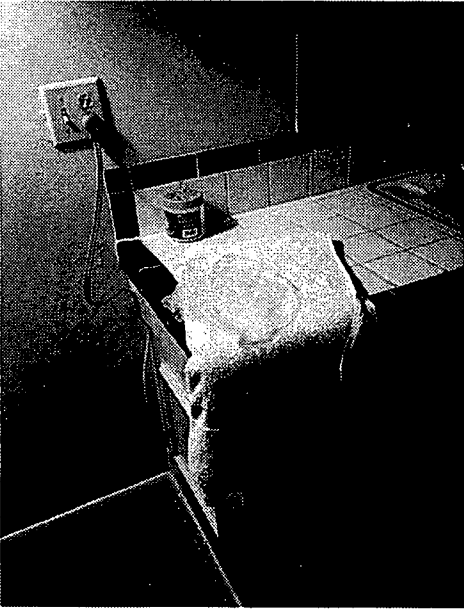
Description:











WITNESSES

Det. Bobby Bethea Mullins Police Department

John W. Holt, IV

ARREST WARRANT NUMBER

2016A3320200298 2016A3320200297

ACTION OF GRAND JURY

Foreperson of Grand Jury

Date: 02/09/2017

VERDICT

TRUE BILL

Foreperson of Petit Jury

Date:

DOCKET NO. 2017-GS-33-00132

The State of South Carolina

County of

MARION

COURT OF GENERAL SESSIONS

February TERM 2017

THE STATE

vs.

RUSSELL LEVON JOHNSON

Indictment for

DOMESTIC VIOLENCE FIRST DEGREE
KIDNAPPING

2017 FEB -9 PM 3:08

STATE OF SOUTH CAROLINA)

INDICTMENT FOR

COUNTY OF MARION)

DOMESTIC VIOLENCE FIRST DEGREE
KIDNAPPING

At a Court of General Sessions, convened on February 9 2017 the Grand Jurors of MARION County present upon their oath:

COUNT ONE- DOMESTIC VIOLENCE 1ST DEGREE

CDR: 3811 16-25-0020(B)

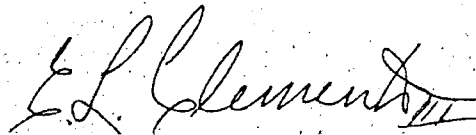
That Russell Levon Johnson did in Marion County on or about 2016-09-15, cause physical harm or injury or offered or attempted to cause physical harm or injury to his own household member, Latonya Richburg, with apparent present ability under circumstances reasonably creating fear of imminent peril; such being his third offense, having two prior offenses within a ten year period; in violation of Section 16-25-0020(B), S.C. Code of Laws, 1976, as amended.

COUNT TWO- KIDNAPPING

CDR: 0095 16-03-0910

That Russell Levon Johnson did in Marion County on or about September 15, 2016, unlawfully seize, confine, inveigle, decoy, kidnap, abduct or carry away one Latonya Richburg, without authority of law; in violation of Section 16-03-0910, S.C. Code of Laws, 1976, as amended.

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

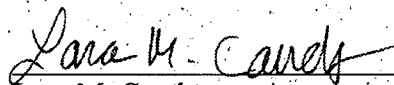


E.L. Clements, III
TWELFTH CIRCUIT SOLICITOR

CERTIFICATE OF COUNSEL FOR APPELLANT

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

Respectfully Submitted,



Lara M. Caudy
Appellate Defender

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

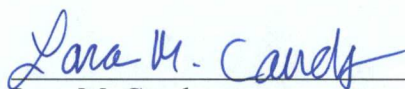
ATTORNEY FOR APPELLANT

This 31st day of January, 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,



Lara M. Caudy
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 31st day of January, 2019.

RECEIVED

JAN 31 2019

SC Court of Appeals