

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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Jun 29 2021
SC Court of Appeals

Appeal from Beaufort County

Honorable Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARRYL DOUGLAS BRADLEY, JR.

APPELLANT

APPELLATE CASE NO. 2020-000524

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**THE FOLLOWING EXHIBIT IS ON FILE WITH THIS COURT:
STATE’S EXHIBIT NO. 20 (PHONE RECORDING)**

1 In the Court of Common Pleas for the
2 State of South Carolina, County of Beaufort
3
4 Case No.: 2017GS0700633,
5 2017GS0700634, -642, -643, & -644
6 State of South Carolina,
7 Plaintiff(s),
8 vs. Transcript of Record
9 Darryl Douglas Bradley, Junior
10 Defendant(s).

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 February 18-20, 2020
 Beaufort, South Carolina

BEFORE:

 The Honorable Perry M. Buckner

1 APPEARANCES

2

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3

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1 2-18-2020 PROCEEDINGS

2 THE COURT: Bring them in.

3 THE BAILIFF: Yes, Your Honor.

4 THE COURT: Hunter, I am going to get you to call
5 the case. And, Trasi, I intend to ask all of your voir
6 dire questions.

7 MS. CAMPBELL: Yes, sir.

8 (The venire jury panel enters the courtroom.)

9 THE COURT: Solicitor, call your case for trial.

10 MR. SWANSON: Thank you, Your Honor. The State
11 calls Darryl Bradley. Mr. Bradley is indicted in
12 several counts, five counts. 2017GS07633 for criminal
13 sexual conduct in the first degree. 2017GS07634,
14 burglary in the first degree. 2017GS07642, attempted
15 armed robbery. 2017GS07643, kidnapping. And
16 2017GS07644, possession of a weapon during a violent
17 crime.

18 THE COURT: Counsel, have a seat for me. In or
19 out. Sit down. That includes you.

20 All right, ladies and gentlemen, the State of
21 South Carolina has called to trial the case of the
22 State of South Carolina versus Darryl Douglas Bradley,
23 Junior. Mr. Bradley is seated in the courtroom with
24 his attorney. I am going to have them introduce
25 themselves to you. The State has charged the Defendant

COURT ADDRESSES THE JURY

1 understand that? Thank you very much. We are in
2 recess until 2:00.

3 (Lunch recess.)

4 THE COURT: First of all, I want you to put on the
5 record that I got a note from the jury that they
6 selected Jeremy Shearon. That is juror, I believe, No.
7 395, if I'm reading their writing correctly, as
8 foreperson of the jury. Any objection to making the
9 jury note a Court's exhibit from the State of South
10 Carolina?

11 MS. SWANSON: None from the State.

12 THE COURT: From the Defendant?

13 MS. CAMPBELL: No, Your Honor.

14 THE COURT: Mona, that will be Court's 1 without
15 objection.

16 *(Whereupon, Court's Exhibit No(s). 1 marked for*
17 *identification and received in evidence.)*

18 THE COURT: Okay, I'm advised that there's a
19 hearing needed for out-of-court identification and for
20 an alleged statement made by the Defendant. And I
21 asked Solicitor, since she had to call witnesses for
22 these hearings, to notify them to be ready to go and
23 she tells me -- I realize, Ms. Campbell, that you have
24 a motion that I need to hear. And I intend to hear it,
25 which you requested. When it is a request to charge

PRE-TRIAL PROCEEDINGS HELD

1 motion we certainly don't need to take that up
2 pretrial. But I'm working on that, as you know,
3 because of the inference that you argue in your motion,
4 where you cited the Federal case. I don't believe
5 there's been, nor did you cite any case from the South
6 Carolina Supreme Court. Is that correct?

7 MS. CAMPBELL: Yes, sir.

8 THE COURT: Just so that there is a record. And
9 I'll take it up later on, but Ms. Campbell in her
10 motion cited a case from the, I think it was the 7th
11 circuit. I am looking. Is that right, Trasi?

12 MS. CAMPBELL: I will look as well, Your Honor.
13 If Your Honor is referring to the State versus Day.

14 THE COURT: I don't see that cited in the motion.

15 MS. CAMPBELL: On Page 3 at the bottom.

16 THE COURT: Okay. That is the D.C. circuit.

17 MS. CAMPBELL: Yes, it is.

18 THE COURT: All right. It wasn't the 7th circuit,
19 it was the D.C. circuit. And she argues that in that
20 case the Court instructed the jury reasonable doubt is
21 proof that leaves you with a strong belief. And she
22 has argued that I charge, which was approved in an
23 earlier South Carolina case, firmly convinced is
24 analogous to strong belief. I will take that up at the
25 appropriate time in a charge conference.

PRE-TRIAL PROCEEDINGS HELD

1 Let's proceed now. Which witness or which motion
2 do you want to do first, as far as witnesses are
3 concerned?

4 MS. SWANSON: We can proceed with the Biggers
5 hearing, Your Honor.

6 THE COURT: All right. Neil v s Biggers first.

7 MS. SWANSON: Thank you. The State calls Alfreda
8 Thompson.

9 THE COURT: Come around, please.

10 MS. CAMPBELL: If I may, for the Court, this is
11 the witness that we would have a question in reference
12 to the competency because of the Parkinson's disease.

13 THE COURT: Do you want to examine the witness for
14 that purpose?

15 MS. CAMPBELL: I think prior to receiving any
16 testimony by this Court, there does need to be a brief
17 inquiry into her mental faculties.

18 THE COURT: Okay. Hold on, counselor. Solicitor,
19 tell me this, I understand there was an objection that
20 Ms. Campbell made me aware of as to the witness'
21 competency. I'm assuming that there is no problem with
22 other people coming in. If these are witnesses we
23 don't have to sequester anybody.

24 MS. SWANSON: Right, this is Ms. Alfreda Thompson,
25 she is the witness. Ms. Snider, Investigator, if you

PRE-TRIAL PROCEEDINGS HELD

1 can step out for a moment. This is the victim in the
2 case.

3 THE COURT: She absolutely has a right to stay.
4 Please come in and have a seat for me, please, ma'am.

5 MS. SWANSON: Your Honor, she would be my first
6 witness as well.

7 THE COURT: All right. Any objection to her being
8 in the courtroom?

9 MS. CAMPBELL: No, Your Honor.

10 THE COURT: Let's go back to the competency of the
11 Neil versus Biggers witness.

12 MS. SWANSON: Yes, sir.

13 THE COURT: That person's name is?

14 MS. SWANSON: Alfreda Thompson.

15 THE COURT: Alfreda Thompson. And Mrs. Campbell
16 tells me there is some issue about competency of the
17 witness. I realize this is a witness and -- but as you
18 know 4423.410 says that whenever a judge has reason to
19 believe -- but it refers to a person on trial, if they
20 are charged with a criminal offense. Here we have a
21 question of competency of a witness who is not on
22 trial, is that correct Solicitor?

23 MS. SWANSON: That is correct.

24 THE COURT: All right. Tell me what you
25 understand to be the background that you gave to

PRE-TRIAL PROCEEDINGS HELD

1 Ms. Campbell that leads her to believe this question as
2 to competency.

3 MS. SWANSON: My only understanding is that
4 Ms. Thompson may suffer from Parkinson's. I do not
5 have any information that it has affected her in any
6 way. She is actually a caregiver to her elderly
7 mother. She was able to recall details of this
8 incident as well as identified the Defendant in a photo
9 line-up, which is why she's here this afternoon to
10 present testimony in that regard.

11 THE COURT: So, you know of no history of mental
12 illness whatsoever?

13 MS. SWANSON: No, sir.

14 THE COURT: Other than the physical disease of
15 Parkinson's?

16 MS. SWANSON: Correct.

17 THE COURT: And have you had any difficulty
18 communicating with her for purposes of this trial?

19 MS. SWANSON: I have not.

20 THE COURT: I see. Ms. Campbell, let me hear from
21 you as to why you question the competency of the
22 witness.

23 MS. CAMPBELL: May it please the Court.

24 THE COURT: Yes.

25 MS. CAMPBELL: In the medical records that were

PRE-TRIAL PROCEEDINGS HELD

1 provided to the Defense --

2 THE COURT: By the Solicitor?

3 MS. CAMPBELL: By the State, yes. It is -- it is
4 noted under mental status or medical, pertinent medical
5 history for this woman, that she suffers, at the time
6 of the incident, was suffering from Parkinson's
7 disease. And so it became a question for me as to
8 whether or not the -- and I have no -- you know, I have
9 no way of knowing if that impacted her ability to
10 ascertain what was happening at the time. I do know,
11 again, just from research and knowledge about the
12 disease itself, it can affect some individuals' mental
13 capacity to recall events clearly. And so I bring that
14 to the Court for the Court's determination.

15 THE COURT: Let me see the medical reports that
16 you are referring to.

17 MS. CAMPBELL: Yes, sir, I'll pull it out here. I
18 am sorry. I can pull it up on my computer. I thought I
19 had a hard copy, Your Honor.

20 THE COURT: Solicitor, are you familiar with the
21 records so that I can see what Ms. Campbell is
22 referring to as being the medical record at the time of
23 this alleged offense. Which, according to the
24 indictments, would be 2017. Austin has the original.

25 MS. SWANSON: Yes, sir, I'm going to look in the

PRE-TRIAL PROCEEDINGS HELD

1 Beaufort Memorial report. I missed that. Ms.

2 Campbell, do you recall which report it was in?

3 MS. CAMPBELL: I apologize, Your Honor. It is in
4 the report from the examination done by the sexual
5 assault -- sexual assault nurse, Ashley --

6 MS. SWANSON: Hildreath.

7 MS. CAMPBELL: Yes. Her report, as Your Honor is
8 aware, when they do a SANE examination, they have both
9 the evidence that is seized and they have to issue a
10 written report.

11 THE COURT: Do you have that report, Solicitor?

12 MS. SWANSON: I do. It's right here, Your Honor.
13 I just don't see where it's referenced. I'm happy to
14 let Mrs. Campbell look at the medical reports and see
15 if she can find --

16 MS. CAMPBELL: Don't give her the complete -- give
17 her just that report. Now, I'm not going to sit here
18 while we go through 35 pages to figure it out.
19 Ms. Campbell can't remember anything other than
20 Parkinson's disease.

21 MS. SWANSON: Well, this is the SANE report. I
22 have got the other BMH report right here.

23 MS. CAMPBELL: It is the Beaufort Memorial
24 Hospital records report.

25 MS. SWANSON: This one or this one?

PRE-TRIAL PROCEEDINGS HELD

1 MS. CAMPBELL: Let me see this one.

2 MS. SWANSON: I didn't see it in the other one.
3 It may be in that one.

4 MS. CAMPBELL: So, on Page -- there are four
5 pages, Your Honor. On Page 2 of 4 in the past medical
6 history, neurological is listed as Parkinson's disease.
7 So, I'll be happy to hand this back to the Solicitor at
8 this time. And if the Court needs it we can make it --

9 THE COURT: That is the only reference in the
10 report?

11 MS. CAMPBELL: Correct.

12 THE COURT: Do you intend to call any physician
13 about the effects of Parkinson's disease on this
14 witness, or this is something that you just noted from
15 the report and your previous work as a lawyer made you
16 suspect that there may be some lack of intellectual
17 capacity due to Parkinson's disease?

18 MS. CAMPBELL: Correct.

19 THE COURT: All right. Solicitor, I am going to
20 ask you at this point, show me the report so I can at
21 least see what the reference is so I can make a
22 determination as to competency.

23 Yes, sir. I'm handing you Page 2 of 4 and it is
24 the second entry, Past medical history. And it simply
25 lists Parkinson's disease.

PRE-TRIAL PROCEEDINGS HELD

1 THE COURT: All right. I am handed Beaufort
2 Memorial Hospital and this -- let's see, unfortunately
3 it doesn't have a date on this one page. I am sure
4 that it's dated elsewhere since I've only been given
5 one page. It is the emergency physicians for patient
6 Alfreda Thompson. And it does have a service date of
7 April 18th, 2017. So, I'm assuming that is the date of
8 the examination. And all that it says is, under past
9 medical history, cardiovascular. The doctor noted
10 hypertension. Neurological Parkinson's disease.

11 And because of the notation, neurological
12 Parkinson's disease, Ms. Campbell alleges that this
13 witness is not competent to testify. Obviously I need
14 to know whether or not -- the Solicitor tells me that
15 she had no problem communicating with the witness and
16 she knows of no other problem other than Parkinson's
17 disease.

18 Ms. Campbell believes that she understands enough
19 medicine to tell me that she thinks that there is a
20 causal relationship between Parkinson's disease and
21 intellectual function; however, she has no witness to
22 establish that fact.

23 Solicitor, I am going to ask you to call your
24 witness. Ask her, first of all, so that I can deal
25 with the issue of competency, about her background and

PRE-TRIAL PROCEEDINGS HELD

1 whether or not -- how it affects her and whether it
2 affects -- has she ever had any problems with memory
3 loss, short term or long term, or any loss of
4 intellectual capacity or ability to understand, factual
5 or otherwise, so that I'll have some better basis to
6 understand her medical history in order to rule on the
7 objection as to competency. You understand?

8 MS. SWANSON: Yes, sir.

9 THE COURT: Call your witness.

10 MS. SWANSON: Thank you. The State calls Alfreda
11 Thompson to the stand.

12 **Thereupon,**

13 ALFREDA THOMPSON

14 was called as a witness, having been first duly sworn,
15 was examined and testified as follows outside of the jury's
16 presence:

17 THE CLERK: Thank you, ma'am. Please step up
18 here.

19 THE COURT: Watch your step for me there,
20 Ms. Thompson. That microphone, you are going to need
21 it because you have got a meek voice. Pull it down.
22 That microphone is going to amplify your voice, so I
23 want you to speak up so I can understand you. Do y'all
24 want to make this a part of the record, this hearing?

25 MS. SWANSON: Yes, sir, we can.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 THE COURT: All right. Trasi.

2 MS. CAMPBELL: Yes, sir.

3 THE COURT: You want -- this is from your file,
4 right, Solicitor?

5 MS. SWANSON: Correct.

6 THE COURT: You don't need me to make a copy, I
7 can mark this one?

8 MS. SWANSON: It is okay.

9 THE COURT: Any objection, Trasi?

10 MS. CAMPBELL: No objection.

11 THE COURT: Mona, for purposes of the objection on
12 competency, it is Court's Exhibit No. 2 for this
13 hearing. The witness has been sworn, Solicitor. There
14 is an objection as to competency. Let me hear from you
15 on that basis.

16 MS. SWANSON: Thank you, Your Honor.

17 DIRECT EXAMINATION

18 BY MS. SWANSON:

19 Q Ms. Thompson, can you please tell the Court about
20 your medical history regarding Parkinson's Disease?

21 A Yes, I go to MUSC. Katherine Cooper is my
22 physician. She has prescribed medication for me. I am
23 doing very well.

24 Q All right. And can you speak up a little bit for
25 me, please?

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 A Yes.

2 Q Okay. I'm not sure that microphone is on?

3 THE COURT: It is on. Can it be turned up?

4 THE WITNESS: I'll try to scream.

5 BY MS. SWANSON:

6 Q Ms. Thompson, when were you diagnosed?

7 A Let's see. About 2016, 2015 something like that.

8 Q Okay. So, about a year or two before this
9 incident?

10 A Yes.

11 Q Okay. And you stated that you take medication for
12 your condition?

13 A Yes, I do.

14 Q All right. And does that minimize the effects of
15 the condition?

16 A Yes, I have done outstanding with the medication.
17 I can function. I am an elder at my church.

18 Q Okay. And do you provide care for your mother?

19 A Yes, I look after her. She has dementia.

20 Q Okay. And do you suffer any short term or long
21 term memory loss?

22 A No, I don't.

23 Q All right. Do you have any trouble performing
24 everyday functions?

25 A No, I don't.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Any other side effects of the disease that would
2 impact your life?

3 A No.

4 Q Or your memory?

5 A No.

6 Q Okay.

7 MS. SWANSON: Any questions from --

8 THE COURT: Cross-examination as to competency
9 only?

10 MS. CAMPBELL: I have no questions.

11 THE COURT: Very well. As to -- anything further
12 on the objection as to competency?

13 MS. CAMPBELL: No, sir.

14 THE COURT: The objection withdrawn, or do you
15 want me to rule on it?

16 MS. CAMPBELL: No, I would like Your Honor to
17 rule.

18 THE COURT: Very well. I find that the witness is
19 competent to testify based on her testimony and
20 examination of Court's Exhibit No. 2. She has a
21 history of Parkinson's. Says she has no memory
22 deficit. She cares for her mother. And she does well
23 on the medication. I find that she's competent to
24 testify. And you may proceed, Solicitor.

25 MS. SWANSON: Thank you, Your Honor.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 THE COURT: Your objection is overruled.

2 *(Whereupon, Court's Exhibit No(s). 2 marked for*
3 *identification and received in evidence.)*

4 BY MS. SWANSON:

5 Q We will move on to the Neil v. Biggers hearing.

6 Ms. Thompson, where were you on April the 18th of 2017?

7 A I was at my home.

8 Q And where is your home located?

9 A I live with my parents. My father is 88 and my
10 mother is 85. So, I am one of the daughters that stays in
11 the house with them.

12 Q Okay. And what is the address?

13 A The address there is [REDACTED] on St.
14 Helena.

15 Q All right. That is on St. Helena. What
16 happened -- do you recall anyone coming to the door that
17 day?

18 A Yes.

19 Q Okay. And tell me what happened.

20 A Well, the door bell rang and I opened the door and
21 a young man asked me if there was any yard work that needs
22 to be done. And I told him, No, that my father wasn't
23 there. And I didn't want to be rude and just close the main
24 door on him, so I stepped to the side of the door. Normally
25 we have a storm screen latch on the door. My father, when

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 he left out, he didn't secure it well so the door opened.

2 And the young man came in and he pulled a gun from his belt
3 to my head demanding money and grabbed me and took me to the
4 back of the house, and he tried to rape me.

5 Q Okay. And was it light or dark outside when you
6 saw this young man?

7 A It was still light.

8 Q Okay. And about how close to you were -- how
9 close was he to you?

10 A Very close.

11 Q Right. And about how long --

12 THE COURT: I didn't hear that answer. She asked
13 you how close he was to you. How close was he?

14 THE WITNESS: Very close.

15 THE COURT: Proceed.

16 BY MS. SWANSON:

17 Q Okay. And so were there lights on in the house as
18 well?

19 A Yeah, we have lights on in the house.

20 Q Okay. Were you able to tell what race he was?

21 A Yes, he is African-American.

22 Q And about how old he was?

23 A I thought that he looked 21, but come to find out
24 he was younger than that. But he looked about 21 to me.

25 Q Okay. And were you able to give police a

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 description of what he was wearing?

2 A Yeah, I can't recall but, yes, I think so.

3 Q Okay.

4 A T-shirt.

5 Q Okay. All right. And you mentioned a storm door.

6 Were there actually two doors that were located at the back
7 of the house?

8 A Yes, we have the wooden door and then we have a
9 screen door.

10 Q Okay. And is it screen or is it glass?

11 A It is both.

12 Q Okay. And which, which door was open?

13 A I opened the main door, but the latch door which
14 we normally keep locked when someone goes in or out, that
15 was the one that was not secure. I thought that it was
16 secure, but it wasn't secure.

17 Q Okay. So, when you initially saw him, you spoke
18 to him through that door?

19 A Yes, uh-huh. (Indicating affirmatively.)

20 Q And you can see through that door?

21 A Yes, you can.

22 Q And hear through that door?

23 A Yes, you can.

24 Q Did you ever invite him in that door?

25 A No, I didn't.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Okay. Did you go talk to police the next day?

2 A Yes, I did.

3 Q Okay. And did they show you a photo line-up?

4 A Yes, they did.

5 Q All right.

6 MS. SWANSON: May I mark Court's Exhibit 3 please?

7 THE COURT: Any objection?

8 MS. CAMPBELL: No.

9 THE COURT: Court's Exhibit No. 3 without
10 objection.

11 *(Whereupon, Court's Exhibit No(s). 3 marked for*
12 *identification and received in evidence.)*

13 MS. SWANSON: May I approach the witness, Your
14 Honor?

15 THE COURT: You may. Without objection.

16 BY MS. SWANSON:

17 Q I am going to show you what has been marked as
18 Court's Exhibit No. 3 and ask if this is the photo line-up
19 that police presented you with?

20 A Yes.

21 Q And did -- were you able to pick someone out of
22 this line-up?

23 A Yes, I was.

24 Q And did you circle that person?

25 A Yes, I circled that person.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q And did you initial?

2 A I did initial it.

3 Q And those are your initials?

4 A Those are my initials.

5 Q And prior to selecting that person, did the police
6 officer read this paragraph to you?

7 A Yes, he did, yes.

8 Q And did you sign it?

9 A Yes, I did.

10 Q That is your signature?

11 A That is my signature.

12 Q Okay.

13 MS. SWANSON: For the purposes of this hearing,
14 the State would offer Court's 3.

15 THE COURT: Court's 3 in evidence for purposes of
16 this hearing without objection.

17 BY MS. SWANSON:

18 Q And did the police promise you anything at that
19 time?

20 A Meaning?

21 Q They didn't -- did they promise you anything to
22 pick someone out of the line-up?

23 A Oh, no.

24 MS. SWANSON: Thank you. I have nothing further
25 at this time.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 THE COURT: Okay. Hand the court reporter the
2 exhibit. Cross-examination.

3 MS. CAMPBELL: May it please the Court.

4 CROSS EXAMINATION

5 BY MS. CAMPBELL:

6 Q MS. Thompson, my name is Ms. Campbell. Can you
7 hear me?

8 A Yes, I can hear you.

9 THE COURT: Trasi, come on up here and bring your
10 pad. I want you to be able to hear her as well as she
11 hears you.

12 BY MS. CAMPBELL:

13 Q Ms. Thompson, there was a young African-American
14 boy who would come and do yard work for you; is that right?

15 A For my father.

16 Q For your father. Okay. And that young
17 African-American boy, you had seen him doing yard work for
18 your father, correct?

19 A Yes.

20 Q And you told the police that the person who
21 assaulted you looked like that young African-American boy
22 who did yard work for your father, right?

23 A Right.

24 Q Okay. And so when you were shown Court's Exhibit
25 3 now I guess, you were looking for the boy who did yard

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 work for your father, right?

2 A No, I was looking at the young man who assaulted
3 me.

4 Q Okay. And the young man who assaulted you is in
5 this?

6 A Yes.

7 Q And that is where you circled number three?

8 A Yes.

9 Q Okay. So, is that the young man that did yard
10 work for your father?

11 A You will have to ask him.

12 Q Because you can't remember whether that is or
13 isn't the young man who did yard work?

14 A He came to the door asking for yard work.

15 Q I'm not talking about the day that you were
16 assaulted, I'm talking about seeing him in the yard before.

17 A Usually my father handles all of that. I try to
18 let him handle all of that. I don't get involved with who
19 he picks up to help him with yard work. That is his thing.

20 Q All right. Thank you, Ms. Thompson. Thank you so
21 much. That is all I have.

22 THE COURT: Redirect?

23 MS. SWANSON: No redirect, Your Honor.

24 THE COURT: Well, obviously the Court has to
25 determine any out of court identification. And we have

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 held, which we are doing now, outside of the presence
2 of the jury, in-camera hearing to determine from the
3 totality of the circumstances whether any
4 identification is reliable. That is exactly what Neil
5 versus Biggers, which is a United States Supreme Court
6 case. And we also have State Supreme Court cases
7 following Neil versus Biggers, there has been a number
8 of them. Scipio, Drayton are just two examples. I
9 have listened carefully to this witness. I have
10 listened to her background, as far as medical
11 background, her degree of attention. I've listened to
12 the lighting conditions, how close the person was, the
13 type of line-up she was presented, which is Court's
14 Exhibit No. 3, and what she was advised on the second
15 page of Court's Exhibit No. 3.

16 And I find that the out-of-court identification is
17 admissible in the trial of this case. Let's proceed
18 now to your Jackson Denno. Do you need her to stay on
19 the witness stand for the next hearing?

20 MS. SWANSON: No, Your Honor, I do not.

21 THE COURT: Very well. Ma'am, you may step down
22 from the witness stand. And you may remain since you
23 are the victim in this case, or the alleged victim, you
24 may remain with us in the courtroom. We are proceeding
25 to the next hearing.

PRETRIAL EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 MS. SWANSON: Your Honor, we do have one other
2 identification by the victim's father who identifies
3 the person that would do yard work for him. We have
4 the father here as well.

5 THE COURT: He didn't identify the Defendant?

6 MS. SWANSON: That is true, yes. Okay.

7 THE COURT: Well.

8 MS. SWANSON: I know.

9 THE COURT: Trasi, is there any need to have an
10 in-camera hearing when he doesn't identify your client?

11 MS. CAMPBELL: He identifies my client in the
12 six-pack photo line-up as being the young man who did
13 yard work for him.

14 THE COURT: I'm not talking about her
15 identification, I am talking about the father. She
16 says the only identification that the father makes is
17 the person that did the yard work.

18 MS. SWANSON: Correct, in the photo line-up.

19 MS. CAMPBELL: No, that is not necessary.

20 THE COURT: Very well.

21 MS. SWANSON: Okay. Thank you.

22 THE COURT: Call your next witness.

23 MS. SWANSON: The State calls Todd Duncan.

24 Thereupon,

25 TODD DUNCAN

PRETRIAL DIRECT EXAMINATION OF TODD DUNCAN BY MS.
SWANSON

1 was called as a witness, having been first duly sworn,
2 was examined and testified as follows outside of the
3 presence of the jury:

4 THE COURT: Have a seat on the witness stand.

5 Unfortunately Beaufort does not have the money to buy a
6 microphone system sufficient for people to hear in this
7 courtroom. So, that is why I talk loud in the
8 courtroom because the microphone is of absolutely no
9 assistance to us in here. I am going to ask you to
10 speak up for my court reporter, who is right below you,
11 Mona Manley, and for me. I am going to be making the
12 decision for purposes of this hearing so I am going to
13 be able to hear you. When you put your back to me
14 sometimes your voice is lost, so please speak up.

15 The witness has been sworn. Your witness. I
16 understand that this is a Jackson Denno hearing?

17 MS. SWANSON: Correct. Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Mr. Duncan, were you on duty on April 19th, 2017?

21 A I was.

22 Q Were you assisting Jason Malphrus in locating a
23 suspect in a rape case?

24 A Yes, ma'am.

25 Q All right. And did you have the opportunity to

PRETRIAL DIRECT EXAMINATION OF TODD DUNCAN BY MS.
SWANSON

1 locate a Darryl Bradley?

2 A I did.

3 Q Where did you locate him?

4 A Twenty-four Saturn Circle, which is on St. Helena.

5 Q All right. And did you have warrants on him at
6 the time?

7 A Yes, ma'am.

8 Q All right. When you located him, what did you do?

9 A He was located inside of a house, we talked to him
10 outside. I read him his Miranda Rights.

11 Q How did you read him his Miranda Rights?

12 A I usually carry a Miranda card with me that has
13 them on it, and I will read straight off of that card.

14 Q Okay. Did you have one on you that day?

15 A I did.

16 Q All right. And can you demonstrate how you read
17 them?

18 A Yes, I have a card with me. Would you like me to
19 read them?

20 Q Please.

21 A Okay. It says, You have the right to remain
22 silent. Anything you say can and will be used against you
23 in a court of law. You have the right to talk to a lawyer
24 and have him present with you while you are being
25 questioned. If you cannot afford to hire a lawyer one will

PRETRIAL DIRECT EXAMINATION OF TODD DUNCAN BY MS.
SWANSON

1 be appointed to represent you before any questioning if you
2 wish. You can decide at any time to exercise these rights
3 and not answer any questions or make any statements. And
4 then there is a waiver to it where we ask, Do you understand
5 each of these rights that I explained to you? And then,
6 Having these rights in mind, do you want to talk?

7 Q All right. Did he under -- did he indicate that
8 he understood those rights?

9 A He did.

10 Q Was he in cuffs at the time?

11 A He was.

12 Q All right. And did you ask him any questions?

13 A Well, we learned already that he wiped off a gun
14 inside. And the only question I asked him at that time is
15 where did he place the gun.

16 Q All right. And did he tell you where?

17 A He did.

18 Q Where did he tell you?

19 A He said, In the living room underneath the couch.

20 Q All right. And were you able to locate the gun?

21 A Yes, we did. It was underneath the ottoman which
22 is right there in the couch area.

23 Q All right. And was he promised anything in
24 exchange for that information?

25 A No, ma'am.

PRETRIAL DIRECT EXAMINATION OF TODD DUNCAN BY MS.
SWANSON

1 Q In fact, did you have the opportunity to -- did he
2 have the opportunity to talk to law enforcement later?

3 A Yes, ma'am. Like I say, he was in handcuffs
4 there. We had a marked unit come and transport him back to
5 the investigations office. And Investigator Malphrus and I
6 both sat down with him. We went over his Miranda Rights
7 again, using the Sheriff's office form. We filled that form
8 out. He declined to talk to us right then, said he may want
9 to talk to us later.

10 MS. SWANSON: Okay. Thank you. That is all I
11 have.

12 THE COURT: Cross-examination.

13 MS. CAMPBELL: None.

14 THE COURT: Call your next witness, Solicitor, for
15 this hearing.

16 MS. SWANSON: That is my only witness for this
17 hearing. Thank you.

18 THE COURT: Very well. You may step down. Does
19 the Defendant wish to present any evidence for purposes
20 of Jackson Denno hearing?

21 MS. CAMPBELL: No, Your Honor.

22 THE COURT: I find that the Defendant, before any
23 alleged statement was obtained from the Defendant, the
24 Defendant was advised of his rights under the fifth and
25 sixth amendments to the Constitution of the United

PRETRIAL DIRECT EXAMINATION OF TODD DUNCAN BY MS.
SWANSON

1 States and was advised of his Constitutional safeguards
2 required by Miranda versus Arizona. The exact
3 explanation has been published in the record. I find
4 that the Defendant knowingly and intelligently waived
5 his rights under the fifth and sixth amendments of the
6 Constitution and the safeguards required by Miranda,
7 that Defendant was freely and voluntarily -- and that
8 the statement that the Defendant gave, according to the
9 testimony, was freely and voluntarily given without
10 duress, without coercion, or without undue influence,
11 without reward or promise or hope of reward, and
12 without any threat of injury or without compulsion or
13 inducement of any kind.

14 The alleged statement was the voluntary product of
15 the free and unconstrained will of the Defendant. I
16 find all of these matters by a preponderance of the
17 evidence. And I, therefore, find that the statement is
18 admissible into evidence.

19 All right. Solicitor, are there any other
20 pretrial motions from the State?

21 MS. SWANSON: Your Honor, the State would like to
22 make the competency evaluation part of the record, so I
23 would like --

24 THE COURT: Of the Defendant?

25 MS. SWANSON: Of the Defendant. So, I would offer

PRETRIAL MOTIONS

1 this as Court's Exhibit No. 4.

2 THE COURT: I assume that Ms. Campbell has a copy?

3 MS. SWANSON: She does.

4 And I am now handing a copy to the court reporter.

5 THE COURT: Let her mark it and then I will take a
6 look at it.

7 MS. SWANSON: Yes, sir.

8 THE COURT: Ms. Campbell, do you have a copy?

9 MS. CAMPBELL: I do.

10 THE COURT: It's now been marked. Any objection
11 to making it a Court's exhibit?

12 MS. CAMPBELL: None.

13 THE COURT: Court's Exhibit No. 4 without
14 objection. Give me a moment to review it.

15 *(Whereupon, Court's Exhibit No(s). 4 marked for*
16 *identification and received in evidence.)*

17 THE COURT: All right. I have read all of Court's
18 Exhibit No. 4, which has a cover sheet addressed to
19 Ms. Campbell of August 15th, 2019. At the end of
20 the -- well, excuse me, at the beginning of the report
21 it shows evaluation dates of July 12th and August 5th,
22 2019. And a report date of August 15, 2019.

23 Obviously the statute permits the introduction has
24 been admitted as Court's Exhibit No. 4 without
25 objection. I have reviewed it. Does the State wish to

PRETRIAL MOTIONS

1 offer any other evidence as far as the Blair hearing is
2 concerned for competency?

3 MS. SWANSON: No, Your Honor.

4 THE COURT: Ms. Campbell, do you wish to introduce
5 any evidence for purposes of a Blair hearing?

6 MS. CAMPBELL: No, Your Honor.

7 THE COURT: All right. Anything further from the
8 State?

9 MS. SWANSON: No, sir.

10 THE COURT: From the Defendant?

11 MS. CAMPBELL: No, Your Honor.

12 THE COURT: I find that based on Court's Exhibit
13 No. 4, which I have reviewed, that Mr. Bradley has
14 currently both factual and rational understanding of
15 the proceedings against him and the capacity to
16 rationally assist counsel in his own defense. Based on
17 the evaluation dates, which I have published in the
18 record, the evaluators believe that Mr. Bradley is
19 competent to proceed to trial.

20 And I find that he's competent. And I hand
21 Court's Exhibit No. 4 back to my court reporter, which
22 I have reviewed. Any other motions from the State?

23 MS. SWANSON: None from the State.

24 THE COURT: Now, Ms. Campbell, I have read all of
25 your motions concerning -- the only one that I have I

PRETRIAL MOTIONS

1 believe, and it isn't necessarily a pretrial motion.
2 And I intend to rule on it, and I will at the
3 appropriate time. But it really deals with a charge
4 conference and I haven't -- and although I'm certain
5 that it doesn't deal with what offenses are charged,
6 but it deals with reasonable doubt. I'll take that up
7 with you during the course of trial. I don't think
8 that it's necessary to rule on that pretrial unless you
9 have some different matter about it. Because there is
10 no South Carolina case cited in your -- support of your
11 argument. You are asking me to infer from the D.C.
12 circuit case that I should change my charge on firmly
13 convinced. Is that not correct?

14 MS. CAMPBELL: I am advocating a change to law,
15 yes.

16 THE COURT: I understand that. And I like lawyers
17 that advocate that. Ms. Campbell, you know what I tell
18 my law clerks every year? Law is nothing but the
19 accumulation of human experience. It is ever-changing.
20 And I understand that completely. Does the Defendant
21 have any other pretrial motions?

22 MS. CAMPBELL: If I may, Your Honor. And it may
23 have gotten lost in the email being down. And I'll
24 just pass up to the Court. The State has a copy of it,
25 I assume, which is my memorandum in support of my

PRETRIAL MOTIONS

1 motion to suppress any and all jail phone calls alleged
2 to have been made by the Defendant.

3 THE COURT: You sent that to my law clerk?

4 MS. CAMPBELL: I did, Your Honor. And again, it
5 probably would be appropriate to take up right before
6 the jailer is brought in, you know, to testify about
7 that. And I would just ask that the State not discuss
8 that until Your Honor has had a chance to rule on it.

9 THE COURT: Yes, I agree. I will not allow
10 testimony concerning this issue until I have had a
11 chance. First of all, I haven't seen any memorandum,
12 so I have got to read it. Number two, after I read it
13 I will not allow any testimony until I have had an
14 opportunity to rule on it before any testimony. Is
15 that everything now from the Defendant?

16 MS. CAMPBELL: Actually, Your Honor, there are
17 three other very quick matters. The State and I have
18 agreed, if Your Honor would agree, that the witnesses
19 would be sequestered.

20 THE COURT: Is that correct, Solicitor?

21 MS. SWANSON: Yes, sir.

22 THE COURT: Now Ms. Campbell only gave me the
23 Defendant's name as a witness. So obviously he gets to
24 stay. The victim also gets to stay. The case manager
25 for the State gets to stay under our rule. Austin, did

PRETRIAL MOTIONS

1 you know that there is a rule of evidence on exclusion
2 of witnesses?

3 THE LAW CLERK: Yes, sir.

4 THE COURT: What is the number? Come on Austin,
5 chop, chop.

6 THE LAW CLERK: 609?

7 THE COURT: Watch Trasi. Trasi, do you know the
8 rule number?

9 MS. CAMPBELL: Absolutely not. I apologize.

10 THE COURT: It is six something. 615, Trasi.

11 MS. CAMPBELL: There we go.

12 THE COURT: 615 says that at the request of any
13 party the Court may order witnesses excluded so they
14 cannot hear the testimony of other witnesses. They
15 make the order of its own motion if the Court chooses
16 to do so. This rule does not authorize exclusion of a
17 party who is a natural person, an officer, an employee
18 of a party who is -- which is not a natural person
19 designated as its representative by its attorney, or a
20 person whose presence is shown by a party to be
21 essential to the presentation of the party's cause.
22 And that is Rule 615 of the Rules of Evidence, not the
23 Rules of Criminal Procedure.

24 So, you might want to keep that in your trial
25 notebook. And the motion to sequester is granted. You

PRETRIAL MOTIONS

1 are going to have -- Hunter, you are going to have to
2 get a room where you are going to put them so that we
3 don't go on an Easter egg hunt for witnesses when you
4 need them. Because you never know when one is going to
5 end and another one needs to start. So, I'll expect
6 you to be responsible.

7 Ms. Campbell, you will turn around each time we
8 start, you will look at the courtroom and you will tell
9 me that you are satisfied that my rule on sequestration
10 is being followed. You are responsible for your
11 witnesses, although your only one is Mr. Bradley.

12 And, Solicitor, you are responsible for yours.
13 You will turn around and you will certify to the Court
14 before we start that there are no witnesses in the
15 courtroom which violate my sequestration order. So,
16 the witnesses are now sequestered pursuant to Rule 615
17 of Rules of Evidence. Anything else, Ms. Campbell?

18 MS. CAMPBELL: Yes, sir, Your Honor. The State
19 and I, in anticipation of things running smoothly, have
20 reviewed the photographs that the State intends to
21 introduce during the State's case-in-chief. I have
22 reviewed them and I have no objection to the
23 photographs of the State.

24 THE COURT: Have you premarked them with the court
25 reporter?

PRETRIAL MOTIONS

1 MS. CAMPBELL: They have not been premarked by the
2 State.

3 THE COURT: I would require you to do that today
4 with Mona so we don't waste time waiting on marking
5 exhibits tomorrow morning.

6 MS. SWANSON: Yes, sir.

7 MS. CAMPBELL: And so the final two, number one on
8 my pretrial motion list is -- Your Honor, we have had a
9 problem in the past with jurors wearing smart watches,
10 and I just want to be absolutely sure --

11 THE COURT: I cover that in my opening remarks to
12 the jury.

13 MS. CAMPBELL: -- that I know that -- one, maybe
14 two of them were currently wearing them.

15 THE COURT: You saw that today?

16 MS. CAMPBELL: I did, yes, Your Honor. And
17 lastly --

18 THE COURT: Well, you heard me already tell them
19 before I broke for lunch, told them that they could go
20 home, that they couldn't do any type of research on any
21 type of electronic device. But I will re-enforce that
22 in my opening remarks.

23 MS. CAMPBELL: It is not so much the research.
24 And I thank Your Honor for that. It is that I object
25 to them wearing them during the trial because they can

PRETRIAL MOTIONS

1 communicate with the outside world on their watch. It
2 is like having a cell phone.

3 THE COURT: But it is also a watch. Now, I agree
4 that there is communication capability and I will
5 instruct them that they are not to communicate with
6 anyone outside. I am not, and I don't feel it's
7 necessary unless you see one trying to communicate
8 outside. You will know it, believe me, if you have got
9 one.

10 MS. CAMPBELL: No.

11 THE COURT: Do you own one Ms. Swanson?

12 MS. SWANSON: I do not.

13 THE COURT: All right. Well, my law clerk is an
14 expert on it. All right. I'll have him be very
15 vigilant of the jury. And if we see anybody I will
16 instruct them that they are not to communicate on their
17 watch, and use it for time and time only while they
18 serve us on the jury.

19 MS. CAMPBELL: Thank you. And lastly Your Honor,
20 I do not believe that the State intends to produce any
21 actual forensic experts on sexual assault behaviour of
22 victims.

23 THE COURT: Well, obviously there is a statute on
24 that.

25 MS. CAMPBELL: If that is the case --

PRETRIAL MOTIONS

1 THE COURT: She's shaking her head.

2 MS. CAMPBELL: -- then we have nothing further.

3 THE COURT: Solicitor, do you know intend to
4 introduce any such evidence in the trial of this case?

5 MS. SWANSON: No, sir.

6 THE COURT: We have her word as an officer of the
7 Court.

8 MS. CAMPBELL: That is all.

9 THE COURT: Very good. All right. Is there any
10 other requests to charge other than Stacy's -- Trasi's
11 motion? I want you to hand them up no later than
12 5:00 tomorrow. If you have got any requests to charge,
13 when you hand them up they should be numbered and you
14 should have given opposing counsel a copy. When you
15 hand them up, hand a copy for me and a copy for my law
16 clerk, Austin McCoy, so he has a working copy. And
17 tell my law clerk that you provided opposing counsel
18 with any requests to charge by 5:00 tomorrow.

19 We will start in the morning in this courtroom at
20 9:30 a.m. The jury is reporting to the jury room by
21 9:30. And I want to start at 9:30, because I want to
22 get as much work done tomorrow as possible. We have
23 got some of you that have medical appointments, I
24 understand that, but I'll take whatever time is
25 necessary in order that we hopefully can conduct a

PRETRIAL MOTIONS

1 proceeding that is correct for both parties involved.

2 I will expect you to be on time in the morning.

3 You are not used to getting here at 9:30. And I have

4 got farther to drive than any of you do. And I have

5 got 46 miles to drive. And I am going to start at

6 9:30, so be in this courtroom ready to start at 9:30

7 a.m. in the morning. Thank you very much. This Court

8 now stands adjourned.

9 (Court adjourned for the day. Proceedings

10 continue on 2-19-2020.)

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PRETRIAL MOTIONS

1 2-19-2020 PROCEEDINGS.

2 THE COURT: Counsel, when I arrived this morning I
3 was advised by the bailiff juror number 411 has advised
4 the bailiff that she was concerned that when I voir
5 dire the jury that she didn't give me a complete answer
6 to a question of voir dire, which was one requested by
7 Ms. Campbell.

8 That question was: Have you ever been a witness
9 in a criminal case. That is my understanding from the
10 bailiff. I'm going to bring the juror out, inquire
11 what her answer to that question is and try to
12 determine whether or not it would affect her
13 impartiality to serve as a juror in the trial of this
14 case. Everyone understand?

15 MS. SWANSON: Yes, sir.

16 THE COURT: Please bring me juror number 411.

17 THE BAILIFF: Yes, Your Honor.

18 THE COURT: Come on up here, ma'am. Good morning
19 to you.

20 THE JUROR: Good morning.

21 THE COURT: Have a seat. Don't be nervous. I
22 just need to ask you a couple of questions because of
23 what you told the bailiff. All right. And this is --
24 your number is 411; is that right?

25 THE JUROR: (Nods.)

QUESTIONING OF A JUROR

1 THE COURT: You have to say yes or no for the
2 court reporter.

3 THE JUROR: Yes.

4 THE COURT: All right. Now, the bailiff tells me
5 that you wanted to correct or maybe amplify your answer
6 as to whether or not you were a witness in a criminal
7 trial; is that correct?

8 THE JUROR: Yes.

9 THE COURT: What is your answer to that question?

10 THE JUROR: I have been involved in a criminal
11 case in which I testified.

12 THE COURT: All right. Did you testify for the
13 State or the Defendant?

14 THE JUROR: For the State.

15 THE COURT: For the State.

16 THE JUROR: It was a --

17 THE COURT: The fact that you previously were a
18 witness for the State in a criminal trial, would that
19 in any way affect your ability to give the State or the
20 Defendant in this case a fair and impartial trial?

21 THE JUROR: May I explain the circumstances?

22 THE COURT: You can explain the circumstances, but
23 I first need you to answer my question.

24 THE JUROR: I believe so. Because it was a bank
25 robber two times, and with a gun pointed to my head. I

QUESTIONING OF A JUROR

1 had to identify the bank robber. The first time they
2 caught him and brought him back and I testified against
3 him. And the second time, when the gun was pointed to
4 my head, they unfortunately were unable to find him and
5 I was unable to testify against him.

6 THE COURT: Very well. I understand that
7 completely and I am going to excuse you from the
8 service in the trial of this case.

9 THE JUROR: And I wanted you to know, in all
10 fairness, it wasn't until after I got home and I
11 realized that that question went over so fast. And all
12 of the other questions didn't apply to me and that one
13 did.

14 THE COURT: Yes, ma'am. Well, that is why we have
15 to do it before we select a jury and we have to be
16 mindful of your time because as I recall you wanted me
17 to excuse you because you wanted to show a house.

18 THE JUROR: And I was -- and I am more than
19 willing to do this, but I do believe that it would
20 impact based on my circumstance.

21 THE COURT: I understand that, ma'am, and I am
22 going to excuse you now.

23 THE JUROR: That has nothing to do with it.

24 THE COURT: I want an impartial jury. I don't
25 want anything like that affecting the impartiality of

QUESTIONING OF A JUROR

1 my jury. I thank you very much. You should have been
2 given a number by the bailiffs to call back. They have
3 a call-back number. Call that number after 6:00
4 tonight and we will let you know when if at all we need
5 you to return, okay. Do not go back into the jury
6 room. You are excused for the balance of today from
7 this court.

8 THE JUROR: Okay.

9 THE COURT: Any exceptions? Thank you. Tell me
10 when. Any exceptions or additions to the Court's
11 comments to the juror from the State?

12 MS. SWANSON: None from the State.

13 THE COURT: From the Defendant.

14 MS. CAMPBELL: No exceptions to your questioning
15 of the juror, Your Honor. But for the record, and on
16 behalf of my client, I would just like to say briefly
17 that this particular juror also failed to answer
18 whether or not she had been the victim of a crime, a
19 violent crime. She indicated in her testimony to the
20 Court that she was a victim of a bank robbery.

21 THE COURT: Well, the answer to whether they were
22 a witness is also the same answer as to the victim of a
23 violent crime. I understand that. And I have excused
24 the juror from the service on this jury. In fact, the
25 jury hasn't even been sworn, Ms. Campbell.

COLLOQUY

1 So, I understand that she didn't give us a
2 complete answer, and that is the reason, in part, that
3 I excused her. What is your objection?

4 MS. CAMPBELL: And additionally, because of her
5 dishonesty and her having been with the jury yesterday
6 afternoon and again this morning in the jury room, I
7 would make a motion that this case be mistried and
8 continued to a time when the Defendant can pick another
9 jury that would not have the possibility of
10 contamination by juror 411 who clearly did not, you
11 know, bring forth an honest person to this courtroom.
12 And it is possible that she contaminated this jury.
13 Thank you, Your Honor.

14 THE COURT: Well, there's a lot of possibilities
15 in life, but you have absolutely no proof that that
16 occurred. It's just like your argument during Batson,
17 that you had absolutely no evidence to provide this
18 court there was any deliberate discrimination. And
19 then, in addition to that Ms. Campbell, when a juror
20 does what this juror did, that is exactly what I want
21 them to do. She thought about it, she notified the
22 bailiff, the bailiff notified me, I brought her out in
23 your presence, your client's presence, and the State's
24 presence. She honestly told us and now you want me to
25 punish the fact that she was honest with us. Your

COLLOQUY

1 motion is denied. Be seated. Bring us the jury.

2 THE BAILIFF: Judge, Your Honor, they asked about
3 taking notes.

4 THE COURT: I am going to tell the jury about
5 that. About taking notes?

6 THE BAILIFF: Yes, sir.

7 THE COURT: I'll handle that in my remarks to the
8 jury. Let's move. It's past 9:30. I am going to work
9 today. We are going to stop for lunch at 1:00, we are
10 going to have a brief lunch, 45 minutes, and we are
11 going to work one break in the morning and one break in
12 the afternoon. We are moving forward.

13 THE BAILIFF: The jury is entering, Your Honor.

14 THE COURT: Everyone rise, the jury is entering
15 the courtroom.

16 (The jury enters the courtroom.)

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

18 THE COURT: All right. Good morning, ladies and
19 gentlemen of the jury. Thank you for being here on
20 time. One second before we get started. Counsel
21 approach.

22 (Off-the-record discussion held.)

23 THE COURT: Let the record reflect, Mona, that I
24 conferred with the clients. I had to excuse juror
25 number 411 from this jury this morning due to her

COLLOQUY

1 inability to be fair and impartial in regards to this
2 case. I am now going -- ma'am, you were my alternate.
3 Yes, ma'am, you were my alternate number one, come and
4 take a seat with the jury now. You are now on the jury
5 as alternate number one.

6 I have conferred with counsel and they have no
7 objection in taking the alternates in the order that
8 they were selected. Is that correct for the State?

9 MS. SWANSON: Yes, Your Honor.

10 THE COURT: Correct for the Defendant?

11 MS. CAMPBELL: Yes, sir.

12 THE COURT: Jody, please swear the jury.

13 (The jury is sworn by the Clerk of Court.)

14 THE COURT: Mr. Foreman, congratulations on your
15 election. That will be your seat. Ladies and
16 gentlemen, you can sit wherever you want to, just don't
17 sit down and make people crawl over you. If you want
18 to sit by somebody, that is fine, just line up by them
19 but move all the way down to the end of the row. My
20 alternates will sit where they are. And by agreement
21 of counsel we will take alternates in the order in
22 which they are selected if we have another problem with
23 the jury. Thank you for your patience this morning and
24 yesterday.

25 Now, I want to go over a few rules with you. I

OPENING COMMENTS BY THE COURT

1 notice that a couple of you -- Austin hold yours up so
2 they can see yours. Austin is my -- Austin does
3 everything on the computer for me. I shouldn't tell
4 y'all this, because y'all will enjoy this story, my
5 wife thinks it is hilarious. Each year I start with a
6 new law clerk. Austin came in August. We normally
7 change in August. He walks in my office and he says,
8 Judge, what is that? And I say, Austin, that is the
9 Code of Laws for South Carolina. And he said, You mean
10 you have all of the books? Because now in law school
11 Austin does everything on the computer, everything,
12 just as my past eight or nine law clerks do. And they
13 consider me a dinosaur for opening a book and reading
14 from it.

15 Now, some of you have Swatches, hold your hand up
16 if you have got one. Nobody has got one on like
17 Austin?

18 THE JUROR: Apple?

19 THE JUROR: An Apple watch?

20 THE COURT: There is one. An Apple watch, yeah.
21 All right. Please don't use that. And when you go to
22 deliberate, I'm going to require that you give up your
23 watch to Norm. And why? Because it gives you
24 communication capability and we don't want anybody
25 communicating about this case on your watch or by cell

OPENING COMMENTS BY THE COURT

1 phone or any other forms of electronic communication.
2 Everyone understand why? We of course are going to
3 give it back to you. But I don't want there to be some
4 argument that when you were in the jury room outside of
5 our presence here in the courtroom, that you could have
6 communicated or somebody could try to communicate with
7 you by virtue of your device.

8 Now, let me go over a couple of rules with you.
9 You have been sworn. And we are going to work today.
10 We are going to -- let me tell you so you won't be
11 worried, I am going to work hard to try to finish as
12 much as I can today in this case. We won't complete it
13 today, but I am hoping to make a good start today.

14 I am going to take one break so you won't be
15 sitting here in the morning and one break in the
16 afternoon. We are going to stop at 1:00 for lunch. I
17 am going to serve you lunch here in your jury room. We
18 will all eat at the same time. We are going to start
19 back at the same time so we can get work done.

20 While you are on this jury and until your services
21 are concluded, I'm going to ask you not to discuss this
22 case with each other, with an alternate juror or
23 anybody on the jury and I'm going to ask you not to
24 discuss it with anybody. I am going to ask you not to
25 read or listen to any news report about the case. I

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1 don't want you to use a computer or a watch or a cell
2 phone or any other electronic device with communication
3 capabilities while you are in attendance as jurors.

4 I'm going to ask you to please -- and I have a lot
5 of really good, conscience jurors and they think, man,
6 I could research this issue because it wasn't covered
7 real well by the testimony, so I'm going to research
8 this witness, or I'm going to research this lawyer, or
9 I'm going to research this judge, or I'm going to
10 research some issue that is raised by the testimony.
11 That is improper. You are not to do any research with
12 any type of computer or electronic device, whether it
13 be information about a party, or a witness, or an
14 attorney or a court officer or any news account of the
15 case.

16 And even if you think the information will help
17 you in deciding the case, it's improper for you to do
18 that. Because, as I told you, both sides in this case
19 and myself have the absolute right to know exactly what
20 information you are basing your decision on. That is
21 why we do things out here in the public courtroom where
22 cross-examination is available for each witness and you
23 must base your decision solely on the evidence. So,
24 please don't communicate with anyone about the case on
25 your cell phone, through email, Blackberry, Iphone,

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1 text messaging, or on Twitter or any other blog or
2 website, through any internet chat room, or by way of
3 any other social networking website, which would
4 include Facebook, MySpace, LinkedIn, YouTube, none of
5 those things. That is improper. And I urge you to
6 complete and follow those instructions during the trial
7 of the case.

8 Now, before we begin this trial, I want to tell
9 you, this trial will probably be different than what
10 you will expect. You know, the truth is that many
11 people do not have the chance to attend an actual court
12 session as you are doing. And many people may think
13 from watching television or going to a movie or from
14 reading a book that trials are always full of high
15 drama and intense action and riveting and entertaining
16 circumstances. In fact, I'm afraid that television and
17 movies have made you think that a person with a white
18 coat is going to walk into this courtroom holding a
19 test tube that says, I have the answer.

20 Now, ladies and gentlemen, an actual trial, unlike
21 a movie, a book, television, is not for entertainment.
22 And while trials may, at times, be entertaining, an
23 actual trial is a fundamental part of our democracy, it
24 is an effort to make sure that justice is done between
25 the parties. And it is often slow. It is often

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1 deliberate. And it is certainly repetitive. It is the
2 exact opposite of what you may have seen on television
3 or in a movie or read in a book.

4 This courtroom, ladies and gentlemen, is a place
5 of honor. It is dedicated to the protection and the
6 preservation of citizen's rights through what many
7 people have called the greatest justice system ever
8 created. The attorneys that are going to be appearing
9 before you, they have introduced themselves to you for
10 the State and the Defendant. They are advocates for
11 the parties that they represent.

12 But first and foremost, they are officers of this
13 court. And as officers of this court, they took an
14 oath just as you just took an oath and I took an oath.
15 And in their oath, the attorneys oath, they swore to
16 uphold the integrity. They swore to uphold the
17 fairness of our judicial system. So, you should expect
18 the attorneys to be professional. You should expect
19 the attorneys to be competent, prepared, and most of
20 all, ethical in the representation of their client's
21 interest.

22 Now, I want to remind each of you that you have
23 now taken an oath. And you said in this oath that you
24 would pay close attention to the testimony in this
25 case. And that you would base your decision on the

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1 evidence in this case. And that you would consider all
2 of the testimony appropriately. So you also, as jurors
3 just like the attorneys and myself, you also are
4 expected as jurors to be professional, to be
5 reasonable, to be ethical in the discharge of your duty
6 as jurors.

7 Before we begin the trial, I want to thank each
8 and every one of you for accepting the responsibility,
9 which is an important responsibility of jury service.
10 I want to thank you in advance for your contribution
11 today to our justice system. Without you, ladies and
12 gentlemen of the jury, justice cannot be accomplished
13 in a courtroom. And I thank you for that service.

14 All right. Mr. Foreman and ladies and gentlemen
15 of the jury, I'm holding up again the indictments. I
16 read them to you when I was asking you questions about
17 your impartiality. We are about to try the case of the
18 State of South Carolina versus Darryl Douglas Bradley
19 Junior who is seated with his attorney at the Defense
20 counsel table. He is the Defendant in this case. And
21 he's charged by these indictments with five different
22 offenses.

23 The offenses as I told you were as follows: He's
24 charged with criminal sexual conduct, burglary,
25 attempted robbery armed, kidnapping, and possession of

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1 a weapon during the commission of a violent crime.

2 Now, the elements of each of those charges I'm going to
3 explain to you later in the case, in my charge to you
4 on the law. Why do we do that at the end? I don't
5 know what the evidence is going to be, I haven't heard
6 any evidence in this case. I'm just like you. I asked
7 you if you have heard about, read about, know anything
8 about this case. I don't know anything about this case
9 other than what I read to you in these indictments.
10 Other than any motion I might hear during the trial, I
11 am going to be hearing the evidence just like you for
12 the first time.

13 So, we wait and charge you the law that applies to
14 this case at the end of the evidence so I know then
15 what law I need to charge you after I hear the
16 evidence. That is why we do it in that order.

17 You should understand now that these indictments
18 are simply the charges by which the case is brought
19 into this court, and it is not in any sense evidence of
20 any of the allegations contained in the indictment.
21 Now, the Defendant has pled not guilty to each of the
22 indictments. The State of South Carolina, therefore,
23 has the burden of proving each of the essential
24 elements of the indictment beyond a reasonable doubt.

25 And as I told you in my earlier remarks to you,

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1 it'll be your duty to decide whether or not the State
2 has met that burden. It is your solemn responsibility
3 to determine the guilt or the innocence of the
4 Defendant. And your verdict must be based solely and
5 only on the evidence as it is presented to you during
6 this trial and on the law as I instruct it to you to be
7 during the trial and in my charge to you on the law at
8 the conclusion of the trial.

9 Now, in just a minute the assistant solicitor will
10 make what is called an opening statement in which she
11 will explain to you the issues in this case, or at
12 least what she contends to be the issues as an advocate
13 for the State of South Carolina. Following that the
14 attorney for the Defendant will make an opening
15 statement in which she will tell you what she contends
16 the issues to be in this case, as an advocate for the
17 Defendant.

18 Now, I want to tell you, the attorneys have worked
19 hard to prepare the case for you. And I want you to
20 listen to them. But what the attorneys tell you in
21 opening statement, what the attorneys argue to you in
22 their closing argument at the end of the trial, what
23 the attorneys try to suggest to you in questions, that
24 is not evidence, ladies and gentlemen. The attorneys
25 are advocates for the parties they represent, either

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1 the State or the Defendant. And although I want you --
2 they are here to help you and assist you, but they are
3 advocates. They have got a dog in the hunt, ladies and
4 gentlemen, so to speak. They are going to do their
5 best and as zealously as they can to represent their
6 respective client's interest.

7 And I told you that you have to decide this case
8 based on the evidence. What is evidence? I told you
9 it wasn't what the attorneys told you. Well, the
10 evidence is going to be -- you notice it is right here
11 in close proximity to you, it is going to be testimony
12 of sworn witnesses who are going to testify from this
13 witness stand right beside you. It's located there so
14 you can observe the witness, you can listen to the
15 witness, you can pay close attention to the witness.

16 Evidence may also take a form of an exhibit, such
17 as a photograph or a model. You will hear -- the
18 lawyers know that they can't show you any such exhibit
19 or photograph or model, it has to be marked with the
20 court reporter. She's going to have a number for it.
21 And they have to give me an opportunity to rule first,
22 that is part of my job, on whether it's admissible in
23 evidence or not. Once I say -- you will hear me say,
24 In evidence. When I say that, then I'll say, You may
25 publish to the jury. So, evidence may take the form of

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1 sworn testimony, or it may be a photograph or a model,
2 which we call exhibits.

3 Evidence may even take the form of a stipulation.
4 The parties might agree during the trial that a fact is
5 true and therefore not necessary to be proved. So,
6 evidence can be testimony, sworn testimony of a witness
7 who takes the oath and testifies in front of you. It
8 may be an exhibit. It can even be a stipulation.

9 You should remember that under the Constitution of
10 the State of South Carolina, you and you alone, the
11 members of this jury, are going to be the sole judges
12 of the facts in this case based on the evidence
13 introduced during the trial of the case.

14 And the same law that makes you the judges of the
15 facts from the evidence makes me the judge of the law.
16 I cannot invade your province, ladies and gentlemen,
17 and tell you what I think the facts are or what the
18 evidence shows or make any comment to you about the
19 facts in this case. And you, ladies and gentlemen,
20 should not invade my province as the judge and differ
21 with me about what the law is. Everything that I say
22 during the course of this trial is being taken down by
23 Mona Manley, my court reporter right down here, who I
24 couldn't live without. I can't tell you how much I
25 appreciate her. She told me this morning that I only

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1 let her have two swallows of coffee before -- after she
2 got here before I made her work. And she is right, I
3 do work her pretty hard, I have to admit. But she is a
4 great court reporter. She has got to be able to hear.
5 And because she is taking down everything I say, if I
6 make a mistake as to the law, to the detriment of
7 either party, they can appeal the case to an appellate
8 court. And if the appellate court agrees that I made a
9 mistake on the law, they will reverse the case and send
10 it back for a new trial.

11 So don't you on this jury worry about whether or
12 not I told you the law correctly, that is somebody
13 else's worry. That is not your job. Your job as
14 jurors is to take the law, as I give it to you, and
15 apply it to the facts as you find them to be based on
16 evidence introduced during the trial of the case.
17 Which is sworn testimony, exhibits, stipulation. After
18 doing that, at the end of the case, render your verdict
19 under that oath which each of you just took from Jody
20 in the clerk's office.

21 Now, time to time during the trial of this case
22 you are going to hear something like one of the lawyers
23 is going to say to me, Your Honor, I believe we have a
24 question of law that we need to take up, or we need to
25 discuss a matter of law with you. Or you might hear me

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1 say, Please approach the Bench or they might ask to
2 approach the bench. You might hear me say, will you
3 please step to your jury room. So, most of my jurors
4 don't understand that. They say, why are they doing
5 something outside of my presence? Are they hiding
6 something from me? Not at all. The reason for this is
7 exactly what I just told you. I can't make any comment
8 to you about the facts in the case, and sometimes when
9 I'm ruling on a matter of law with the attorneys, by
10 necessity I have to make a comment about the facts in
11 order to rule on whether or not a particular piece of
12 law applies to this case.

13 So, since I'm not supposed to tell you what I
14 think the facts are, the practice in this State is to
15 either excuse you -- first, I am going to try to do
16 it -- you will see me ask for a sidebar. I'll meet the
17 attorneys over here, outside of your hearing so I don't
18 have to keep sending you back and forth to your jury
19 room. But I may ask you to go to your jury room while
20 I hear a matter of law so you will not be influenced by
21 anything that I might say or do in connection with the
22 facts.

23 And in that connection, let me tell you again,
24 that you and you alone, members of this jury, are the
25 sole judges of the facts in this matter. And if you

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1 should gather from anything that I say or do during the
2 course of this trial that I have any opinion whatsoever
3 about the facts of this case, please erase that from
4 your mind because the law doesn't allow me to have an
5 opinion about the facts of this case. You and you
6 alone, the members of the jury, are going to be the
7 sole judges of the facts in this case based on evidence
8 introduced during the trial of this case.

9 Now, I'm often asked this question by my jurors.
10 And they will say, Judge Buckner, you told me that I
11 had to determine what the facts are and you said that I
12 had to base my decision on the evidence, how am I going
13 to know what is truthful? Well, ladies and gentlemen,
14 part of your job in basing your decision on the
15 evidence is, you are going to have to determine the
16 credibility or the believability of the witnesses who
17 are going to testify and who are going to take this
18 witness stand right beside you.

19 It'll be my responsibility to rule as a matter of
20 law whether or not certain testimony is admissible or
21 not. But whether or not, once I have allowed the
22 testimony to be admitted into evidence, whether or not
23 you believe the testimony, that is solely a matter for
24 you, the jury, to determine. And in passing upon the
25 credibility or believability of the witnesses, you have

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1 the right as the jury to take into consideration the
2 interest, if any, of any witness; the bias, if any, of
3 any witness; the prejudice, if any, of any witness; the
4 opportunity for the witness to have observed the things
5 about which he or she might testify. You may even, in
6 passing upon believability or credibility, you may even
7 as a juror look at the demeanor of the witness, the
8 appearance of the witness while the witness is on the
9 witness stand.

10 Anything that is in evidence, ladies and gentlemen
11 of the jury, you as a juror can use in determining the
12 credibility or believability of the witnesses.
13 Anything that you feel will aid you, that will assist
14 you that is in evidence in evaluating the testimony of
15 the several witnesses who will testify, you have the
16 right as a jury to consider.

17 And that means, Mr. Foreman, and that means ladies
18 and gentlemen of the jury, and I can't emphasize this
19 enough, that under your obligation you need to pay
20 close attention to the witnesses. To listen to
21 witnesses. Don't let your thoughts wander. But give
22 strict attention to the testimony and the evidence in
23 this case so that at the conclusion of all of the
24 testimony, after the final arguments of the attorneys
25 and my charge to you on the law that applies to this

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1 case, you will have put yourself in a position by
2 listening, by observing, by giving strict attention to
3 the evidence to determine what the facts are, and to
4 apply the law as I charge it to you to be to those
5 facts, and thus render a verdict.

6 Now, you must not consider anything that you may
7 have read or heard about this case outside of this
8 courtroom, whether before or during this trial. And
9 until this case is submitted to you, you need not
10 discuss it with anyone, not even a member of your own
11 family. And I'm going to ask you not to discuss it
12 until I instruct you to. There will come a time when I
13 am going to instruct you to discuss it. When you do
14 discuss it, I want you to discuss it only in your jury
15 room with your fellow jurors.

16 It's important that each of you keep an open mind
17 and not decide the case until I submit it to you under
18 my instructions. Why are we so adamant about that?
19 Because the very last thing that you might hear in this
20 trial might make a difference to you, so we don't want
21 you to engage in any type of premature deliberations.
22 That is why we ask that you not discuss a case until
23 the Court instructs you to do so.

24 Now, it'll be your added duty, Mr. Foreman, you
25 will preside in the jury room and see that each and

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1 every member of my jury has a full and fair opportunity
2 to voice their opinions. You will be the jury
3 spokesperson out here in the courtroom and it will be
4 your duty to write the jury's verdict. But I'll
5 prepare a verdict form. Austin and I will prepare a
6 verdict form. And whatever you write on that verdict
7 form -- and here is a great example of what shouldn't
8 be done. Counsel approach.

9 (Off-the-record discussion held.)

10 THE COURT: I called it to the lawyers' attention,
11 because Mr. Foreman, as I was instructing you, you are
12 supposed to write under the words "verdict". The grand
13 jury had a stamp in 2017, which they no longer have.
14 They are supposed to write in the block where it says,
15 Grand jury. And we have got a signature of the
16 foreperson of the grand jury, but they decided to take
17 up your block when they wrote true bill. That just
18 means case brought into this court. And the lawyers
19 tell me they have no objection to it. Is that correct
20 from the State?

21 MS. SWANSON: Correct.

22 THE COURT: Correct from Defendant?

23 MS. CAMPBELL: That's correct.

24 THE COURT: You will write underneath where they
25 did under your block. Austin will help you. There's

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1 another line for you to sign your name. And you can
2 write the verdict of the jury under that and then date
3 it where you sign your name on the indictments.
4 Whatever you write on the verdict form you write there.
5 You see that I'm handing it to Austin now. He knows
6 that that is his job. So don't leave at the end of the
7 trial until Austin has come to you and given you the
8 chance to write on the indictments after we publish the
9 verdict.

10 Now, I don't know why Beaufort has kept these
11 microphones. I am 70 years old. I will be 71 in May
12 and these microphones are at least 170 years old in
13 Beaufort. They are horrible, aren't they Jody?

14 THE CLERK: They are not very good, Your Honor.

15 THE COURT: They are horrible. He don't want to
16 take the bad side about Beaufort. I will. If you
17 can't hear. And I know you can hear me because I'm
18 used to talking loud. But we have got plenty of people
19 that aren't and they are going to do things like they
20 are going to look down and mumble and they are going to
21 turn away from you, they are going to walk around and
22 turn their back to you. If you can't hear, and I am
23 going to be watching you, raise your hand. I'll make
24 them.

25 I can turn the microphone, supposedly, up. But I

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1 can tell you right now, it isn't going to help you that
2 much. Mine is off, I just talk up for you. But you
3 are going to find that you have a lot of meek people
4 who testify. And they are going to talk that like.
5 (Demonstrating). We are going to have to see to it
6 that you be able to hear. If you can't, raise your
7 hand.

8 If an exhibit is introduced in testimony during
9 the trial of this case and you can't see it, you have
10 heard me say -- you will hear me say it's in evidence,
11 and if you can't see it raise your hand. I want you to
12 be able to see and to hear at all times throughout the
13 trial of the case.

14 Jury notes. I know that you have already had
15 questions. I'm a note taker. Here is my note pad
16 right here and I keep a pen in my hand and you are
17 going to see me writing. I have tried it both ways.
18 I'm going to ask that you do not take notes. Why?
19 Because I have found that if the written note taker
20 makes an error in the written notes the notes can be
21 harmful rather than helpful in your jury room once
22 deliberations begin.

23 If you are worried about remembering, Mona is
24 making an audio recording. So if you want to hear any
25 witness' testimony again, we can replay a portion or

OPENING COMMENTS BY THE COURT

1 all of any witness' testimony if you are worried about
2 remembering. Please do not take notes.

3 Mr. Foreman, we normally do not allow jurors to
4 ask questions here in the courtroom. If at any time a
5 member of the jury has a question, here is the
6 procedure that we have to follow: If you are not
7 already in your jury room, all of you will retire to
8 your jury room. Norm will see that you have a pad and
9 pen. You will write the question on a piece of paper.
10 Knock on your jury room door, give it to my bailiff, he
11 is going to bring it out to me. I will then have to
12 rule, as a matter of law, whether or not the question
13 can or cannot be answered, just as I would any question
14 asked by either one of the attorneys during the trial
15 in the case. You understand?

16 All right. Obviously we don't allow cell phones
17 or beepers. I have tried to emphasize that. Or any
18 kind of research. Or communicating on a watch. I
19 don't intend that what I just said to you should be
20 construed to you as a charge on the law, because it's
21 not yet. I just want to give you an idea how -- we
22 have rules for everything. We have rules on who does
23 opening first, who does closing first, who goes second,
24 what kind of evidence can be admitted. I won't go into
25 all of that with you, that is my job. All right. But

OPENING COMMENTS BY THE COURT

1 I wanted you to have an idea of what is happening. The
2 reason that the State is going to present to you first,
3 the State has the burden of proof. The party with the
4 burden of proof goes first in opening statement.

5 Now, this has been an attempt on my part to
6 briefly explain to you some of the procedure that we
7 are going to follow in the trial of the case so
8 hopefully you have a better understanding of what may
9 be happening from time to time during the trial. But
10 nevertheless, in order to preserve everyone's rights,
11 if they have any objection to anything that I have said
12 to you I will give them the opportunity now to accept
13 or object to any remarks by the Court to you. Any
14 exceptions or objections from the State of South
15 Carolina?

16 MS. SWANSON: No.

17 THE COURT: From the Defendant?

18 MS. CAMPBELL: No, sir.

19 THE COURT: Ladies and gentlemen, we will now
20 begin the trial of this case. Solicitor, opening
21 statement.

22 OPENING STATEMENT BY THE STATE

23 MS. SWANSON: Thank you. May it please the Court.
24 Back in the spring of 2017 Darryl Bradley told Alfreda
25 Thompson that he was looking for yard work. But the

OPENING STATEMENT BY THE STATE

1 truth is, he was looking for an easy target. Alfreda
2 is seated in the gallery today in the back of the room,
3 you are going to hear from her later. She is a woman
4 in her '60s who lives on St. Helena in her family's
5 home because she takes care of her elderly parents.

6 On April 18th, 2017, it was about 6 p.m., she is
7 taking care of her mother who is afflicted with
8 dementia and Darryl Bradley came to the door. Now,
9 Darryl Bradley wasn't sure what he wanted, but he
10 wanted something. And when she opened that door and
11 she spoke to him through the storm door she said, No,
12 there's no yard work. And rather than shut the wooden
13 door in his face, she walked away from the door. And
14 that is when he shoved his way in, armed with a gun,
15 and proceeded to follow her pointing the gun at her.
16 He first asked for money. And when that didn't pan
17 out, he forced himself upon her.

18 Within a matter of minutes he went from burglar to
19 attempted armed robber to rape. Now, when you hear
20 from Alfreda, and she's very soft spoken, so you will
21 have to listen carefully. I know that she is going to
22 try and speak up for us, but you are going to hear
23 about her worst nightmare coming true and how she
24 prayed through this entire incident.

25 Fortunately she was able to keep a clear mind and

OPENING STATEMENT BY THE STATE

1 stay calm enough to convey the details of her assailant
2 and the description of her assailant to law
3 enforcement. They then were able to identify a suspect
4 and present her with a photo line-up. She picked
5 Darryl Bradley out of that line-up.

6 And what should further convince you is that
7 Darryl Bradley's semen was found on the skirt that she
8 had on when this all took place.

9 Now, as Judge Buckner told you, he's going to be
10 the judge of the law. He is the judge of the law and
11 he will charge you on the law at the end of the case.
12 My job, as the prosecutor in this case, is to present
13 the evidence to you through witnesses that take the
14 stand. And that can be testimony. It can be pictures.
15 It can be, you know, a blood standard from Darryl
16 Bradley. It can be a swab that came from the skirt
17 that Alfreda was wearing.

18 The State bears the burden of proof in this case.
19 And it's my job, as the representative of the State, to
20 prove Mr. Bradley guilty beyond a reasonable doubt.
21 Now, reasonable doubt has been described as the sort of
22 doubt that causes a reasonable person to hesitate to
23 act in their most important affairs. In other words,
24 you must be firmly convinced of Mr. Bradley's doubt --
25 Mr. Bradley's guilt at the end of this case based on

OPENING STATEMENT BY THE STATE

1 the evidence that you determine to be the truth and has
2 been presented in this courtroom.

3 I do want to tell you that this is not going to be
4 a lengthy trial. This was not a long, drawn-out
5 investigation. But it doesn't make it any less
6 important. Obviously, based on the charges, I think
7 you can see that it's very serious. It is very serious
8 to this State, and it is very serious to the victim,
9 and it is very serious to the Defendant. And I hope,
10 my hope, is that at the close of the evidence, the
11 close of the case, after you hear the charge on the
12 law, that you will be convinced that Darryl Bradley is
13 not only a burglar, he is an attempted armed robber, he
14 is a rapist and a kidnapper. And I'm going to be
15 asking you to find him guilty on all counts as
16 indicted. Thank you.

17 THE COURT: Ms. Campbell.

18 MS. CAMPBELL: May it please the Court.

19 THE COURT: Proceed.

20 OPENING STATEMENT BY THE DEFENSE

21 MS. CAMPBELL: Good morning. If I were to say
22 look at each wall in this courtroom, and if I were to
23 have Norm, he actually tried to do it one time, dim the
24 lights for me, and I were to take this projector and
25 project just one word on each of these walls for us, as

OPENING STATEMENT BY THE DEFENSE

1 we move forward today and tomorrow, maybe Friday, that
2 word would be "innocent".

3 Because as His Honor told you in his opening
4 remarks, there are laws that we follow. And the
5 presumption of innocence is not just a legal term. It
6 is just not some concept. It is the law that every
7 citizen in this country, in our county, every citizen
8 that sits accused, just like this young man does, is
9 presumed innocent.

10 And some people have described the presumption of
11 innocence as, and I think it may even be in His Honor's
12 charge to you, as a robe of righteousness. Some have
13 said that it's like a golden cloak or coat that rests
14 upon the shoulders of any man or woman accused in this
15 country of committing a crime. And it is -- it rests
16 upon, I guess, the principle of humanity in the sense
17 that we have to come to Darryl Bradley and this case
18 with the generosity of spirit that says to my fellow
19 citizens that, I will assume the best of you and not
20 the worst.

21 And that golden thread as it's woven into the
22 presumption of innocence is going to seem at times
23 perhaps the coat is becoming thread-bear, perhaps the
24 State will give you a witness or give you some evidence
25 that pulls a thread or two off of someone's shoulders,

OPENING STATEMENT BY THE DEFENSE

1 if you will. And that is for you to determine whether
2 or not what you are given can remove parts of
3 innocence.

4 And that process would not, under our law, as His
5 Honor has told you, begin for you until 12 of you are
6 seated around your table and told by His Honor to begin
7 the active discussions of, what is the evidence in this
8 case? What did I hear? Does this evidence remove
9 anything from the robe of righteousness, of innocence?

10 And freeing your mind, each individual one of you,
11 because you were chosen individually to sit here, to be
12 a part of this decision, freeing your mind that any
13 man/woman would bear some burden or have to come in
14 here and say, Hey, let me prove to you that is not what
15 happened.

16 There is never any burden upon us, the citizens,
17 to prove that we are innocent, that we are not guilty.
18 Because how could you do that? You can't do that. So,
19 the founders, Thomas Jefferson, Benjamin Franklin, when
20 they came together they said, Well, how are we going to
21 put together a system, you know, like Henry the VIII
22 and King George? We don't want that. We want a system
23 where a man is presumed innocent, where he doesn't have
24 to prove to anyone that he didn't do it, where the
25 government has to prove beyond a reasonable doubt that

OPENING STATEMENT BY THE DEFENSE

1 you did it. And that is the system that has worked.

2 And that is the system that we have today.

3 So, at close of the case, just like the prosecutor
4 told you, we are going to talk to you again. She is
5 going to be a little more argumentative. And I'll be
6 more argumentative. Because that is when we are
7 allowed, you know, the gloves are off. You know, you
8 can make your point and you can pull pieces of evidence
9 together and say, Hey, this might be a logical
10 conclusion. I can't do that now for you, I don't know
11 what the witnesses are going to testify to and it is
12 also not allowed.

13 So, when it comes time for you to make a decision,
14 possibly even as early as tomorrow morning, maybe by
15 lunchtime. It's not going to be a long case. I would
16 ask you to, as His Honor said, rightly so, the critical
17 things that you notice about witness' testimony go into
18 the judgment of, what can I believe? Is there
19 something about this evidence that doesn't feel right?
20 Those are things that are totally within your
21 individual feeling and decision about a piece of
22 evidence, whether it is testimonial, whether it is what
23 somebody said to you, or whether it's a piece of paper
24 that you are looking at.

25 And so, at the close of the case, I would say to

OPENING STATEMENT BY THE DEFENSE

1 you, in order for you to return a verdict of guilty,
2 you would have to have the word "innocent" on these
3 walls flat so that you can walk through that door and
4 sit down and say, guilty. If the walls are shaky, if
5 there might be some holes in the walls, not guilty.

6 Thank you for your time. I really look forward to
7 talking to you again, hopefully, tomorrow around
8 lunchtime.

9 THE COURT: Call your first witness.

10 MS. SWANSON: The State calls Jennifer Mack.

11 THE COURT: Counsel certify compliance with my
12 sequestration order.

13 MS. SWANSON: I am in compliance.

14 MS. CAMPBELL: I am unfamiliar with this
15 individual. Do you know her?

16 THE COURT: Confer with the Solicitor or approach
17 the Bench.

18 MS. SWANSON: No.

19 MS. CAMPBELL: We are fine.

20 THE COURT: You are certifying?

21 MS. CAMPBELL: Yes, I'm certifying, yes.

22 THE BAILIFF: Come up here to be sworn.

23 Thereupon,

24 JENNIFER MACK

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

DIRECT EXAMINATION OF JENNIFER MACK BY MS. SWANSON

1 was examined and testified as follows:

2 THE COURT: Watch those stairs and he will adjust
3 that microphone for you. And I want everybody on that
4 jury to be able to hear you. State your full name and
5 spell your last name.

6 THE WITNESS: Jennifer Mack, M-A-C-K.

7 THE COURT: Now, Ms. Mack, that microphone is kind
8 of poor, but I am going to ask you to please speak up
9 so everybody on the jury can hear you. Your witness,
10 Counselor, direct examination.

11 DIRECT EXAMINATION

12 BY MS. SWANSON:

13 Q Ms. Mack, thank you for being here. How do you
14 know Alfreda Thompson?

15 A She is my sister.

16 Q All right. And how far apart are you in age?

17 A Eight years.

18 Q And where do you live, Ms. Mack?

19 A I live on 38 Maddox Drive.

20 Q Is that on St. Helena?

21 A Correct.

22 Q And where do your parents live?

23 A At [REDACTED] on St. Helena.

24 Q All right. Do you recall getting a phone call
25 from your sister on April 18th of 2017?

DIRECT EXAMINATION OF JENNIFER MACK BY MS. SWANSON

1 A Yes, I do.

2 Q All right. And after you received that phone
3 call, what did you do?

4 A I got in my car and went to my father's house
5 where she was.

6 Q All right. Did you talk to Alfreda then?

7 A Yes, I did.

8 Q Did you ask her any questions?

9 A I just asked her was she okay.

10 Q Okay. Did you call 911?

11 A Yes, I did.

12 Q All right. And did you talk to 911 the whole
13 time, or did you hand her the phone?

14 A I gave her the phone.

15 Q Who else was in the house when you got there?

16 A My mother.

17 Q What was she doing?

18 A In her room.

19 Q All right. And how old is your mother?

20 A She is -- she was born in '35, so that would be
21 83, 85.

22 Q Does she suffer from any illness?

23 A Yes, she has Alzheimer's.

24 Q Okay. And who takes care of her generally?

25 A My father and my sister.

DIRECT EXAMINATION OF JENNIFER MACK BY MS. SWANSON

1 Q Okay. Were you there when police arrived?

2 A Yes.

3 Q All right. And where did you go after police
4 arrived?

5 A I took my sister to the hospital.

6 Q Which hospital was that?

7 A Beaufort Memorial Hospital.

8 Q All right. And did you guys go to the ER first?

9 A No, they told us that she would need to go to, I
10 guess, the rape examination part. So we waited outside and
11 went through a different door.

12 Q Okay. Anything else you can recall from that day?

13 A Just my sister was just a little -- I was in
14 shock, just like she was in shock. The conversation --

15 MS. CAMPBELL: Your Honor, I object to the
16 general -- would you like us to approach?

17 THE COURT: Approach.

18 (Off-the-record discussion held.)

19 THE COURT: Objection is sustained. Question will
20 be reworded.

21 BY MS. SWANSON:

22 Q Ms. Mack, do you remember your sister's demeanor
23 that day?

24 A When I came to the house?

25 Q Yes, ma'am, or at the ER.

DIRECT EXAMINATION OF JENNIFER MACK BY MS. SWANSON

1 A Just a little in shock, agitated a little, but a
2 little in shock overall that had happened that evening.

3 MS. SWANSON: Thank you, Ms. Mack. Please answer
4 any questions that Ms. Campbell may have for you.

5 THE WITNESS: Okay.

6 CROSS EXAMINATION

7 BY MS. CAMPBELL:

8 Q Good morning.

9 A Good morning.

10 Q When you left your house and went to, I guess it
11 is your mother and father's home, right?

12 A Right.

13 Q Could you let us know about how long that drive
14 is?

15 A I would say about eight minutes, eight to ten
16 minutes.

17 Q Eight to ten minutes?

18 A Uh-huh. (Indicating affirmatively.)

19 Q And you told the prosecutor that you called 911
20 when you got to your father and mother's home; is that
21 right?

22 A Yes. When I got into the house I went to check on
23 my mother because I was interested to check on her, my
24 mother, because she was in the room. And then, once I kind
25 of got her settled, then I asked my sister did she call 911

CROSS EXAMINATION OF JENNIFER MACK BY MS. CAMPBELL

1 and she said, No, she said she was waiting for me to come.
2 So when I dialed 911 for her, I just like a reaction, just
3 dialed 911 for her, and then when they started asking
4 questions I gave her the phone.

5 MS. CAMPBELL: Thank you. That is all that I
6 have.

7 THE COURT: Redirect?

8 MS. SWANSON: No redirect.

9 THE COURT: As to this witness?

10 MS. SWANSON: I would ask that --

11 THE COURT: May she be excused?

12 MS. SWANSON: Yes, please.

13 THE COURT: Any objection?

14 MS. CAMPBELL: No objection.

15 THE COURT: You may step down, Ms. Mack. You are
16 excused from the trial of this case. And you may leave
17 the courtroom. Call your next witness.

18 MS. SWANSON: The State calls Caleb Watts.

19 Thereupon,

20 CALEB WATTS

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

23 THE COURT: Have a seat up there.

24 THE WITNESS: Good morning, Your Honor.

25 THE COURT: Good morning. Make yourself

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 comfortable. Adjust the microphone to your height. It
2 is going to amplify your voice, Mr. Watts, but it is
3 poor so you are going to have to speak up like I am
4 doing right now.

5 THE WITNESS: Yes, sir.

6 THE COURT: Because that jury needs to hear you.

7 THE WITNESS: Yes, sir.

8 THE COURT: And the parties need to hear you,
9 okay?

10 THE WITNESS: Yes, sir. Thank you.

11 THE COURT: Start by stating your full name and
12 spelling your last name for the court reporter.

13 THE WITNESS: My name is Caleb Watts. My last
14 name is W-A-T-T-S.

15 THE COURT: Your witness, Counsel, direct
16 examination.

17 MS. SWANSON: Thank you.

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Mr. Watts, who were you working for on April 18th,
21 2017?

22 A The Beaufort County Sheriff's Office.

23 Q All right. And in what capacity?

24 A I was a lance corporal working northern
25 enforcement, conducting enforcement activities north of the

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 Broad.

2 Q So, were you a road deputy at that time?

3 A Yes, ma'am, I was a road deputy responding to 911
4 calls.

5 Q Okay. And up until last week, I believe, were you
6 still employed by the Sheriff's Office?

7 A That's correct, yes, ma'am.

8 Q Did you resign because you took another job?

9 A I did. I am currently -- my job, I start February
10 the 24th with the University of South Carolina.

11 Q Okay. As a security officer?

12 A Yes, ma'am.

13 Q Okay. So, just so that there is no confusion,
14 that is why I'm calling you Mr. Watts?

15 A Yes, ma'am.

16 Q All right. Were you on duty April 18th of 2017?

17 A I was.

18 Q And did you respond to a call on St. Helena?

19 A I did, yes, ma'am.

20 Q Can you tell me about that? Where did you
21 respond?

22 A I can, yes, ma'am. On April the 18th, 2017 I
23 responded to [REDACTED] on the island of St. Helena.
24 I responded there for a rape that had just occurred. I got
25 there on scene and spoke to Ms. Alfreda Thompson. She --

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 Q Without saying what she said.

2 A Okay.

3 Q You spoke with Ms. Thompson. Who else did you
4 speak with?

5 A Mr. Wesley Smalls and Ms. Jennifer Mack.

6 Q Okay. What time did you respond to [REDACTED]

7 [REDACTED]?

8 A I believe the CAD notes indicate 1807, which is
9 about six, I believe 6:07 p.m.

10 Q Okay. I'm going to show you two pictures.

11 They are State's Exhibits 1 and 2.

12 THE COURT: Do you want to approach?

13 MS. SWANSON: Yes, Your Honor. May I approach the
14 witness?

15 THE COURT: You may approach.

16 BY MS. SWANSON:

17 Q I'll first show you State's Exhibit 1 and ask you
18 if you recognize what is contained in this photo?

19 A Yes, ma'am. That is the victim's residence.

20 Q All right. And so that is the residence that you
21 responded to on April 18th of 2017?

22 A It is, yes, ma'am.

23 Q And is that a fair and accurate depiction of the
24 way that it appeared that day?

25 A It is, yes, ma'am.

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 MS. SWANSON: The State would offer 1 into
2 evidence at this time.

3 THE COURT: Any objection?

4 MS. CAMPBELL: No objection.

5 THE COURT: Ladies and gentlemen of the jury,
6 State's Exhibit No. 1 will be admitted into evidence in
7 the trial of this case without objection. One in
8 evidence. You may publish.

9 *(Whereupon, State's Exhibit No(s). 1 marked for*
10 *identification and received in evidence.)*

11 MS. SWANSON: Thank you, Your Honor.

12 (The exhibit is published.)

13 THE COURT: You can use the screen to your right.

14 BY MS. SWANSON:

15 Q All right. And so we are looking at the front of
16 the house, Mr. Watts?

17 A Yes, ma'am.

18 Q All right.

19 MS. SWANSON: May I approach the witness?

20 THE COURT: You may.

21 BY MS. SWANSON:

22 Q I am going to show you what has been marked as
23 State's Exhibit 2 and ask if you recognize what is contained
24 in this photo?

25 A Yes, ma'am.

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 Q And what is it?

2 A It is the victim's residence.

3 Q Okay. Is that a fair and accurate depiction of
4 the way that it appeared the night that you responded?

5 A Yes, ma'am.

6 MS. SWANSON: State would offer 2 into evidence at
7 this time.

8 THE COURT: As to the State's Exhibit 2, Counsel?

9 MS. CAMPBELL: No objection.

10 THE COURT: Ladies and gentlemen of the jury,
11 State's Exhibit No. 2 will be admitted into evidence in
12 the trial of this case without objection. State's 2 in
13 evidence. You may publish.

14 *(Whereupon, State's Exhibit No(s). 2 marked for*
15 *identification and received in evidence.)*

16 MS. SWANSON: Thank you, Your Honor.

17 (The exhibit is published.)

18 BY MS. SWANSON:

19 Q Okay. And specifically, Mr. Watts, is this the
20 back of the residence?

21 A That's correct, yes, ma'am.

22 Q Okay. Is [REDACTED] on St. Helena located
23 within Beaufort County?

24 A Yes, ma'am.

25 Q All right. Now, after you interviewed -- let me

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 ask you this: Was there anyone besides Alfreda, Wesley
2 Smalls and Jennifer Mack in the residence?

3 A Yes, ma'am. I believe her elderly mother was
4 there. And she was in a back room. If I recall correctly
5 she was sleeping or she was kind of out of the equation, but
6 I believe that she was in the residence.

7 Q Okay. And you did not interview her; right?

8 A I do not remember. My report indicates that I did
9 not. I do not remember talking to her.

10 Q Okay. After you interviewed the witnesses that
11 were present at the house, what did you do at that point?

12 A Yes, ma'am. I obviously had my supervisor on
13 scene, just because of the call. I did collect the victim's
14 underwear and skirt. I also collected the bed sheet
15 where -- from the bed that the incident -- from the room
16 where the incident happened at. I collected DNA buccal
17 swabs, which is merely a swab from the inside of the
18 individual's mouth, for comparisons from Ms. Jennifer Mack
19 and Mr. Wesley Smalls, Jaylynn Mack, and Lee (phonetic)
20 Smalls, and as well as the victim.

21 And then I collected DNA swabs from the main
22 door handle, the storm door handle, the outside and inside.
23 I took digital images of the scene. And later I went to the
24 hospital and got the rape kit that had been performed on the
25 victim.

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 Q Okay.

2 MS. SWANSON: May I approach the witness?

3 THE COURT: You may.

4 BY MS. SWANSON:

5 Q All right. For identification purposes at this
6 time, I am going to show you State's Exhibit 15 and ask if
7 you recognize this bag and what is contained in it?

8 A Yes, ma'am, I do.

9 Q Okay. And you can take a peek in it. What is it?

10 A It appears to be the victim's underwear and her
11 skirt. I can't see the underwear, but I do see the white
12 skirt.

13 Q Okay. And so is this the underwear and skirt that
14 you obtained from [REDACTED]?

15 A That's correct, yes, ma'am.

16 Q Okay. And did you seal this up and place it into
17 evidence?

18 A I did, yes, ma'am.

19 Q All right. And is this your name on this bag?

20 A Yes, ma'am.

21 Q Okay. Thank you.

22 MS. SWANSON: May I approach the witness, Your
23 Honor?

24 THE COURT: You may.

25

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 BY MS. SWANSON:

2 Q I am going to show you State's Exhibit 4 and ask
3 if you recognize what is contained in this picture?

4 A Yes, ma'am.

5 Q What is it?

6 A It appears to be the victim's bedroom. I believe
7 that is the bed where the incident took place at.

8 Q Okay. Is that a fair and accurate depiction of
9 the way that it appeared that evening?

10 A Yes, ma'am.

11 MS. SWANSON: The State would request that 4 be
12 admitted into evidence at this time.

13 THE COURT: As to State's Exhibit 4?

14 MS. CAMPBELL: No objection.

15 THE COURT: Ladies and gentlemen of the jury,
16 State's Exhibit No. 4 will be admitted in the trial of
17 this case without objection. State's 4 in evidence.
18 You may publish.

19 MS. SWANSON: Thank you, Your Honor.

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

22 BY MS. SWANSON:

23 Q Okay. And Mr. Watts, you say that this is the
24 bedroom in which the incident took place?

25 A That's correct. Yes, ma'am.

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 THE COURT: Can you lighten that up a little bit?

2 Jody, can you lighten that up a little bit? That is
3 darkening it.

4 MS. SWANSON: There we go.

5 THE COURT: All right. Proceed.

6 BY MS. SWANSON:

7 Q All right. So, after you obtained swabs from the
8 people that are in the residence for elimination purposes --
9 and just explain to the jury why you do that.

10 A Because of the scene. We had to eliminate the
11 people who had been in the house before, the family members.
12 It would have been possible for their DNA to be all over the
13 place as well. So, when we are trying to find a suspect we
14 have to eliminate any other people who may have been on the
15 scene. Obviously, we can't DNA everyone but family, close
16 family members, we can get DNA swabs from them and eliminate
17 them.

18 Q And is that just in case you have a profile from
19 something that a suspect may have touched?

20 A Yes, ma'am.

21 Q And then your last involvement in the case was
22 meeting the victim at the hospital?

23 A Correct. I met the victim at the hospital and I
24 believe I talked to the SANE nurse. And then I believe that
25 I went back to the hospital and got the rape kit from her.

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 MS. SWANSON: And for identification purposes at
2 this time -- for identification purposes at this time,
3 may I approach the witness?

4 THE COURT: You may.

5 BY MS. SWANSON:

6 Q I'm going to hand you State's Exhibit 11 and ask
7 you if you recognize this item?

8 A Yes, ma'am.

9 Q All right. And what is it?

10 A It is the rape kit that I received from the SANE
11 nurse at Beaufort Memorial Hospital.

12 Q Okay. And when you received it, was it sealed?

13 A I can't remember. I'm sure that I resealed it if
14 it wasn't. And then I placed it into the refrigerator in
15 the evidence room at the Sheriff's Office.

16 Q Okay. So it was either sealed or you sealed it
17 when you got it and then placed it into evidence?

18 A That's correct, yes, ma'am.

19 Q Thank you.

20 MS. SWANSON: All right, Mr. Watts, that is all
21 that I have for you at this time.

22 MS. CAMPBELL: No questions.

23 THE COURT: As to this witness?

24 MS. SWANSON: I would ask that he be allowed to be
25 excused.

DIRECT EXAMINATION OF CALEB WATTS BY MS. SWANSON

1 THE COURT: Any objection?

2 MS. CAMPBELL: No objection.

3 THE COURT: Mr. Watts, you may step down and you
4 are excused from the trial of this case. You may leave
5 the courtroom.

6 THE WITNESS: Thank you.

7 THE COURT: You haven't got any of my exhibits?

8 WITNESS: No, sir.

9 THE COURT: Okay.

10 WITNESS: Thank you.

11 THE COURT: Call your next witness.

12 MS. SWANSON: The State calls Alfreda Thompson.

13 THE BAILIFF: This way, Ms. Thompson.

14 Thereupon,

15 ALFREDA THOMPSON

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

18 THE COURT: Watch your step. There we go. Have a
19 seat. Make yourself comfortable. And, Ms. Thompson,
20 you have a meek voice. That microphone is going to
21 amplify your voice. I need my jury to be able to hear
22 you, so I am going to ask you to speak up a little bit
23 so that they can hear you. They know to raise their
24 hand if they can't hear you, Ms. Thompson. But I need
25 you to speak up so they can understand you as well.

DIRECT EXAMINATION OF ALFRED A THOMPSON BY MS.
SWANSON

1 Jody, can you make sure that it's all the way up?

2 THE CLERK: Yes, sir.

3 THE COURT: Okay. Begin by stating your full name
4 and spelling your last name.

5 WITNESS: My name is Alfreda Thompson,
6 T-H-O-M-P-S-O-N.

7 THE COURT: Your witness, Counsel.

8 MS. SWANSON: Thank you, Your Honor.

9 DIRECT EXAMINATION

10 BY MS. SWANSON:

11 Q Ms. Thompson, where do you live?

12 A I reside with my parents at [REDACTED] in
13 St. Helena Island.

14 Q Okay. And is that in Beaufort County?

15 A Yes, it is.

16 Q Okay. And who all lives there?

17 A My father, my mother, and myself.

18 Q And does your mother suffer from any sort of
19 ailment?

20 A Yes, she has dementia.

21 Q All right. And do you work?

22 A No, I'm retired.

23 Q Okay. And do you help take care of your mother?

24 A Yes, I do.

25 Q All right. Now, let me ask you this: In your

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 medical history, do you have any history of disease?

2 A I have Parkinson's.

3 Q Okay. And are you medicated for that?

4 A Yes, I am.

5 Q Does it affect your memory in any sort of way?

6 A No, it doesn't.

7 Q Okay. Are you able to carry on normal, everyday
8 life?

9 A Yes, I am.

10 Q Okay. And, in fact, are you involved in your
11 church?

12 A Yes, I am a minister at my church.

13 MS. CAMPBELL: Objection, Your Honor, relevance.

14 THE COURT: Sustained. Rephrase that, Counsel.

15 MS. SWANSON: Thank you.

16 BY MS. SWANSON:

17 Q You are able to carry on everyday activities and
18 help care for your elderly mother?

19 A Yes, I am.

20 Q Okay. How old are you?

21 A I'm 65.

22 Q Okay. And Ms. Thompson, in as much detail as you
23 can, can you please tell this jury what happened on
24 April 18th of 2017?

25 A Yes, somebody rang the doorbell. I went to the

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 door. Opened the door. And there was a young man asking
2 for, do we have any yard work to do. And my father had just
3 left going to the commissary. And I said, No, we don't.
4 And I didn't want to be rude and close the main door on him,
5 so I just moved to the side. And then I heard a tinkling at
6 the door, the screen door, and the door popped open. And
7 this young man came through the door and he reached, he
8 said, Where is your money. And he reached under his shirt
9 and pulled a gun out and put it toward my head and grabbed
10 me and pulled me to the back of the house and raped me.

11 Q I'm going to stop you right there. And I want to
12 show you a couple of pictures, okay.

13 MS. SWANSON: May I approach the witness, Your
14 Honor?

15 THE COURT: You may. Don't block the jury's view
16 when you ask a question. You may approach.

17 BY MS. SWANSON:

18 Q I am going to show you what has been marked as
19 State's Exhibit 3, and ask you if you recognize what is
20 contained in this picture?

21 A Yes.

22 Q What is it a picture of?

23 A The side door to the house.

24 Q Okay. And is --

25 A It is the storm door. Picture of the storm door.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Is that -- is that what the door looked like the
2 night of this incident?

3 A Yes.

4 MS. SWANSON: The State would request that 3 be
5 entered into evidence.

6 THE COURT: Ma'am, you let me know if you can't
7 see. Can you see the witness?

8 THE JUROR: I cannot see the witness.

9 THE COURT: You have to back up. You can't come
10 up there and block their view. Any objection to
11 State's Exhibit No. 3?

12 MS. CAMPBELL: None.

13 THE COURT: Ladies and gentlemen, State's Exhibit
14 No. 3 will be entered into evidence in the trial of
15 this case without objection. You may now publish to
16 the jury.

17 MS. SWANSON: Thank you, Your Honor.

18 *(Whereupon, State's Exhibit No(s). 3 marked for*
19 *identification and received in evidence.)*

20 BY MS. SWANSON:

21 Q Ms. Thompson, if you can look up at this screen
22 right here, this is State's Exhibit 3 which I have just
23 showed you. And you say that it is the side door; is that
24 right?

25 A Yes, ma'am.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Now, is that located towards the back of the
2 residence?

3 A Yes, it is.

4 Q And is this the door that you are speaking of in
5 your testimony?

6 A Yes, this is the door that I answered.

7 Q Okay. And it has -- can you describe -- there is
8 a storm door and then a regular door?

9 A Yes, there is a regular door.

10 MS. SWANSON: May I approach the witness, Your
11 Honor?

12 THE COURT: You may.

13 BY MS. SWANSON:

14 Q I'll show you State's Exhibit 6 and ask you if you
15 recognize what is in this picture?

16 A Yes.

17 Q What is it?

18 A That is the main door, and then the screen door
19 that is locked.

20 Q This is the same door that you were speaking of?

21 A Yes, it is.

22 Q It is just the view from the inside?

23 A Yes.

24 Q Is that the way it looked that night?

25 A Yes.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 MS. SWANSON: The State would request that 6 be
2 entered into evidence.

3 THE COURT: As to State's Exhibit 6?

4 MS. CAMPBELL: No objection.

5 THE COURT: Ladies and gentlemen of the jury,
6 State's Exhibit No. 6 will be admitted into evidence in
7 the trial of this case without objection. State's 6 in
8 evidence. You may publish.

9 MS. SWANSON: Thank you, Your Honor.

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

12 BY MS. SWANSON:

13 Q I'm publishing State's 6. And so, Ms. Thompson,
14 when you left the door you left it open like this?

15 A Yes.

16 Q Okay. And the storm door was shut?

17 A Yes.

18 Q Now, did you ever invite the Defendant in?

19 A No, I didn't.

20 Q I'm going to show you one last picture marked
21 State's 7. Can you describe what is in this photo?

22 A That is the storm side door and wood door and
23 storm door.

24 Q Same door that we have been talking about?

25 A Yes, ma'am.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Is that how it appeared that night?

2 A Yes, ma'am.

3 MS. SWANSON: State would request Exhibit 7 be
4 entered into evidence.

5 THE COURT: As to State's 7?

6 MS. CAMPBELL: No objection.

7 THE COURT: Ladies and gentlemen, State's Exhibit
8 No. 7 will be admitted into evidence in the trial of
9 this case without objection. State's 7 in evidence.
10 You may publish.

11 MS. SWANSON: Thank you, Your Honor.

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

14 BY MS. SWANSON:

15 Q Publishing State's 7. And is this an outside view
16 of that door, Ms. Thompson?

17 A Yes, it is.

18 Q Okay. Before we looked at pictures of the door
19 you had stated that the young man had pulled a gun and
20 shoved you to the back of the residence. Where in the back
21 of the residence did he take you?

22 A He took me to my father's room.

23 Q All right. I am going to show you what has been
24 entered as State's 4. May I approach?

25 THE COURT: You may.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 BY MS. SWANSON:

2 Q And ask if this is the room that you were taken
3 to?

4 A It is.

5 Q Okay. So, State's 4 is your father's room. And
6 where did he place you when he took you to your father's
7 room?

8 A He pushed me on the bed.

9 Q Face first?

10 A Back first.

11 Q Your back was on the bed?

12 A Yes.

13 Q Okay. And then tell us what happened from there.

14 A Well, he grabbed me, pushed me on the bed, then he
15 pulled my skirt and drawers down. And he tried to penetrate
16 me, but it wasn't -- it didn't go through.

17 Q It didn't go all the way in?

18 A Right.

19 Q Did you feel his penis?

20 A Yes, he tried and got frustrated.

21 Q Okay. Now, are we talking about your vagina or
22 your rectum?

23 A My vagina.

24 MS. SWANSON: May I approach the witness?

25 THE COURT: You may.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 MS. SWANSON: Now, Ms. Thompson, for
2 identification purposes, do you recall --

3 THE COURT: Step back so the jury can see. Come
4 around the other side.

5 BY MS. SWANSON:

6 Q I am going to show you what is contained in
7 State's Exhibit 15 for identification purposes. Do you
8 recall law enforcement collecting underwear and a skirt from
9 you?

10 A Yes.

11 Q Do you recognize this underwear?

12 A Yes.

13 Q Okay. And is this the white skirt that you were
14 wearing at the time of the incident?

15 A Yes, it is.

16 Q What were you doing as he was penetrating you, or
17 attempting to?

18 A I was praying.

19 Q You were praying?

20 A I was praying loud.

21 Q Were you saying anything to him?

22 A No, I was just praying.

23 Q Did he -- how many times did he attempt to put his
24 penis all the way inside of you?

25 A It was once.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Okay. Do you recall if he ejaculated or not?

2 A On my skin.

3 Q After he sexually assaulted you, what happened
4 next?

5 A He pulled me from off of the bed and dragged me
6 through the house again saying that he wanted money, where
7 is the money. And I told him, I said, My folks are retired,
8 they don't have any money. And then he got frustrated and
9 he ran through the door.

10 Q Okay. Was there any part of the house that he
11 looked through?

12 A No, just the things -- the way that the house is
13 situated is that my daddy has a table where he keeps his
14 bills and stuff at, and I guess he was shuffling trying to
15 see what was there.

16 Q Okay.

17 MS. SWANSON: May I approach the witness?

18 THE COURT: You may.

19 BY MS. SWANSON:

20 Q Ms. Thompson, I am going to show you what has been
21 identified as Exhibit No. 5 and ask you what is contained in
22 this picture?

23 A Yes.

24 Q What is it?

25 A It is where my dad keeps a lot of his junk.

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 Q Okay. Is that the way that it looked that night?

2 A Yes, it is.

3 MS. SWANSON: The State would request that 5 be
4 placed into evidence at this time?

5 THE COURT: As to State's 5?

6 MS. CAMPBELL: No objection.

7 THE COURT: Ladies and gentlemen of the jury,
8 State's Exhibit No. 5 will be admitted into evidence in
9 the trial of this case without objection. State's 5 in
10 evidence. You may publish.

11 MS. SWANSON: Thank you, Your Honor.

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

14 BY MS. SWANSON:

15 Q So, when you were testifying Ms. Thompson about
16 where your dad puts bills, is this the place where the man
17 rifled through?

18 A Yes, it is.

19 Q Okay. Are there draws in here? I know it is a
20 little bit dark, it is hard to see.

21 A Draws where he keeps his Insulin and Insulin
22 supplies.

23 Q Insulin supply?

24 A Yes.

25 Q Okay. Once the man left, what did you do?

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 A I locked the door and called my sister.

2 Q When law enforcement got there, did you speak to
3 them?

4 A Yes.

5 Q Did you provide them a written statement?

6 A I believe I did.

7 Q Did you provide them a description of the man?

8 A Yes, I did.

9 Q And then the next day, did you meet with the
10 police again?

11 A Yes, I did.

12 Q Did you view a photo line-up?

13 A Yes, I did.

14 Q All right.

15 MS. SWANSON: May I approach the witness?

16 THE COURT: You may.

17 BY MS. SWANSON:

18 Q Ms. Thompson, I'm going to hand you what has been
19 marked as State's 10 and ask if you recognize this document?

20 A Yes, I do.

21 Q Is this the photo line-up that you were presented
22 with?

23 A Yes, it is.

24 Q And did you pick somebody out of this photo
25 line-up?

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 A Yes, I did.

2 Q And how did you indicate that?

3 A I circled it and initialed it and dated it.

4 Q Okay. Prior to viewing this line-up, did an
5 officer read you this paragraph?

6 A Yes, I believe he did. And I signed it.

7 Q This is your signature right here?

8 A Yes, it is.

9 Q And what dates did this occur on? Did it occur on
10 April 19th, 2017?

11 A Yes.

12 Q The day after. And it is dated on here?

13 A Yes, ma'am.

14 Q Okay.

15 MS. SWANSON: The State would move 10 into
16 evidence at this time?

17 THE COURT: As to 10, subject to my earlier
18 ruling?

19 MS. CAMPBELL: Correct.

20 THE COURT: Ladies and gentlemen, State's Exhibit
21 No. 10 will be admitted into evidence in the trial of
22 this case.

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

25 MS. SWANSON: May I publish?

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 THE COURT: You may publish 10 in evidence.

2 MS. SWANSON: And there are two sheets contained
3 in 10, so I will publish both sheets.

4 THE COURT: You are going to have to focus that a
5 little bit so they can read it, or you are going to
6 have to pass it.

7 MS. SWANSON: Yes, I am going to present testimony
8 on it.

9 BY MS. SWANSON:

10 Q Now, let me ask you this: Just going back before
11 the photo line-up, the night of the incident, did you go to
12 the ER?

13 A Yes, the officer recommended me do that.

14 Q Okay. And did you participate in a sexual assault
15 exam?

16 A Yes, I did.

17 Q So, a nurse came in and took various swabs from
18 you?

19 A Yes.

20 Q And collected things?

21 A Yes.

22 Q Physical evidence?

23 A Yes.

24 Q Do you see the same man that assaulted you in the
25 courtroom today?

DIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 A Yes, I do.

2 Q Can you point him out, please?

3 A (Witness pointing.)

4 Q Okay.

5 MS. SWANSON: Let the record reflect that she
6 pointed to the young, African American male at the
7 defense table.

8 Please answer any questions that Ms. Campbell may
9 have for you.

10 THE COURT: Cross-examination.

11 MS. CAMPBELL: May it please the Court, Your
12 Honor.

13 If it pleases the Court, may I come a little bit
14 closer to Ms. Thompson?

15 THE COURT: Absolutely. Just don't block my
16 jury's view.

17 MS. CAMPBELL: I won't.

18 THE COURT: And if you want to, Jody, if you have
19 enough cord you can pull the microphone down if she has
20 trouble hearing you.

21 MS. CAMPBELL: Okay. Thank you, Judge.

22 CROSS EXAMINATION

23 BY MS. CAMPBELL:

24 Q Good morning. Can you hear me?

25 A I can hear you well.

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 Q Good. I am going to try to hear you and what you
2 are saying, okay?

3 A All right.

4 Q All right. Perfect. Ms. Thompson, you told the
5 prosecutor that you suffer from Parkinson's, right?

6 A Yes, I am being treated at MUSC and my neurologist
7 is Dr. Katherine Cooper.

8 Q And when did you first start going to the doctor
9 for your Parkinson's?

10 A I say 2015.

11 Q Okay, 2015. Ms. Thompson, what were your symptoms
12 that caused you to go to the doctor for the Parkinson's?

13 A Well, I had trouble walking and using my motor
14 skills so I was referred to a neurologist in Charleston, and
15 they put me on treatment. And I'm doing very well with it.

16 Q So, they gave you some medication?

17 A Yes.

18 Q And you are taking the medication?

19 A Yes.

20 Q And your motor skills and your walking has gotten
21 better?

22 A Yes.

23 Q Now, how long have you lived at [REDACTED]
24 [REDACTED] out on St. Helena?

25 A Well, I would say probably five years.

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 Q Okay. So, around 2015 you moved in with your
2 parents?

3 A Yes.

4 Q Okay. And since 2015?

5 A Yes.

6 Q Moving in with your parents?

7 A Yes.

8 Q Do you remember your father having a young man
9 come and do the yard work at their home?

10 A He had several different people come in and help
11 him do yard work.

12 Q Okay. So, you remember several different, and you
13 said young people. Were they young men or young women?

14 A No, just different people.

15 Q Can you tell us if they were men or women?

16 A Well, men.

17 Q Men, okay. Were they African American, or were
18 they Caucasian; do you remember?

19 A He had several different people work on his yard
20 and stuff. I try not to get involved with it, his stuff.

21 Q Okay. So I'm hearing that you don't remember
22 whether or not they were African American or not?

23 A They were African American.

24 Q They were?

25 A Yes.

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 Q Okay. And they were young or old?

2 A Both I guess.

3 Q Both. Okay. You said that the person who came to
4 the door and we went over, took you into your father's room;
5 is that right?

6 A Yes.

7 Q Okay. Would you help us understand the layout of
8 the bedrooms in that house? So, if I come in that side
9 door, how do I go to get to your father's bedroom?

10 A You come in the side door and you make a right
11 turn and then you make a left turn, and it is a four-bedroom
12 home.

13 Q Are all of the bedrooms down there on the left?

14 A No, you have one off of the living room.

15 Q And whose bedroom is off of the living room?

16 A Mine.

17 Q Okay. And is that --

18 A Then you go to the left, my mother's room is
19 there. And it was a blessing that she didn't move -- that
20 she didn't move while the incident was taking place.

21 Q Okay.

22 THE COURT: Ma'am, you are going to have to speak
23 up a little bit for me. My jury is having trouble
24 hearing you. Repeat the question, Counsel, and let her
25 have another opportunity to answer. My jury is

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 indicating they cannot hear the witness.

2 MS. CAMPBELL: If it please the Court.

3 BY MS. CAMPBELL:

4 Q Ms. Thompson, I'm trying to have you explain to us
5 how you go to get to your father's bedroom once you come in
6 the side door.

7 A Okay, once you come in the side door, you make a
8 left.

9 Q A left?

10 A You go left.

11 Q Okay.

12 A Past the kitchen, past the dining area, and then
13 you bear to your left. And you go straight back to the
14 right.

15 Q Right.

16 A And that's it.

17 Q And who else's bedroom is down on that end?

18 A It is a guest bedroom for my sisters or whoever
19 comes to visit. And my mother's bedroom is the first door
20 on the left.

21 Q Okay. And where is your bedroom?

22 A Off of the living room.

23 Q Off of the living room. Is your bedroom closer to
24 the living area than your father's bedroom?

25 A Yes, but you don't know that there's a room back

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 there.

2 Q You don't know that there is a room back where?

3 A You don't know that there is a room there, because
4 it is an older house and the way that it is situated no one
5 would know that that is a bedroom but those that live there.

6 Q You are talking about your bedroom?

7 A Right.

8 Q I know that you really wanted to get it correct
9 when you made your written statement about what happened,
10 right?

11 A Yes.

12 Q Okay. Did somebody try to explain to you that it
13 was important that you get the information correct on this
14 statement?

15 A No.

16 Q No?

17 A Just had me write a statement.

18 Q Without being told that it was important, you knew
19 that it was important; right?

20 A Yes.

21 Q Okay. So, I am a little confused about how -- the
22 sequence of events. In other words, how things happened,
23 the order that they happened in. You told the prosecutor
24 that the doorbell rang, right?

25 A Yes.

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 Q Okay. That was the first thing that happened; is
2 that right?

3 A Yes.

4 Q Okay. Where were you in the house when the
5 doorbell rang?

6 A I can't recall, probably in the living room
7 because my mother was still laying down.

8 Q Okay. If you can't recall where you were when the
9 doorbell rang, I guess you don't have any idea how long it
10 took to get to the door, or do you?

11 A It doesn't take that long to get to the door. It
12 takes a couple of minutes to get to the door.

13 Q Okay. And the person you saw standing at the
14 door -- well let me back up. Did you have to open the
15 wooden door?

16 A Yes, you have to open the wooden door.

17 Q So you open the wooden door and the person you saw
18 standing there --

19 A Right, at the door.

20 Q -- did you recognize that person as one of your
21 father's yard workers?

22 A I can't recall.

23 Q Do you recall the yard workers who came to help
24 your father, do you recall ever giving them something to
25 drink, something to eat?

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 A I don't, I don't deal with that at all. My father
2 deals with yard people. And if he --

3 Q Okay. So --

4 A I don't get involved in that.

5 Q Okay. So, if I'm understanding, you never gave
6 them anything to drink or eat?

7 A He did.

8 Q He did, okay.

9 A But he wasn't there.

10 Q All right.

11 MS. CAMPBELL: May I approach, Your Honor?

12 THE COURT: You may.

13 (Off-the-record discussion held.)

14 BY MS. SWANSON:

15 Q Ms. Thompson, I am going to ask you --

16 THE COURT: Let her see the statement.

17 Q -- if you recognize your statement. Did you write
18 that?

19 A I probably -- I don't recall, but I signed it.

20 Q Does that look like your handwriting and your
21 name?

22 A No, it says -- I can tell by the signature
23 (inaudible).

24 THE COURT: Ma'am, you have got to speak up.

25 Trasi, if she is going to turn to you like that, she

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 gets away from the microphone and they can't hear.

2 Start over and use the microphone for me, please.

3 A I said I looked at my signature, and probably my
4 motor skills were not strong enough to write, write the
5 statement. But I told them what the statement was and I
6 signed it. Sometimes my hand trembles.

7 Q I thought I heard you say that part of your
8 problem just now was maybe your dementia in recognizing your
9 own statement?

10 A No.

11 Q You didn't use the word "dementia"?

12 A No, I don't have dementia.

13 Q Okay.

14 MS. CAMPBELL: May I approach just one more time?

15 And then I am done.

16 THE COURT: Yes. But don't get her to turn to
17 you. Hand her the statement and you use the
18 microphone, please, Ms. Thompson, so the jury can hear
19 you.

20 BY MS. CAMPBELL:

21 Q Ms. Thompson, would you just read the first
22 sentence of your statement for our jury, please?

23 A I went to the door, and doorbell. I went to the
24 door and he rang the doorbell and asked me if my yard -- if
25 I needed yard work, he could do it and assist. I said my

CROSS EXAMINATION OF ALFREDA THOMPSON BY MS.
CAMPBELL

1 daddy wasn't home.

2 MS. CAMPBELL: That is all that I have.

3 THE COURT: Retrieve it.

4 MS. CAMPBELL: Thank you, Judge. Thank you,
5 Ms. Thompson.

6 THE COURT: Anything further, Ms. Campbell?

7 MS. CAMPBELL: No, sir.

8 THE COURT: Redirect?

9 MS. SWANSON: Thank you, Your Honor.

10 REDIRECT EXAMINATION

11 BY MS. SWANSON:

12 Q Just briefly, Ms. Thompson. When you viewed
13 State's Exhibit 10, which is the photo line-up, did you pick
14 out the person who assaulted you or a person who did yard
15 work for your father?

16 A Who assaulted me.

17 MS. SWANSON: Okay. Thank you, I have nothing
18 further.

19 THE COURT: Recross limited to redirect?

20 MS. CAMPBELL: Nothing, Your Honor.

21 THE COURT: You may step down, Ms. Thompson, from
22 the witness stand. Watch your step on my stairs for
23 me.

24 THE WITNESS: Okay.

25 THE COURT: Call your next witness.

REDIRECT EXAMINATION OF ALFREDA THOMPSON BY MS.
SWANSON

1 MS. SWANSON: The State calls Jennifer Snider.

2 Thereupon,

3 JENNIFER SNIDER

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

5 was examined and testified as follows:

6 THE COURT: Make yourself comfortable. Have a
7 seat for me. Adjust that microphone to your height,
8 even though it works poorly. You are going to have to
9 speak up for me. State your full name and spell your
10 last name for the court reporter.

11 THE WITNESS: Jennifer Snider, S-N-I-D-E-R.

12 THE COURT: Thank you, Ms. Snider, speak up. Your
13 witness, Counsel, direct examination.

14 DIRECT EXAMINATION

15 BY MS. SWANSON:

16 Q Investigator Snider, can you tell us who you work
17 for?

18 A Yes, I work for the Beaufort County Sheriff's
19 Office.

20 Q Okay. And back in April 2017, did you have the
21 opportunity to present Alfreda Thompson with a photo
22 line-up?

23 A Yes, I did.

24 Q Was that the extent of your involvement in the
25 rape investigation?

DIRECT EXAMINATION OF JENNIFER SNIDER BY MS. SWANSON

1 A Yes.

2 Q Okay. I am going to show you what has been
3 entered as State's Exhibit 10 and ask if this is the line-up
4 that you presented?

5 A Yes, this is a line-up that I presented.

6 Q And you can open that, Investigator Snider. Can
7 you just briefly go over how you presented that photo
8 line-up to Ms. Thompson?

9 A Yes. What we generally do, and what I did in this
10 case is that we brought her into our northern investigations
11 office to our interview room and I sat down at the table
12 with her and I introduced myself. And prior to showing her
13 the actual photo line-up, I read a set of instructions that
14 we do for every photo line-up that we show.

15 So, I went over the instructions with her.
16 Asked her if she understood. She did understand. And then
17 she signed, dated, and put the time down. And I initialed
18 the instruction sheet. After that I presented her with the
19 line-up.

20 Q Okay. Can you read the instructions for the jury,
21 please, as you read them to her?

22 A You will be asked to look at a group of
23 photographs. The fact that the photographs are shown to you
24 should not influence your judgment. You should not conclude
25 or guess that the photographs contain the picture of the

DIRECT EXAMINATION OF JENNIFER SNIDER BY MS. SWANSON

1 person that committed the crime. You are not obligated to
2 identify anyone. It's just as important to free innocent
3 persons from suspicion as to identify guilty parties.
4 Please do not discuss the case with other witnesses nor
5 indicate in any way that you have identified someone.

6 Q Was she in that room alone when you conducted this
7 photo line-up?

8 A Yes, it was just Ms. Thompson and myself.

9 Q Okay. Was she able to pick someone out?

10 A Yes, she picked out number three and identified
11 that as Mr. Bradley.

12 Q Okay. Law enforcement identified that as
13 Mr. Bradley?

14 A Yes. I was familiar with Mr. Bradley, so I knew
15 that that was Mr. Bradley.

16 MS. CAMPBELL: Objection, Your Honor.

17 THE COURT: Counsel, approach.

18 (Off-the-record discussion held.)

19 THE COURT: Proceed. I'll put my ruling on the
20 record at the appropriate time.

21 MS. SWANSON: Thank you, Your Honor.

22 BY MS. SWANSON:

23 Q How quickly was Ms. Thompson able to pick someone
24 out in that line-up?

25 A It was immediate. She immediately picked him out.

DIRECT EXAMINATION OF JENNIFER SNIDER BY MS. SWANSON

1 Q Okay, thank you.

2 MS. SWANSON: I have nothing further.

3 THE COURT: Cross-examination?

4 MS. CAMPBELL: No questions.

5 THE COURT: As to this witness, Solicitor?

6 MS. SWANSON: I would ask that she be excused,
7 please.

8 THE COURT: Any objection?

9 MS. CAMPBELL: No objection.

10 THE COURT: Very well. You may step down and you
11 are excused from the trial in this case, Ms. Snider,
12 and you may leave the courtroom.

13 THE WITNESS: Thank you, Your Honor.

14 THE COURT: Thank you. Mr. Foreman and ladies and
15 gentlemen of the jury, I am going to take my
16 mid-morning break at this point to give you a chance to
17 stretch your legs, get something to drink, use the
18 restroom. Please do not discuss the case. You have
19 not heard all of the evidence in the case, so please
20 don't discuss the case. I will be right back with you
21 just as soon as I know that everybody has had a chance
22 to use the restroom. Thank you.

23 You may retire to your jury room at this time.

24 (The jury exits the courtroom at 11:22.)

25 THE COURT: Ms. Campbell, I understand you want to

DIRECT EXAMINATION OF JENNIFER SNIDER BY MS. SWANSON

1 place a matter on the record concerning the unsolicited
2 answer of this previous witness, Ms. Snider, who said
3 she was familiar with your client.

4 MS. CAMPBELL: Yes, Your Honor. For the record,
5 in response to a question by the State about the photo
6 ID line-up, she -- the officer looked at a photographic
7 line-up and said, I know Mr. Bradley because I am
8 familiar with Mr. Bradley.

9 THE COURT: Now, first of all, the officer
10 testified that Ms. Thompson picked number three.

11 MS. CAMPBELL: Right.

12 THE COURT: That was the first thing elicited from
13 this witness, which obviously the jury has seen State's
14 Exhibit No. 10, which is the photo line-up. And they
15 have seen that number three had a circle around it in
16 the photograph which was published to the jury, which
17 was admitted into evidence in the trial of this case,
18 and which I held a Neil versus Biggers hearing
19 yesterday in regards thereto.

20 And she then, without any additional question from
21 the Solicitor, and I will say that the Solicitor did
22 not solicit this answer, she volunteered in her answer
23 that she was familiar with Mr. Bradley. That was what
24 I understood her to say. Do I need the court reporter
25 to check it?

DIRECT EXAMINATION OF JENNIFER SNIDER BY MS. SWANSON

1 MS. CAMPBELL: No, I think that the record is
2 clear.

3 THE COURT: Solicitor, do you agree that is what
4 was said?

5 MS. SWANSON: Yes, sir.

6 THE COURT: All right. And your motion,
7 Ms. Campbell?

8 MS. CAMPBELL: Your Honor, I would make a motion
9 for a mistrial introducing the possibility, because
10 this is a law enforcement officer, into to the minds of
11 the jurors that this law enforcement officer is somehow
12 familiar with Mr. Bradley through her profession as a
13 law enforcement officer, which would cast him in a
14 light that is terribly unfavorable, prejudicial, can't
15 be cured by some instruction to the jury, and we would
16 move for mistrial. Thank you.

17 THE COURT: Thank you. Ms. Campbell, I understand
18 your motion, and your motion for mistrial is
19 respectfully denied. The witness said, Ms. Snider,
20 that she was familiar with him. She didn't say from
21 her duties of law enforcement. Obviously she could
22 have known him from all sorts of circumstances, other
23 than that. I don't think that it gave grounds from
24 that testimony for a mistrial.

25 You promptly made an objection. It was not a

DIRECT EXAMINATION OF JENNIFER SNIDER BY MS. SWANSON

1 statement solicited by the State in their question, it
2 was volunteered. And I don't think that it rises to
3 the level of legal prejudice necessary to declare a
4 mistrial in this case. Therefore, your motion is
5 respectfully denied.

6 We will take our break at this time. Ms. Campbell
7 and Solicitor, I warn you I read Ms. Campbell's motion
8 and memorandum in support of her motion to suppress
9 jail phone calls. Do not call any witness until I have
10 had an opportunity. I promised Ms. Campbell to rule on
11 that matter. I reviewed it last night. We will be in
12 recess for ten minutes.

13 (Whereupon, a brief recess was taken.)

14 THE COURT: We have to wait. We used to have two
15 restrooms in the jury room, but no more. Now we have
16 one, so we have to wait until all of the jurors use the
17 restroom.

18 Bring us the jury, Norm.

19 THE BAILIFF: Yes, sir.

20 (The jury enters the courtroom at 11:44 a.m.)

21 THE COURT: Call your next witness.

22 MS. SWANSON: Thank you. The State calls Wesley
23 Smalls.

24 Thereupon,

25 WESLEY SMALLS

DIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

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

3 THE CLERK: Thank you, sir. Watch your step
4 coming up.

5 THE COURT: Watch your step on the stairs there.
6 Have a seat on the witness stand. That microphone is
7 going to amplify your voice, but unfortunately it
8 doesn't work very well. So you can't sit that far back
9 from it, you will have to get close to it. We will
10 push it to you. Whatever is comfortable.

11 THE BAILIFF: Up close to your mouth, okay.

12 THE COURT: I want you to speak up so everybody on
13 the jury can hear you. Speak up and state your full
14 name and spell your last name for the court reporter.

15 THE WITNESS: Wesley Smalls, S-M-A-L-L-S.

16 THE COURT: Everybody hear him all right? Your
17 witness, Counsel, direct examination.

18 MS. SWANSON: Thank you, Your Honor.

19 DIRECT EXAMINATION

20 BY MS. SWANSON:

21 Q Mr. Smalls, tell me how you are related to Alfreda
22 Thompson.

23 A That is my daughter.

24 Q All right. And where do you live?

25 A [REDACTED], St. Helena.

DIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

1 Q Were you present at the house during the assault
2 in April of 2017?

3 A I was not.

4 Q Were you there when police arrived?

5 A Maybe, I don't know. I believe so. I believe so.

6 Q Okay. But did you talk to police at some point?

7 A Yes.

8 Q And did you view a photo line-up?

9 A Yes.

10 Q Were you asked about people that had done yard
11 work for you?

12 A Yes, I had some people did some yard work for me.

13 Q Okay. And did you, did you give police the name
14 of someone who could point them in the right direction?

15 A Well, the day before a couple -- a day before or a
16 couple of days before I had two gentlemen came to clean my
17 yard for me.

18 Q Okay. Young or old?

19 A I consider over 21.

20 Q Okay. And whose name did you give to law
21 enforcement?

22 A I couldn't say for sure, but I know that it was
23 the person that I, that I -- always comes to the house when
24 he wants something to do, and he don't live too far from
25 where I live.

DIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

1 Q Okay. Leonard?

2 A That sounds -- anyway, I can identify him by his
3 face.

4 Q Okay. Let me ask you this: Did law enforcement
5 show you a photo line-up and ask you to identify someone who
6 had done yard work for you?

7 A Yes, they did.

8 Q Okay.

9 MS. SWANSON: May I approach the witness, Your
10 Honor?

11 THE COURT: You may.

12 BY MS. SWANSON:

13 Q I'm going to show you what has been marked as
14 State's Exhibit 9 and ask if you recognize what is contained
15 in this envelope?

16 A Yeah. Yeah.

17 Q And what is it?

18 A Picture of the gentleman who did some work for me
19 before.

20 Q Okay. Is this the line-up that law enforcement
21 showed you?

22 A Yes.

23 Q And is that your signature on the back of it?

24 A That is my signature.

25 Q And did you view this with law enforcement the day

DIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

1 after the assault?

2 A Yes.

3 Q Okay.

4 MS. SWANSON: The State moves to enter 9 at this
5 time.

6 THE COURT: As to State's 9?

7 MS. CAMPBELL: No objection.

8 THE COURT: Ladies and gentlemen of the jury,
9 State's Exhibit No. 9 will be admitted into evidence in
10 the trial of this case without objection. State's 9 in
11 evidence. You may publish.

12 MS. SWANSON: Thank you.

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

15 BY MS. SWANSON:

16 Q Just one more question. Did you circle the person
17 that had done yard work for you?

18 A Yes.

19 MS. SWANSON: And I'm publishing the picture
20 portion, the six-pack line-up of State's 9 at this
21 time.

22 THE COURT: Publish both pages.

23 MS. SWANSON: And the written portion of State's
24 9.

25

DIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

1 BY MS. SWANSON:

2 Q And, sir, you said that this was your signature?

3 A That is right.

4 Q Okay. Did law enforcement read to you that
5 paragraph when they showed you the photo line-up?

6 A Yes.

7 Q Okay. Were you in the room alone when you viewed
8 the photo line-up?

9 A No.

10 Q Well, I mean, with an officer?

11 A Yeah.

12 Q Okay. Were you with your daughter in the room, or
13 was she in a separate room?

14 A In the living room.

15 Q Okay. No, I meant when you were shown the
16 line-up. Did you view it by yourself?

17 A Yes.

18 Q Okay. Thank you.

19 MS. SWANSON: Please answer any questions that
20 Ms. Campbell may have for you.

21 THE COURT: Cross-examination?

22 MS. CAMPBELL: May it please the Court.

23 CROSS EXAMINATION

24 BY MS. CAMPBELL:

25 Q Mr. Smalls, I'm Ms. Campbell. How are you?

CROSS EXAMINATION OF WESLEY SMALLS BY MS. CAMPBELL

1 A Trying to make it.

2 Q Me too. The police took pictures of your bedroom.

3 And if I could, I would like to show you these pictures and

4 you tell me if that is your bedroom?

5 A You may.

6 MS. CAMPBELL: Okay. May I approach?

7 THE COURT: You may. You are talking about

8 something that is in evidence?

9 MS. SWANSON: I am not. It is not in evidence.

10 THE COURT: Counsel, any objection?

11 MS. SWANSON: No objection, as long as it's not

12 going to be published to the jury.

13 MS. CAMPBELL: It is not.

14 THE COURT: Proceed.

15 MS. CAMPBELL: Thank you.

16 BY MS. CAMPBELL:

17 Q Mr. Smalls, do you recognize that dresser?

18 A Yes, that is my dresser in my room.

19 Q In your room, okay, good. And can you let me know

20 if anything looks like it's been disturbed on your dresser,

21 everything like it's supposed to be?

22 A I keep it kind of junkie sometimes.

23 Q Yeah, it's junkie. Okay. Is anything turned

24 over, no?

25 A Huh?

CROSS EXAMINATION OF WESLEY SMALLS BY MS. CAMPBELL

1 Q Anything turned over on your dresser?

2 A It's been a long time, so I can't say for sure.

3 But I tell you one thing, I had my, my medicine bag --

4 THE COURT: Use the microphone. Don't look at
5 her, speak into my microphone so that the jury can hear
6 you. Go ahead.

7 A I had my medicine bag with all of my medicine and
8 everything that I keep in it, plus I had a few stuff on my
9 bed.

10 Q Right, okay. And then when you got back into your
11 room, some things had been taken out of your room like the
12 bed cover and things like that, right?

13 A That's correct.

14 Q Okay. And in your bedroom, do you keep your shoes
15 all lined up Mr. Smalls?

16 A That is right.

17 Q At the floor right in front of your dresser?

18 A That's right.

19 Q Okay. And they are all in a straight line there,
20 aren't they?

21 A Yes, but sometime they not, sometimes when I take
22 them off -- according to your picture there that is the way
23 it was.

24 Q Okay. Thank you, Mr. Smalls. Mr. Smalls, you
25 have had some young men from around the way help you do yard

CROSS EXAMINATION OF WESLEY SMALLS BY MS. CAMPBELL

1 work, right?

2 A Up the street off Fernie Drive.

3 Q Yes, sir. And one of those fellows was named
4 Leonard, right?

5 A Yeah.

6 Q Okay. And Leonard is an African American man,
7 right?

8 A Correct.

9 Q Okay. And Leonard, would he come sometimes with
10 someone else to do yard work?

11 A No, someone else came and got -- said he know
12 someone who would help him and it was Leonard.

13 Q So who -- this other person, so there was at least
14 two African American men who did yard work for you, right?

15 A Just one time. Every time that they would want
16 some money, they will come to do some yard work.

17 Q Okay. And you, at one point, let them do some
18 yard work, right?

19 A Yes.

20 Q And did you pay them for doing that yard work?

21 A That's right.

22 Q Okay, good.

23 A Every time that they would finish, I would give
24 them the money that they ask for.

25 Q Every time they do the yard work, you pay them a

CROSS EXAMINATION OF WESLEY SMALLS BY MS. CAMPBELL

1 little bit of money, right?

2 A Yeah.

3 Q Good. Now, you remember -- you told the
4 prosecutor you remember talking to the police officers about
5 whatever went on, right?

6 A About -- about after the situation happened to my
7 daughter, they don't -- they live off of the ballpark and
8 off of Earnest Drive.

9 Q Okay, good. So, you told them, I think that you
10 can find these people over on Ballpark Road, right?

11 A That's right.

12 Q Okay. Stay with me one second. Do you remember
13 telling the police that you had talked to these people
14 multiple times who were doing your yard work?

15 A Yeah.

16 Q Okay. And that there was a, as you describe them,
17 it would be a black male, two black males, right?

18 A Yes, ma'am.

19 Q Okay. And you felt like you could identify maybe,
20 if shown a photograph, one of the people that had done yard
21 work for you in your yard at [REDACTED]; right?

22 A [REDACTED].

23 Q Excuse me, [REDACTED]. You said, I think, I
24 think that I can identify the boy that has done this yard
25 work; right?

CROSS EXAMINATION OF WESLEY SMALLS BY MS. CAMPBELL

1 A Yes.

2 Q And that is exactly what you did?

3 A That's correct.

4 Q You identified the boy in the photograph that the
5 prosecutor showed you in State's Exhibit 9 of the young boy
6 who had done your yard work, correct?

7 A Correct.

8 Q Okay.

9 MS. CAMPBELL: That is all that I have. Thank
10 you, Judge. Let me get out of the way.

11 THE COURT: Redirect?

12 MS. SWANSON: Thank you. Just briefly.

13 REDIRECT EXAMINATION

14 BY MS. SWANSON:

15 Q Mr. Smalls, when Ms. Campbell was asking you about
16 whether or not things were in place or knocked over, you
17 started to talk about some stuff on the bed and a medicine
18 bag. Can you tell us what you were trying to say about
19 those items? Were those out of place?

20 A Yeah.

21 Q Okay. So, they were not as you left them?

22 A No.

23 Q Tell us how they were.

24 A In the bag, in my blue bag, medicine bag, I had
25 all of my -- that is where I keep all of my medicine. And I

REDIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

1 always keep it there so whenever I need to go to the doctor
2 or anywhere it is easy for me to grab and take it. From
3 there to the kitchen where I sit, I take all of my medicines
4 and put it in there and take it when I go to the doctor.

5 Q Okay. So, how did you find your bag when you got
6 back to the house; had it been disturbed?

7 A Yes, it was not in the place where I left it at.

8 Q Okay. And what things were not on your bed or in
9 the same place as you left them, do you recall?

10 A Things were not exactly the same as I left it.
11 That is all that I can tell you.

12 Q Okay.

13 MS. SWANSON: May I approach the witness?

14 THE COURT: You may.

15 BY MS. SWANSON:

16 Q Would it help if I showed you what has been
17 entered as State's Exhibit 4? Is that your bedroom?

18 A That is my bedroom.

19 I will tell you this much, I'm not as young
20 as I used to be. And I can't tell you exactly what is what,
21 but I know my room when I see it and I know that I leave
22 stuff in there and it should be the same way as when I leave
23 it, and when I come back that is not the way that it was.

24 MS. SWANSON: Thank you. That is all that I have,
25 sir. Thank you.

REDIRECT EXAMINATION OF WESLEY SMALLS BY MS. SWANSON

1 THE COURT: Recross limited to redirect?

2 MS. CAMPBELL: Nothing further.

3 THE COURT: As to this witness?

4 MS. SWANSON: I ask that he be allowed to be
5 excused.

6 THE COURT: Any objection?

7 MS. CAMPBELL: No objection.

8 THE COURT: You may step down, Mr. Smalls. You
9 are excused from the trial of this case. You may leave
10 the courtroom.

11 THE WITNESS: Thank you very much.

12 THE COURT: Thank you. Be careful on those
13 stairs. Call your next witness.

14 MS. SWANSON: The State calls Jason Malphrus.

15 Thereupon,

16 JASON MALPHRUS

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

19 THE COURT: State your full name and spell your
20 last name, please, for the court reporter.

21 THE WITNESS: Jason Malphrus, M-A-L-P-H-R-U-S.

22 THE COURT: Speak up for me, Mr. Malphrus, you
23 know what to do. Your witness, direct examination.

24 MS. SWANSON: Thank you, Your Honor.

25 DIRECT EXAMINATION

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 BY MS. SWANSON:

2 Q Investigator Malphrus, can you tell us who you
3 worked for and what your position was in April of 2017?

4 A I was employed in Beaufort County Sheriff's
5 Office. I worked in the criminal investigation section at
6 the time.

7 Q All right. Were you involved in the investigation
8 regarding a sexual assault, the sexual assault of Alfreda
9 Thompson?

10 A I was.

11 Q All right. Tell us what your involvement was.

12 A How it started, I was at the patrol team shift
13 brief around 6:30 that afternoon. Corporal Watts was
14 already at the scene, he had been dispatched to the scene.
15 I'm sitting in the deputies' room with his supervisors. He
16 made a phone call to his supervisors and said, Hey, I think
17 that we have a sexual assault out here, kind of advising
18 what was going on. I spoke with Corporal Watts on the
19 phone, just to kind of get a gist of what was going on. And
20 then I responded out to the house, examine the house a
21 little bit, and then I spoke with the victim briefly at the
22 hospital.

23 Q When you spoke with Alfreda Thompson, were you
24 able to obtain a description of the suspect?

25 A Basically a young black male.

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 Q What did do you after that?

2 A I interviewed -- I interviewed Mr. Smalls, who we
3 just heard from. The information I had, so you can see it
4 through my eyes, we have a young black male, comes to the
5 door, asks to do some yard work and Ms. Thompson said, No.
6 He came in and the assault occurred. I spoke with
7 Mr. Smalls and he said that there is a -- there has been a
8 black male come over to the house to ask to do yard work
9 before, and that is how we got on Mr. Leonard, Reginald
10 Leonard. He advised that Mr. Leonard had done some work
11 before. He had another young man help him with the yard.
12 He didn't remember who the young man's name is, but maybe
13 Mr. Leonard did.

14 Q Did you end up speaking with Mr. Leonard?

15 A I spoke to Mr. Leonard. Have you ever done yard
16 work for Mr. Smalls, anybody helped you.

17 MS. CAMPBELL: Objection, hearsay.

18 THE COURT: Sustained. Don't refer to what
19 someone else said, just what you know from your own
20 personal observation, without what you heard someone
21 say. Objection sustained. Rephrase the question.

22 BY MS. SWANSON:

23 Q Did you speak with Mr. Leonard?

24 A I did.

25 Q Were you able to obtain a name from Mr. Leonard?

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 A I was not.

2 Q Okay. Did you speak with any other witnesses in
3 the neighborhood?

4 A I did.

5 Q Okay. And what did you ask them about?

6 A I basically walked the neighborhood around the
7 victim's house knocking on doors and asking people, do you
8 guys know any young black male, may walk around and ask for
9 money or ask to do yard work from time to time.

10 Q Okay. Eventually did you come up with a name?

11 A I did. One of the residents that I spoke with
12 said --

13 MS. CAMPBELL: Objection, hearsay.

14 THE COURT: Sustained. Rephrase the question.

15 Mr. Malphrus, so you know, I know that you know, don't
16 refer to, unless I authorize you to do it, don't refer
17 to what someone else said.

18 THE WITNESS: Yes, sir.

19 THE COURT: You can testify to what you saw from
20 your eye sight and what you personally observed, we are
21 not limiting you in that, but not what someone else
22 said unless I authorize you to do so. Do you
23 understand?

24 THE WITNESS: Yes, sir.

25 THE COURT: Very good. Rephrase the question.

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 Objection sustained.

2 BY MS. SWANSON:

3 Q Were you able to come up with a suspect through
4 those interviews?

5 A I did.

6 Q And did you place that suspect in a photo line-up?

7 A I did.

8 Q Okay. Now, photo line-up was shown to who?

9 A I showed a photo line-up to Mr. Smalls.

10 MS. SWANSON: May I approach the witness?

11 THE COURT: You may.

12 BY MS. SWANSON:

13 Q I'm going to hand you what has been entered as
14 State's Exhibit 9 and ask if this is the line-up that you
15 showed to Mr. Smalls?

16 A Yes, it is.

17 Q Okay. And for what purpose was that line-up shown
18 to Mr. Smalls?

19 A The purpose of this line-up was to identify the
20 person that he saw coming to the house wanting to do yard
21 work prior to the incident.

22 Q Okay. Thank you. When you showed Mr. Smalls this
23 line-up, did you read the paragraph --

24 A I did.

25 Q -- that he signed below?

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 A Yes, ma'am.

2 Q Okay. Did you ask that Jen Snider also show the
3 line-up to Alfreda Thompson?

4 A I did.

5 Q And for what purpose?

6 A To identify the suspect of the assault.

7 Q When you showed the line-up to Mr. Smalls, how
8 quickly was he able to pick out the person that he
9 recognized?

10 A I read the instructions, turned it over to him, he
11 viewed it and identified him. I don't have a time frame.
12 It wasn't super long. I would say normal. Long enough to
13 view the photographs -- long enough to view the pictures.

14 Q Okay. Who did you end up obtaining warrants on?

15 A I obtained warrants on Mr. Bradley.

16 Q Okay. What is his first name?

17 A Darryl.

18 Q All right. And was he in the number three slot in
19 those photo line-ups?

20 A He was.

21 Q And is he in the courtroom today?

22 A He is.

23 Q Can you point him out for me?

24 A (pointing.)

25 Q When did you attempt to locate Mr. Bradley?

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 A I obtained warrants on the 19th. Give me just one
2 second. I believe it was on the 19th.

3 Q Okay. In reference to the incident, when was
4 that?

5 A The 18th.

6 Q So, it was the day after?

7 A The day after.

8 Q Okay. And where did you go looking for him?

9 A To 24 Saturn Circle, St. Helena Island.

10 Q Was he located there?

11 A He was.

12 Q And what did you do when you located him?

13 A I advised him that he had arrest warrants out for
14 him and that he was under arrest.

15 Q Okay. Did you collect, as the investigator, or
16 did you submit certain evidence to the Beaufort County
17 Sheriff's Office DNA lab for testing?

18 A I did.

19 Q Can you tell us what items you submitted?

20 A Yes, ma'am. I am referring, from the forensic
21 requests, DNA --

22 THE COURT: Use the microphone.

23 A -- DNA swabs from door handles, this would be from
24 the victim's residence. Bed cover, victim's underwear and
25 skirt, sexual assault kit, water cooler, water bottle used

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 by Darryl Bradley, a handgun. Elimination swabs from Wesley
2 Smalls, Jennifer Mack, Alfreda Thompson, and Lee (phonetic)
3 Smalls. White tank top, beige pants, dark colored jeans,
4 off white T-shirt believed to belong to Mr. Bradley.
5 Another off white colored T-shirt, dark colored jeans. Two
6 more pair of dark colored jeans.

7 Q Okay. Did the lab test all of those items, or do
8 you know?

9 A All of the items were sent to the lab for testing.
10 I have to look if they tested each individual one.

11 Q That is okay. At some point did you accompany
12 Darryl Bradley to the hospital to obtain a blood sample?

13 A I did.

14 Q All right. And were you there when the blood was
15 taken from him?

16 A I was.

17 MS. SWANSON: May I approach the witness?

18 THE COURT: You may.

19 BY MS. SWANSON:

20 Q For identification purposes at this time,
21 Investigator, I'm going to show you State's 17 first. Is
22 this a box that you retrieved from the hospital that
23 contained a blood sample from Darryl Bradley?

24 A It has my initials on it, description of evidence,
25 blood from Darryl Bradley DNA sample.

DIRECT EXAMINATION OF JASON MALPHRUS BY MS. SWANSON

1 Q And I'll show you State's 18. Do you recognize
2 this item?

3 A This is part of the blood draw for his DNA. It
4 bears my initials.

5 Q Okay. Was 18 located within 17?

6 A Yes.

7 Q All right. And are these -- this is the blood
8 sample that you took from the hospital and submitted into
9 evidence for testing?

10 A That's correct.

11 Q Okay. Thank you. Was it sealed when you
12 submitted that to evidence?

13 A It was.

14 MS. SWANSON: That is all that I have. Please
15 answer any questions from Ms. Campbell.

16 MS. CAMPBELL: May it please the Court.

17 THE COURT: Cross-examination.

18 CROSS EXAMINATION

19 BY MS. CAMPBELL:

20 Q Just so I can understand the time line, Officer
21 Malphrus, and I apologize, the correct --

22 A That is correct, I will answer to whatever.

23 Q Okay. So you began investigating this case on the
24 18th of April; is that right?

25 A Yes, ma'am, the 18th. The call came in about 6:30

CROSS EXAMINATION OF JASON MALPHRUS BY MS. CAMPBELL

1 in the afternoon.

2 Q Okay. And sometime on the 19th, which would be
3 the following day, you called in -- did you call somebody
4 from SLED down to do a composite, like sketch of the person
5 who had -- Ms. Thompson said --

6 A We did. We had a SLED composite artist or sketch
7 artist.

8 Q Okay. And that was before or after three o'clock
9 on the 19th of April?

10 A We contacted SLED because it was a -- we didn't
11 really have any information or who it may be, so we thought
12 that it would be an investigative lead to get a sketch
13 artist to come down and work on that. While that was going
14 on, I conducted the area canvas that I spoke of and came up
15 with a suspect name. So it's kind of the same time.

16 Q Okay. So, you went back out on the 19th to walk
17 that door to door, or did you do that that night on the
18 18th?

19 A The next day on the 19th.

20 Q Okay. So, if I needed to know the exact sequence
21 of events, what would they be on when the sketch came in and
22 when you presented these photographs of these line-ups here
23 to Ms. Thompson and to Mr. Smalls?

24 A You are asking what time on the 19th?

25 Q Yes, what did you get first? Did you get the

CROSS EXAMINATION OF JASON MALPHRUS BY MS. CAMPBELL

1 sketch first or did you show them these photo line-ups
2 first?

3 A Well, the order of my report. I don't have the
4 specific times on days, but the order of the report says we
5 contacted SLED for a sketch artist to come down. And then
6 the next few steps are the photo line-ups for Ms. Thompson
7 and Mr. Smalls. I can't -- I don't recall if the sketch was
8 completed first before I got a suspect name or the other way
9 around.

10 Q And when we talk about SLED, we mean the South
11 Carolina State Law Enforcement Division?

12 A That's correct.

13 Q Okay. And they are housed up in Columbia?

14 A That is their main office.

15 Q Yeah, okay. So, at some point you went inside [REDACTED]
16 [REDACTED], right?

17 A Yes, ma'am.

18 Q You did?

19 A Yes, ma'am.

20 Q And you walked through the house and tried to
21 determine areas, you know, that might have been disturbed or
22 touched by, you know, this person that Ms. Thompson was
23 telling you had assaulted her; right?

24 A When I got there, I went from the patrol team
25 shift brief out to the house. By this time Corporal Watts

CROSS EXAMINATION OF JASON MALPHRUS BY MS. CAMPBELL

1 had probably been there an hour or so. He had photographed
2 and collected some evidence. When I got there I just kind
3 of did a -- a walk-through of the house, just kind of
4 getting the lay of the land before I went to the hospital.

5 Q Do you remember if sort of the area where
6 Ms. Thompson said, you know, this struggle and sexual
7 assault occurred? Do you remember being in charge, kind of
8 telling them, you know, well get all of that evidence out of
9 that bedroom like the blanket and things like that; would
10 you have done that?

11 A I had a conversation with Corporal Watts prior to
12 me going out there, asked him if he would collect the bed
13 sheet, her clothing, and I think that there was also a blue
14 cooler they alleged Mr. Bradley went through, elimination
15 swabs and a door handle, DNA swabs of the front door.

16 MS. CAMPBELL: So, if I may approach, Your Honor,
17 and I'll show you what has been marked as State's
18 Exhibit 4?

19 THE COURT: You may. Don't block the jury.

20 BY MS. CAMPBELL:

21 Q To the best of your recollection, that is
22 Mr. Smalls' bedroom and his bed, right?

23 A It is a bedroom, I couldn't tell you -- I couldn't
24 recall if this was Mr. Smalls' or Ms. Thompson's.

25 Q Okay. At some point you went and located Mr.

CROSS EXAMINATION OF JASON MALPHRUS BY MS. CAMPBELL

1 Bradley, right?

2 A We did.

3 Q Okay. And when you went and located Mr. Bradley,
4 you were -- you had signed arrest warrants that you had
5 gotten signed on the 19th of April, correct?

6 A That's correct.

7 Q And you took him into custody, correct?

8 A That's correct.

9 Q And when you took Mr. Bradley into custody, he did
10 not fight with you or argue with you?

11 A He did not. I encountered him in the kitchen of
12 the residence. I told him that he had arrest warrants and
13 he surrendered himself for the warrants.

14 Q And you -- I'm guessing at some point then there
15 was a conversation about, later on I guess, a conversation
16 with Mr. Bradley about what had been alleged to have
17 happened; right? I mean, you told him why you were
18 arresting him?

19 A Upon his arrest he was transported to our office.
20 I attempted to interview Mr. Bradley. He elected to retain
21 legal counsel and the interview was terminated.

22 Q Right. So, you told him what he had been charged
23 with, you told him what his rights were, you can get a
24 lawyer, talk to that lawyer?

25 A Yes, ma'am.

CROSS EXAMINATION OF JASON MALPHRUS BY MS. CAMPBELL

1 Q And he chose to do that, right?

2 A He did.

3 MS. CAMPBELL: That is all that I have. Thank
4 you.

5 THE COURT: Redirect?

6 MS. SWANSON: No redirect.

7 THE COURT: You may step down. You have nothing
8 more?

9 MS. SWANSON: No.

10 THE COURT: You may step down.

11 THE WITNESS: Thank you, sir.

12 THE COURT: Call your next witness.

13 MS. SWANSON: Thank you. The State calls Ashley
14 Hildreath.

15 Thereupon,

16 ASHLEY HILDREATH

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

19 THE COURT: Watch yourself on those stairs. Have
20 a seat. Adjust that microphone, which is practically
21 worthless. It is supposed to have a volume, but you
22 have got to talk like I am talking right now so
23 everybody can hear you.

24 Would you begin by stating your full name and
25 spelling your last name for the court reporter?

DIRECT EXAMINATION OF ASHLEY HILDREATH BY MS.
SWANSON

1 THE WITNESS: Ashley Marie Hildreath,
2 H-I-L-D-R-E-A-T-H.

3 THE COURT: Thank you. Ms. Hildreath, speak up
4 for me now.

5 THE BAILIFF: Keep it as close to your mouth as
6 you can.

7 THE COURT: Your witness, Counsel. Direct
8 examination.

9 MS. SWANSON: Thank you, Your Honor.

10 DIRECT EXAMINATION

11 BY MS. SWANSON:

12 Q Ms. Hildreath, can you tell us what you do for a
13 living?

14 A I am a nurse at Beaufort Memorial Hospital.

15 Q And do you conduct sexual assault exams?

16 A I do.

17 Q All right. Did you have an occasion to conduct
18 one on Alfreda Thompson?

19 A I did.

20 Q All right. And when was that, when did that
21 occur?

22 A I don't have the date in front of me but --

23 Q Okay. May I hand you your report?

24 A Yes, please.

25 MS. SWANSON: Any objection, Ms. Campbell?

DIRECT EXAMINATION OF ASHLEY HILDREATH BY MS.
SWANSON

1 MS. CAMPBELL: No objection.

2 MS. SWANSON: This is hers as well.

3 MS. CAMPBELL: That is fine.

4 MS. SWANSON: May I approach the witness?

5 THE COURT: You may.

6 THE WITNESS: Thank you.

7 BY MS. SWANSON:

8 Q All right. So, tell us when you were -- when you
9 examined Ms. Thompson?

10 A It was April 18th, 2017.

11 Q And what time was it?

12 A She was admitted to our hospital at 2048.

13 Q Okay. Which is -- is that 8:48?

14 A P.M. Yes, 8:48 p.m.

15 Q All right. And did you perform what is called a
16 rape kit on the victim?

17 A I did.

18 Q All right. And tell us what that involves.

19 A So, a rape kit or sexual assault kit is an
20 evidence collection and an exam that we do for forensic
21 patients in the emergency room.

22 Q Okay. For identification purposes, I'm going to
23 show you a few items.

24 MS. SWANSON: May I approach the witness?

25 THE COURT: You may. Identify the exhibit number.

DIRECT EXAMINATION OF ASHLEY HILDREATH BY MS.
SWANSON

1 BY MS. SWANSON:

2 Q Ms. Hildreath, I'm showing you State's Exhibit 11
3 for identification purposes. Do you recognize this item?

4 A I do.

5 Q What is it?

6 A That was the sexual assault kit that was
7 collected.

8 Q From who?

9 A From Alfreda Thompson.

10 Q Okay. And this was the evidence that you
11 collected from Alfreda Thompson contained within this kit?

12 A Yes, ma'am.

13 Q Okay. I'm now going to show you an envelope
14 marked State's Exhibit 12 for identification purposes. Do
15 you recognize this item?

16 A I do.

17 Q Did this item come from within that kit?

18 A Yes, it did.

19 Q And what is it?

20 A That is a known DNA standard, so those are the
21 buccal swabs that I performed when I opened the kit from
22 Ms. Alfreda Thompson.

23 Q Okay. And did you seal those item?

24 A I did.

25 Q And place them in this kit?

DIRECT EXAMINATION OF ASHLEY HILDREATH BY MS.
SWANSON

1 A Yes, ma'am.

2 Q I'm now going to show you an envelope marked --

3 THE COURT: Does that item have an exhibit number?

4 MS. SWANSON: It does. It is 12.

5 THE COURT: Let the record reflect that your
6 question was in reference to Exhibit 12.

7 BY MS. SWANSON:

8 Q I'm now showing you an envelope marked Exhibit 13
9 for identification purposes; do you recognize this item?

10 A I do.

11 Q What is it?

12 A Rectal swab that was obtained from Ms. Alfreda
13 Thompson on the same date.

14 Q Did you seal it?

15 A I did.

16 Q And place it within State's Exhibit 11, the rape
17 kit?

18 A I did.

19 Q Also for identification purposes, State's Exhibit
20 14, do you recognize this item?

21 A I do.

22 Q What is it?

23 A Those are vaginal swabs also obtained in the
24 collection of this kit from Ms. Alfreda Thompson.

25 Q Okay. Did you seal this item?

DIRECT EXAMINATION OF ASHLEY HILDREATH BY MS.
SWANSON

1 A I did.

2 Q Okay. And were all of these items sealed and
3 turned over to law enforcement?

4 A They were.

5 Q Okay.

6 MS. SWANSON: Thank you, Ms. Hildreath. I have
7 nothing further.

8 MS. CAMPBELL: May it please the Court.

9 THE COURT: Cross-examination.

10 CROSS EXAMINATION

11 BY MS. CAMPBELL:

12 Q Hi.

13 A Hi.

14 Q Good afternoon.

15 A Good afternoon to you.

16 Q Ms. Hildreath, in these situations everything is
17 pretty much, I think, computerized; right? I mean, you are
18 putting information into a system while you are talking with
19 an individual, correct?

20 A Not necessarily. We do paper charting.

21 Q Okay.

22 A And we do computer charting.

23 Q So, the report that I received, which appeared to
24 all be computer generated, they would have been information
25 that you either input right there on the computer or wrote

CROSS EXAMINATION OF ASHLEY HILDREATH BY MS.
CAMPBELL

1 down and then put in the computer; is that fair?

2 A That's correct.

3 Q Okay. So, I just want to take you through a
4 couple of things to make sure that we understand what you
5 noted when you talked with and examined Ms. Thompson. And
6 so if you have a copy of your report -- okay, so, on the
7 beginning of the report, this report, says emergency room
8 base sheet; do you have that?

9 A That is what it says at the top?

10 Q Yes.

11 A Oh, I see that, yes, ma'am.

12 Q So, the second page after that, I just want to
13 make sure that I understand. Down in the middle of the
14 page, acuity level is two; what does that mean? I don't
15 know.

16 A Yes, ma'am. So, that is based on a triage acuity
17 level. As a patient comes in and we triage them, we make a
18 determination of how acute they are so we know, from a time
19 frame, how quickly they should be seen by a provider.

20 Q What does two mean?

21 A So, it is a five-point scale.

22 Q Okay.

23 A With one being the most acute, two being subacute,
24 and then it goes all the way to five, which is a non-urgent
25 visit.

CROSS EXAMINATION OF ASHLEY HILDREATH BY MS.
CAMPBELL

1 Q And the acuity level is based partially, I assume
2 then, on the report that there's been a sexual assault and
3 you need to examine the patient; is that fair?

4 A Fair. The other part that it's based on is the
5 amount of resources, so kind of a resource intensive number
6 as well.

7 Q You also note in your examination of Ms. Thompson
8 that you noted that the patient did not appear to have any
9 injuries in terms of any bleeding or bruising, anything of
10 that nature; correct?

11 A That's correct.

12 Q You note in your report, which is quite detailed,
13 that I guess on Page 3 here, you go through a series of
14 questions, I would assume, and an examination. And so you
15 note that there are no anal injuries previously, no surgical
16 injuries, things of that nature, just to give you, what, a
17 baseline on the patient's past medical history?

18 A A lot of this -- these are evidence-based tools
19 that have been shown historically to be pertinent to a
20 victim of sexual assault. So they are asked so that we have
21 a baseline to know if there's been a previous annual genital
22 injury or previous surgery to know that there is a baseline.

23 Q Right. Okay.

24 A Uh-huh. (Indicating affirmatively.)

25 Q So, in addition, then you go forward and you

CROSS EXAMINATION OF ASHLEY HILDREATH BY MS.
CAMPBELL

1 confirm, through conversation and through physical
2 examination, that there is a vaginal contact with penis:

3 No, none. Correct?

4 A That is a series of questions that we ask, you are
5 correct.

6 Q So it's been reported to you that there was no
7 penile contact with the vagina, correct?

8 A Correct.

9 Q Okay. And you note in here, Penile contact, anal
10 attempted. And that is a report from Ms. Thompson, correct?

11 A Correct.

12 Q Now, part of the, I guess, record keeping that you
13 do is a notation that Ms. Thompson -- again, if you need to
14 look at your reports, that is fine -- that she was denying
15 that she was in any pain and there was no complaints that
16 she was giving to the ER in terms of any discomfort or
17 physical injuries; is that also correct?

18 A That's correct.

19 Q Also you would note in a situation like this
20 whether or not the individual has changed her clothing,
21 correct?

22 A That's correct.

23 Q And her clothing was changed prior to coming to
24 the hospital, correct?

25 A That is what was reported, yes, ma'am.

CROSS EXAMINATION OF ASHLEY HILDREATH BY MS.
CAMPBELL

1 Q It is also important to note whether or not the
2 individual has showered, or urinated, and things of that
3 nature; right?

4 A Correct.

5 Q To the best of your knowledge in your report,
6 there had been urination but not a shower; is that correct?

7 A That's correct.

8 Q And in assessment in your ER, you listed her
9 condition as good; correct?

10 A Please refer to the page number for me. I'm
11 sorry, I'm not sure which piece of the assessment --

12 Q Page 8.

13 A I'm looking for "good" on this. I don't see it,
14 I'm sorry.

15 MS. CAMPBELL: If I need to approach, Your Honor,
16 if that will help.

17 THE COURT: Counsel, you recall that yesterday,
18 the matter involving a page.

19 MS. CAMPBELL: I do. And I want to make sure that
20 I'm on the right page.

21 THE COURT: You may approach. Let her keep it and
22 you ask the question.

23 THE WITNESS: That is not my charting, but it does
24 say good. I didn't chart that.

25

CROSS EXAMINATION OF ASHLEY HILDREATH BY MS.
CAMPBELL

1 BY MS. CAMPBELL:

2 Q And lastly, in the records from Beaufort Memorial
3 Hospital, there is a notation that Ms. Thompson was
4 suffering from Parkinson's Disease. Do you recall that as
5 well?

6 A I do.

7 MS. CAMPBELL: That is all, thank you.

8 THE COURT: Redirect?

9 MS. SWANSON: No redirect.

10 THE COURT: As to this witness.

11 MS. SWANSON: I would ask that she be allowed to
12 be excused.

13 THE COURT: Any objection, Ms. Campbell?

14 MS. CAMPBELL: No objection.

15 THE COURT: Ms. Hildreath, you may step down.

16 That came from -- who handed this file?

17 MS. SWANSON: Oh, thank you.

18 THE COURT: Thank you. You are excused from the
19 trial of this case. You may leave the courtroom. Call
20 your next witness.

21 MS. SWANSON: The State calls Todd Duncan.

22 THE BAILIFF: Come forward and be sworn, please.

23 THE CLERK: Hey, Todd.

24 Thereupon,

25 TODD DUNCAN

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

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

3 THE CLERK: Watch your step.

4 WITNESS: Okay.

5 THE COURT: Good afternoon, Officer.

6 THE WITNESS: Good afternoon.

7 THE COURT: Please speak up for my jury. That
8 microphone is supposed to amplify your voice. It's
9 worse in here than it was -- as you know, I'm not fond
10 of the microphone system in here. So, I need the jury
11 to be able to hear. Speak up. State your full name.
12 Spell your last name for the court reporter.

13 THE WITNESS: Yes, sir. My name is Todd Duncan.
14 Duncan is spelled D-U-N-C-A-N.

15 THE COURT: Your witness, Counsel, direct
16 examination.

17 MS. SWANSON: Thank you, Your Honor.

18 DIRECT EXAMINATION

19 BY MS. SWANSON:

20 Q Investigator Duncan, can you please tell us who
21 you were working for and what your position was in April of
22 2017?

23 A Yes, I worked for the Beaufort County Sheriff's
24 Office, in the capacity of the northern investigations
25 division, investigator.

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 Q Were you on duty on April 19th of 2017?

2 A I was.

3 Q And did you assist at all in the investigation
4 into the rape of Alfreda Thompson?

5 A I did. I assisted Investigator Malphrus.

6 Q Okay. Tell us how.

7 A He got with me the next morning, which would be on
8 the 19th. The incident occurred on the 18th. He briefed me
9 on what he learned that night. So, I went with him that
10 next morning out to the incident location. We took an
11 alternate source of light to the incident location. We
12 shined the light to see if there was any stains or anything
13 else that was missed that night by patrol deputies. We
14 didn't locate anything else at the house. We learned that
15 the person of interest was a younger black male in his 20s,
16 thin build, and that he possibly lived around in the
17 neighborhood somewhere due to him asking for money doing
18 yard work in the area.

19 So, Investigator Malphrus and I, we canvassed
20 the area which includes, you know, going around door to door
21 knocking on doors asking, Hey, any guys meet this
22 description. Do you know anybody in this area who goes
23 around and does yard work and asks for money.

24 Q Okay. Eventually did you come up with a suspect?

25 A We did. Through several houses, the name Darryl

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 Bradley kept coming up to us, saying that he met the
2 description of a younger black male, thin-build, in his
3 early 20s, late teens.

4 Q Okay. At some point did Beaufort County obtain
5 warrants on Mr. Bradley that day?

6 A It was later in the investigation.

7 Q Okay. Was it after the photo line-ups with the
8 victim and the victim's father were conducted?

9 A Yes.

10 Q Okay. Did you participate in trying to locate
11 Mr. Bradley?

12 A Yes, once the warrants were obtained I assisted in
13 locating Mr. Bradley.

14 Q Were you there when he was located?

15 A I was.

16 Q Where was he located?

17 A We located him at 24 Saturn Circle, which is on
18 St. Helena.

19 Q Okay. Was that his residence?

20 A It was not.

21 Q Okay. Did you come into contact with Mr. Bradley
22 at that location?

23 A Yes.

24 Q All right. What did you do when you first came
25 into contact with him?

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 A When I came into contact with Mr. Bradley, I read
2 him his Miranda rights.

3 Q Okay. Was he advised that he was under arrest?

4 A Yes.

5 Q And for what?

6 A The warrants that were -- we had already.

7 Q Okay. And how did you read him his Miranda
8 Rights?

9 A I usually carry a Miranda card with me. Just
10 habit from working the road all of these years. I had it in
11 my pocket, pulled it out and read the card.

12 Q Okay. Do you have that on you today?

13 A I do.

14 Q Can you read it as you did to him on April 19th?

15 A Yes. It says, You have the right to remain
16 silent. Anything you say can and will be used against you
17 in a court of law. You have the right to talk to a lawyer
18 and have them present with you while you are being
19 questioned. If you cannot afford to hire a lawyer one will
20 be appointed to represent you before any questioning if you
21 wish. You can decide at any time to exercise these rights
22 and not answer any question or make any statements.

23 And then after those rights there's a waiver
24 just to clarify that: Do you understand each of these
25 rights as I have explained them to you, and then, having

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 these rights in mind, do you wish to talk to us.

2 Q Okay. Did you then ask Mr. Bradley any questions?

3 A I did.

4 Q What did you ask him?

5 A Well, we learned already from other people in the
6 house that when we pulled up into the driveway he was
7 looking out of the blinds and then he started --

8 MS. CAMPBELL: Objection, Your Honor, that would
9 be hearsay. He says --

10 THE COURT: Counsel approach. Don't comment about
11 the evidence.

12 MS. CAMPBELL: I'm sorry.

13 (Off-the-record discussion held.)

14 THE COURT: Objection is sustained. Rephrase the
15 question.

16 BY MS. SWANSON:

17 Q Just going back to the exact question that you
18 asked Mr. Bradley and his response.

19 A I asked him a question, Where did he put the gun.

20 Q And what did he say?

21 A His response was, It is under the couch in the
22 living room.

23 Q I am sorry, could you repeat that?

24 A It is underneath the couch in the living room.

25 Q Did you then go collect a gun?

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 A We did.

2 Q Okay.

3 THE COURT: Counsel approach.

4 (Off-the-record discussion held.)

5 THE COURT: Proceed.

6 MS. SWANSON: May I approach the witness, Your
7 Honor?

8 THE COURT: You may.

9 BY MS. SWANSON:

10 Q I'm handing you what has been marked as State's
11 Exhibit 19. Can you identify this item?

12 A Yes, this is the gun that we collected from
13 underneath the couch in the living room.

14 Q Okay. Can you hold that up for the jury to see?
15 And show them that it's locked with a trigger lock.

16 A It is locked going through the trigger, and
17 there's also no magazine in there, so it's unloaded. But
18 this is the weapon that we found in the living room.

19 MS. SWANSON: Thank you. The State would move 19
20 into evidence.

21 THE COURT: As to State's 19?

22 MS. CAMPBELL: No objection.

23 THE COURT: Ladies and gentlemen of the jury,
24 State's Exhibit No. 19 will be admitted into evidence
25 in the trial of this case without objection. State's

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 Exhibit No. 19 in evidence. You may publish.

2 *(Whereupon, State's Exhibit No(s). 19 marked for*
3 *identification and received in evidence.)*

4 MS. SWANSON: Thank you, Your Honor. In case you
5 didn't get a good look, this is State's 19.

6 THE COURT: Have him tell the jury that there's
7 nothing in the clip if you are going to put it in the
8 box.

9 MS. SWANSON: He did.

10 THE COURT: Did you?

11 THE WITNESS: Yes, sir.

12 THE COURT: Proceed.

13 MS. SWANSON: Thank you, Your Honor. May I
14 approach the witness?

15 THE COURT: You may.

16 BY MS. SWANSON:

17 Q I'm going to show you a picture marked State's
18 Exhibit 8. Can you identify what is in this picture?

19 A The same weapon.

20 Q Okay. And does it have the clip in there?

21 A The clip is in the picture, yes.

22 Q Is that the way that it appeared after you
23 collected it?

24 A Yes.

25 MS. SWANSON: The State would move Exhibit 8 into

DIRECT EXAMINATION OF TODD DUNCAN BY MS. SWANSON

1 evidence at this time.

2 THE COURT: As to State's Exhibit No. 8; is that
3 right, Solicitor?

4 MS. SWANSON: Correct.

5 THE COURT: As to State's 8?

6 MS. CAMPBELL: No objection.

7 THE COURT: Ladies and gentlemen of the jury,
8 State's Exhibit No. 8 will be admitted into evidence in
9 the trial of this case without objection. State's 8 in
10 evidence. You may publish.

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

13 MS. SWANSON: Thank you, Your Honor. I'm
14 publishing State's 8 which shows the clip as well.

15 Thank you, Investigator. I have no further
16 questions at this time.

17 MS. CAMPBELL: May I approach, Your Honor?

18 THE COURT: You may.

19 CROSS EXAMINATION

20 BY MS. CAMPBELL:

21 Q Officer Duncan, State's 19 that you have
22 identified and is in evidence, is this the black BB gun that
23 is listed on the police report? I mean, we don't have
24 another gun that we are dealing with, right, just a BB gun?

25 A That is the only gun that is listed, yes.

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 Q That is a black BB gun, correct?

2 A That is how it's listed, yes.

3 Q Because this is what you took out from -- under
4 the ottoman, right?

5 A That's correct.

6 Q And this is a BB gun, correct?

7 A To my knowledge, yes, ma'am.

8 MS. CAMPBELL: Okay. That is all that I have.

9 Thank you.

10 That is all, Your Honor.

11 THE COURT: Redirect?

12 MS. SWANSON: No redirect.

13 THE COURT: As to the witness?

14 MS. SWANSON: I would ask that he be allowed to be
15 excused.

16 THE COURT: Any objection?

17 MS. CAMPBELL: No objection.

18 THE COURT: You may step down, Mr. Duncan. You
19 are excused from the trial of this case. You may leave
20 the courtroom. Call your next witness.

21 MS. SWANSON: May we approach, Your Honor?

22 THE COURT: You may.

23 (Off-the-record discussion held.)

24 THE COURT: Bear with us for a moment, ladies and
25 gentlemen. My law clerk is checking on a matter of law

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 and I will have to rule on a matter of law, and I'll be
2 right back with you.

3 (Pause.)

4 THE COURT: Ladies and gentlemen, there is a
5 matter of law that I need to take up at this time.
6 Your lunch should be here. That is what I was checking
7 on. So, it should be here in a few minutes. So, I am
8 going to stop for you. We are going to continue to
9 work. Because I can promise you that I am going to see
10 that we keep the train moving. But I am going to ask
11 you if you will go to your jury room, and your lunch
12 will be here in 15 minutes.

13 As soon as I know that you all have had a chance
14 to eat lunch, I am not going to take long for lunch.
15 It's a quarter of one and we are going to work now. I
16 would like to start back by a quarter of two.

17 So, everybody get lunch, take a break, stretch
18 your legs. You haven't heard all of the evidence in
19 this case. I hope that you have heard all of the
20 evidence in the case. You now see why I am sensitive
21 about hearing in the courtroom. Because you have so
22 many people that have meek voices sometimes it's
23 difficult to hear, so I appreciate your service very
24 much.

25 I'll be back with you just as soon as I can. We

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 are going to continue to take up a matter of law in
2 here while you have lunch. I'll see you back as soon
3 as I know that you have had a chance to have lunch and
4 a break. Please retire to your jury room.

5 (The jury exits the courtroom.)

6 THE BAILIFF: Jury is clear, Your Honor.

7 THE COURT: Let the record reflect that the jury
8 is outside of the courtroom. Yesterday during pretrial
9 motions, Ms. Campbell had provided me for the first
10 time with a motion and memorandum in support of a
11 motion to suppress any and all jail calls alleged to
12 have been made by the Defendant. The Solicitor has
13 advised me that we are at the point in the trial where
14 her next witness involves jail calls. In order to
15 accommodate Ms. Campbell, I advised her that we would
16 not solicit any testimony in the presence of the jury
17 until I had the opportunity to rule on her motion.

18 Last night I reviewed it in its entirety, her
19 motion and memorandum in support. The witness is who,
20 Solicitor?

21 MS. SWANSON: Jeff Maxwell from the detention
22 center.

23 THE COURT: All right. The witness is Jeff
24 Maxwell from the Beaufort County Detention Center, who
25 would be the next witness. Ms. Campbell, let me hear

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 from you. And, Solicitor, I want to hear from you on
2 this as well.

3 MS. CAMPBELL: May it please the Court, I would
4 like to mark my motion and memorandum so it's part of
5 the record.

6 THE COURT: Absolutely. You want it to be a
7 Court's exhibit?

8 MS. CAMPBELL: Please, Your Honor.

9 THE COURT: All right. Any objection, Solicitor?

10 MS. SWANSON: No.

11 THE COURT: Mona, that would be number what?

12 THE COURT REPORTER: That will be No. 5, Court's
13 Exhibit No. 5.

14 THE COURT: Court's Exhibit No. 5 without
15 objection.

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

18 MS. CAMPBELL: If we could mark it? I need to
19 read it.

20 THE COURT: Tell me when you are ready, Mona.
21 Hold on, she has got to mark it.

22 THE COURT REPORTER: Okay, Judge.

23 THE COURT: All right.

24 MS. CAMPBELL: I'm confident that Your Honor,
25 having reviewed my memorandum, doesn't need for me to

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 read it into the record.

2 THE COURT: Have I ever told you about that? You
3 will like this, Ms. Campbell.

4 MS. CAMPBELL: Okay.

5 THE COURT: When I was a young Assistant Attorney
6 General, I went to argue my first case at the Fourth
7 Circuit Court of Appeals in Richland. And I thought
8 that the smart thing to do would be to go early and
9 watch lawyers experienced in doing that. So, I picked
10 out this lawyer who was arguing an hour before me who
11 was from Washington, D.C. who looked very much like he
12 was very, very experienced.

13 Now, Judge -- well, it won't matter what judge.
14 But anyway, he had a panel with a judge and he hid his
15 hands behind his back and his assistant handed him the
16 Federal supplement and he started quoting from the
17 Federal supplement. And the Judge said, Are you
18 familiar with Rule 13 of this Court? And the lawyer
19 was completely taken aback and said, Judge, I am sorry,
20 I'm not sure what Rule 13 is. He said, The judges of
21 this court are presumed to know how to read. I felt so
22 sorry for that boy I didn't know what to do. But
23 anyway, I have read your memorandum, I have read your
24 motion and you don't need to read it for me, but thanks
25 for offering.

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 MS. CAMPBELL: I think that the first threshold
2 issue that the State has to show, Your Honor, is that
3 they have to, you know, what manner. And it is going
4 to come through Mr. Maxwell. How was this jail call
5 recorded? What was the mechanism by which Mr. Bradley
6 legally and adequately waived --

7 THE COURT: Well, let me stop you right there. We
8 stipulate, Solicitor, for purposes of argument now,
9 that this jail call was not obtained by a warrant, or a
10 court order, or a subpoena; is that correct?

11 MS. SWANSON: Yes, sir.

12 THE COURT: All right. So, there is no valid
13 process, as far as warrants, subpoena, or court order
14 for the jail call. Now, Ms. Campbell, my understanding
15 is that the State is going to elicit testimony from a
16 member of the detention center. And I'm assuming that
17 I am going to hear from the State as to what they
18 advise all inmates before they are booked into the
19 detention center about jail calls because you address
20 that in your motion.

21 You assert that he was not given legally adequate
22 notice to overcome any implication of the rules. Now,
23 first there is a matter of, if there wasn't a warrant
24 did the State use it -- the State intends to use this
25 information at trial against the Defendant. And you

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 object, as I understand it, on the basis that you don't
2 believe there was legally adequate notice. Am I
3 summarizing your argument correctly?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: All right. Then I think that I
6 understand that pretty well. You also argue that even
7 if there was legally notice, or legally adequate
8 notice, that he was singled out during a specific
9 investigation against him. And jail calls are not
10 ordinarily reviewed in the ordinary course of business
11 by officers at the Beaufort County Detention Center?

12 MS. CAMPBELL: Correct.

13 THE COURT: So, I understand that very well.
14 Solicitor, there are two arguments here. You can see
15 there's no subpoena. You can see there's no warrant.
16 You can see there's no court order, as stipulated per
17 this hearing.

18 So I want you to address for me, first of all,
19 whether or not there was legally adequate notice. And
20 even if legally adequate notice, whether or not this
21 individual, this Defendant, Mr. Bradley, was singled
22 out, and during a specific investigation against him,
23 and the jail calls were not reviewed in the ordinary
24 course of business by officers in the Beaufort County
25 Detention Center. Let me hear from you.

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 MS. SWANSON: Your Honor, there is notice given on
2 each phone call when it's placed. There is a recording
3 that is played that says, This phone call is being
4 recorded.

5 THE COURT: Simultaneously with the call?

6 MS. SWANSON: Correct.

7 THE COURT: So, at the time that any call is made,
8 outgoing or incoming, this recording is made saying
9 that we are recording this information. Is it also
10 advised in the recording that it would be used in a
11 court of law? We have your witness here, don't we?

12 MS. SWANSON: Yes, sir. And we have the recording
13 as well. I'm not sure that they are advised of that,
14 however, at the end of this particular recording the
15 Defendant does acknowledge that the phone calls are
16 being recorded. The person that he's speaking to tells
17 him, When we talk again don't say anything more about
18 the case, these are being recorded. And the Defendant
19 states, I know.

20 As far as being singled out, Jeff Maxwell is here
21 and he will tell you that each and every jail phone
22 call is recorded of every inmate, it's not just
23 Mr. Bradley or whoever is coming up for trial. Whether
24 or not every single --

25 THE COURT: And the same recording is played for

CROSS EXAMINATION OF TODD DUNCAN BY MS. CAMPBELL

1 every jail call?

2 MS. SWANSON: Yes, sir. Yes, sir. I do have
3 Mr. Maxwell available to proffer testimony should the
4 Court wish.

5 THE COURT: I think it would be appropriate.
6 Number one, because I need to know what the warning
7 was. I'm assuming -- Ms. Campbell, you are arguing the
8 adequacy of the notice, are you not?

9 MS. CAMPBELL: That is part of it, yes, and then
10 he was singled out.

11 THE COURT: Have you listened to the tape?

12 MS. CAMPBELL: I know what it says, yes.

13 THE COURT: Does the tape say that it could be
14 used?

15 MS. CAMPBELL: No.

16 THE COURT: All right. Then let's bring him in
17 and proffer his testimony so I have an understanding.
18 Come around, Mr. Maxwell. We have been waiting for
19 you. Hope you have been patient for us, we were going
20 to get to you.

21 Thereupon,

22 JEFF MAXWELL

23 was called as a witness, having been first duly sworn,
24 was examined and testified as follows **outside of the**
25 **presence of the jury:**

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 THE COURT: Now, we don't have a jury in here and
2 there is a reason for that. There is a motion
3 concerning your testimony from counsel for the
4 Defendant. They are going to ask you questions about
5 type of notice that inmates receive when a phone call
6 involves the recording of the phone call and whether
7 any other notice is given. There is a question about
8 that and how it's conducted as to any inmate. All
9 right?

10 THE WITNESS: Okay.

11 THE COURT: All right. Solicitor, I'll let you
12 start first.

13 DIRECT EXAMINATION

14 BY MS. SWANSON:

15 Q Officer Maxwell, what are your duties at the
16 detention center in reference to jail phone calls?

17 A I am the care -- I am the caretaker of all of the
18 phone calls. I operate the system and assist inmates if
19 they have any difficulties throughout their time there.

20 Q Okay. Can you explain how the jail phone call
21 system works and the calls are recorded?

22 A When an inmate is first booked into our facility,
23 they are given a PIN number and set up in the IC Solutions
24 phone system. From there they will go to our, one of our
25 phones that is designated as an enrollment phone. And it'll

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 go through and have them say their name and also have them
2 say different words along with "United States". And then
3 when they go to access the phone calls, the phone system
4 will prompt them to say their name or United States for a
5 voice verification.

6 Q Okay. At any point in that whole set-up process,
7 is the Defendant -- is the inmate notified that these calls
8 are recorded?

9 A Yes.

10 Q Okay. Tell us about that.

11 A At the -- once the call has been accepted, that
12 they have made, the statement that they hear is, This call
13 will be monitored and recorded. It is the very last thing
14 that they are told before they go live on their phone call.

15 Q Okay. Are they told prior to making a phone call?

16 A Yes, when we give them the paperwork to enroll, we
17 tell them at that time as well.

18 Q Okay. So, when they enroll they are also told
19 that their phone calls will be recorded and monitored?

20 A Yes, ma'am.

21 Q Are they told when they are enrolled that they
22 could be used against them in court?

23 A I don't believe so.

24 Q Okay. Do you know if there are any signs by the
25 phones that say anything about jail phone calls?

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 A We have signs posted with the enrollment process
2 and stuff like that.

3 Q Do the signs say anything about the fact that the
4 phone calls are recorded?

5 A I don't believe so.

6 Q So, we have a PIN number and a voice
7 authentication system that verifies that it's that
8 particular inmate that is using the phone?

9 A Yes, ma'am. They use the number that is given to
10 them by our jail administration system, which is referred to
11 as an OCA number. And each person in the Spillman has a
12 different number. No two people have the same number. So,
13 it'll be that number and then the four-digit PIN number when
14 they enroll in the system.

15 Q Okay. Is every incoming and outgoing call into
16 the detention center recorded?

17 A Yes, ma'am.

18 Q Yes, okay. And are they subject to random
19 monitoring by you?

20 A Yes, ma'am.

21 Q So, how do you know, or how do you decide whose
22 phone call to listen to?

23 A When I get into the IC Solutions system I can pull
24 up a call sequence number, which is referred to as a CSN on
25 most subpoenas and stuff like that. I can go to a certain

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 call sequence number or I can look up the inmates' name and,
2 say, between the dates from November 30th to December 1st.
3 I can search other ways.

4 Q Okay. Do you monitor some on your own without law
5 enforcement asking?

6 A Yes, ma'am, everyday, for everyday that I'm in the
7 office.

8 Q Just as a matter of course?

9 A Uh-huh. (Indicating affirmatively.)

10 Q Okay. I have no further questions at this time.

11 THE COURT: Cross-examination.

12 CROSS EXAMINATION

13 BY MS. CAMPBELL:

14 Q Officer Maxwell, so if I understand, there's no
15 written notice given to the individual at the detention
16 center that your phone calls are going to be recorded,
17 correct?

18 A There is nothing that they sign, no.

19 Q There's no written notice, correct?

20 A No.

21 Q And there's no written form for them to sign
22 giving away their, or waiving or giving up anything to do
23 with their phone calls being recorded; right?

24 A It is just what it tells them on the prompt on the
25 system is all it tells them.

CROSS EXAMINATION OF JEFF MAXWELL BY MS. CAMPBELL

1 Q That is it?

2 A Uh-huh. (Indicating affirmatively.)

3 Q This is being recorded and that is all?

4 THE COURT: Oh, whoa, whoa, you can't shake your
5 head, you have to say yes or no.

6 A Yes, ma'am.

7 Q Now, as far as singling out Mr. Bradley.

8 A Okay.

9 Q Who called you and asked you to get his phone
10 calls for them?

11 A It would be a subpoena. I believe Mr. Carter, I'm
12 not sure. I get subpoenas all of the time for inmates and
13 stuff. So, I'm not sure who gave me -- I would have to go
14 get the subpoena out of my office. I do not know.

15 Q Okay, yes. Because what you are now saying is
16 that you were issued a subpoena for the phone calls of
17 Mr. Bradley, and that subpoena was issued by the Solicitor's
18 office?

19 A I don't recall, but I get subpoenas for phone
20 calls all of the time.

21 Q Okay. Well, it would be helpful for us if you
22 knew the answer to that. I am sorry, Mr. Maxwell.

23 THE COURT: It would, because I have a stipulation
24 that there was no subpoena. Whoa right there.
25 Solicitor.

CROSS EXAMINATION OF JEFF MAXWELL BY MS. CAMPBELL

1 MS. SWANSON: Yes, thank you. Yes, these phone
2 calls were obtained by law enforcement. We do
3 generally issue a subpoena to Mr. Maxwell in reference
4 to a specific call if we need him to come testify.
5 Sometimes we do subpoena specific phone calls after our
6 review. In this case law enforcement got these calls
7 initially.

8 THE COURT: When he says that he was subpoenaed,
9 he's referring to your subpoena for this trial to bring
10 a tape of the phone call? Or is he referring to, he
11 got a subpoena to go check what was on a phone call
12 initially?

13 MS. SWANSON: No, I believe he's referring to the
14 subpoena that he got for trial. I think he may be
15 confused because sometimes we will subpoena the phone
16 calls.

17 THE COURT: I understand that.

18 MS. SWANSON: Thank you.

19 THE COURT: Ask him that question and clear this
20 up. Because you stipulated there was no process.

21 MS. SWANSON: Okay.

22 REDIRECT EXAMINATION

23 BY MS. SWANSON:

24 Q Officer Maxwell, does law enforcement request
25 specific phone calls at times?

REDIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 A Yes, ma'am.

2 Q Is it always with a subpoena or court order?

3 A It is with a subpoena or a search warrant.

4 MS. SWANSON: Okay. I do not see one in my file.

5 So I am stipulating that it's without one. I do not --

6 I mean, for purposes of my argument --

7 THE COURT: What would it take for you to
8 determine who sent you a subpoena for this phone call
9 in this case?

10 THE WITNESS: I could go check my record. I keep
11 everything on file.

12 THE COURT: We are going to stop. Trasi, I think
13 it's important that we learn this information for
14 purposes of my ruling on this motion. I'll let him
15 stop at this point and check his record and come back
16 to the witness stand after lunch.

17 MS. SWANSON: Thank you, Your Honor.

18 THE COURT: Any objection?

19 MS. CAMPBELL: No objection.

20 MS. SWANSON: No objection.

21 THE COURT: Solicitor.

22 MS. SWANSON: Thank you.

23 THE COURT: Go check -- don't discuss your
24 testimony with anybody, go find out in your records so
25 you are prepared to answer that right after lunch.

REDIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 THE WITNESS: Yes, sir.

2 THE COURT: You may step down?

3 MS. SWANSON: Did you need a CSN number?

4 THE WITNESS: Go ahead and write it down for me.

5 THE COURT: Give him the numbers so that he can
6 check.

7 Thank you. I'll let you get going. Head back
8 here as soon as you can. We are going to give them
9 some time for lunch. We are going to start back at a
10 quarter until 2. If you get back before then, I might
11 be ready to hear from you. And I want y'all to stop
12 and take a break. And Mr. Bradley take a break too.
13 So, we are going to stop at this point for our only
14 lunch break and try to start back in 45 minutes at the
15 most.

16 And I remind you that 5:00 is the deadline for
17 requests to charge. You both have assistants, you
18 ought to use them in the courtroom. They should have
19 been exchanged, numbered, and given to my law clerk and
20 me by 5:00. We are recessed now for lunch. Thank you
21 very much.

22 (Lunch recess.)

23 THE COURT: All right. Let the record reflect,
24 Mona, that the Defendant is now present. Counsel is
25 present. Mr. Maxwell -- is it Mr. Maxwell? Mr.

REDIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 Maxwell is back on the witness stand. And we took a
2 break because I was in the middle -- the jury is not
3 present -- I was in the middle of trying to decide the
4 issue of Ms. Campbell's motion and you were going to
5 check. So, now that you have had a chance to look at
6 your file to see if you can answer the question that
7 was raised.

8 THE WITNESS: Yes, sir.

9 THE COURT: All right. Counsel, ask the question
10 outside of the presence of the jury.

11 MS. SWANSON: Thank you, Your Honor.

12 FURTHER REDIRECT EXAMINATION (PROFFER CONTINUED)

13 BY MS. SWANSON:

14 Q Officer Maxwell, you checked your file regarding
15 Darryl Bradley's pin number and request for jail phone
16 calls. Did you receive a subpoena for these jail phone
17 calls?

18 A Yes, I did.

19 Q Who did you receive it from?

20 A Mr. Jason Malphrus, investigator with the
21 sheriff's office.

22 Q On what date did you receive the subpoena?

23 A May 1st, 2017.

24 Q And it was requesting Darryl Bradley's jail phone
25 calls from which dates?

FURTHER REDIRECT EXAMINATION OF JEFF MAXWELL BY MS.
SWANSON

1 A From his incarceration date of 4-19-17 to the
2 current date.

3 Q Okay.

4 A And it was signed -- it was picked up the same
5 day.

6 MS. SWANSON: May I approach the witness?

7 THE COURT: Do you have a copy, Ms. Campbell?

8 MS. CAMPBELL: I just got it over the break.

9 THE COURT: Apparently we all just got it.

10 MS. SWANSON: Correct. May I approach the
11 witness?

12 THE COURT: You may.

13 BY MS. SWANSON:

14 Q Officer Maxwell, is this a copy of the subpoena
15 that you received?

16 A Yes, ma'am.

17 MS. SWANSON: Okay. The State would offer Court's
18 Exhibit 6 for the record.

19 THE COURT: As a Court's exhibit?

20 MS. SWANSON: Yes, sir.

21 THE COURT: Let Mona mark it. Has she already
22 marked it?

23 MS. SWANSON: It is marked.

24 THE COURT: Do you have the number on it, Mona?

25 THE COURT REPORTER: Yes, sir, number 6.

FURTHER REDIRECT EXAMINATION OF JEFF MAXWELL BY MS.
SWANSON

1 THE COURT: Any objection to Court's Exhibit 6 for
2 this hearing?

3 MS. CAMPBELL: No.

4 THE COURT: Court's Exhibit 6 admitted without
5 objection for purposes of this hearing. Anything
6 further, Solicitor?

7 *(Whereupon, Court's Exhibit No(s). 6 marked for*
8 *identification and received in evidence.)*

9 MS. SWANSON: Nothing further.

10 THE COURT: Ms. Campbell, cross-examination in
11 light of this discovery that we were uncertain about
12 prior to our break.

13 MS. CAMPBELL: Just briefly, Your Honor.

14 RECROSS EXAMINATION

15 BY MS. CAMPBELL:

16 Q So, it's your understanding of the subpoena that
17 you received, that Officer Malphrus specifically singled out
18 Darryl Bradley for you to investigate; correct?

19 A He just wanted the copies of the phone calls. He
20 wanted copies of the phone calls that he had made up to that
21 point.

22 Q Okay. So, all you did was make copies of his
23 phone calls, you didn't listen to them, you just turned them
24 straight over to Officer Malphrus? Did you listen to them?

25 A To some, I have, yes. I listen to phone calls

RECROSS EXAMINATION OF JEFF MAXWELL BY MS. CAMPBELL

1 everyday, ma'am.

2 Q I am talking about in this case.

3 A Yes, I listened to phone calls.

4 Q Okay. So to be clear for the record, you got a
5 subpoena from Investigator Malphrus, you retrieved the phone
6 calls, you then listened to them, and then you turned them
7 over to Officer Malphrus?

8 A I listened to them after I made the copy to verify
9 that everything went over correctly.

10 Q And Darryl Bradley is the only inmate listed on
11 this subpoena, it singled out Darryl Bradley and a specific
12 time frame of April 19th, 2017 to May 1st of 2017; correct?

13 A Yes, ma'am.

14 MS. CAMPBELL: That is all that I have.

15 THE COURT: Redirect?

16 MS. SWANSON: No redirect.

17 THE COURT: Officer, do you receive subpoenas like
18 this for any and all other inmates from officers?

19 THE WITNESS: Yes, ma'am. Yes, sir.

20 THE COURT: The fact that you received one on
21 Mr. Bradley is no different from what you received from
22 an investigator in any other case for a person who is
23 detained in the Beaufort detention center?

24 THE WITNESS: I get them everyday, sir.

25 THE COURT: I see. All right. Any additional

RECROSS EXAMINATION OF JEFF MAXWELL BY MS. CAMPBELL

1 questions from the State in light of the Court's
2 questions?

3 MS. SWANSON: None from the State.

4 THE COURT: From the Defendant?

5 MS. CAMPBELL: Just one more just briefly, Your
6 Honor.

7 FURTHER RECROSS EXAMINATION

8 BY MS. CAMPBELL:

9 Q Your Honor asked you, Mr. Maxwell, if you get
10 these subpoenas all of the time for people who are
11 incarcerated at the jail, right?

12 A Yes, ma'am.

13 Q Okay. And in your filling of those subpoenas, are
14 you investigating whether or -- you, are you investigating
15 safety and the integrity of what is going on at the
16 detention center, or are you just filling the subpoena?

17 A I listen to see if there is any safety issues, but
18 then I comply with whatever they need on the subpoena.

19 Q And you only listen to safety issues for the
20 subpoenas that you get, correct?

21 A Yes, to make sure that there are no security
22 threats or nothing.

23 MS. CAMPBELL: Thank you.

24 THE COURT: Anything further?

25 MS. SWANSON: No, sir.

FURTHER RECROSS EXAMINATION OF JEFF MAXWELL BY MS.
CAMPBELL

1 THE COURT: All right. Now, let me hear from you
2 Ms. Campbell on your motion in light of now we now know
3 what the testimony is of this witness. You are moving,
4 as I understand it, to suppress the phone calls. I'm
5 very familiar with this issue now. So, I now have a
6 much better understanding of circumstances surrounding
7 this thing than I did before when I read your
8 memorandum last night. I wasn't certain what the
9 witness would say. Anything else that you want to tell
10 me that you feel hasn't been covered here?

11 MS. CAMPBELL: No, sir.

12 THE COURT: Does the State want to be heard on
13 this?

14 MS. SWANSON: Your Honor is familiar with the
15 issues.

16 THE COURT: All right. Here is my feeling: When
17 an inmate is incarcerated, obviously, and particularly
18 where they are told in a recording that jail phone
19 calls will be recorded, inmates don't have any
20 expectation of privacy. Because we are dealing with,
21 obviously, whether or not this was a violation of the
22 fourth amendment, inmates cannot ordinarily expect
23 privacy when they speak with visitors, and they
24 certainly can't expect privacy when they speak on the
25 prison phone with people on the outside.

FURTHER RECROSS EXAMINATION OF JEFF MAXWELL BY MS.
CAMPBELL

1 In this case Ms. Campbell argues that -- first,
2 y'all stipulated that there was no subpoena. We now
3 know that there actually was a subpoena. Much
4 different than what y'all started out in my
5 stipulation. But I recognize that neither one of you
6 knew about that until Mr. Maxwell came and enlightened
7 you with his proffered testimony.

8 Not only was there a subpoena here, he says this
9 is in the normal course of his business as custodian
10 for the jail. I find that the notice was adequate. I
11 find that there is no expectation of privacy. And the
12 phone calls are admissible into evidence. And I also
13 would say, because Ms. Campbell argued it, that she
14 want to argue that, even if it was legally adequate
15 notice by telling that it was recorded, that he was
16 singled out.

17 However, he tells me that this happens with any
18 inmate when an officer subpoenas phone calls, that he
19 checks the call and he does it numerous times. And
20 this was not just a singling out of one specific
21 investigation against this Defendant. And for those
22 reasons, I believe the motion is denied and is
23 admissible.

24 Bring us the jury, please, sir.

25 THE BAILIFF: Yes, Your Honor.

FURTHER RECROSS EXAMINATION OF JEFF MAXWELL BY MS.
CAMPBELL

1 THE COURT: I guess we are going to swear him
2 again in the presence of the jury so -- Jody, do that
3 so they see him sworn even though he was sworn before.

4 THE CLERK: I take good care of Jeffrey. I get to
5 see him almost everyday.

6 (The jury enters the courtroom at 2:00 p.m.)

7 THE COURT: Please be seated. Call your next
8 witness, Solicitor.

9 MS. SWANSON: Thank you. The State calls Jeff
10 Maxwell.

11 Thereupon,

12 JEFF MAXWELL

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

15 THE COURT: Mr. Maxwell, will you please State
16 your full name and spell your last name for the court
17 reporter?

18 THE WITNESS: Jeffrey Maxwell, M-A-X-W-E-L-L.

19 THE COURT: Speak up for me, if you would, please,
20 so that the jury can hear you. Your witness, Counsel.
21 Direct examination.

22 MS. SWANSON: Thank you.

23 DIRECT EXAMINATION

24 BY MS. SWANSON:

25 Q Officer Maxwell, where do you work?

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 A I work at the Beaufort County Detention Center.

2 Q Okay. And as part of your duties, do you monitor
3 and store jail phone calls?

4 A Yes, ma'am.

5 Q All right. Can you explain how the jail phone
6 call system works?

7 A When a person is brought into our facility they
8 are assigned a PIN number and they go through a voice
9 verification process on the phone system once they have
10 enrolled. And they can make calls after that.

11 Q Okay. And when they are informed about enrollment
12 into this system, are they informed that those calls are
13 being recorded?

14 A Yes, ma'am.

15 Q All right. And, in fact, are they informed again
16 once they place a phone call?

17 A Every time the call is connected to the calling
18 party, it tells them that the calls are recorded and
19 monitored.

20 Q Okay. And is every call, incoming or outgoing,
21 recorded?

22 A Yes.

23 Q And that is done in the normal course of business?

24 A Yes, ma'am.

25 Q Okay. Were you asked, via subpoena, to pull jail

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 phone calls of Darryl Bradley's?

2 A Yes, ma'am.

3 Q Okay. And was that subpoena from the Beaufort
4 County Sheriff's Office?

5 A Yes, ma'am.

6 Q What are the dates covered in that subpoena?

7 A That would be from April 19th, 2017 up to May 1st,
8 2017.

9 Q Okay. And so would that include April 22nd, 2017?

10 A Yes, ma'am.

11 Q Okay. I'm going to show you State's Exhibit 20
12 and ask if you recognize this item?

13 A This is a copy of a jail phone call.

14 Q Okay. Pulled from Darryl Bradley's records?

15 A Yes, ma'am.

16 Q Okay. And is that a fair and accurate recording
17 of that phone call?

18 A Yes, ma'am.

19 MS. SWANSON: Okay. The State would move to enter
20 and publish at this time.

21 THE COURT: State's exhibit number?

22 MS. SWANSON: I apologize. This is 20.

23 THE COURT: State's Exhibit 20 will be admitted
24 into evidence in the trial of this case, subject to my
25 prior ruling in this case. You may proceed and publish

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 consistent with my ruling, Solicitor.

2 *(Whereupon, State's Exhibit No(s). 20 marked for*
3 *identification and received in evidence.)*

4 MS. SWANSON: I have that on the computer. I
5 won't use the disc, but it is the same as what is on
6 Exhibit 20.

7 (Audio of phone call played for the jury.)

8 MS. SWANSON: I don't have anything further.

9 THE COURT: Cross-examination?

10 MS. CAMPBELL: No questions.

11 THE COURT: AS to this witness?

12 MS. SWANSON: I ask that he be excused, please.

13 THE COURT: Any objection?

14 MS. CAMPBELL: No objection.

15 THE COURT: Mr. Maxwell, you may step down from
16 the witness stand. You are excused from the trial of
17 this case. You may leave the courtroom.

18 THE WITNESS: Thank you.

19 THE COURT: Call your next witness.

20 MS. SWANSON: The State calls Natasha Brown.

21 **Thereupon,**

22 NATASHA BROWN

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

25 THE COURT: Make yourself comfortable. Pull your

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 chair up to that mike. It doesn't work very well, so
2 you are going to have to speak up for me, Ms. Brown. I
3 notice that you have a meek voice, so you will have to
4 talk like I am talking right now so that the jury can
5 hear you, you understand, and the parties? State your
6 full name and spell your last name for the court
7 reporter.

8 THE WITNESS: Natasha Marie Brown, B-R-O-W-N.

9 THE COURT: Everyone hear her all right?

10 JUROR: (Nods in the affirmative)

11 THE COURT: Your witness, Counsel. Direct
12 examination.

13 MS. SWANSON: Thank you.

14 DIRECT EXAMINATION

15 BY MS. SWANSON:

16 Q Ms. Brown, where do you work?

17 A Beaufort Memorial Hospital.

18 Q Okay. And were you there on duty on October 29th
19 of 2019?

20 A Yes.

21 Q Where were you working at that time?

22 A In the lab as a phlebotomist.

23 Q Okay. Did you have the occasion to take a blood
24 sample from an inmate that law enforcement escorted named
25 Darryl Bradley?

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 A Yes.

2 Q Okay. For identification purposes I'm going to
3 show you State's Exhibit 17 and ask if this is the box that
4 contained the blood sample?

5 A Yes.

6 Q Okay. For identification purposes again, State's
7 Exhibit 18. Is this the box that contained the blood sample
8 that you took from Mr. Bradley?

9 A Yes.

10 Q And before it left Beaufort Memorial Hospital, was
11 it sealed?

12 A Yes.

13 Q And was it turned over to Investigator Jason
14 Malphrus?

15 A Yes.

16 Q And was that all noted on the cards on the front
17 of these boxes?

18 A Yes.

19 Q Okay. Thank you.

20 MS. SWANSON: I have nothing further for this
21 witness.

22 MS. CAMPBELL: No questions.

23 THE COURT: As to the witness?

24 MS. SWANSON: I would ask that she be excused at
25 this time.

DIRECT EXAMINATION OF JEFF MAXWELL BY MS. SWANSON

1 THE COURT: Any objection?

2 MS. CAMPBELL: No objection.

3 THE COURT: You may step down, Ms. Brown. You are
4 excused from the trial of this case. You may leave the
5 courtroom. Call your next witness.

6 MS. SWANSON: The State calls Tim French.

7 Thereupon,

8 TIM FRENCH

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

11 THE COURT: Speak up for me. Mr. French, that
12 microphone is just about worthless here in Beaufort,
13 and it's turned up all the way. State your full name,
14 spell your last for the court reporter.

15 THE WITNESS: Timothy French, F-R-E-N-C-H.

16 THE COURT: Your witness, Counsel. Direct
17 examination.

18 MS. SWANSON: Thank you.

19 DIRECT EXAMINATION

20 BY MS. SWANSON:

21 Q Mr. French, where do you work?

22 A I work for the Beaufort County Sheriff's Office in
23 the forensic services laboratory.

24 Q Okay. And what do you do there?

25 A I analyze DNA evidence.

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 Q Okay. Can you tell the jury what your background
2 and education in DNA analysis is?

3 A I have a bachelor of science degree from the State
4 University of New York at Cortland with a major in biology
5 and minors in chemistry and math. Since working in the
6 forensics field I have had additional coursework completed
7 at the FBI academy in Quantico, Virginia in conventional
8 forensic serology, coursework in blood stain analysis system
9 at Serological Research Institute in San Francisco, and
10 advanced DNA training at Mercy University.

11 Q Okay. And how long have you been at the lab here
12 in Beaufort?

13 A Twelve years.

14 Q All right. And were you in DNA analysis the
15 entire time?

16 A Yes.

17 Q All right. Do you have any idea how many cases
18 you have worked on?

19 A I do not. Hundreds.

20 Q All right. Do you recall how many times you have
21 been qualified as an expert in court for DNA analysis?

22 A I believe it's 50.

23 Q Okay.

24 MS. SWANSON: At this time the State would request
25 that the Court declare Mr. French as an expert in DNA

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 analysis.

2 THE COURT: Any objection to qualification?

3 MS. CAMPBELL: None.

4 THE COURT: Ladies and gentlemen of the jury, you
5 are about to hear the testimony of a witness who claims
6 to have special knowledge, skill, training, experience,
7 or education in the field of DNA analysis. Normally
8 the law doesn't permit witnesses to get on the witness
9 stand and testify as to opinions or conclusions. An
10 exception to this opinion rule are for those witnesses
11 whom we call expert witnesses who, if qualified by the
12 Court, are permitted to give such opinions. You should
13 consider the qualifications and the credibility or
14 believability of any expert testimony and the reasons
15 given for his or her opinion. You are not bound by any
16 expert opinion. You give it the weight, if any, to
17 which you deem it should be entitled. Witness is
18 qualified without objection, DNA analysis. You may
19 proceed, Solicitor.

20 MS. SWANSON: Thank you.

21 BY MS. SWANSON:

22 Q Mr. French, can you briefly describe for the jury
23 what DNA is and how you test for it?

24 A DNA is a molecule that you find in every cell of
25 your body. It is the hereditary material. It is what makes

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 us human, but it also makes us unique. How we test for it
2 is we take a sample, whether it is a fluid stain or
3 something like you -- what is called touch DNA where you
4 swab the surface, and you digest the cells. By digest, I
5 mean we put the swab or the stain in a solution that
6 disrupts the cells, the DNA comes out of the cells into the
7 solution and then we amplify that DNA to try to get a DNA
8 profile off of it.

9 Q Can you describe what sort of quality control
10 standards the lab has?

11 A Sure. There is several. First being that we
12 protect ourselves and the evidence from contamination. We
13 wear lab coats, latex gloves, masks so we don't get our DNA
14 on the evidence. When we are examining the evidence we do
15 one item at a time on a sterile surface. We actually bleach
16 down the table that we use. Use paper on top of that table,
17 examine an item, and then when we are done with it, seal it
18 back up in the packaging and move on to the next item. In
19 between each item we bleach the table.

20 There's also -- once we get into the DNA
21 process, there are controls that we use. We use blanks
22 along side of the samples that we are amplifying to make
23 sure that the solution that we are using doesn't have DNA in
24 it. We also use positives and negatives to make sure that
25 the reactions that we are doing are actually doing what they

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 are supposed to.

2 Q Okay. And did you receive a number of items that
3 were requested to be tested by you in the suspected rape of
4 Alfreda Thompson?

5 A Yes.

6 Q Let me start with the first item. Did you receive
7 a rape kit?

8 A I did.

9 Q Okay.

10 MS. SWANSON: May I approach the witness?

11 THE COURT: You may. Don't block the jury.

12 BY MS. SWANSON:

13 Q I'm handing you State's Exhibit 11. Is this the
14 rape kit that you received for analysis?

15 A Yes, it is.

16 Q Okay. How do you know?

17 A I can tell by the case number on the packaging and
18 also by my initials on the seals where I sealed it back up
19 when I was done with the examination.

20 Q Okay. And when it came to you, was it sealed?

21 A Yes, it was.

22 Q Okay.

23 MS. SWANSON: The State would move 11 into
24 evidence at this time.

25 THE COURT: As to State's 11?

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 MS. CAMPBELL: No objection.

2 THE COURT: Ladies and gentlemen of the jury,
3 State's Exhibit No. 11 will be admitted into evidence
4 in the trial of this case without objection. State's
5 11 in evidence. You may publish.

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

8 MS. SWANSON: Thank you.

9 BY MS. SWANSON:

10 Q I'm also going to hand you State's Exhibit 12 and
11 ask you if you recognize this item?

12 A Yes, I do.

13 Q Did that come out of State's Exhibit 11?

14 A Yes, it did.

15 Q What is it?

16 A This is what is called a buccal swab. It is a
17 swab of the cheek cells of an individual. We use that for
18 determining what that person's DNA profile is.

19 Q And whose DNA profile is that purported to be?

20 A This is Alfreda Thompson.

21 Q Okay.

22 MS. SWANSON: The State would move 12 into
23 evidence at this time.

24 THE COURT: As to 12?

25 MS. CAMPBELL: No objection.

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 THE COURT: Ladies and gentlemen, State's Exhibit
2 No. 12 will be admitted into evidence in the trial of
3 this case without objection. State's 12 in evidence.
4 You may publish.

5 *(Whereupon, State's Exhibit No(s). 12 marked for*
6 *identification and received in evidence.)*

7 THE COURT: You may publish.

8 MS. SWANSON: Thank you, Your Honor.

9 BY MS. SWANSON:

10 Q Were you able to establish a DNA profile from
11 State's 12, the buccal swab from Alfreda Thompson?

12 A Yes, I was.

13 Q All right. I'm also going to hand you State's
14 Exhibit 13. Can you identify this envelope?

15 A Yes, this is the rectal swabs from that kit.

16 Q Okay. From the sexual assault kit?

17 A Yes.

18 Q From Alfreda Thompson?

19 A Yes.

20 Q Okay.

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

23 THE COURT: As to 13?

24 MS. CAMPBELL: No objection.

25 THE COURT: Ladies and gentlemen of the jury,

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 State's Exhibit 13 is admitted into evidence without
2 objection. State's 13 in evidence. You may publish.

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

5 THE COURT: You may publish.

6 MS. SWANSON: Thank you, Your Honor.

7 BY MS. SWANSON:

8 Q Did you analyze, 13, the rectal swabs?

9 A Yes, I did.

10 Q What result did you get?

11 A What we do with the swabs and the kit are, like I
12 described before, we digest the cells in there to get the
13 DNA out. And in this case what we are looking for is male
14 DNA. And of the rectal swabs I didn't get any male DNA.

15 Q Okay. I'm going to show you another envelope,
16 State's Exhibit 14. Can you describe what this envelope is?

17 A This would be vaginal swabs from that kit.

18 Q Okay. Are these swabs that you tested?

19 A Yes.

20 Q All right.

21 MS. SWANSON: The State would ask to enter 14 into
22 evidence at this time.

23 MS. CAMPBELL: No objection.

24 THE COURT: State's Exhibit 14 will be admitted
25 into evidence in the trial of this case without

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 objection. State's 14 in evidence. You may publish.

2 MS. SWANSON: Thank you.

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

5 BY MS. SWANSON:

6 Q And were you able to get -- did you test the
7 vaginal swabs from Alfreda Thompson?

8 A Yes, I did.

9 Q And what result did you get?

10 A The same as with the rectal swabs, there was no
11 male DNA.

12 Q Thank you. I want to hand you what has been
13 marked as State's Exhibit 15.

14 THE COURT: For identification only at this point.

15 BY MS. SWANSON:

16 Q At this time it's been marked for identification
17 only. I am going to hand you a pair of gloves as well.

18 A I have some.

19 Q Okay. Do you recognize State's Exhibit 15?

20 A Yes, I do.

21 Q What is it?

22 A This is a pair of underpants and a skirt that I
23 examined in this case.

24 Q Okay. Does it also contain a cutting from this
25 skirt?

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 A No, it should not.

2 Q Okay. I am sorry, an extract from a cutting of
3 this skirt. And I'm handing you what was contained in
4 State's 15, State's Exhibit 16. Can you identify this item?

5 A This is the tubes. This is the tubes with the
6 dried down extracts from the cutting on the skirt.

7 Q Okay. And so, did you analyze the skirt and
8 underwear and then an extract from a cutting on the skirt?

9 A Yes.

10 MS. SWANSON: State would move 15 and 16 into
11 evidence at this time.

12 MS. CAMPBELL: No objection.

13 THE COURT: Ladies and gentlemen of the jury,
14 State's Exhibits 15 and 16 will be admitted into
15 evidence in the trial of this case without objection.

16 *(Whereupon, State's Exhibit No(s). 15 marked for*
17 *identification and received in evidence.)*

18 *(Whereupon, State's Exhibit No(s). 16 marked for*
19 *identification and received in evidence.)*

20 THE COURT: You may publish in evidence 15 and 16.

21 MS. SWANSON: Thank you, Your Honor.

22 BY MS. SWANSON:

23 Q In reference to the underwear that you tested,
24 what did you find?

25 A What I found with the underwear that I tested, I

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 was looking for the presence of semen. How I do that is I
2 take a piece of filter paper, dampen it with water, press it
3 against the underwear, and then actually examine the stains
4 that are on the filter paper. I did get a positive reaction
5 for acid phosphatase, which is an enzyme that is in high
6 quantity in semen. So, if I take that area where that
7 reaction came from and then I extract the same as I did the
8 swabs.

9 Q Were you able to establish a profile from what you
10 found on the underwear?

11 A I was not. The quantity of DNA that was in that
12 stain was too low to amplify or get a profile out of.

13 Q Were you able to establish whether or not it was
14 male or female?

15 A There was male DNA, but just not enough to
16 amplify.

17 Q Okay. In reference to the skirt, what were your
18 findings?

19 A I did find a semen stain on the back of the skirt.

20 Q And what did you do?

21 A And I amplified that and got a DNA profile, a male
22 DNA profile.

23 MS. SWANSON: May I approach the witness?

24 THE COURT: You may.

25

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 BY MS. SWANSON:

2 Q I'm handing you what has been marked as State's
3 Exhibit 17 for identification at this point, and I am going
4 to ask if you recognize this box?

5 A Yes, I do.

6 Q Okay. Was a blood sample from Darryl Bradley
7 contained within that box?

8 A Yes.

9 Q And did it come to you sealed?

10 A Yes, it did.

11 Q For analysis?

12 A That is correct.

13 MS. SWANSON: I would move 17 into evidence at
14 this time.

15 THE COURT: As to 17?

16 MS. CAMPBELL: No objection.

17 THE COURT: Ladies and gentlemen of the jury,
18 State's Exhibit 17 will be admitted into evidence in
19 the trial of this case without objection. 17 in
20 evidence. You may publish.

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

23 MS. SWANSON: Thank you.

24 BY MS. SWANSON:

25 Q I'm also going to hand you what has been marked as

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 State's Exhibit 18 for identification up to this point and
2 ask if this is a box that you recognize?

3 A Yes, it is.

4 Q Okay. Is that the blood sample that came out of
5 State's Exhibit 17?

6 A Yes.

7 Q Okay.

8 MS. SWANSON: The State would move 18 into
9 evidence at this time.

10 THE COURT: As to 18.

11 MS. CAMPBELL: No objection, Your Honor.

12 THE COURT: Ladies and gentlemen, State's Exhibit
13 18 will be admitted into evidence in the trial of this
14 case without objection. State's 18 in evidence. You
15 may publish.

16 MS. SWANSON: Thank you.

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

19 BY MS. SWANSON:

20 Q Were you able to establish a profile from the
21 blood sample given to you marked, Darryl Bradley?

22 A Yes, I was.

23 Q Were you able to compare the DNA profile from the
24 semen stain on the skirt to the blood sample of Darryl
25 Bradley?

DIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 A Yes.

2 Q And what did you find?

3 A I found that a match to -- between the semen stain
4 to Darryl Bradley was 39 nonillion times more likely than an
5 unrelated individual.

6 Q Okay. So you found a match?

7 A That's correct.

8 MS. SWANSON: Thank you. I have nothing further
9 at this time.

10 THE COURT: Cross-examination?

11 MS. CAMPBELL: May it please the Court.

12 THE COURT: Yes, ma'am.

13 CROSS EXAMINATION

14 BY MS. CAMPBELL:

15 Q So, good afternoon.

16 A Good afternoon.

17 Q Mr. French, or should I call you officer?

18 A Either one.

19 Q Okay. Mr. French, this TrueAllele process that
20 you use is a computer program, right, that you use in your
21 lab; right?

22 A That's correct.

23 Q Okay. And this particular computer program
24 primarily is used to sort out mixtures of DNA; is that fair?

25 A That is essentially what it does, yes.

CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 Q Okay. So when, when let's say that you have three
2 people and they all leave behind let's say a drop of blood
3 and it's all mixed together, if you took that one drop, you
4 need to separate it out and find out who is in that drop of
5 blood, right?

6 A That's correct, that is what we would like to do,
7 yes.

8 Q And this program, TrueAllele, that is the primary
9 purpose of it, separate out and identify; correct?

10 A Separate it out and then try to assign a
11 statistical value for the different contributors.

12 Q Right. So, that -- that, the statistical
13 probabilities are numbers generated by the computer,
14 correct?

15 A That's correct.

16 Q Okay. And so we have different kinds of DNA. We
17 have a fluid type of DNA like saliva, or blood, or semen;
18 those would be fluids; correct?

19 A Yes, but they are not different types of DNA.

20 Q I don't mean different types of DNA. I apologize.
21 Different types of substances that you might be called upon
22 to analyze?

23 A Yes.

24 Q Okay. And then we also have the latest, which is
25 called touch DNA; that is our skin cells that we leave

CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 behind?

2 A That is usually what we are looking for in touch
3 DNA.

4 Q Okay. So, our skin cells are not a bodily fluid,
5 correct?

6 A That's correct.

7 Q So we are all the time leaving behind,
8 essentially, evidence of ourselves; right?

9 A That's correct.

10 Q And so wherever I have been, in terms of touching
11 something, you ought to be able to find evidence of me
12 there; true?

13 A The potential is there. I wouldn't say that you
14 ought to be able to find it, but potentially you could, yes.

15 Q And as a scientist, if there's potential to find
16 it you are going to look and try to find it if you are asked
17 to, correct?

18 A That's correct.

19 Q Okay. So, in terms of different types of evidence
20 you might be asked to examine, blood, saliva, skin cells,
21 touch DNA evidence, you can't really say how long a
22 particular piece of evidence has been present on an item,
23 can you?

24 A Not really, no.

25 Q When you give your statement to the prosecutor

CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 that something is a match, that is not really what it is
2 called in science, is it? I mean, they don't use the word
3 "match". Isn't there sort of an algorithm of a spectrum
4 less likely, more likely, and some gray area in the middle?

5 A No, the statement for the likelihood ratio is
6 exactly as I explained it.

7 Q You are saying that the science and the computer
8 program that you use spits out the word "match"?

9 A No, the statement was a match to Darryl Bradley
10 was more likely than the general population.

11 Q Okay. And that population statistic that you
12 gave, I want to make sure that we get this correct, but I
13 believe it was, oh goodness, a 30 nonillion times more
14 likely than a coincidental match to an unrelated individual;
15 correct?

16 A That's correct.

17 Q So, that is ten to the 30th power; correct?

18 A That is 30 zeros, yes.

19 Q Okay. And how many -- again, in your field, I'm
20 sure that you have had this question before, so if you are
21 giving me this number and testifying to this number; how
22 many people are there on the earth, roughly? Anywhere near
23 that?

24 A Nowhere near that.

25 Q Nowhere near that. So, it is even hard to

CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 comprehend this number, correct?

2 A That is true.

3 Q It is a lot. And when you -- when you get that
4 tiny but important qualifier, an unrelated individual, so
5 there is a possibility that someone related to Mr. Bradley
6 could change this; correct?

7 A The number would be different, yes.

8 MS. CAMPBELL: That is all that I have.

9 THE COURT: Redirect?

10 MS. SWANSON: Thank you, Your Honor.

11 REDIRECT EXAMINATION

12 BY MS. SWANSON:

13 Q Ms. Campbell ask you about TrueAllele. Did you
14 use TrueAllele for mixture purposes? Was this a mixture?

15 A No, it was not. It was a single-source stain. I
16 used TrueAllele just to generate the statistical value for
17 this.

18 Q Okay. And speaking of the statistical value, you
19 testified that that may change if you were analyzing the DNA
20 of a related individual and comparing it to the semen stain,
21 right?

22 A Instead of comparing it to the whole population,
23 yes, it would be different.

24 Q Okay. But would that be the same DNA profile that
25 you got from Darryl Bradley's blood?

REDIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 A No, it would not.

2 Q Okay. Because people don't have the same DNA
3 profile, right?

4 A Other than identical twins.

5 Q Okay. Well, let me ask you one more question. Do
6 you test everything that comes through your lab?

7 A Not always, no.

8 Q All right. So, officers may request that a number
9 of items collected -- request that they be forensically
10 tested, right?

11 A That's correct.

12 Q Okay. And what items do you determine should be
13 tested first?

14 A I use my experience. In a case of sexual assault
15 we start with the kit. If we can find evidence of an
16 assault in the kit, then we usually stop there. If not,
17 then you go to the next closest layer of clothing and so on.
18 So you do the underwear and then the outer clothing and then
19 bedding. And there might be some more swabs from a vehicle
20 or something like that.

21 Q Okay. And would you err on the side of testing a
22 semen stain or something that may have touch DNA on it?

23 A I would always go with a semen stain.

24 Q And why was that?

25 A There is not -- it is not a chance occurrence that

REDIRECT EXAMINATION OF TIM FRENCH BY MS. SWANSON

1 the semen was deposited there. Touch DNA can be transferred
2 from one place to another.

3 Q Okay. And so, in this case once you got a match
4 from the semen stain, did you stop analyzing items?

5 A Yes.

6 MS. SWANSON: Okay. Thank you, that is all that I
7 have.

8 MS. CAMPBELL: Very briefly.

9 THE COURT: Brief cross, limited to redirect.

10 MS. CAMPBELL: Yes, sir.

11 RECROSS EXAMINATION

12 BY MS. CAMPBELL:

13 Q To be clear, the solicitor asked you about the
14 fact that there was no evidence in the kit that there had
15 been a sexual assault. In other words, you recovered no
16 male DNA from the vaginal swabs, the rectal swabs, anything
17 in the kit would not reach some conclusion that there had
18 been a man near that body; correct?

19 A Strictly referring to the kit, no, correct.

20 Q Correct. And the items that you received outside
21 the kit were not what she was wearing at the hospital
22 because you noted it in your report, correct? You don't
23 analyze her underwear from the hospital or what she was
24 wearing because you say, Not worn during assault; correct?

25 A That's correct.

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 Q You just analyzed whatever you were given by law
2 enforcement, right?

3 A That's correct.

4 MS. CAMPBELL: That is all that I have.

5 THE COURT: As to this witness?

6 MS. SWANSON: I would ask that he be excused.

7 THE COURT: Any objection.

8 MS. CAMPBELL: No objection.

9 THE COURT: All right. Mr. French, you may step
10 down from the witness stand. You are excused from the
11 trial of this case. Make sure that you don't have my
12 exhibits, just your file. And you may leave the
13 courtroom. Call your next witness.

14 MS. SWANSON: Thank you, Your Honor. The State
15 concludes their presentation of witnesses, and at this
16 time I would rest my case.

17 THE COURT: Very well. Any matters of law that I
18 need to take up at this time, Ms. Campbell?

19 MS. CAMPBELL: Yes, sir.

20 THE COURT: Mr. Foreman, ladies and gentlemen of
21 the jury, I need to take up a matter of law. I will
22 ask you if you would step to your jury room. Please do
23 not discuss the case. I will be back with you in just
24 a couple of moments.

25 (The jury exits the courtroom at 2:47 p.m.)

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 THE BAILIFF: Jury is clear, door is closed, Your
2 Honor.

3 THE COURT: Thank you. Yes, ma'am.

4 MS. CAMPBELL: May it please the Court.

5 THE COURT: Absolutely.

6 MS. CAMPBELL: At this time, on behalf of my
7 client I would make a motion for directed verdict. And
8 I would also renew the motion that we had for a
9 mistrial. We would submit to the Court that the
10 suspicion may be there, however it would not be
11 sufficient to send the case to the jury at this
12 juncture.

13 THE COURT: I am sorry now, I didn't follow you
14 right at the end. You looked down at your computer and
15 I wanted to make sure that I understood what you were
16 saying. What was the last part?

17 MS. CAMPBELL: What I'm saying is that at this
18 point our argument would be that it would be on -- what
19 we have is the raising of a mere suspicion of guilt.

20 THE COURT: Ah, mere suspicion.

21 MS. CAMPBELL: Yes, sir.

22 THE COURT: Solicitor, let me hear from you.

23 MS. SWANSON: Yes, sir. The facts seen in the
24 light most favorable to the State do indicate that
25 there is substantial direct and circumstantial evidence

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 here. We have an eye witness who identifies the
2 Defendant at the time and in the courtroom today as her
3 assailant. We have an ID by her. Also DNA that
4 implicates the Defendant, as well as an incriminating
5 admission on jail phone calls saying that, yes, he did
6 burglarize that house. And so I believe that there is
7 certainly enough evidence here to send to the jury and
8 have them make the decision. Thank you.

9 THE COURT: The standard that I'm required to
10 utilize at this stage, the directed verdict stage,
11 Ms. Campbell, which you are very familiar with. Your
12 motion for directed verdict at the close of the State's
13 case is respectfully denied. Would you and your client
14 please come forward. And, Jody, would you please swear
15 the Defendant?

16 MS. CAMPBELL: You would like us to step forward
17 to --

18 THE COURT: Step up to the microphone so I can
19 make sure -- I know that he can hear me, but I want to
20 make sure. Come here, I have a microphone right up
21 front.

22 Thereupon,

23 DARRYL BRADLEY

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

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 THE COURT: State your name for the record.

2 THE DEFENDANT: Darryl Bradley.

3 THE COURT: Mr. Bradley, at this time I am going
4 to explain to you certain of your rights. If you do
5 not understand anything that I say, you let me know,
6 all right? If you don't understand what I'm telling
7 you. You understand?

8 THE DEFENDANT: Okay.

9 THE COURT: All right. We have now reached the
10 stage of the trial where you may present your defense.
11 You have the right to testify in your own behalf,
12 however, no one, not this court, not solicitor, no one
13 can make you testify. Solicitor, does he -- is the
14 State aware of his record?

15 MS. SWANSON: Yes, sir, we have an order releasing
16 juvenile records of Mr. Bradley.

17 THE COURT: Do you intend to try to introduce the
18 records for impeachment purposes?

19 MS. SWANSON: He does have a burglary from 2014.

20 THE COURT: All right. Is that the only prior
21 conviction?

22 MS. SWANSON: No, sir. He has a number of prior
23 convictions, but not all of them are crimes of
24 dishonesty.

25 THE COURT: All right. How many are there that

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 you plan to introduce in the event that he elects to
2 testify?

3 MS. SWANSON: Yes, sir, so going back to 2012
4 there are four second degree burglaries. 2013, a petty
5 larceny and a breaking into motor vehicles.

6 THE COURT: Did the petty larceny carry more than
7 one year?

8 MS. SWANSON: No, sir, but it is a crime of
9 dishonesty within the --

10 THE COURT: I understand. And it is less than ten
11 years. Go ahead.

12 MS. SWANSON: And then, 2014, burglary in the
13 second degree.

14 THE COURT: So, there are four plus one petty
15 larceny plus another burglary. I count that as six; is
16 that right?

17 MS. SWANSON: Yes, sir.

18 THE COURT: All right. You have heard the
19 solicitor tell me what they think your record is. Your
20 lawyer was given a copy of your prior criminal record.
21 In the event that you have a record for any conviction,
22 not an arrest but a conviction, involving dishonesty or
23 false statement or for a crime punishable by
24 imprisonment for more than one year and this Court
25 determines as a matter of law that the probative value

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 of admitting this evidence outweighs its prejudicial
2 effect to you, the solicitor, if I so rule, would be
3 able to introduce your record for impeachment purposes.

4 And I would tell the jury that is the purpose of
5 it, to attack your credibility or your believability.
6 If you elect not to take the witness stand, I will
7 charge the jury in my charge on the law to them that
8 they are not to give the fact that you did not testify
9 any consideration whatsoever.

10 You have the constitutional right to remain
11 silent. The burden of proof is on the State of South
12 Carolina to prove your guilt beyond a reasonable doubt.

13 And there is to be absolutely no prejudice to you
14 because you do not testify, if you elect not to
15 testify. The decision as to whether or not you testify
16 in the trial of this case is entirely your decision.
17 You certainly can talk with your attorney,
18 Ms. Campbell, but it is not her decision, it is your
19 decision. The ultimate decision as to whether or not
20 you testify in this case will be left entirely up to
21 you. Do you understand what I have just told you?

22 THE DEFENDANT: Yes, sir.

23 THE COURT: All right. Would you like a moment to
24 talk to your lawyer?

25 THE DEFENDANT: No, sir.

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 THE COURT: Have you made a decision as to whether
2 or not you wish to testify in the trial of this case?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: And what is your decision?

5 THE DEFENDANT: I would like to testify.

6 THE COURT: You want to testify?

7 THE DEFENDANT: Yes.

8 THE COURT: And that is your decision, nobody was
9 forcing you into that decision?

10 THE DEFENDANT: No, sir.

11 THE COURT: Nobody promised you anything or
12 threatened you trying to induce you to testify; is that
13 correct?

14 THE DEFENDANT: That's correct.

15 THE COURT: Entirely your decision of your own
16 freewill; is that right?

17 THE DEFENDANT: Yes, sir.

18 THE COURT: Very good. Thank you. You may return
19 to your seat.

20 Ms. Campbell, I need to see you and solicitor
21 briefly at the bench on a timing issue.

22 MS. CAMPBELL: Yes, sir.

23 (Off-the-record discussion held.).

24 THE COURT: Is the Defendant ready to present its
25 defense in the trial of this case?

RE CROSS EXAMINATION OF TIM FRENCH BY MS. CAMPBELL

1 MS. CAMPBELL: Yes, Your Honor.

2 THE COURT: Bring us the jury, Norm.

3 THE BAILIFF: Yes, sir.

4 (The jury enters the courtroom.)

5 THE COURT: Mr. Foreman, ladies and gentlemen of
6 the jury, you have heard the evidence from the State of
7 South Carolina, we will now hear from the Defendant.
8 Ms. Campbell, present your case.

9 MS. CAMPBELL: May it please the Court, Your
10 Honor. We would call Darryl Bradley.

11 THE COURT: Very well. Mr. Bradley, come around
12 and be sworn.

13 Thereupon,

14 DARRYL BRADLEY

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

17 THE COURT: All right. Watch your step. Have a
18 seat for me. Get up to that microphone. It is not any
19 good, so I need you to speak up for me because it
20 doesn't work very well.

21 THE WITNESS: Yes, sir.

22 THE COURT: State your full name and spell your
23 last name for the court reporter.

24 THE WITNESS: Darryl Douglas Bradley,
25 B-R-A-D-L-E-Y.

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 THE COURT: All right. Speak up now. Your
2 witness, Ms. Campbell. Direct examination.

3 MS. CAMPBELL: Thank you, Your Honor.

4 DIRECT EXAMINATION

5 BY MS. CAMPBELL:

6 Q Darryl, how old are you?

7 A Twenty.

8 Q Twenty years old?

9 A Yes, ma'am.

10 Q Where did you grow up?

11 A St. Helena.

12 Q I'm going to ask you to speak up a little bit
13 more, Darryl.

14 A I grew up in St. Helena.

15 Q Perfect, thank you. Does your family live there?
16 Where does your family live?

17 A St. Helena.

18 Q And where did you go to school?

19 A I went to St. Helena Elementary School, Lady's
20 Island Middle, and I dropped out.

21 Q How old were you when you left school?

22 A Seventeen.

23 Q Were you -- were you ever doing yard work on St.
24 Helena, or helping someone do yard work out on St. Helena a
25 few years ago?

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 A I do yard work in the community because of the
2 situation that I have got at home, you know what I'm saying,
3 I do yard work to earn money to buy food with, to buy things
4 in my house, stuff like that, just trying to be a man in my
5 house after -- ever since my father died. And so, yes, I do
6 go in the community asking to do yard work. And some people
7 be polite to me and let me do yard work.

8 Q And so did you ever have an opportunity to do yard
9 work for Mr. Smalls?

10 A Yes, I did yard work for Mr. Smalls numerous of
11 times, numerous of times. I know this man. I know this
12 family. I know this -- he is not a stranger to me.

13 Q Have you ever been inside of the Smalls' home?

14 A I was invited inside the house before, numerous of
15 times again. They gave me something to drink, something to
16 eat sometimes. Sometimes I go in there, had to wait til he
17 go and get some cash for me, to get the money that I earned.
18 I have been in there before.

19 Q Okay. Now, do you know Officer Malphrus from when
20 you were arrested?

21 A Yes.

22 Q You met him when you got put in jail?

23 THE COURT: Don't shake your head. You have to
24 say yes or no for the court reporter.

25 THE DEFENDANT: Yes, sir. Yes, sir.

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 A Yes, I know Malphrus, I met him before.

2 Q Okay. And did he tell you what you had been
3 accused of doing?

4 A He told me that I was accused of, when he read me
5 my warrants, the day of my arrest, of burglarizing, burglary
6 first degree, criminal sexual conduct -- which surprised
7 me -- robbery, kidnap, and possession of a weapon during a
8 violent crime. That is what he told me.

9 Q And after you were arrested, where did you go?

10 A They took me -- I don't know what it's called. I
11 want to say it is the Beaufort County Sheriff's Office, or
12 Beaufort County investigation room, where they interrogate
13 me at. I don't know what that place is called.

14 Q And how did that go; what happened then?

15 A When -- he made a comment to me when I came,
16 before I went inside the building. And it -- he didn't make
17 it on the record, so if I do say it would be hard to prove
18 because it wasn't on the record. But what he told me was,
19 as I was walking inside the building to get interrogated, he
20 stopped and told me, if you don't tell me now, if you don't
21 tell me what happened I'm going to trump unnecessary charges
22 on and put you in prison for the rest of your life. And he
23 pointed his finger at me and told me, Boy, do you hear me.
24 So, at that moment I was thinking -- I understand that
25 police officers use tactics to investigate, you know what

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 I'm saying, for people to tell on their selves so they can
2 use that against themselves, self incrimination, I
3 understand that, but not in this scenario. I really felt
4 like he really meant what he said because he did put
5 unnecessary charges on me.

6 Because for her to say she -- I tried to
7 penetrate her and to get charges on criminal sexual conduct
8 first degree, which is considered penetration, is -- that
9 made me feel like he really did overcharge me. I just --
10 that is how I feel.

11 Q Did you wind up talking to Officer Malphrus? Did
12 you make a statement at that time?

13 A I didn't make a statement. I went in there --
14 when they started to interrogate me, he read me my rights,
15 he showed me the paper, which I signed saying that I do not
16 want to talk and I wanted to speak to my lawyer. And that
17 wasn't what he was trying to hear, so, whew, here the
18 charges go.

19 Q Okay. So, while you were in the jail you used the
20 telephone and talked to, I guess, was that your sister?

21 A Sister. You talking about that phone call?

22 Q Yes.

23 A Sister.

24 Q That was the your sister, okay. And she talked to
25 you about your charges; is that right?

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 A That's correct.

2 Q Okay. And when you heard your sister talking to
3 you about it, and when you knew what you were charged with,
4 did you ever talk to anyone about what had actually happened
5 that day?

6 A Now, I watch the First 48 all of the time, so I
7 know that when you tell an officer --

8 Q Uh-huh. (Indicating affirmatively.)

9 A -- somebody with the law what happened that day it
10 could be used against you in trial like it is being used
11 against me earlier, as y'all can see, so I didn't make -- I
12 didn't tell anybody nothing about what happened that day,
13 specifically what happened that day. So, the comment I made
14 to my sister was really just out of, because she kept asking
15 me about it, kept asking me about it. Okay, I robbed her,
16 but I didn't rape her, I didn't sexually assault her. She
17 says she don't believe that I did it.

18 I really felt like I didn't rob her, you know
19 what I am saying. At first I did because me aggressively
20 telling her to give my money, I felt like I did something
21 wrong and I felt like that was a mistake, that is why I said
22 on the phone that I robbed her.

23 Q Well, would you like now to tell this jury what
24 did happen that day?

25 A Absolutely.

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 Q Okay.

2 A Absolutely.

3 Q So what did happen?

4 A That day I decided to go see Ms. Alfreda Thompson,
5 because she gave me a call and told me to come pick up the
6 rest of the cash that she owe me for sweeping off her
7 drive-through. Y'all seen the picture of her drive-through
8 the other day. So, and she told me to hurry up because her
9 father just left. So, I walked from my house to her house,
10 which is about 15, 10 minutes away. And when I got there I
11 did saw that the main door was open and the screen door was
12 shut, but I still knocked on the door anyways.

13 So, when I knocked on the door Ms. Thompson
14 came a couple of seconds later, came and it looked like she
15 was pretty excited to see me because she was smiling and
16 told me to come inside. When I came inside the house, as
17 usually she asked if I wanted something to eat and something
18 to drink. Which I accepted this time, you know what I am
19 saying, because I was hungry and didn't eat all day.

20 So, she made me two sandwiches and gave me
21 something to drink and a bag of chips. And as I was eating
22 she excused herself to go check on her mother. And after a
23 few minutes I was done eating and threw my paper -- got up,
24 went in the kitchen, threw my paper plate in the trash,
25 threw my cup in the trash, threw the chips in the trash and

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 went to go sit back down on the couch.

2 And Ms. Thompson came out of the room. And
3 before I could tell her thank you for the food again, she
4 told me that her father just left to go to the store and her
5 mother was asleep in the room, so if you want to have sex,
6 it would have to be real quick and real quiet. Now, this is
7 not the first time me and Ms. Thompson had sexual
8 intercourses. This was about to be the second time, you
9 know what I am saying, if everything went right. But so --

10 Q So then what happened?

11 A So what happened was, when she said that, when she
12 made that comment, we both walked to the back room. We both
13 walked to the back room. And when we walked to the back
14 room, I agreed and told her, yes, let's hurry up before your
15 father comes back. So, we both walked to the back room.

16 When we got in the back room I took the gun,
17 the BB gun, out of my pants and placed it on the dresser,
18 pulled my pants down and started to ejaculate to get an
19 erection so I can get hard fast so we can hurry up and have
20 sex. And as I was ejaculating she asked me, why do I have a
21 gun. And I told her, I got it just in case your father
22 catch us having sex I can protect myself by scaring him
23 away.

24 So, and as I was telling her that, while I
25 was still ejaculating to get the erection, she started to

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 show odd behavior as in like she don't want to have sex,
2 because she never got undressed and she was shaking like she
3 was scared. So, I asked her, You still want to do this.
4 And she didn't answer me the first time, so I asked her
5 again and she said, No. So, I pulled my pants -- and no
6 means no.

7 I pulled my pants up. As I was pulling my
8 pants up I was -- I was kind of agitated at the fact that
9 she said she didn't want to have sex. She said she do, then
10 said she don't. So, I was kind of agitated at the fact that
11 she was just wasting my time. So, as I was pulling my pants
12 up I told her, Could you just give me the rest of the cash,
13 what I came here for, so I can leave. And she told me, You
14 are not getting no money from me no more. So I asked her --
15 I don't know why she was acting like that.

16 I asked her, So, do I got to wait until your
17 father comes back, you know what I am saying, to get the
18 rest of my money. And she was like, You are not getting
19 anything from us anymore, now get the hell out of my
20 house -- get your gun and get the hell out of my house. So,
21 Lord forgive me for this, I, in a demanding tone I told her,
22 Give me my money. She got scared and she ran in the corner
23 of the room and she started to pray.

24 Lord forgive me for this. She started to
25 pray and she -- as I grabbed the gun from off of the dresser

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 and as I was putting it in my pants she said, Please don't
2 hurt me as in I was going to shoot her with the gun when I
3 got it off of the dresser. I don't know what made her feel
4 like that, but I told her myself, I do not want to hurt you,
5 I am not going to hurt you and I just want my money.

6 She said, she started shaking again and said
7 that she don't have no money. And I told her, You are lying
8 because that is what you called me over here for. So, I
9 took it upon myself to go look for the money that she owed
10 me. So, I didn't see no purse inside that room, I didn't
11 see no money, so I ran into the living room, went through
12 the drawers and the cabinets to see if the money that she
13 owed me was there.

14 So, as I was looking -- I didn't see nothing.
15 As I was looking she was there looking at me and she said,
16 I'm calling the police. And when she said she is calling
17 the police, at that moment that made me stop looking for it
18 because I didn't want to get involved with the law, you know
19 what I am saying, so I stopped looking for the money and ran
20 out of the house all the way home. And that is the God
21 honest truth, you know what I am saying.

22 God knows the truth. And I hope the spirit
23 of God is inside y'all, because he knows the truth. So, and
24 that is what happened that day, Ms. Trasi.

25 MS. CAMPBELL: Thank you, Darryl. I am going to

DIRECT EXAMINATION OF DARRYL BRADLEY BY MS. CAMPBELL

1 turn you over to the prosecutor now.

2 Thank you, Your Honor.

3 THE COURT: Counsel approach.

4 (Off-the-record discussion held.)

5 THE COURT: Proceed, consistent with the Court's
6 rulings, Solicitor. Cross-examination.

7 CROSS EXAMINATION

8 BY MS. SWANSON:

9 Q When you have this rendezvous with --

10 A Excuse me, what do you say?

11 Q Rendezvous, this sexual tryst with Alfreda
12 Thompson.

13 A Hold up. You talking about the first time we had
14 sex before?

15 Q Oh. Well, why don't you tell me about the first
16 time.

17 A Okay.

18 Q How old were you?

19 A I was -- I was 17. It happened that year.

20 Q Okay.

21 A It happened that year.

22 Q Okay.

23 A It happened that year.

24 Q Okay. What month?

25 A I don't know the exact month. And I am taking the

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 stand, I don't want to lie. That will be used against me
2 too.

3 Q Okay. When is your birthday?

4 A [REDACTED] [REDACTED].

5 Q Okay. And so you were 17?

6 A Yes. Yes, I was.

7 Q Where did it take place?

8 A At her home.

9 Q Okay. Did you use protection?

10 A No.

11 Q All right. And did you anally penetrate her,
12 vaginally penetrate her; what did you do?

13 A We had consensual sex, not with the anal.

14 Q How so?

15 A How so? Do you want me to tell you what happened
16 that day?

17 Q Yes, I do.

18 A Okay. One day I went to go do yard work for her
19 father, Mr. Smalls. And I say one day, because like she
20 said, what month, what time, I don't know what month. But I
21 want to say it happened a week or so before this incident
22 happened, before this so-called sexual assault happened.
23 So, as I was working for her father, Mr. Smalls left the
24 house. And he told me he was leaving, he would be back,
25 keep working. I kept working. He left.

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 And I seen Ms. Thompson at the door waving me
2 down to come inside. So, when I got inside the house --
3 when I got inside the house, she asked me if I wanted
4 something to eat, something to drink. I told her, No, I'm
5 good. Then she started complimenting me about how good of a
6 job I do and how handsome I am. So, after she told me that,
7 she also surprised me by telling me she liked young handsome
8 boys because she liked the young handsome boys in school and
9 school -- I don't know what that got to do with anything.
10 She likes young handsome boys. That surprised me.

11 And then I told her that -- at first I was
12 nervous at the fact that she was trying to hit on me. But
13 then I told her that, I'm not a little boy, and I don't
14 discriminate when it comes down to a woman's age. She
15 started to laugh at my comment, excuse herself to the
16 restroom. As I was waiting to -- like, I don't remember how
17 long she was in the restroom, but I know she was in there
18 for a minute. She came outside of the restroom with just
19 her underwear on, sat next to me and told me to prove that
20 I'm not a little boy and to come follow her in the room.

21 This wasn't my first time having sex with an
22 older woman, so I agreed. I got up and went in the room and
23 because, because I was still nervous, she saw that I
24 couldn't get an erection. So she gave me oral sex and I got
25 the erection. She took off her draws and we had consensual

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 sex. And that is the first time, first and only time me and
2 this woman had had sex.

3 Q Okay. And you say this is about a week before
4 when you were doing yard work?

5 A A week or so.

6 Q Okay. And this is the first and only time that
7 you guys had sex?

8 A Yes.

9 Q Okay. When, just about 20 minutes ago, you
10 testified that you guys had sex on numerous occasions;
11 right?

12 A No, I said that I have been in their house
13 numerous occasion and I know this family and I worked for
14 them.

15 Q Okay. And you had sexual relations on numerous
16 occasions?

17 A No. No. No.

18 Q Okay. So, you disagree that that was your
19 testimony?

20 A Yes, we have got the transcript here.

21 Q Okay. So, you were 17 at the time of this second
22 sexual rendezvous with this 63 year old woman afflicted with
23 Parkinson's, right?

24 A Right.

25 Q Okay. And in 2013, when you were about 13 years

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 old, you had a conviction for a crime of dishonesty; is that
2 right? You have a petty larceny that you were convicted
3 for, a larceny?

4 A I don't remember.

5 Q Okay.

6 THE COURT REPORTER: I am sorry, what was that?

7 THE WITNESS: I do not remember. I don't remember
8 what I did that day, I don't remember why I got
9 charged. I don't remember. I don't remember. I don't
10 remember.

11 BY MS. SWANSON:

12 Q Okay. So, you don't remember what you were doing
13 back when you were 13?

14 A No.

15 Q Okay.

16 A No.

17 Q But you do remember all of the times that you were
18 with older women, right?

19 A Not all of them, but yeah, I remember some, yeah.

20 Q Okay. When you and Ms. Thompson had this sexual
21 rendezvous a week before she reported a rape, did your semen
22 end up anywhere in her house or on her clothing?

23 A I don't know.

24 Q Okay. Do you typically take guns to your romantic
25 trysts?

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 A No. And in this situation, the reason why I
2 brought the BB gun, not a gun, the BB gun was because when
3 she called me and told me to come pick up the money for
4 sweeping off her drive-through the other day and to hurry up
5 before her father comes back -- and I forgot to tell you,
6 the first time we had sex, after we got done having sex, as
7 we were putting out clothes on she asked do I like the sex,
8 and I told her, Yeah. And she told me I am welcome to come
9 back any time that her father is not here.

10 So, the reason that I brought the gun, the BB
11 gun, to the house was because she told me that her father
12 wasn't there. And I done seen Mr. Smalls with guns before
13 and I know that situations get -- I know it can get deep if
14 he catch me having sex with his daughter, see what I am
15 saying. So, that is why I brought it, to scare him off to
16 protect myself.

17 Q Okay. So, I mean, you were here for her
18 testimony. So, it is your assertion that she -- that
19 Mr. Smalls is not the one to handle the yard work and the
20 money?

21 A She does that too.

22 Q Okay.

23 A Yeah.

24 Q And that he has guns and he is extremely
25 protective of his 63 year old daughter who takes care of

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 them?

2 A Of his family period.

3 Q Okay. And you went on a brief diatribe about how
4 when you were being interrogated, but in fact you were never
5 interrogated because there was no back and forth, you never
6 actually answered any questions or gave any statements to
7 law enforcement beyond where the gun was located, right?
8 You asked for a lawyer, right? Yes or no?

9 A Could you repeat yourself?

10 Q You went on a brief diatribe about being
11 interrogated and how Investigator Malphrus was threatening
12 you with all kinds of stuff if you didn't tell him the truth
13 and what happened, but what did you do as a result? You
14 didn't say anything, right, yes or no?

15 A You have got to understand where the situation,
16 the time the situation occurred at. I told -- actually,
17 literally, I told my friend, Jay'Sean Redd where the BB gun
18 was at, located under the couch. I never told a detective,
19 never told Detective Duncan you had testify who took under
20 oath. And after that happened then they took me to the
21 investigation office where -- and we was walking inside the
22 investigation office and Malphrus made that comment and then
23 I signed a paper saying, I don't want to talk. Does that
24 answer your question?

25 Q So now you are saying that you also never told

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 Investigator Duncan, after you were Mirandised, where that
2 gun was?

3 A Right. Do you want me to explain?

4 Q So, everyone that has taken the stand in this
5 trial is just a big liar, nobody is telling the truth here
6 except for you?

7 A I'm not saying that. I'm not saying that. What
8 I'm saying is, when I got a call from my mother, where are
9 you at. I told her, I am at Jay'Sean house, my homeboy,
10 which is located on Saturn, I don't remember, Saturn Circle.
11 And she told me to stay there, she will be there in five
12 minutes. Five minutes later, detectives pulls up, Malphrus,
13 Duncan, the one that took the stand here. And they hop out
14 and they jump on the porch and says, specifically Detective
15 Malphrus, and said, Where the fuck is Darryl Bradley.

16 And all of them had guns, assault rifles,
17 pistols, and told everybody to get out. Everybody got out
18 because they was lacking knowledge about the law, they
19 didn't know that they were violating they rights and didn't
20 know that. So, they came out the house, besides me, because
21 they specifically, he said, Where the fuck is Darryl Bradley
22 at. Now, I don't know where y'all got saying I wiped the
23 fingerprints off of the gun and threw it under the couch or
24 whatever like that, I don't know where y'all got that from.
25 But, yes, I did threw the BB gun under the couch because I

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 didn't want to get charged with possession of a weapon,
2 which I am charged for now, for a BB gun.

3 So, they ran outside of the house, went on
4 the porch and they specifically said, Where is Darryl
5 Bradley, where is Darryl Bradley. Nobody answered. And
6 then they asked, Where is your parents. Didn't nobody said,
7 They are not here. My homeboy said, They are not here.

8 So, they ran in the house, knowing they
9 wasn't supposed to. They ran in the house without the
10 consent of those people. Adn when they ran in the house,
11 they saw me in the kitchen with my hands up, because I
12 already knew they wanted me because he said, Where the fuck
13 is Darryl Bradley at, pointing guns at little girls and
14 stuff like that.

15 So, as he put me in the car, when they
16 arrested me in the kitchen and put me in the car, they went
17 back inside the house. I don't know what they did. They
18 probably was pressuring my homeboy, telling him, Where is
19 the gun, we know he got a gun. That is what he -- that is
20 what they did. Because when I was in -- when I was in the
21 cop car when they went back in the house -- they went back
22 in the house for five minutes. I knew they was searching
23 for something. They came back outside the house, opened the
24 door. I think that was, I think that was Detective Duncan
25 or Sergeant Duncan, whatever, and he was like, Where is the

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 gun at. And I told him, What gun, I don't have no gun. He
2 was like, We know, Jay'Sean already told us that it was a BB
3 gun, it looked like it was a real gun and he saw you, you
4 know what I am saying, you had it so where is it. I told
5 him, I don't know. I did lie. I'm being honest. I'm
6 telling the truth.

7 So, they went back in the house to try to go
8 look for it again. They didn't find it. They didn't locate
9 it. So, this time they come back outside the house with
10 Jay'Sean Redd. And when they came out with Jay'Sean Redd,
11 they opened my door and they had him talking. And he was
12 like -- his exact words were, Come on, Bro, just tell them
13 where the gun at because they say they are going to search
14 my house and if they find anything they are going to lock my
15 family up, so please don't get my family involved with this.

16 So, at that moment, because I have got a
17 humble heart and I understand that I'm getting his family
18 involved with something that I don't even know what I'm
19 involved in, so I told them, It's under the couch. Duncan
20 went under the couch and got it. And if the car was parked
21 in front of house, they would see that. And they have got
22 audio recording, which I don't know why they ain't brought
23 that as evidence, to hear all of that. If they didn't park
24 the car where the car -- in the front of the car has the
25 camera to see that. So, they should have audio recording.

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 That is what happened, yeah. So, I told
2 Jay'Sean Redd where the gun was at, the BB gun, instead of
3 Duncan, yes, yes, ma'am.

4 Q Right, okay. The BB gun that looks like this?

5 A That's it, yep.

6 Q It is not the Red Rider type BB gun, you will
7 shoot your eye out?

8 A No. No. No. It was broke anyways. It was broke,
9 that is why I brought it. That is why I brought it, it was
10 broke.

11 Q Where is Jay'Sean Redd now? Have you seen him
12 recently?

13 A No.

14 Q He is in the detention center, isn't he?

15 A Really? I didn't know that. I don't -- I didn't
16 contact --

17 MS. CAMPBELL: Objection, Your Honor. Number one,
18 relevance.

19 THE COURT: Sustained. The jury will disregard
20 the answer to that last question. Proceed, Solicitor,
21 cross-examination.

22 BY MS. SWANSON:

23 Q All right. So you are an admitted liar, right;
24 correct?

25 A I am an admitted liar?

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 Q Yes. You admitted that you are a liar on the
2 stand?

3 A I admitted to telling police that --

4 THE COURT: Counsel, back up, you will block my
5 jury's view.

6 A I admitted to telling the police officer that, I
7 don't know what gun you are talking about.

8 Q Right, and when --

9 A That doesn't mean I'm lying about this whole
10 situation, no, no, no, no, that doesn't mean that. And for
11 me to tell the truth about what I lied about should put
12 inside y'all's hearts that I'm telling the truth.

13 Q Okay. But when Ms. Campbell was asking you about
14 the phone call that you made to your sister, you also said
15 that you were lying about having burglarized the house, too,
16 so those are two lies that you have admitted to; correct?

17 A Burglarize -- burglarizing and robbery is two
18 different situations. Burglarizing is -- you have to enter
19 the dwelling without consent of the owner. I had consent
20 from the owner to come inside the house. For me saying,
21 Where is the money and going and look for it, I am thinking
22 that is robbery. Because I study the law, I look up the
23 law, I'm not just sitting back here doing anything. Because
24 just saying that I didn't do it is not enough so I am
25 reading law books trying to study, how can I get out of this

CROSS EXAMINATION OF DARRYL BRADLEY BY MS. SWANSON

1 situation. And that is what happened.

2 Q Okay. So, your last -- your last testimony was
3 that you have been studying how to get out of this
4 situation; is that correct?

5 A That is correct.

6 MS. SWANSON: Thank you. That is all I have.

7 THE WITNESS: That is correct. Just saying I
8 didn't do it is not enough. I didn't do it. I am not
9 guilty. Y'all going to find me not guilty? No, I have
10 to prove that.

11 THE COURT: Redirect?

12 MS. CAMPBELL: No.

13 THE COURT: You may step down.

14 THE WITNESS: Thank you, sir.

15 THE COURT: Call your next witness.

16 MS. CAMPBELL: Your Honor, the Defense rests.

17 THE COURT: Very well. Mr. Foreman and ladies and
18 gentlemen of the jury, you have heard the evidence in
19 this case, from both the State -- well, first of all,
20 just a moment. Is there any reply testimony from the
21 State?

22 MS. SWANSON: No, sir.

23 THE COURT: You have heard all of the evidence in
24 this case. But you have not heard the final arguments
25 of the attorneys nor my charge to you on the law. We

COMMENTS BY THE COURT

1 will do that first thing in the morning. Now, let me
2 caution -- and the reason is because, by the time I did
3 that, you would get the case so late you would be
4 running at dark and it's wet out there, the roads are
5 wet, I want you to be able to get home safely and be
6 back here.

7 I want you to be back in your jury room by 9:45 in
8 the morning, not 9:30. We are going to start at 10:00,
9 but I want you here at 9:45. They will have something
10 for you to drink. They will take good care of you. We
11 will finish the trial tomorrow.

12 Over the overnight recess, please do not watch
13 television. I don't know if there will be anything on
14 television, or listen to the radio or read the
15 newspaper, anything about this case. Don't discuss it
16 with anyone. We will conclude the case tomorrow. I
17 want to thank you for your patience, and thank you for
18 your service.

19 Please be on time tomorrow. Be in your jury room
20 by 9:45 a.m so we can start at 10:00 as you were this
21 morning. You may leave the courtroom at this time.
22 Everyone else remain seated while the jury is leaving.

23 (The jury exits the courtroom.)

24 THE BAILIFF: Jury is clear and door is closed,
25 Your Honor.

COMMENTS BY THE COURT

1 THE COURT: All right. Now, I need to make a
2 record of a Bench conference. Before I allowed the
3 Solicitor to cross-examine the Defendant, I ruled that
4 his prior convictions for burglary were inadmissible in
5 the trial of this case because the Defendant is charged
6 with burglary. A discussion ensued as to whether or
7 not the Solicitor could ask about whether he was
8 convicted of a crime involving dishonesty. And
9 Ms. Campbell agreed that it could be asked that way.

10 We did that in a Bench conference and I wanted to
11 make a record of it. What happened was, when that
12 question was asked, as agreed upon, Mr. Bradley didn't
13 understand the question. He later testified he did not
14 remember. But he first said that he didn't understand,
15 so the Solicitor said, Were you convicted of petty
16 larceny, different from the crime of burglary, which we
17 agreed upon but didn't know that we were going to have
18 to explain it further so the witness would understand
19 the question. And I wanted there to be a record of
20 what occurred in the Bench conference.

21 Have I accurately stated what occurred as far as
22 the State is concerned?

23 MS. SWANSON: Yes, sir.

24 THE COURT: Insofar as the Defense is concerned?

25 MS. CAMPBELL: Yes, sir.

COMMENTS BY THE COURT

1 THE COURT: Now, Ms. Campbell, you asked to put
2 something on the record outside the presence of the
3 jury earlier in this trial that I ruled on and I'm
4 now -- I'm trying to remember what it was. Look back.
5 There was something that you wanted to put that I said
6 that I would put it on the record at the appropriate
7 time. Do you remember that?

8 MS. CAMPBELL: I am trying.

9 THE COURT: I have notes. Hold on a second.

10 MS. CAMPBELL: Yes, I'm looking at my notes.

11 THE COURT: Okay. We put that on the record. I
12 realize that it was prior to the time that I gave you.
13 I thought that it was going to take the entire day to
14 put up the case. But I am going to need to meet with
15 the lawyers now. I have got -- I have written the
16 preliminary charge. I need to meet the lawyers for a
17 charge conference and accept your requests to charge
18 and go over what I am going to -- think that I need to
19 charge the jury in this case.

20 Let's talk about a couple of things on the record.
21 I will prepare a verdict form, which I'll get you to
22 approve, and we will put that on the record tomorrow.
23 I'll also go over with you everything that I am going
24 to charge so you can tailor your arguments to it. In
25 light of State versus Beatty, I am assuming that you

COMMENTS BY THE COURT

1 have read both Beatty I and Beatty II, which was quite
2 an interesting two cases from the Supreme Court.

3 For those, my young people out there, we have no
4 rule in South Carolina for closing argument in a
5 criminal case. We have a rule for closing argument in
6 a civil case. Because we have no criminal rule, some
7 courts have used the civil rule in order to formulate a
8 method of closing arguments. The Beatty case as I'm
9 referring to refer to the fact that the Supreme Court
10 promulgated a rule to the Legislature for closing
11 argument. The Legislature did not adopt their rule,
12 therefore it did not become law in this state and we
13 are left with the interpretation.

14 We have a real -- we have an 1802 case in which
15 the idea that if the Defendant puts up no evidence, the
16 Defendant gets closing argument. In this case, the
17 Defendant put up evidence so that does not apply here.
18 And the rule now is the Solicitor opens but has to open
19 in full, and then there's the reply argument by the
20 Defendant, and then the Solicitor gets, because they
21 have the burden of proof and the Defendant put up
22 evidence, the final argument but cannot introduce any
23 new matter, can only reply to what the Defendant's
24 argument is. Both of you agree that is the proper
25 order of argument insofar as State versus Beatty is

COMMENTS BY THE COURT

1 concerned from the State?

2 MS. SWANSON: Yes, sir.

3 THE COURT: From the Defendant?

4 MS. CAMPBELL: Yes, sir.

5 THE COURT: Very good. In that case, I'll need to
6 see my lawyers in chambers. Yes, ma'am, anything else
7 for the record?

8 MS. CAMPBELL: Well, for the record, I must renew
9 my motion for directed verdict and renew my motion that
10 I had previously for the mistrial.

11 THE COURT: Okay. Let the record reflect, Mona,
12 that she is renewing her motion for directed verdict at
13 the close of all of the evidence. And for the reasons
14 stated earlier, her motion for directed verdict is
15 respectfully denied. She's renewing her motions for --
16 which frankly -- well, I won't comment on that, I'll
17 leave it to the appellate court whether it's necessary
18 to do that or not, but to protect the interest of her
19 client she has done so, and I decline to change any
20 rulings that I have previously made in the trial of
21 this case.

22 I am going to need you to bring your requests to
23 charge and join me in chambers. This court is in
24 recess until 10:00 a.m. tomorrow morning. Thank you
25 very much.

COMMENTS BY THE COURT

1 (Proceedings continue on 2-20-2020.)

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COMMENTS BY THE COURT

1 2-20-2020 PROCEEDING

2 THE COURT: Thank you, good morning. Please be
3 seated. Counsel approach.

4 (Off-the-record discussion held.)

5 THE COURT: I want you both to okay the verdict
6 form. There's three pages. Sorry, but the explanation
7 is longer than the verdict form because of possession
8 of a weapon during the commission of a violent crime.
9 Y'all listening out there? How many of you are here
10 trying to get a 403, any of you? Y'all just here for
11 experience sake?

12 UNIDENTIFIED SPEAKER: Yes, sir.

13 THE COURT: Why are you standing up?

14 UNIDENTIFIED SPEAKER: Addressing the Court, Your
15 Honor.

16 THE COURT: We will take good care of you.

17 UNIDENTIFIED SPEAKER: Thank you, sir.

18 THE COURT: Y'all know what the lawyers are doing
19 right now?

20 UNIDENTIFIED SPEAKER: No.

21 UNIDENTIFIED SPEAKER: They are reviewing the
22 verdict form.

23 THE COURT: They are reviewing the verdict form.
24 And the reason is, because you can't be convicted of
25 possession of a weapon during the commission of a

COLLOQUY

1 violent crime unless what?

2 UNIDENTIFIED SPEAKER: He is found --

3 THE COURT: They find him guilty of a violent
4 crime. And we need to give the jury, because if they
5 find him not guilty of the other four offenses, they
6 have to find him not guilty of possession of a weapon.
7 And we put those instructions on the verdict form.

8 MS. CAMPBELL: The only question that I have is
9 whether the indictments have the degrees on them.

10 THE COURT: The indictments don't go to the jury.

11 MS. CAMPBELL: But the verdict form says, Burglary
12 first degree.

13 THE COURT: It does. Because, obviously, if we
14 are leaving out lesser includes, I have to define for
15 them what the offenses are. Now, do you have my
16 charge? Wait a minute, y'all stay up here. I want you
17 to look. I couldn't give you the charge -- says
18 credibility. But I told you that I would give the
19 charge on prior record, since you went into his prior
20 record about admission. Oh, you have it printed? Here
21 is the charge on prior record. I'm not going to say
22 all of that jazz about prior bad acts, just ignore
23 that. That is just part of the charge in case it's not
24 a conviction.

25 MS. CAMPBELL: Okay.

JURY CHARGE CONFERENCE

1 THE COURT: All right. I also, Trasi, at your
2 request, added in voluntary statement.

3 MS. CAMPBELL: Yes.

4 THE COURT: Because we had that. And I added in
5 prior record. This thing is going to be long. So, I'm
6 now charging, y'all know what I'm charging on
7 reasonable doubt. And we are going to put on the
8 record for you, because you asked me to let you do that
9 before I brought the jury in. And you want to make
10 your requests a Court's exhibit, if I understand it.
11 Which you are absolutely entitled to do.

12 *(Whereupon, Court's Exhibit No(s) 7 marked for*
13 *identification and received in evidence.)*

14 THE COURT: I am charging everything I told you
15 yesterday, but I added in since last night what you
16 just read. I have added in, once again during my
17 charge I have added in, which I told you that I would
18 do last night, and on the multiple charges I told you
19 that I would add in the explanation that is on the
20 verdict form about possession of a weapon, you can't
21 find him guilty unless it is a violent offense.

22 Solicitor, my understanding of criminal sexual
23 conduct first degree is that you are only relying on
24 that you think the evidence only exists, or if you use
25 aggravated force to accomplish the sexual battery.

JURY CHARGE CONFERENCE

1 MS. SWANSON: Correct.

2 THE COURT: That is all. I'm not charging all of
3 that other jazz in the statute. I'll define sexual
4 battery. We went through all of that. And I will
5 define aggravated force. I ran into a little problem
6 last night, y'all, we went over burglary first degree
7 and the three things that she's alleging constitutes
8 first degree, she says, armed with a deadly weapon,
9 explosive, use of threat to the use of a dangerous
10 instrument. The statute does not define dangerous
11 instrument.

12 Of course, she also relies on as aggravation,
13 Displays what is or appears to be a knife, pistol,
14 revolver, rifle, shotgun, or machine gun or other
15 firearms. I don't know why that is in here. I told
16 Austin to take that out. We are not going into prior
17 record. I am going to, unless y'all know -- I asked
18 Austin to check my charge book. I know there is a
19 statutory definition. I don't know if there is any
20 case law that defines dangerous instrument. If there
21 is, y'all tell me, for purposes of burglary. Austin,
22 did you find it?

23 THE LAW CLERK: No, sir.

24 THE COURT: You found no case?

25 THE LAW CLERK: Correct.

JURY CHARGE CONFERENCE

1 THE COURT: I can usually rely on somebody that
2 has researched it. So, I am just going to say
3 dangerous instrument and leave it at that since I don't
4 have any definition. Now, we could use the definition
5 that we used for -- but I don't think that is -- I
6 think that a dangerous instrument and armed with a
7 deadly weapon, we have the definition for that. But a
8 dangerous instrument would include things -- the deadly
9 weapon thing says an instrument which is suspected to
10 project or project a projectile. And obviously you can
11 have a dangerous instrument that doesn't project a
12 projectile, so I think that we best leave it alone
13 unless y'all have some request that you want me to
14 consider.

15 MS. SWANSON: No, sir.

16 MS. CAMPBELL: I do not.

17 THE COURT: She's relying on, for burglary, her
18 aggravating conditions are that, armed with a deadly
19 weapon or explosive used a threat to use of a dangerous
20 instrument and displays what is or appears to be a
21 knife, pistol, revolver, or shotgun, or other firearm;
22 is that right, those are the three? That is all that
23 I'm going to charge.

24 So, you have enter a dwelling without consent,
25 Mr. Bradley, you are exactly right about that. You

JURY CHARGE CONFERENCE

1 told me that you had been reading on it. Okay. But
2 she's also got to prove, in addition to that, with the
3 intent to commit a crime therein and the presence of
4 one of those three aggravating circumstances. And I'll
5 go into those. Y'all already know what my charge is on
6 the kidnapping. I'm just going to charge the statutory
7 definition of attempted armed robbery, okay. Which is
8 right, word for word, out of the statute. Except I
9 told Austin, don't include the part that says, if
10 guilty of felony. But when it prints out, that is the
11 last part of the statute. You can rest assured, that I
12 will not charge that.

13 I think that's all that I have added so y'all
14 know. I want you to be able to take possession of a
15 weapon during the commission of a violent crime. That
16 is it. I want y'all to be able to tailor your argument
17 to my charge. Any other additional requests from the
18 Defendant?

19 MS. CAMPBELL: Not from the Defendant.

20 THE COURT: From the State?

21 MS. SWANSON: No, sir.

22 THE COURT: All right. Let's put on the record
23 what Trasi wants to put on the record, her requests.
24 Austin, you have both of the cases, McHoney and what is
25 the other one? Give me the cites. Wake up now, we are

JURY CHARGE CONFERENCE

1 getting ready to start.

2 (Off-the-record discussion held.)

3 THE COURT: Yes, ma'am. We are on the record now.
4 The jury is not present. Yesterday I held a lengthy
5 charge conference with my attorneys. I went over
6 everything that I was going to charge, although I made
7 some additions overnight. I had just gone over all of
8 the additions at the Bench with the attorneys. I have
9 also shown the attorneys the verdict form that I have
10 prepared, and they both tell me that they are satisfied
11 with the verdict form. Is that correct for the State?

12 MS. SWANSON: That's correct.

13 THE COURT: Is that correct for the Defendant?

14 MS. CAMPBELL: Yes, sir.

15 THE COURT: All right. Now, I understand from
16 Ms. Campbell that the Defendant has a request to charge
17 on reasonable doubt. She made that motion to me in
18 writing and I told her that I would consider it. I'm
19 happy -- I have read it and I have read the cases that
20 you cite in support of it, which are Federal cases. I
21 also went back to see whether or not there was, and you
22 have conceded to me in our charge conference yesterday
23 that there is no South Carolina case on point.

24 So, I went back and traced the history of why I
25 charged the charge that I used for reasonable doubt.

JURY CHARGE CONFERENCE

1 And I had my law clerk shepardize the cases. They are
2 State versus McHoney 544 SE 2d 30, a 2001 case. State
3 versus Needs, 508 SE 2d 857, a 1998 case. Both of
4 which are still good law after shepardizing them. I
5 informed Ms. Campbell of that. So, she tells me that
6 she would like to place on the record and enter as a
7 Court's exhibit, or actually Defendant's request to
8 charge on reasonable doubt. Do you have it?

9 MS. CAMPBELL: I have provided that to your court
10 reporter, Your Honor, and she's marked it. I believe
11 it might be Court's 7.

12 THE COURT REPORTER: It is.

13 THE COURT: Court's 7, which is her request to
14 charge. Ms. Campbell takes issue, so that the
15 appellate court will have a record with -- you didn't
16 leave reasonable doubt out when you printed this, did
17 you?

18 THE LAW CLERK: No, sir.

19 THE COURT: Are you sure?

20 THE LAW CLERK: Yes, sir.

21 THE COURT: There it is. Ms. Campbell takes issue
22 with a portion of my charge. I say, Hesitate to act,
23 and then I later in the charge, after explaining the
24 difference between civil verdict of proof and criminal
25 proof, I say that it -- proof beyond a reasonable doubt

JURY CHARGE CONFERENCE

1 is proof that leaves you firmly convinced of the
2 Defendant's guilt. And there are very few things in
3 this world that we know with absolute certainty, and in
4 criminal cases the law does not require proof that
5 overcomes every possible doubt. If based on your
6 consideration of the evidence you are firmly convinced
7 that the Defendant is guilty of the crime charged, you
8 must find the Defendant guilty. On the other hand, if
9 you think that there is a real possibility that the
10 Defendant is not guilty, you must give the Defendant
11 the benefit of the doubt and find the Defendant not
12 guilty.

13 And that charge is directly from those two cases,
14 State versus McHoney and State versus Needs, which I
15 have placed on the record. There is no case that says
16 that it is an improper charge in South Carolina on
17 reasonable doubt. And I, therefore, decline to change
18 the charge and we have made it a Court's exhibit of
19 what Ms. Campbell has requested to protect the record
20 for appeal.

21 I think with that, now that I have been over the
22 charge, the last thing that we went over before we
23 adjourned last night, we went over order of argument.
24 Both sides requested 30 minutes. The Solicitor will
25 open. Just to show y'all how -- last night, while I

COLLOQUY

1 was working Judge Dickson from Orangeburg sent me an
2 email wanting to know in a civil case, where we do have
3 a rule for closing arguments, whether or not it is
4 improper for the Plaintiff to walk up to the jury and
5 say, after they talk about liability, then say, I'm
6 going to ask you for damages for both medical bills and
7 pain and suffering. And then the Defendant gets up in
8 the middle and says, I don't think that you ought to
9 give them any money, or suggests some lesser amount
10 than the medical bills, because they are not bound --
11 you can give less than the medical bills, you are not
12 bound by medical bills. It is what is reasonable.

13 And then the Plaintiff, in reply, gets up and
14 says, One method that you can use is the per diem
15 method. And the Plaintiff calculates per diem. Say if
16 you give five dollars a day for pain and suffering and
17 then you use their life expectancy, you say this is how
18 much it'll be per month and per year, that is one
19 method that you can use to try and calculate pain and
20 suffering.

21 He had an objection on the basis that that was
22 introducing a new matter when you don't calculate the
23 damages initially. I will rule that, as long as you
24 ask for the damages during argument, I don't think that
25 the calculation makes any difference. When the

COLLOQUY

1 Defendant says, in his argument, I don't want you to
2 give him anything or -- so, we have quite a bit of
3 people that argue over closing arguments.

4 And it happens in a criminal case. If the
5 Solicitor doesn't say their theory of the case in their
6 first argument, they are not allowed to introduce any
7 new matter in their reply other than reply to what the
8 Defendant says. That is the purpose of the rule. So
9 the Defendant has a confrontational right, has the
10 right to confront the evidence and the argument that
11 construes the evidence, and because of that right we
12 try to enforce that and not allow a new matter to be
13 introduced. That is a due process right through the
14 six, seventh amendment.

15 So, I wanted y'all to be aware of that. It goes
16 on constantly in court. It's going on right now in
17 Orangeburg in a civil case, even though we are talking
18 about it in a criminal case here in Beaufort.

19 All right. The Solicitor will argue first, she
20 has a total of 30 minutes. She will argue in full.
21 Once she sits down, I'll tell her before she stands
22 back up how many more minutes she has got left.
23 Because Austin will keep the time on his watch. And he
24 does a great job at it. He's got a stopwatch on there.
25 And then Trasi will have 30 minutes to argue in full if

COLLOQUY

1 she wants to use that amount of time. You will hear
2 the familiar (demonstrating knocking sound) once you
3 have got to 25 minutes to let you know that you have
4 got five minutes to go, to try to wrap it up if you get
5 too embroiled in your argument.

6 I'll be taking up -- is Norm in here? No. Jody,
7 make sure -- all right, you make sure. When the jury
8 goes out, I have at least two jurors that have Apple
9 watches, and I am going to ask that before they start
10 deliberations, at the request of Ms. Campbell, to take
11 up their Apple watches. Of course you can give them
12 back to them once they reach a verdict. But they are
13 not to have their Apple watches in the jury room so
14 they do not have communication capabilities to the
15 outside.

16 Norm, I'm just talking about taking out the two
17 jurors that have an Apple watch, taking it during
18 deliberations. Give it back to them, of course. I
19 have had some issues with that in other counties, but
20 Ms. Campbell has requested that they not have the
21 ability to communicate once they start communication.
22 And I have granted that request for her.

23 All right. Have I left anything out insofar as
24 our conference yesterday and this morning concerning
25 the charge and verdict form, from the State?

COLLOQUY

1 MS. SWANSON: No, sir.

2 THE COURT: From the Defendant?

3 MS. CAMPBELL: No, sir.

4 THE COURT: All right. Then we are ready. Would
5 you bring us the jury, please?

6 THE BAILIFF: Yes, Your Honor.

7 (The jury enters the courtroom.)

8 THE COURT: Please stand while the jury is
9 entering the courtroom.

10 Good morning, Mr. Foreman.

11 THE FOREMAN: Good morning.

12 THE COURT: Good morning, ladies and gentlemen.
13 Please be seated.

14 I know that you were back there saying, Judge
15 Buckner told me to be here at 9:45 and now it's 10:30.
16 I take full responsibility for that. We were all here
17 on time. Yesterday after you left, we worked after I
18 sent you home. Some issues came up that required me to
19 change my charge last night. I had to go over that and
20 then we had to print it out and go over that, as well
21 as the verdict form to make sure that there was no
22 problem with the work that I did last night, which we
23 couldn't get it to print until we got to Beaufort this
24 morning. We printed one last night, but it turned out
25 it didn't print out the addition so we had to reprint

COMMENTS TO THE JURY BY THE COURT

1 when we got to Beaufort this morning. So, we had
2 matters that we had to take care of. Entirely on me.
3 It had nothing to do with the lawyers or the parties, I
4 just had to take the time to do that. Even though we
5 worked last night, we had to wait on the printer to get
6 it printed and I had to show it to them and had to give
7 them the opportunity to see what I'm going to do.

8 We always allow the lawyers, so you know, to know
9 exactly what the Judge is going to charge on the law
10 once I make a decision about that so they can, if they
11 wish, to tailor their closing arguments to the Judge's
12 charge on the law so it won't be any surprise to them.

13 And here is what is going to happen now. First
14 you are going to hear an argument from the Solicitor,
15 the State. Followed by an argument from counsel for
16 the Defendant. Then the Solicitor will have the final
17 reply. Not to introduce any new matter, only
18 responding to what the defense attorney argues in their
19 argument. I anticipate that that is going to take a
20 while, I would say probably somewhere around an hour.

21 Following that I am going to do my charge, which
22 is going to take about 30 to 40 minutes. If you want
23 to take a break after the arguments, Mr. Foreman, all
24 that you have to do, you turn around and look at
25 everybody, if anybody wants to take a break, not

COMMENTS TO THE JURY BY THE COURT

1 discuss the case, I will let you go to the jury room
2 and then I charge you if you need that break.

3 Your lunch is scheduled to be here around 12,
4 12:15. We were trying to estimate the time that you
5 will have your lunch here so you can have lunch when
6 you start your deliberations. Thank you for your
7 service and your patience. We will now begin and
8 finish the trial of this case. Solicitor, opening
9 argument.

10 CLOSING ARGUMENT BY THE STATE

11 MS. SWANSON: May it please the Court. This has
12 not been a lengthy case. And I know all of y'all have
13 paid close attention to the witnesses, so I don't want
14 to spend my time in front of you rehashing what they
15 told you just yesterday. If you have a question about
16 what they said and you cannot agree on it or you think
17 that it differs from what I'm telling you or what
18 Ms. Campbell tells you, we have got the court reporter,
19 this is a court of record, you can rehear testimony.

20 What I do want to start by talking about is Darryl
21 Bradley's testimony. Because the last thing that he
22 told you was that he's been studying about how to get
23 out of this. And he's been doing that for about two
24 and a half years. This case, this incident, took place
25 in April of 2017. He's had two and a half years to

CLOSING ARGUMENT BY THE STATE

1 craft the nonsense that he told you from the stand
2 yesterday. He would have you believe that this is some
3 massive misunderstanding. How did we get it so wrong?

4 Well, the truth is, we didn't. At the end of the
5 day, there's one major issue for you all to determine,
6 and that is credibility of the witnesses, who do you
7 believe. Do you believe Darryl Bradley or do you
8 believe the eleven witnesses that the State put up for
9 you?

10 Let me ask you this, why would Alfreda Thompson,
11 63 year old woman at the time, who has Parkinson's,
12 subject herself to the invasive rape kit, not to
13 mention cross-examination by Ms. Campbell, and see this
14 through for two and a half years, if this was just some
15 sort of made-up misunderstanding? Why would she do
16 that? What could she possibly have to gain from doing
17 so?

18 And why would law enforcement have to show, not
19 only her but her father, photo line-ups trying to
20 figure out who this guy is? Nobody gave law
21 enforcement a name. They didn't know his name. If she
22 was romantically involved with this man over here, she
23 would know his name. And if she really wanted to get
24 him, wouldn't she tell police, yeah, it was Darryl
25 Bradley who did this. There is just no reason. It

CLOSING ARGUMENT BY THE STATE

1 doesn't make any sense. It is nonsense.

2 Now, obviously there is one person that has a lot
3 to lose here, and that is Darryl Bradley. Because he's
4 being held accountable for what he deemed a mistake in
5 his jail phone call to his sister. Now, obviously this
6 is much more than a mistake. This is quite serious and
7 the thing of nightmares.

8 But you know what, let's think about that jail
9 call because that is a bad fact for him. And what did
10 he tell you yesterday? Oh, it is a lie. Well, all of
11 the bad facts for him are lies, and all of the
12 witnesses that testified against him are liars. What
13 do you believe?

14 Discrete lovers do not bring guns to their
15 romantic trysts. Their partners do not begin shaking
16 and praying. They do not call 911. They do not go for
17 a rape kit. They do not participate in the prosecution
18 of a case for two and a half years. It is just not
19 what they do. Now, I do trust that you have enough
20 life experience to be able to determine the credibility
21 of witnesses, which simply means the believability of a
22 witness. And Judge Buckner is going to charge you on
23 the law and give you suggestions on how to do so, what
24 things to look for.

25 So, you know, the good thing about Darryl

CLOSING ARGUMENT BY THE STATE

1 Bradley's testimony is that he's really narrowed the
2 issues that you have to deliberate about because now
3 there are a lot of facts that are not in dispute, a lot
4 of things that are not in question. It has isolated
5 the issues for you because he has admitted, number one,
6 that he was at [REDACTED] on April 18th, 2017.
7 Number two, that he entered that home with a gun.
8 Number three, that he had sexual relations with Alfreda
9 Thompson and ejaculated on her. Number four, he
10 demanded money. This is not a who done it, it is a
11 what happened.

12 So, what you can confine your deliberations to are
13 the things like: Was Darryl Bradley invited in? Was
14 the sexual battery consensual? Was he simply asking
15 for money that was owed to him for yard work?

16 Now, Judge Buckner at the end of the case is going
17 to charge you on the law. I don't want to go into that
18 whole long charge, you are going to hear enough of it.
19 But because it takes place in 30 minutes, all at once,
20 it is a lot to retain, so I just want to point out a
21 few legal issues for you.

22 The gun. When we are talking about being armed or
23 using a weapon, it doesn't matter if it is a BB gun or
24 a machine gun, okay. If you are attempting to armed
25 rob someone, you could even have your finger in your

CLOSING ARGUMENT BY THE STATE

1 pocket, all right. It is the representation of being
2 armed with a gun. It doesn't matter if this gun works
3 or not. But this sure does look real, okay, and that
4 is the point. That doesn't look like any BB gun that I
5 have ever seen.

6 For the criminal sexual conduct, the statute
7 requires any intrusion into an orifice of the body, no
8 matter how slight, okay. Just a little tiny bit of
9 intrusion into any orifice. Now, Ms. Thompson is in
10 her mid '60s, she was clearly uncomfortable talking
11 about this. It is not necessary for Darryl Bradley's
12 penis to get all the way in her vagina or her rectum.
13 And she knew that that did not happen. That is what
14 she's calling penetration. She said She felt it, he
15 tried to get it all the way in and he got frustrated.
16 Well, there was also male DNA found on her underwear
17 that was taken prior to her going to the rape exam,
18 male DNA on it. So, that corroborates the fact that he
19 at least got a portion of his penis inside of her.

20 Kidnapping. Darryl Bradley is also charged with
21 kidnapping. Now, I realize that that may seem like
22 somebody is getting bound and stuffed into a trunk and
23 then, you know, a random note follows. That is not
24 what it is. It is seizing someone, which means
25 forcibly taking someone, for instance, at gun point to

CLOSING ARGUMENT BY THE STATE

1 the back of the house and confining them for a period
2 of time.

3 Lastly, I want to talk about the jail phone call
4 again, okay. I want to end on reminding you of a few
5 things that he told his sister just three days after
6 his arrest, not two and a half years, three days. Well
7 before he was able to mold his story for you yesterday.
8 Well before he studied his way out of this situation.
9 Well, don't let that happen. In speaking with his
10 sister he denies the sexual assault and says, oh, the
11 truth will come out. Well, let them check my DNA.
12 Okay. We did and it implicates him.

13 In speaking with his sister he tells her that he
14 took the lady's phone but they didn't find it on him.
15 No, we didn't, and she didn't even report it missing.
16 But what is that? Well, that is a robbery, all right.
17 Now, we didn't have the phone, so we didn't charge him
18 with a completed robbery, we charged with attempted
19 armed robbery. He was demanding money at gun point.
20 We did not have evidence of the completion of the
21 robbery, he was charged with attempted armed robbery.
22 He got us on that one.

23 And in reference to the burglary, yeah, I did
24 that, no need to lie. Well, I don't know when he's
25 lying or telling the truth. But it sounds like he's

CLOSING ARGUMENT BY THE STATE

1 partially telling the truth. And if you string all of
2 his half truths together, you begin to see the picture
3 that Alfreda Thompson painted for you.

4 As Judge Buckner said, Ms. Campbell is going to
5 address you now. I get to briefly reply to any new
6 arguments. I thank you for your attention and your
7 time in this case.

8 THE COURT: Ms. Campbell.

9 CLOSING ARGUMENT BY THE DEFENSE

10 MS. CAMPBELL: May it please the Court. Good
11 morning. One of my favorite shows recently, in the
12 last couple of years, and I just so enjoy watching it,
13 is a show on PBS, and it is Sherlock Holmes. And I
14 don't know if you have seen it or not, but it's based
15 upon the works of -- the writings of Sir Arthur Conan
16 Doyle. And he was an English author about a century
17 ago. And it is about figuring out what happened. A
18 mystery. Mr. Sherlock is given a problem, something is
19 going on, what really happened.

20 And so Doyle wrote about circumstantial evidence.
21 He said something like, Circumstantial evidence is a
22 very tricky thing. It may seem to point to one thing,
23 but if you shift your point of view ever so slightly,
24 then you may find it pointing equally,
25 uncompromisingly, to something entirely different. And

CLOSING ARGUMENT BY THE DEFENSE

1 according to Doyle, there -- this is -- there's nothing
2 more deceptive than an obvious fact.

3 So, the State of South Carolina has strung
4 together a series of pieces of evidence and allegations
5 to create, if you will, sort of a chain necklace. And
6 they want to hang that necklace around Darryl Bradley's
7 neck. And they have tried to tell you Darryl Bradley
8 is a rapist and he is a robber. And they want you to
9 get together and pull the chain of circumstantial
10 evidence and allegation and pull it tight and return a
11 verdict of guilty.

12 And His Honor would tell you that the law is mere
13 suspicion, speculation, is never enough in this
14 courtroom to convict a man on allegations by the State.
15 And when you say to yourself, as the prosecutor said,
16 in our everyday lives, when I'm going about the
17 business of living and I'm saying, you know, something
18 doesn't feel right or I'm using my instincts on past
19 experience to say, well, I feel like I'm not getting
20 the whole picture here. Well, what do I do? I may
21 hesitate to make a decision until I feel like I have
22 all of the facts or all of the information.

23 And you must, you must, you must use those past
24 life experiences in judging the testimony and the
25 evidence in this case. You could say to yourself,

CLOSING ARGUMENT BY THE DEFENSE

1 well, did that make sense, did this particular aspect
2 of someone's testimony, did that make sense to me. Did
3 that add up against testimony or pieces of evidence I
4 heard elsewhere in the case. Do I feel like I have all
5 of the information that I need. Could that person
6 recall the information accurately?

7 And each individual one of you, sitting in your
8 own chair, you may be in what looks like a big box, but
9 you are in your own chair, you have your own mind. And
10 in that regard no one's seat is more important than the
11 other. So, when you begin your deliberations, and
12 during your deliberations, you have a voice. You must
13 be heard, you should be heard. And bring your mind to
14 the deliberations on these great matters.

15 I can tell you, it is a slippery slope for all of
16 us if the law that shores up our way of life is
17 suffering and the protections are not there, if the
18 State seeks guilt without proof of guilt beyond a
19 reasonable doubt. Well, we probably all heard that
20 phrase, so proof of guilt beyond a reasonable doubt is
21 not just some convoluted notion, arcane, it is the
22 concrete, if you will.

23 I walk around here, there is concrete under my
24 feet. It is the concrete that every single one of us
25 relies on to shore up this courthouse, to shore up how

CLOSING ARGUMENT BY THE DEFENSE

1 we live in this country. And if it suffers a crack in
2 this case, then the foundation will be cracked when you
3 need it, when I need it, when they need it.

4 So I say to you, in a situation like this,
5 accusations, absent proof, never sufficient to take
6 life and liberty from someone. Why? Because that is
7 the law. So, how do we explain? What exactly is
8 reasonable doubt? Now, His Honor, Judge Buckner is
9 going to tell you, it is the kind of doubt that would
10 cause a person to hesitate to act. That is sort of the
11 tight, short definition. There will be more from His
12 Honor.

13 So, I have explained it like this in the past: If
14 I were to take a box and put it down here in front of
15 us all, and opened the box, I put the cat in the box, I
16 put the mouse in the box, I close it up, I tape it up,
17 and I leave for 15 minutes and I come back. Untape it,
18 open the box, look inside, the mouse is gone. So we
19 say, well, the cat ate the mouse. Do it again. Put
20 him in there, tape it up, leave, come back. And I open
21 it up, still just the cat. But then I look closer,
22 then I actually pick up the box and examine it, and
23 right there in the corner is a little hole just big
24 enough for a mouse to leave. Reasonable doubt.

25 Now, you can never say, about Darryl Bradley, you

CLOSING ARGUMENT BY THE DEFENSE

1 can never say about a man or a woman sitting with me,
2 well, you know, why didn't he say this, why didn't he
3 do that, why didn't he bring me this witness or this
4 piece of evidence. Because that shifts the burden to
5 us as citizens. And our government is responsible for
6 bringing the proof, not us. We can't come in here and
7 prove ourselves innocent.

8 Many, many years ago, 1789, July 11th, Thomas
9 Jefferson, he was a prolific writer, wrote to his
10 friends, you know, back in the day. We now text, I
11 need something, you know, or come over here, or email.
12 The lost art of writing. So, we have records of what
13 people said then, in their letters. And he said to
14 Thomas Payne, I consider the trial by jury as the only
15 anchor ever imagined by man where a government can be
16 held to the principles of the Constitution. And make
17 no mistake today, you, you 12, are the anchor to hold
18 the State, to hold this Court, to hold the law constant
19 and firm in the presumption of innocence and no verdict
20 of guilty where there's reasonable doubt.

21 I leave you today with another -- the origin of it
22 is, some will claim was Mesopotamia or Persia, but many
23 people say that it is an ancient Jewish teaching about
24 the situation -- the very situation that you face today
25 in your jury room. And the teaching says, If we punish

CLOSING ARGUMENT BY THE DEFENSE

1 on the strength of presumption and supposition, it may
2 be one day that we shall punish an innocent person.
3 And it is better and more satisfactory to acquit a
4 thousand guilty persons than to punish a single
5 innocent man.

6 And your verdict, your verdict on this day,
7 speaking unanimously, where everyone has agreed, and
8 all must agree, and no one must give up their belief
9 just to be in agreement, your verdict in the face of
10 mere suspicion and allegation is not guilty. Thank you
11 for your time and attention.

12 THE COURT: Solicitor.

13 FINAL CLOSING ARGUMENT BY THE STATE

14 MS. SWANSON: All right. Very briefly. I do want
15 to address a couple of things. This is a case where
16 there is substantial direct and circumstantial
17 evidence. We have eye witness testimony from Alfreda
18 Thompson. We have the ID from the photo line-up. And
19 we have forensic evidence, the DNA. All right. This
20 is not mere suspicion, anything like that.

21 The State is not held to an absolutely certain
22 standard, nothing is absolutely certain. That would be
23 impossible for us to prove. Remember, your doubt must
24 be reasonable. Darryl Bradley is not the victim here
25 as he would like to have you think. The evidence is

FINAL CLOSING ARGUMENT BY THE STATE

1 there. He is guilty of absolutely everything that he's
2 been indicted for.

3 And if you believe the witnesses that the State
4 presented, you have no reasonable doubt. I'm asking
5 you to find him guilty from all charges. Thank you.

6 THE COURT: Mr. Foreman, would the jury like a
7 break, or are you ready to proceed?

8 THE FOREMAN: Sir, we are ready to proceed.

9 JURY CHARGE

10 THE COURT: Very well. All right. Mr. Foreman,
11 ladies and gentlemen of the jury, it's now my duty to
12 charge you on the law of this case. Can everybody hear
13 me all right back there on the back row? I haven't got
14 this microphone on because I consider it worthless.
15 The State has charged the Defendant in this case,
16 Darryl Douglas Bradley, Junior, with criminal sexual
17 conduct in Indictment 2017 at 633, with burglary first
18 degree, and criminal sexual conduct first degree.
19 Burglary is Indictment 2017-634. With attempted armed
20 robbery in Indictment 2017-642. With kidnapping in
21 Indictment 2017-643. And finally with possession of a
22 weapon during the commission of a violent crime in
23 Indictment 2017 at 644.

24 Now, I'm going to explain those to you, but those
25 are the five charges. But I first want to remind you,

JURY CHARGE

1 the fact that the Defendant was arrested, the fact that
2 the Defendant was charged and indicted in this case is
3 not evidence in this case. Nor does it create any
4 presumption or inference of guilty. The indictments
5 are simply the documents which contain the formal
6 charges made against the Defendant which allows this
7 court, the court of general sessions, to have
8 jurisdiction. So, the indictments are just the formal
9 document by which the case is brought into this court
10 and it is not evidence of any of the allegations
11 contained in the indictment.

12 Now the Defendant, Darryl Bradley, has pled not
13 guilty to the indictments. And that plea of not guilty
14 puts the burden on the State of South Carolina to prove
15 the Defendant guilty beyond a reasonable doubt.

16 A person charged with committing a criminal
17 offense in South Carolina is never required to prove
18 himself or herself innocent. I charge you, ladies and
19 gentlemen of the jury, that it is an important rule of
20 the law that the Defendant in a criminal trial, no
21 matter what the seriousness of the charge may be, will
22 always be presumed to be innocent of the crime for
23 which the indictment or indictments were issued unless
24 guilt has been proven by evidence satisfying you of
25 that guilt beyond a reasonable doubt.

JURY CHARGE

1 This presumption of innocence does not end when
2 you begin your deliberations, but it accompanies the
3 Defendant throughout the trial until you, the members
4 of the jury, reach a verdict of guilt based on evidence
5 satisfying you of that guilt beyond a reasonable doubt.
6 The presumption of innocence is not just a legal
7 phrase. It isn't just a legal theory. It is a
8 substantial right to which every Defendant is entitled
9 unless you, the jury, are satisfied from the evidence
10 of the Defendant's guilt beyond a reasonable doubt.

11 What is a reasonable doubt in the law? A
12 reasonable doubt is the kind of doubt that would cause
13 a reasonable person to hesitate to act. The State has
14 the burden of proving the Defendant guilty beyond a
15 reasonable doubt. Some of you may have served in the
16 past as jurors in a civil case, such as a contracts
17 case or a wreck case, those are examples of civil
18 cases, where you were told if you were serving in such
19 a civil case that it was only necessary to prove that a
20 fact is more likely true than not true. We call that
21 burden of proof in a civil case, by the greater weight
22 or preponderance of the evidence. In a criminal case,
23 such as the case here, the State's proof must be more
24 than that, it must be beyond a reasonable doubt.

25 Proof beyond a reasonable doubt is proof that

JURY CHARGE

1 leaves you firmly convinced of the Defendant's guilt.
2 Now, there are very few things in the world that we
3 know with absolute certainty. And in criminal cases
4 the law does not require proof that overcomes every
5 possible doubt. If based on your consideration of the
6 evidence you are firmly convinced that the Defendant is
7 guilty of the crime or crimes charged, you must find
8 the Defendant guilty. On the other hand, if you think
9 that there is a real possibility that the Defendant is
10 not guilty of the crime or crimes charged, you must
11 give the Defendant the benefit of the doubt and find
12 the Defendant not guilty.

13 I remind you, ladies and gentlemen, that during
14 this trial, you and I have had certain duties to
15 perform. AS the trial judge it's been my
16 responsibility to preside over the trial of the case.
17 And it's also -- I have the duty to rule on the
18 admissibility of the evidence offered during the trial
19 of the case. You are to consider only the competent
20 evidence from the record that was entered during the
21 trial of this case. If there was any testimony ordered
22 stricken by the Court from the record during this case,
23 or during the trial, you must disregard that testimony
24 or evidence. You are to consider only the testimony
25 from the witness stand by the sworn witnesses, any

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1 exhibits which you have heard me say have been entered
2 into evidence. And you will have those exhibits with
3 you in your jury room with exception of maybe one that
4 I can think of that requires you to come back out here
5 to use equipment to play it with. And if there were
6 any stipulations of counsel during this trial, you
7 would consider that as evidence.

8 I have also the additional duty as a trial judge
9 to charge you on the law that applies to this case. As
10 the presiding judge, I remind you now, I am the sole
11 judge of the law in this case. And as jurors, I remind
12 you that it's your duty to accept and to apply the law
13 exactly as I now state it to you. If any of you have
14 any preconceived ideas or any preconceived opinions
15 about what you think the law is or what you feel the
16 law ought to be and it does not agree with what I now
17 tell you the law is, you must abandon any of your
18 preconceived ideas or opinions, because each of you
19 took an oath and in that oath you swore or affirmed
20 that you would accept the law and apply the law exactly
21 as I now state it to you.

22 In every case tried in this courtroom before a
23 jury, the jury becomes, as I told you at the outset,
24 the sole and the exclusive judges of the facts in the
25 case based on the evidence introduced during the trial

JURY CHARGE

1 of the case. A trial judge such as myself cannot
2 intimate, state, comment on, make any kind of statement
3 to a trial jury such as yourself about the facts in a
4 case.

5 Since you, ladies and gentlemen of the jury, are
6 the sole judges of the facts in this case, you are not
7 to infer from anything that I have said during the
8 progress of this trial in ruling upon the admissibility
9 of evidence or any objection or otherwise, or anything
10 that I say now during the course of this instruction to
11 you, that I have any opinion whatsoever about the facts
12 in this case. The law does not allow me to have an
13 opinion about the facts in the case. This is a matter
14 solely for you, the jury, to determine.

15 As jurors it is your duty to determine the effect,
16 the value, the weight of the evidence presented during
17 the trial of this case. Now, like many things in law,
18 ladies and gentlemen, there are two types of evidence
19 that are generally presented during a trial and we have
20 names for those types of evidence. We call it direct
21 evidence and circumstantial evidence. Direct evidence
22 is testimony of a person who claims to have actual
23 knowledge of a fact such as an eye witness to an event.
24 Direct evidence is evidence that immediately
25 establishes the main fact to be proved.

JURY CHARGE

1 Circumstantial evidence, as contrasted with direct
2 evidence, is proof of a chain of facts indicating the
3 existence of a fact. Circumstantial evidence is
4 evidence which establishes collateral facts from which
5 the main fact may or may not be inferred.
6 Circumstantial evidence is based on inference and not
7 on personal knowledge or personal observation. The law
8 makes absolutely no distinction between the weight or
9 the value to be given to either direct or
10 circumstantial evidence. Nor is a greater degree of
11 certainty required of circumstantial evidence than of
12 direct evidence. You, ladies and gentlemen of the
13 jury, should weigh or consider all of the evidence in
14 the case, both direct and circumstantial.

15 After weighing and considering all of the evidence
16 in the case, if you are not convinced of the guilt of
17 the Defendant beyond a reasonable doubt you must find
18 the Defendant not guilty. On the other hand, after
19 hearing all of the evidence in the case, both direct
20 and circumstantial, if you are convinced of the guilt
21 of the Defendant in this case beyond a reasonable
22 doubt, you must find the Defendant guilty.

23 Necessarily, ladies and gentlemen, you will have
24 to determine the credibility, which simply means the
25 believability, of the witnesses who have testified

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1 during the trial of this case. It becomes your duty as
2 jurors to evaluate. It becomes your duty as jurors to
3 analyze the evidence and determine which evidence
4 convinces you of its truth. In determining the
5 believability of the witnesses who have testified in
6 this case, you may believe one witness over several
7 witnesses or several witnesses over one witness. You
8 may believe a part of the testimony of a witness and
9 reject the remaining part of the testimony of that same
10 witness.

11 You may believe the testimony of a witness in its
12 entirety, or you may reject the testimony of a witness
13 in its entirety. You may consider whether any witness
14 has exhibited to you any interest, any bias, any
15 prejudice, or other motive in this case. You may also,
16 as I told you at the outset of this trial, you may also
17 consider the appearance, the manner of the witness
18 while the witness is on the witness stand. We call
19 that the demeanor of the witness. Anything that is in
20 evidence, ladies and gentlemen of the jury, you as a
21 juror have the right to consider.

22 Now, ordinarily the Rules of Evidence, as I told
23 you during the trial, they don't permit someone to come
24 up, take the oath, sit down in the witness stand and
25 say, my opinion of what happened is so and so. We

JURY CHARGE

1 don't allow opinion testimony normally in a courtroom
2 because of our law. An exception to this rule exists
3 for those witnesses, as I told you during the trial, we
4 call expert witnesses. A witness who claims, by
5 education, training, or experience have become an
6 expert at some art, science, or profession may give an
7 opinion as to the subject the witness claims to be an
8 expert in and may also give the reasons for his or her
9 opinion.

10 You should consider, if qualified by the Court,
11 you should consider any expert opinion given by a
12 witness, and like any other evidence in this case, you
13 give it the weight you think that it deserves. If you
14 decide that an expert witness' opinion is not based on
15 sufficient education and experience, or if you decide
16 the reasons given in support of the opinion are not
17 sound, or that the opinion is outweighed by other
18 evidence in the case, you may disregard the expert
19 opinion entirely.

20 An expert witness' testimony is to be given no
21 greater weight than that of other witnesses simply
22 because the witness is an expert. And you don't have
23 to accept an expert's opinion even though it's
24 uncontradicted. That is a matter for you to decide.

25 Now, in a criminal case, in order to establish

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1 criminal liability, or criminal responsibility,
2 criminal intent is required. For example, let me
3 explain to you what I mean, that is the mental state
4 that is required to be proven by the State for a
5 particular crime. Let me give you some examples of
6 criminal intent. It might be purpose, or intent, or
7 knowledge, or recklessness, or in some cases even
8 criminal negligence. Those are examples of criminal
9 intent. Criminal intent must be proven by the State
10 beyond a reasonable doubt. Criminal intent is always a
11 matter that must be determined by the jury from the
12 circumstances surrounding the situation based on
13 evidence introduced during the trial of the case.

14 Now there is no way, ladies and gentlemen, to
15 prove intent to a mathematical certainty. There's no
16 way that medical science can dissect a person's brain
17 and tell what that person had in mind. So the law
18 says, ladies and gentlemen, that criminal intent may be
19 inferred from the circumstances shown to have existed
20 based on evidence introduced during the trial of the
21 case. This is how you, as a jury, make a determination
22 of whether or not any element in any crime requiring
23 intent was present.

24 It is not necessary to establish intent by direct
25 or positive evidence, but intent may be established by

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1 inference, in the same way as any other fact, by taking
2 into consideration the acts of the parties and all of
3 the facts and circumstances of the case based on
4 evidence introduced during the trial of the case.

5 Criminal intent is a mental state, a conscious
6 wrongdoing. It is up to you from the evidence, the
7 jury, to determine what the Defendant intended to do
8 based on the circumstances shown to have existed from
9 evidence introduced during the trial of the case.

10 An issue in this case is the identification of the
11 Defendant as the perpetrator of the crimes charged.
12 The State of South Carolina has the burden of proving
13 the identity beyond a reasonable doubt. You must be
14 satisfied, ladies and gentlemen of the jury, beyond a
15 reasonable doubt of the accuracy of the identification
16 of the Defendant before you may convict the Defendant.
17 Identification testimony is an expression of belief or
18 impression by a witness.

19 You must determine the accuracy of the
20 identification of the Defendant. You must consider the
21 believability of each identification witness in the
22 same way as any other witness. You may consider
23 whether the witness had an adequate opportunity to
24 observe the offender at the time of the offense. This
25 might be affected by such things as how long or short

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1 of time was available, how far or close the witness
2 was, the lighting conditions, and whether the witness
3 had a chance to see or know the person.

4 Once again, I instruct you that the burden of
5 proof is on the State and it extends to every element
6 of the crime charged. And this specifically includes
7 the burden of proving beyond a reasonable doubt the
8 identity of the Defendant as the person who committed
9 the crime. If, after examining the testimony, you have
10 a reasonable doubt as to the accuracy of the
11 identification you must find the Defendant not guilty.

12 I charge you, ladies and gentlemen, that a
13 statement alleged to have been made by the Defendant
14 has been admitted into evidence in this case. While
15 the Court has determined, as a matter of law, that the
16 statement is admissible in evidence, I instruct you now
17 that you make the ultimate decision of whether or not
18 the Defendant made the statement. If the Defendant did
19 make the statement, you must determine whether the
20 statement was made by the Defendant voluntarily and of
21 his own freewill. That means that the statement wasn't
22 caused by any pressure or force or fear or threat or
23 coercion or intimidation or by hope or promise of
24 leniency or reward of any kind.

25 In determining whether the statement was

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1 voluntary, you should consider the characteristics of
2 the Defendant, the details of the questioning. Some of
3 the factors that you may consider, if introduced into
4 evidence during the trial of this case, would be the
5 age of the Defendant, the Defendant's education or lack
6 thereof, the Defendant's mental ability or capacity,
7 the Defendant's intelligence, his background and
8 environment, the place and length of detention, the
9 nature of the questioning, and whether or not there had
10 been advice to the Defendant of his Constitutional
11 rights, including but not limited to the right to
12 remain silent, that any statement could be used against
13 him in a court of law. The right to have a lawyer
14 present. That if he could not afford a lawyer, a
15 lawyer would be appointed to represent him without any
16 cost. And that he could stop making a statement at any
17 time.

18 You must carefully consider all of the surrounding
19 circumstances before you give any weight to an alleged
20 statement. The State has the burden of proving beyond
21 a reasonable doubt that the alleged statement was
22 voluntary. If you determine that it was, you may give
23 the statement any further consideration that you deem
24 proper. You must decide what weight, if any, should be
25 given to the alleged statement. If you determine that

JURY CHARGE

1 the statement was not the free and voluntary statement
2 of the Defendant, you should not consider the statement
3 at all.

4 I charge you, ladies and gentlemen, that you have
5 heard evidence in this case that the Defendant was
6 convicted of a crime other than the one for which the
7 Defendant is now on trial. This evidence may be
8 considered by you, if you conclude it is true, only in
9 deciding whether Defendant's testimony is believable.
10 And for no other purpose. You must not consider the
11 Defendant's prior record as any evidence of the
12 Defendant's guilt on the charges we are trying today.

13 Now, I as I told you, there are multiple charges
14 in this case. Charges are, number one, criminal sexual
15 conduct first degree. Number two, burglary first
16 degree. Number three, attempted armed robbery. Number
17 four, kidnapping. Number five, possession of a weapon
18 during the commission of a violent crime. Each charge
19 is a separate and distinct offense. You must decide
20 each charge separately on the evidence and the law that
21 applies to it.

22 If you find the Defendant guilty of criminal
23 sexual conduct first degree, or guilty of burglary
24 first degree, or guilty of attempted armed robbery, or
25 guilty of kidnapping, then you may also find the

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1 Defendant either guilty or not guilty of possession of
2 a weapon during the commission of a violent crime. If
3 you find the Defendant not guilty of criminal sexual
4 conduct first degree in this case, and not guilty of
5 burglary first degree, and not guilty of attempted
6 armed robbery, and not guilty of kidnapping in this
7 case, then you cannot find the Defendant guilty of
8 possession of a weapon during the commission of a
9 violent crime. Why? Because you must find the
10 Defendant guilty of a violent crime in order to find
11 the Defendant guilty of possession of a weapon during
12 the commission of a violent crime.

13 I charge you, ladies and gentlemen, that criminal
14 sexual conduct first degree, burglary first degree,
15 attempted armed robbery, and kidnapping are violent
16 crimes under the laws of the State of South Carolina.
17 You will be asked to write a separate verdict of guilty
18 or not guilty for each charge in this case, following
19 the instructions that I have written on your verdict
20 form for you.

21 I'll now define the offenses for you. The
22 Defendant in this case is charged with criminal sexual
23 conduct in the first degree. Section 16-3-652 of the
24 South Carolina Code of Laws sets forth this section for
25 criminal sexual conduct first degree. It says, A

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1 person is guilty of criminal sexual conduct in the
2 first degree if the actor engages in sexual battery
3 with the victim, and this circumstance is proven beyond
4 a reasonable doubt. The actor uses aggravated force to
5 accomplish sexual battery.

6 Now, the Code defines "actor" as a person accused
7 of criminal sexual conduct. The Code defines "victim,"
8 meaning the person alleged to have been subjected to
9 criminal sexual conduct. The first element in this
10 offense is that the State must prove beyond a
11 reasonable doubt, is that the Defendant engaged in
12 sexual battery with the victim. What is sexual
13 battery? Section 16-3-65(h) of the South Carolina Code
14 of Laws defines sexual battery as sexual intercourse,
15 cunnilingus, fellatio, anal intercourse, or any
16 intrusion, however slight, of any part of a person's
17 body or of any object into the genital or anal openings
18 of another person's body, except when such intrusion is
19 accomplished for medically recognized treatment or
20 diagnostic purposes.

21 If you find that the State has not proven beyond a
22 reasonable doubt that sexual battery occurred, you must
23 stop deliberating on criminal sexual conduct and find
24 the Defendant not guilty of this charge. If you find
25 that sexual battery did occur, did occur, you must then

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1 decide whether the State has proven beyond a reasonable
2 doubt that the Defendant used aggravated force to
3 accomplish sexual battery. Aggravated force means the
4 Defendant used physical force or physical violence of a
5 high and aggravated nature to overcome the victim,
6 includes the threat or use of a deadly weapon. The
7 State is required to prove beyond a reasonable doubt
8 the sexual battery and that the actor used aggravated
9 force to accomplish the sexual battery.

10 I charge you, ladies and gentlemen, in this case
11 the Defendant is charged with the offense of burglary
12 first degree. Section 16-11-311(a) of the South
13 Carolina Code of Laws provides that a person is guilty
14 of burglary in the first degree if the person enters a
15 dwelling without consent and with the intent to commit
16 a crime in the dwelling. And either one, while
17 effecting entry or while in the dwelling or in
18 immediate flight, he or another participant in the
19 crime is armed with a deadly weapon or uses or
20 threatens the use of a dangerous instrument, or
21 displays what is or appears to be a knife, pistol,
22 revolver, rifle, shotgun, machine gun or other firearm.

23 Under the statute for burglary, the State must
24 prove the following four elements in order to establish
25 burglary in the first degree. The State must prove

JURY CHARGE

1 each element beyond a reasonable doubt. If the State
2 fails to prove any single element of burglary first
3 degree, you cannot find the Defendant guilty of first
4 degree burglary. The State must prove entry into a
5 dwelling. The State must show there was an entering,
6 that is, the Defendant actually went inside the
7 dwelling or some part of it. However, entry is not
8 confined to intrusions of the entire body. The
9 slightest entry is sufficient. And that may consist of
10 any part of the body, or any instrument under the
11 Defendant's control.

12 An entry may be accomplished, for example, by the
13 insertion of a hand or a finger or a foot, or an
14 implement such as a hook or a pole. No force needs to
15 be used to gain entry. Literally, entry is the act of
16 going into the place. But the word has a broader
17 significance in the law for burglary, for an entry may
18 be accomplished by merely putting through a portion of
19 the body into the dwelling.

20 South Carolina Code Section 16-11-310 states that
21 dwelling means the living quarters of a building which
22 is used or normally used for sleeping or lodging by a
23 person. But an unoccupied residence is a dwelling if
24 the occupant left with the intent or purpose of
25 returning. The State must prove, not only that you

JURY CHARGE

1 entered a dwelling without consent, the entry must be
2 without consent. So you must enter a dwelling without
3 consent. That means to enter without the consent of
4 the person that is in lawful possession of the
5 dwelling. So, in addition to the normal meaning of
6 entry without consent, the phrase also includes
7 entering by using deception, artifice, trick, or
8 misrepresentation to try to gain consent to enter from
9 the person in lawful possession.

10 So you must be entering a dwelling without
11 consent. Thirdly, with the intent to commit a crime
12 therein for burglary first. There must have been an
13 intent to commit a crime, any crime, whether it be
14 felony or misdemeanor, whether or not that crime was
15 actually committed. The mere entry into a dwelling
16 without consent is not sufficient to constitute first
17 degree burglary, there must be an intent to commit a
18 crime once inside.

19 Further, it is not sufficient that the intent to
20 commit the crime was formulated after entry. To
21 convict the Defendant of first degree burglary, you
22 must find that at the time that the Defendant entered
23 the dwelling the Defendant intended to commit a crime
24 once therein. The Defendant's action after he entered
25 the dwelling can be evidence used to entering it. It

JURY CHARGE

1 is no defense that the intent was abandoned after the
2 entry, because the entering with intent to commit a
3 crime completes the offense of burglary. So, even if
4 the crime isn't completed, and even if the intent
5 changes after entering, it is the intent to commit a
6 crime upon entering the dwelling.

7 And fourth element of burglary first is the
8 presence of an aggravating circumstance. If you find
9 that the Defendant, beyond a reasonable doubt, entered
10 a dwelling without consent and with the intent to
11 commit a crime therein, you must then find from the
12 evidence the presence of at least one of the following
13 aggravating circumstances in order to convict the
14 Defendant of first degree burglary. Only one of these
15 circumstances needs to be present, not all of these
16 circumstances.

17 The aggravated circumstances are, one, that when
18 entering or while in the dwelling, or fleeing the
19 scene, the Defendant is armed with a deadly weapon or
20 explosive. Or a deadly weapon is generally defined as
21 any article, instrument, or substance which is likely
22 to produce death or great bodily harm.

23 The Defendant need only have physical control over
24 a deadly weapon in effecting entry or while in the
25 dwelling or in immediate flight therefrom, such that

JURY CHARGE

1 the weapon is readily available for the person to use.
2 It does not matter how the person acquired the deadly
3 weapon or for what purpose the person took possession
4 of the deadly weapon.

5 Or, the first aggravating circumstance, when
6 entering or while in the dwelling or fleeing the scene
7 the Defendant is armed with a deadly weapon or
8 explosive or uses or threatens the use of a dangerous
9 instrument, or displays what is or appears to be a
10 knife, pistol, revolver, rifle, shotgun, machine gun,
11 or other firearm. Those are the -- any one of those
12 three aggravating circumstances are sufficient if
13 proven beyond a reasonable doubt.

14 Defendant is also charged with kidnapping. For
15 this offense, the State must prove beyond a reasonable
16 doubt that the Defendant knowingly and unlawfully, and
17 I'm going to give you a bunch of verbs now and then I'm
18 going to define them because people are often confused
19 by this. The Defendant knowingly and unlawfully
20 seized, S-E-I-Z-E-D, confined, inveigled, decoyed,
21 kidnapped, abducted, or carried away another person
22 without authority of law.

23 To do a thing unlawfully is to do it willfully
24 against the law. Knowingly means with knowledge,
25 conscientiously, not accidentally. Seize means to take

JURY CHARGE

1 hold of or suddenly or forcibly take hold of. Confine
2 means to limit, to restrict, or enclose within bounds,
3 imprison, or shut or keep in. Inveigle means to lure,
4 to entice, to lead astray by false representation or
5 promises or deceitful means. Decoy means to lure by,
6 or as if by decoy. A decoy is something in which to
7 entice a person into a trap.

8 Kidnap means to remove a person against their will
9 by unlawful force or by fraud. Abduct means to carry
10 off secretly or by force for an illegal purpose. Carry
11 away simply means to remove a person. The State does
12 not have to prove that the Defendant did all of these
13 things for kidnapping. Instead, if you find beyond a
14 reasonable doubt that the Defendant did any of these
15 things you may find the Defendant guilty of kidnapping.
16 That is that the Defendant knowingly and unlawfully
17 either seized, confined, inveigled, decoyed, kidnapped,
18 abducted, or carried away another person without
19 authority of law.

20 Something done without authority of law means that
21 something which the law does not sanction or permit or
22 allow or provide justification for. I charge you too,
23 for kidnapping, that it does not have to be for any
24 personal or monetary gain. It doesn't have to be for
25 any illegal purpose, but it may be for any reason

JURY CHARGE

1 whatsoever, if proven by the State beyond a reasonable
2 doubt.

3 I charge you, ladies and gentlemen, that the
4 Defendant in this case is charged with attempted armed
5 robbery. Section 16-11-330(b) is our Code of Laws of
6 South Carolina which defines attempted armed robbery.
7 A person who commits attempted robbery while armed with
8 a pistol, dirk, slingshot, metal knuckles, razor, or
9 other deadly weapon, or while alleging, either by
10 action or words, he was armed when using a
11 representation of a deadly weapon or any object which a
12 person present during the commission of the robbery
13 reasonably believed to be a deadly weapon, can be
14 convicted of the offense of attempted armed robbery.

15 An attempt is an effort to accomplish a crime
16 which does not succeed. An attempt includes a specific
17 intent to do a particular criminal act along with an
18 act falling short of the act intended. The State must
19 show more than just mere preparation in intent. There
20 must be some overt act committed in the effort to
21 commit the crime.

22 And obviously each of the elements of the crime of
23 attempted armed robbery, the State must prove the
24 elements beyond a reasonable doubt.

25 Finally, the Defendant is charged with possession

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1 of a weapon during the commission of a violent crime.

2 The State must prove beyond a reasonable doubt that the
3 Defendant was in possession of a firearm or visibly
4 displayed what appeared to be a firearm during the
5 commission of a violent crime.

6 I have already charged you, ladies and gentlemen,
7 that the offense of criminal sexual conduct first
8 degree, the offense of attempted armed robbery, the
9 offense of kidnapping, and the offense of burglary
10 first degree are violent crimes under the laws of the
11 State of South Carolina.

12 A firearm means any machine gun, automatic rifle,
13 revolver, pistol, or any weapon which will, is designed
14 to, or may be converted to expel any projectile. In
15 order to find the Defendant guilty of possession of a
16 weapon during the commission of a violent crime, you
17 must first find the Defendant guilty of committing a
18 violent crime. And I have charged you what the violent
19 crimes are in this case. The State must prove beyond a
20 reasonable doubt that the weapon further advanced or
21 helped in the commission of the violent crime.

22 Now, Mr. Foreman, I told you I would prepare a
23 verdict form for you. I have done so. Pay absolutely
24 no attention to the order in which I wrote the forms of
25 verdict. Obviously you had to write one before the

JURY CHARGE

1 other, so the order has no significance whatsoever. I
2 have captioned the entire case for the jury at the top.
3 It has got, State of South Carolina, County of
4 Beaufort. State of South Carolina versus Darryl
5 Douglas Bradley, Junior, Defendant. In the Court of
6 General Sessions. We are in the 14th Judicial Circuit.
7 And I've got all of the indictment numbers, and then I
8 wrote "verdict form".

9 There are a number of questions on your verdict
10 form and there are some instructions on your verdict
11 form. Question one, We the jury by unanimous consent
12 find the Defendant, Darryl Douglas Bradley, Junior, and
13 the first question under question one, the first form
14 of verdict is guilty of criminal sexual conduct first
15 degree. If that be your form of verdict, Mr. Foreman,
16 if the jury finds that, you would check on the line
17 beside that form of verdict for the entire jury.

18 The second form of verdict under, We the jury by
19 unanimous consent find the Defendant, Darryl Douglas
20 Bradley, Junior, not guilty of criminal sexual conduct
21 in the first degree. If that be your form of verdict,
22 Mr. Foreman, or the jury's verdict, you would check on
23 the line beside that form of verdict. You must find
24 one form of verdict or the other, you cannot find both
25 for question one.

JURY CHARGE

1 Question two, We the jury by unanimous consent
2 find the Defendant, Darryl Douglas Bradley, Junior,
3 first form of verdict under question two is guilty of
4 burglary first degree. If that be your form of verdict
5 you would check, Mr. Foreman, on the line beside that
6 form of verdict. Second form of verdict under question
7 two is not guilty of burglary first degree. If that be
8 your form of verdict you would check on the line beside
9 that form of verdict. You must find one form of
10 verdict or the other. You cannot find both.

11 Question three, We the jury by unanimous consent
12 find the Defendant, Darryl Douglas Bradley, Junior,
13 first form of verdict under question three is guilty of
14 attempted robbery, alleged -- armed or alleging armed
15 with a deadly weapon. If that be your form of verdict,
16 you would check on the line beside that form of
17 verdict. That is where I charged you attempted armed
18 robbery, but the statute actually says armed or
19 alleging armed with a deadly weapon. So, the first
20 form of verdict under question three is guilty of
21 attempted robbery. If that be your form of verdict you
22 would check on the line beside that form of verdict.
23 The second form of the verdict under question three is
24 not guilty of attempted armed robbery. If that be your
25 form of verdict you would check on the line beside that

JURY CHARGE

1 form of verdict for the entire jury. You must find one
2 form of verdict or the other, you cannot find both.

3 Question four, We the jury by unanimous consent
4 find the Defendant, Darryl Douglas Bradley, Junior, the
5 first form of verdict under question four is guilty of
6 kidnapping. If that be your form of verdict,
7 Mr. Foreman, for the jury you would check beside that
8 form. Second form of verdict under question four is
9 not guilty of kidnapping. If that be your form of
10 verdict you would check on the line beside that form of
11 verdict. Once again, you cannot find both forms of
12 verdict under question four, you must find one or the
13 other.

14 Then I wrote instructions for you about the fifth
15 form of verdict. What I wrote on here is, If you find
16 the Defendant guilty of criminal sexual conduct first
17 degree, or O-R guilty of burglary first degree, or
18 guilty of attempted robbery or attempted armed robbery,
19 or guilty of kidnapping, you must then find the
20 Defendant either guilty or not guilty in question five,
21 because you have to be convicted of a violent crime in
22 order to find a person guilty of possession of a weapon
23 during the commission of a violent crime. I also wrote
24 on there, Mr. Foreman, if you find the Defendant not
25 guilty of criminal sexual conduct first degree, and not

JURY CHARGE

1 guilty of burglary first degree, and not guilty of
2 attempted armed robbery, and not guilty of kidnapping,
3 you must find the Defendant not guilty in question
4 five.

5 Question five, We the jury by unanimous consent
6 find the Defendant, Darryl Douglas Bradley, Junior,
7 either guilty or not guilty of possession of a weapon
8 during the commission of a violent crime, following the
9 instructions that I gave you on the verdict form. You
10 would then, Mr. Foreman, when the jury has reached a
11 verdict, sign your name where it says, Foreperson. You
12 will fill in today's date. Austin, today is the 20th,
13 isn't it? I have to ask Austin, he has got it right
14 there. And I am going to, by the way, for those of
15 you -- I know this gentleman up here on the front and
16 one of my ladies, they have already took it -- you
17 didn't wear it. Bless your heart. You listened to me,
18 didn't you? Thank you. Show them yours, Austin. Look
19 at it. He loves -- he never takes it off. He is
20 always -- I am going to take up your watches before you
21 start your deliberations.

22 You will sign your name and then you will write in
23 today's date, Mr. Foreman, which is the 20th of
24 February 2020. When you have reached the verdict and
25 filled out the verdict form in accordance with my

JURY CHARGE

1 instructions you will then (demonstrating) knock on the
2 jury room door, tell my bailiff that you have reached a
3 verdict. Okay? Give him the verdict form so that he
4 knows that the verdict has been reached. We will then
5 bring you back into the courtroom to publish your
6 verdict in front of everybody. We will read it out
7 loud to confirm what you put on the paper that I'm
8 giving you.

9 Please remember that Austin McCoy's job, and he's
10 good at it, believe me, is to also have you sign the
11 indictments. Whatever you write on the verdict form,
12 he's going to come to you before you leave and ask you
13 to write the same words, guilty or not guilty, on the
14 indictment, sign your name. And it is going to be a
15 little hard because you are going to see that the grand
16 jury put a big stamp right in the middle of where you
17 are supposed to do it, but Austin will help you because
18 you have got to have your name and the date and guilty
19 or not guilty as to each indictment, which he will come
20 to you for.

21 Now, ladies and gentlemen, your verdict must be
22 unanimous. That is, it must be the verdict of each and
23 every one of you. All 12 of you must agree on a
24 verdict. I have now charged you on the law in order to
25 help guide you to a just result in this case. I remind

JURY CHARGE

1 you that you are the judges of the facts in this case
2 based on the evidence. And based on your determination
3 of the facts in this case and the law as I have
4 explained it to you, you are soon going to begin your
5 deliberations.

6 I remind you that you saw us go through quite an
7 ordeal on Tuesday. You were selected as impartial
8 jurors. You took an oath where you swore or affirmed
9 that you would fairly and impartially try and determine
10 the facts of this case. And when you comply with that
11 oath, no one can criticize your verdict. But you are
12 to decide this case based solely on the evidence that
13 has been presented, and that is testimony from the
14 witness stand, any exhibits which have been introduced
15 into evidence, and if there were any stipulations
16 entered in the record during the course of the trial.

17 You must decide the proceedings in this case,
18 ladies and gentlemen, without any bias, without any
19 prejudice toward either party, the State or the
20 Defendant. You cannot allow yourself to be governed by
21 prejudice for or against any person. You can't allow
22 yourself to be governed by public opinion or by emotion
23 or any other arbitrary factor that is not in evidence
24 during the trial of this case.

25 Both the Defendant and the State of South Carolina

JURY CHARGE

1 have the absolute right to expect that each of you will
2 carefully and impartially consider all of the evidence
3 in this case and that you will follow the law as I have
4 instructed it to you to be in reaching your verdict in
5 this case.

6 All right, ladies and gentlemen, I don't want you
7 to begin your deliberations quite yet. I am going to
8 ask you to go to your jury room. I am going to -- when
9 it's time for you to begin your deliberations, I am
10 going to send the verdict form that I went over with
11 you by my bailiff to hand to you, along with all of the
12 exhibits except the one that requires equipment to play
13 it. If you want to play it, all you have got to do is
14 knock and tell the jury you want to listen to it and we
15 will bring you back into the courtroom and play it for
16 you with the equipment that we have out here.

17 I am going to take up your Apple watches, but we
18 will certainly give them back to you afterwards. I
19 might have to bring you back into the courtroom for
20 some brief additional instructions. I don't know yet.
21 So, that is why I don't want you to begin your
22 deliberations until I instruct you to do so. When it
23 is time for you to begin your deliberations, I'll have
24 the bailiff bring the verdict form in with you, along
25 with all the exhibits which have been introduced into

JURY CHARGE

1 evidence during the trial of the case, and the bailiff
2 will inform you that you may then commence your
3 deliberation.

4 Please retire to your jury room. My alternates
5 stay right here with me. The jury will retire to the
6 jury room.

7 (The jury exits the courtroom at 11:45 a.m.)

8 THE COURT: Well, let me tell you, first of all,
9 how much I appreciate your service. And I do this
10 every time after, but my time is getting ready to come
11 to an end. I am going to be retiring in about six
12 months. I have done this for 20 years. And I have had
13 so many different jurors, but I thank you very much for
14 serving. Nobody became ill or for some reason couldn't
15 continue.

16 This concludes your service. And the good news is
17 I get to send you home for the rest of the week and you
18 are exempt from jury service for the rest of the year.
19 Now, if you need a work excuse from anybody -- anybody
20 need one?

21 (Alternate jurors respond.)

22 THE COURT: Okay. We certainly provide those. If
23 you listened to me you know that you are exempt for
24 three years, although you certainly don't have to claim
25 your exemption. Did we treat you all right? Was it

ALTERNATE JURORS RELEASED

1 clear? Did you understand what was going on from the
2 lawyers and the judge during the trial?

3 ALTERNATE JURORS: Absolutely.

4 THE COURT: Anybody have a problem with their jury
5 service?

6 ALTERNATE JURORS: No.

7 THE COURT: I am glad to hear that. I am
8 really -- it is a beautiful courtroom, but hearing is
9 really tough. Y'all noticed that, didn't you? Yeah,
10 well, I'm begging the clerk to get a new microphone
11 system in here. Now, we are going to mail you a check,
12 the exorbitant -- how much do we pay, Marlene?

13 THE CLERK: \$12.50 a day plus mileage.

14 THE COURT: \$12.50 a day plus mileage. I know
15 y'all are planning on taking a big trip with that,
16 aren't you? Thank you so much for your service. We
17 will mail you your check. If you need a work excuse,
18 we will give it to you.

19 Now, sometimes people like to talk to you, All
20 right. They want to know how you reacted. Lawyers
21 think that they can get a little feedback on how they
22 perform from jurors. If you want to talk to someone
23 about your jury service, that is up to you. If you
24 don't, you just tell them that you don't want to
25 discuss it. If they persist in wanting to talk to you,

ALTERNATE JURORS RELEASED

1 get their name and give it to me, I will handle that
2 for you too. I now send you back to your families and
3 your homes with our thanks for your service. You may
4 leave the courtroom at this time.

5 ALTERNATE JURORS: Thank you very much.

6 THE COURT: Thank you.

7 (Alternate jurors exit the courtroom at
8 11:48 a.m.)

9 THE COURT: Any exceptions or additions to the
10 Court's charge to the jury from the State of South
11 Carolina?

12 MS. SWANSON: None from the State.

13 THE COURT: From the Defendant?

14 MS. CAMPBELL: Yes, sir. On behalf of
15 Mr. Bradley, we take exception to the charge by Your
16 Honor that the jury should try and reach a just result
17 at the very end of your charge. As Your Honor is
18 aware, in State V Beatty, issued in April 2018, the
19 Court said, We instruct the judges to omit any language
20 in remarks to the jury or in an instruction which might
21 have the effect of lessening the State's burden of
22 proof in a criminal case.

23 THE COURT: Ms. Campbell, my last sentence to the
24 jury wasn't the just result. I took that out. The
25 last sentence to the jury was that both the Defendant

MOTION BY THE DEFENSE

1 and the State have the absolute right to expect that
2 each of you will carefully and impartially consider all
3 of the evidence in this case and that you will follow
4 the law as I have instructed you in reaching your
5 verdict in this case.

6 MS. CAMPBELL: Your Honor, the record would stand
7 for itself, whether or not your court reporter --

8 THE COURT: Well, I'm looking to see because I
9 took out any references to that. I do use truth in my
10 charge to explain credibility, but I don't --

11 MS. CAMPBELL: I would be happy, if Your Honor
12 would like for the court reporter to let us know
13 whether or not that, the just result is what she
14 recorded.

15 THE COURT: Mona, look at my last note to the jury
16 and tell me. It is certainly not in my charge.

17 (Whereupon, the court reporter reads back the
18 requested portion.)

19 THE COURT: Yes, she said that it was at the end
20 of my charge, that she heard it. I just read the last
21 sentence but I don't see it.

22 MS. CAMPBELL: It was before the verdict.

23 THE COURT REPORTER: Okay. Tell me what to look
24 for.

25 MS. CAMPBELL: No, at the very end. Almost the

MOTION BY THE DEFENSE

1 very last thing that the Court said to the jury. Just,
2 J-U-S-T.

3 (Whereupon, the court reporter continues to read
4 back the requested portion.)

5 THE COURT: Ms. Campbell, I know what I think that
6 you are referring to. I told them or I charged them,
7 let me see if I can find it.

8 (Whereupon, the court reporter continues to read
9 back the requested portion.)

10 THE COURT: At the end of my instruction I say, I
11 charged you on the law in order to help guide you to a
12 fair and just result. To use the term synonymously in
13 the case. And then I tell them that you are the judges
14 of the facts in this case. And based on your
15 determination of the facts and the law as I have
16 instructed you, you will soon begin your deliberations.
17 That is what I charged, and you are correct that I said
18 it that way. I do not think that that constitutes
19 error, but your exception is noted for the record.
20 Anything else?

21 MS. CAMPBELL: Just for the record, we feel that
22 prejudice has resulted to the Defendant by the
23 weakening of the burden of proof standard and make a
24 motion for a mistrial on behalf of Mr. Bradley at this
25 time. Thank you.

MOTION BY THE DEFENSE

1 THE COURT: Wait a minute now. On what grounds
2 now?

3 MS. CAMPBELL: That by the direction and
4 instruction to the jury that they should reach a just
5 result, the Court required in Beatty that the Defendant
6 would need to show that there was prejudice.

7 THE COURT: Would you like for me to give a
8 curative instruction?

9 MS. CAMPBELL: If you -- no, not a curative
10 instruction. But if you would like to charge the jury.
11 And I even thought about it when I heard the words just
12 result.

13 THE COURT: I said fair and just is what I said in
14 applying the law.

15 MS. CAMPBELL: Yes, sir. Whether or not it could
16 even be cured by recharging, simply, reasonable doubt
17 and the presumption of innocence. So --

18 THE COURT: I didn't say anything about fair and
19 just in reasonable doubt. I told them this simply at
20 the very end when I was explaining the fact that I had
21 charged them on the law to help guide them to a fair
22 and just result in the case.

23 MS. CAMPBELL: So, no curative instruction
24 would --

25 THE COURT: You don't think that any curative

MOTION BY THE DEFENSE

1 instruction would cure it?

2 MS. CAMPBELL: Would cure it, correct.

3 THE COURT: All right. And you are moving for a
4 mistrial?

5 MS. CAMPBELL: Yes.

6 THE COURT: And that is respectfully denied.
7 Anything else?

8 MS. CAMPBELL: No, Your Honor.

9 THE COURT: Very well. All right. I ask the
10 lawyers to come forward and certify that the court
11 reporter has all of the exhibits and that you have no
12 objection to the bailiff taking the verdict form and
13 the exhibits into the jury and telling the jury that
14 they may now commence their deliberations.

15 MS. CAMPBELL: And that is what Your Honor would
16 like, to send the gun back?

17 THE COURT: The gun can go back because it has a
18 lock on it and there is no ammunition in it. Y'all
19 will have to explain, how can you have a clip that
20 holds bullets in a BB gun.

21 THE DEFENDANT: Airsoft.

22 THE OFFICER: Airsoft.

23 MS. CAMPBELL: I don't know the answer to that.

24 THE COURT: Your lawyer is not going to let you
25 talk.

RULING BY THE COURT OF DEFENSE MOTION

1 MS. CAMPBELL: No talking, please.

2 THE COURT: It is just that one disc that may need
3 playing, right?

4 MS. SWANSON: Yes.

5 THE COURT: So, that is exhibit what?

6 MS. SWANSON: Twenty.

7 THE COURT: Twenty.

8 MS. SWANSON: Twenty is the disc we will keep out
9 here.

10 THE COURT: Trasi, you agree that State's 20 needs
11 to stay here because they have to have the equipment to
12 play it?

13 MS. CAMPBELL: That is correct.

14 THE COURT: We can send it back, but they can't do
15 anything with it. All right. I need you to take up
16 the Swatches.

17 THE BAILIFF: Both of them left them in their
18 cars, Judge.

19 THE COURT: They listened. Okay. Trasi, look
20 there, both of them listened. Nobody has got an Apple
21 watch on. Tell the jury that they may now commence
22 their deliberations.

23 THE BAILIFF: Yes, Your Honor.

24 THE COURT: Trasi, I want both of y'all to give
25 cell phone numbers to Austin in case the jury asks a

COLLOQUY

1 question and you venture off we can find you and get
2 you here quickly so that we don't have any problem or
3 any delay.

4 MS. CAMPBELL: Yes, sir. I won't be farther than
5 the courtroom or downstairs.

6 THE COURT: I know where you are going. I know
7 where Hunter is going to be generally. She will be
8 outside and I need to see you briefly about some timing
9 stuff.

10 MS. LEMPESIS: Yes, sir.

11 (Jury deliberations begin.)

12 THE COURT: Let the record reflect that the
13 Defendant is present. We have got a question from the
14 jury. I have communicated to the lawyers. The
15 question was in writing. It is now Court's Exhibit No.
16 8 without objection. I had Mona check the time and
17 advise the lawyers that one testimony is 30 minutes,
18 the other is 40. Ms. Thompson is 30, Bradley is 40.
19 Seventy minutes total.

20 I am going to advise them of that and ask them if
21 they want to hear all or part of the testimony. At
22 that point Ms. Campbell wants to make some matter on
23 the record for the Defendant. Ms. Campbell, you have
24 got the floor now. The court reporter is ready.

25 *(Whereupon, Court's Exhibit No(s). 8 marked for*

JURY DELIBERATING

1 *identification and received in evidence.)*

2 MS. CAMPBELL: On behalf of Mr. Bradley I would
3 request that the Court not offer portions of the
4 testimony. That if the Court is going to replay the
5 testimony for the jury, that it be replayed in its
6 entirety, both direct examination and cross-examination
7 as the jury requested.

8 THE COURT: I'm going to do what the jury
9 requests. If the jury wants it in its entirety, they
10 will get it in its entirety. If the jury doesn't want
11 it in its entirety, I'll play a portion if they request
12 that. And I am going to see that that is made clear
13 because very often they don't express that in the note
14 and you have to find out. I will do that with
15 communication with the foreperson when we bring them in
16 the jury room in your presence. Thank you. Anything
17 else before I bring the jury from the State?

18 MS. SWANSON: Nothing from the State.

19 THE COURT: From the Defendant? Anything else?

20 MS. CAMPBELL: No.

21 THE COURT: Bring us the jury, please.

22 THE BAILIFF: Yes, Your Honor.

23 (The jury enters the courtroom.)

24 THE COURT: Please be seated. Mr. Foreman, I
25 received your note from the jury that said, We would

JURY QUESTION

1 like to hear or read -- obviously, we do not have a
2 transcript yet -- the testimony of the Defendant and
3 the victim. Let me explain a couple of things to you
4 and you tell me what the jury wants and we will do
5 exactly as you direct for the jury.

6 Ms. Thompson's testimony is 30 minutes.

7 Mr. Bradley's testimony is 40 minutes. So, you know
8 that's a total of 70 minutes, for the entirety. If you
9 want to hear a portion we will play a portion. If you
10 want to hear -- we will do it this way. We will start
11 and at any time you want me to stop you just raise your
12 hand and we will stop, all right, if you want to do
13 that rather than designate.

14 Now, we have worked real hard the last few minutes
15 trying to put a microphone -- which you know how I feel
16 about the microphones here, I hope that everybody knows
17 how I feel about them -- next to Mona's speaker. It's
18 very important when we do this that you be able to hear
19 and understand. Now, unfortunately we have got more
20 speakers but they are in the other courtroom and they
21 are in the middle of closing down there so I can't go
22 get those speakers and amplify any more than what we
23 have got. This is the best that we have got.

24 However, if y'all want to -- if you have a problem
25 with it we will stop and wait until we get additional

JURY QUESTION

1 speakers and see whether or not those speakers will
2 help you, if you can't. We all feel that you will be
3 able to hear. We have sat in the jury box when we
4 played it.

5 Now, you tell us exactly what you want,
6 Mr. Foreman. You turn around and look at the jury. Do
7 you want us to start and then stop when you raise your
8 hand, or do you want us to play everything in its
9 entirety, or you want to designate a portion of each
10 testimony and us try to queue it? We will do as you
11 direct for the jury. And you can -- you can talk to
12 them, or if you want to go to the jury room and talk
13 about it, I'll let you do that. Whatever you want to
14 do.

15 THE FOREPERSON: Would y'all like to go back to
16 the jury room and discuss it?

17 THE JUROR: Yes.

18 THE JUROR: Yes, I think that is good.

19 THE FOREPERSON: Yes, Your Honor, we would like to
20 go back to the jury room.

21 THE COURT: All right. Go back to the jury room
22 and let me know when you are ready.

23 (The jury exits the courtroom at 1:30 p.m.)

24 THE COURT: Any exceptions or additions to the
25 Court's comment from the State?

JURY QUESTION

1 MS. SWANSON: None from the State.

2 THE COURT: From the Defendant?

3 MS. CAMPBELL: Not as to the comments, Your Honor.

4 THE COURT: Okay. We will wait until the jury
5 decides what they want. I hope that this will not be a
6 long deliberation for y'all's sake.

7 (Pause.)

8 THE COURT: I have received the second message
9 from the jury which reads, We would like to listen to
10 the entire testimony of both, victim first and
11 Defendant second. Signed by the foreperson. Any
12 objection to making the jury's note a Court's Exhibit
13 No. 9 from the State?

14 MS. SWANSON: None from the State.

15 THE COURT: From the Defendant?

16 MS. CAMPBELL: No, Your Honor.

17 THE COURT: All right. Give that to Mona.

18 *(Whereupon, Court's Exhibit No(s). 9 marked for*
19 *identification and received in evidence.)*

20 THE COURT: Mona, you ready?

21 THE COURT REPORTER: Yes, sir.

22 THE COURT: Bring me the jury.

23 THE BAILIFF: Yes, Your Honor.

24 (The jury enters the courtroom.)

25 THE BAILIFF: The jury is entering, Your Honor.

JURY QUESTION

1 THE COURT: All rise. The jury is entering the
2 courtroom.

3 Please be seated. Mr. Foreman, I received your
4 note that, We would like to listen to the entire
5 testimony of both victim first and Defendant second.
6 We will play the testimony for you on the speaker in
7 the order in which you have requested it, beginning
8 with the victim first.

9 (Audio of testimony played for the jury by the
10 court reporter.)

11 THE COURT: Mr. Foreman, have we answered your
12 questions now?

13 THE FOREPERSON: Yes, Your Honor.

14 THE COURT: I ask you to return to your jury room
15 and continue deliberations.

16 (The jury exits the courtroom at 2:47 p.m.)

17 THE BAILIFF: The jury is locked and the door is
18 closed, Your Honor.

19 THE COURT: Just for the record, I don't know if
20 we did this or not, but I made the last question -- I
21 published it and I think that we did make it an
22 exhibit. It is No. 9, We would like to listen to the
23 entire testimony of both the victim first and the
24 Defendant second. Any objection to making that note a
25 Court's Exhibit No. 9 from the State?

JURY DELIBERATIONS CONTINUE

1 MS. SWANSON: No, Your Honor.

2 THE COURT: From the Defendant?

3 MS. CAMPBELL: No, Your Honor.

4 THE COURT: That is the next exhibit, Court's
5 Exhibit No. 9 without objection. Give it to the court
6 reporter. Thank you.

7 Are there any exceptions or additions to the
8 Court's comments to the jury from the State?

9 MS. SWANSON: None from the State.

10 THE COURT: From the Defendant?

11 MS. CAMPBELL: No, sir.

12 THE COURT: Very well. We will await the jury's
13 verdict. Thank you very much. We will be at ease.
14 Don't go too far.

15 (Non trial-related matters heard by the Court.)

16 THE COURT: All right. Let's come to order.
17 Chitchat time is over, Partner. Let the record
18 reflect, Mona, I received another note from the jury
19 just a couple of minutes ago. It's now 3:43 in the
20 afternoon, so I received it about 10 minutes ago. I
21 called the lawyers to the Bench. The note says, Is the
22 term first degree considered premeditation, question
23 mark, signed by the foreperson. I asked the lawyers
24 they both agreed that the answer to this question,
25 since of course we can't comment on the facts: You

JURY QUESTION

1 must decide this case based on the charge of law given
2 by the Court. Signed Perry M. Buckner, Presiding
3 Judge. Is that correct from the State?

4 MS. SWANSON: That's correct.

5 THE COURT: Is that correct from the Defendant?

6 MS. CAMPBELL: Yes, sir.

7 THE COURT: Any objection from the State making
8 the jury's note Court's Exhibit 10, although it has got
9 to go back in the jury room, so make sure they bring it
10 back. Any objection?

11 MS. SWANSON: No, sir.

12 THE COURT: From the Defendant?

13 MS. CAMPBELL: No, sir.

14 *(Whereupon, Court's Exhibit No(s). 10 marked for*
15 *identification and received in evidence.)*

16 THE COURT: Okay. Take it to them, Norm, and tell
17 them to continue their deliberations.

18 (Jury deliberations continue while other case
19 matters are heard by the Court.)

20 THE COURT: I just called counsel into my
21 chambers. I received another note from the jury. This
22 will be ultimately Court's Exhibit No. 10, I believe;
23 right?

24 THE COURT REPORTER: This will be 11.

25 THE COURT: Eleven, Court's Exhibit No. 11.

JURY QUESTION

1 *(Whereupon, Court's Exhibit No(s). 11 marked for*
2 *identification and received in evidence.)*

3 THE COURT: The note reads, We have unanimous
4 decision on two of the five charges, but we are unable
5 to reach a unanimous decision on the remaining three.
6 Please advise. Signed by the foreperson. I met with
7 the Solicitor and counsel for the Defendant. They both
8 agreed that we should publish the verdict as to the two
9 charges. And they both agreed that the Court should
10 declare a mistrial as to the remaining three charges
11 since they have been unable to reach a verdict.

12 I would note for y'all that the jury got the case
13 at 11 -- what, Mona, 11:40 or 11:50?

14 THE COURT REPORTER: 11:50.

15 THE COURT: 11:50 a.m. It is now 4:40 p.m.
16 However, the jury was in this courtroom for
17 approximately 60 or 65 minutes listening to testimony
18 and not deliberating at that time but considering it.
19 So, we are at the point now where I understand the
20 situation and both sides agree to publish the verdict
21 and declare a mistrial on the remaining three. Is that
22 correct from the Solicitor?

23 MS. SWANSON: Yes, sir.

24 THE COURT: Correct for counsel for Defendant?

25 MS. CAMPBELL: Yes, sir.

JURY QUESTION

1 THE COURT: Bring us the jury.

2 THE BAILIFF: Yes, Your Honor.

3 THE COURT: Any objection to making this note
4 Court's Exhibit No. 11 from the State?

5 MS. SWANSON: No, sir.

6 THE COURT: From the Defendant?

7 MS. CAMPBELL: No, sir.

8 THE COURT: Court's Exhibit No. 11 without
9 objection. May I have the jury?

10 THE BAILIFF: May I approach, Your Honor?

11 THE COURT: All rise. The jury is entering.

12 THE BAILIFF: No, sir. May I approach?

13 THE COURT: You may. Be seated.

14 (Off-the-record discussion held.)

15 THE COURT: The holdup is that they had not
16 actually signed the verdict form yet. They are in the
17 process of doing that. We will bring them in once they
18 have written record indication of that which -- I told
19 the bailiff to tell them, only those for which they
20 have a unanimous verdict.

21 (The jury enters the courtroom.)

22 THE COURT: Mr. Foreman, it is my understanding
23 from the bailiff that, bailiff that your jury has
24 reached a unanimous verdict on two of the charges in
25 this case; is that correct?

VERDICT

1 THE FOREPERSON: Yes, Your Honor.

2 THE COURT: And that you have been unable to reach
3 a unanimous verdict on the remaining three charges; is
4 that correct?

5 THE FOREPERSON: That is correct, sir.

6 THE COURT: Would you give the verdict form to my
7 bailiff, please? Will Defendant and counsel please
8 rise? The State of South Carolina versus Darryl
9 Douglas Bradley, Junior. We the jury, by unanimous
10 consent, find the Defendant, Darryl Douglas Bradley,
11 Junior, guilty of attempted armed robbery. We the
12 jury, by unanimous consent, find the Defendant, Darryl
13 Douglas Bradley, Junior, guilty of possession of a
14 weapon during the commission of a violent crime.

15 Nothing else on the verdict form. And it's been
16 signed by the foreperson and dated February 20th and
17 has been filled in. My understanding is that the jury
18 was unable to reach a unanimous verdict on the
19 remaining three charges. That being burglary, that
20 being criminal sexual conduct, and that being
21 kidnapping; is that correct Mr. Foreman?

22 THE FOREPERSON: Yes, sir.

23 THE COURT: Now I ask you, ladies and gentlemen,
24 is the verdict, as published by the Court, the verdict
25 of each and every one of you on the two charges? If

VERDICT

1 so, please raise your right-hand.

2 (All jurors comply.)

3 THE COURT: Let the record reflect 12 hands were
4 raised as to the publication of the verdict. Anything
5 further from the Defendant in regard to the jury before
6 I dismiss the jury, from Defendant?

7 MS. CAMPBELL: No, sir.

8 THE COURT: From the State?

9 MS. SWANSON: No, sir.

10 THE COURT: Mr. Foreman and ladies and gentlemen
11 of the jury, on behalf of Beaufort County and this
12 Court, I want to thank you for your service. So you
13 will have some idea, when you can't reach a verdict,
14 that means nobody wins. That means that the case can
15 be tried over again. I have to declare a mistrial on
16 the three charges that you were unable to reach a
17 verdict on. However, on the two charges you were able
18 to reach a verdict on, sentencing is going to take
19 place now. I invite you to stay, if you would like to.
20 You certainly don't have to. You can remain in the
21 jury box, if you would like, or you can go around if
22 you want to and sit in the courtroom during sentencing.

23 We are going to send you a check for that
24 exorbitant amount of money that we pay you, \$12.50 a
25 day plus your mileage. I know, believe me. It is

VERDICT

1 about -- that is almost as bad as the quality of this
2 right here (pointing to the microphones). But, ladies
3 and gentlemen, I can tell you that I've always
4 appreciated juries. You know, I watched you during
5 this trial and all either side can do is ask that a
6 jury listen and pay attention, and the 12 of you did
7 that. And I want to thank you for that service.

8 Anybody have a problem? Anything that they didn't
9 understand? I know that you asked me a question and
10 you wondered why I told you -- I don't know how you got
11 off on premeditation, ladies and gentlemen, but I'll
12 answer that a little differently now that the verdict
13 has been issued.

14 Premeditation has nothing to do with any of the
15 charges that you had. You will notice that I didn't
16 use that word in my charge to you on the law.
17 Sometimes people watch television and they hear that
18 word "premeditation" in connection with a murder case.
19 We were not trying a murder case. Actually murder is
20 defined as malice aforethought which some people equate
21 with premeditation, but it has nothing to do with --
22 but I can't make a comment about that. That is the
23 reason I couldn't answer. You have to confine it to
24 just what I charged you.

25 So, I wasn't trying to evade your question and I

VERDICT

1 wanted to give you an ample answer to that. I can't
2 suddenly start telling you what is or isn't or why
3 obviously, because I can't make a comment to you about
4 the evidence or the facts in the case, I can only tell
5 you what is charged and what the definition of the
6 charges are on the law. That is why you got that
7 answer to that question.

8 I know that you have left your homes and I know
9 that you have left your family, your job to serve on
10 the jury this week. I hope -- has it been an
11 educational experience for you? Have you learned
12 something? We take it seriously and we really
13 appreciate your service. Without you, ladies and
14 gentlemen, justice can't be accomplished. Now, did
15 anybody need a work excuse from being on the jury this
16 week? One, two, three, four, five. Norm is going to
17 take care of that. We will provide that to you. If
18 you will see Norm out in the hallway, we will give you
19 a work excuse to show your employer that you have been
20 working.

21 Sometimes people want to talk to you. The lawyers
22 think that it is a good idea to talk to you, they want
23 to learn what they did right, what they didn't do
24 right, what impressed you, what didn't. The decision
25 as to whether you want to talk to anybody is entirely

VERDICT

1 up to you. If you want to talk to someone about your
2 jury service, you can. If you don't, just tell them, I
3 don't want to discuss it. If they persist, what I want
4 you to do, get their name, give it to me. I'll handle
5 that problem for you. That person won't bother you
6 anymore. Anybody have any questions they want to ask
7 me before I dismiss you for the week? Yes, ma'am.

8 THE JUROR: Are citizens allowed to watch trials
9 like this? Can I come in and watch this?

10 THE COURT: Ma'am, the courtroom is a public
11 forum. We invite -- under rare circumstances -- in
12 fact there is a famous case from this circuit, from
13 Beaufort, from this county, Island Packet case, it
14 involved their newspaper, about closing the courtroom.
15 Norm, were you here when we had that? And I have to
16 make some findings on the record before we can close
17 the courtroom, so this courtroom is a public place and
18 any time you want you can walk in here and have a seat
19 and watch any proceeding that takes place during the
20 trial unless the courtroom has been closed by the
21 Judge. Does that answer your question?

22 THE JUROR: Thank you.

23 THE COURT: Anybody else got a question?

24 (No response.)

25 THE COURT: Thank you so much for your service.

VERDICT

1 Now, if you want to just stay right there, you can.
2 All right. Norm is not going anywhere, he is going to
3 see you get a work excuse. We are going to turn to
4 sentencing now on the two cases that you were able
5 to -- or the two charges that you were able to reach a
6 unanimous verdict. Solicitor, you got a sheet for me?

7 MS. SWANSON: Yes, sir, I'm handing up the two
8 sentencing sheets.

9 THE COURT: Ms. Campbell, are there any
10 post-verdict motions?

11 MS. CAMPBELL: Your Honor, I do have, of course,
12 my motion for a new trial. It would be a rather
13 lengthy recitation. I can file it. I can do a written
14 motion for a new trial and then we can come back
15 together at another time to fully have sufficient time
16 for me to make that argument on behalf of Mr. Bradley.

17 So, yes, there are post-trial motions, but I would
18 prefer to file just a written motion, state a time to
19 do that and schedule a date with the State and Your
20 Honor to do that.

21 THE COURT: Well, I'll have to schedule a time.
22 I'm not -- if you file a written motion, I'm not
23 certain that the Court is going to ask for any further
24 argument, Ms. Campbell; you understand that?

25 MS. CAMPBELL: Okay.

SENTENCING BY THE COURT

1 THE COURT: In fact, I assume you know this.

2 MS. CAMPBELL: I do have ten days within --

3 THE COURT: Well, the Court, that's discretionary.
4 It is not a right.

5 MS. CAMPBELL: If Your Honor wants me to do it
6 now, I'll be happy to.

7 THE COURT: Let me clue you in on the Rules of
8 Criminal Procedure so -- Rule 18(b) and it says, No
9 argument, what you are referring to if you want to come
10 back and have further argument. If you are going to do
11 it in writing, "No argument shall be made on objections
12 to admissibility of evidence or the conduct of a trial,
13 unless requested specifically by the Court."

14 So, there's no absolute right to oral argument;
15 however, if you feel that you can express in writing --
16 solicitor, you don't have any objection to giving ten
17 days to her to make a motion for a new trial?

18 MS. SWANSON: No, sir.

19 THE COURT: All right. Ms. Campbell, state your
20 grounds for the motion, and I'll give you the ten days
21 to express it in writing and then I'll decide whether I
22 need to hear oral argument.

23 MS. CAMPBELL: Your Honor, so the grounds for -
24 so, I have listed seven grounds for the motion for new
25 trial. The Defendant, at this point, would say that

SENTENCING BY THE COURT

1 the Court erred, number one, in not granting the
2 Defendant's Motion to Continue because of the
3 prejudicial comments made by the Clerk of Court in her
4 statements to the jury panel. Number two, not granting
5 Defendant's motion to continue because of the
6 dishonesty of juror number 411, who was housed with the
7 jury for some period of time before --

8 THE COURT: Wait a minute. Juror number what?

9 MS. CAMPBELL: 411.

10 THE COURT: That I excused from the jury?

11 MS. CAMPBELL: Correct. Number three, not
12 granting the Defendant's motion for mistrial when
13 Officer Snider told the jury that she was familiar with
14 Darryl Bradley as a law enforcement officer testifying.
15 Four, for not excluding Defendant's jail phone calls,
16 which Your Honor accepted our written motion on.
17 Number five, not charging the Defendant's requested
18 jury charge on reasonable doubt, which Your Honor
19 graciously made a part of the Court's exhibits and
20 record of this case.

21 THE COURT: I did.

22 MS. CAMPBELL: Number six, not granting the
23 Defendant's motion, of course, for directed verdict.
24 And then not granting Defendant's motion for mistrial.
25 Numerous bases for that.

SENTENCING BY THE COURT

1 Number seven, when the Defendant objected and made
2 a motion for mistrial when Your Honor, under the State
3 V Beatty case, told the jury that it was their
4 responsibility to reach a just result. We made a
5 motion for mistrial --

6 THE COURT: Of course that case dealt -- actually,
7 Beatty dealt with closing argument, but it also dealt
8 with that, in a preliminary charge, and I've ruled on
9 that.

10 MS. CAMPBELL: Then, lastly, the verdict was not
11 supported by the evidence. Thank you.

12 THE COURT: Thank you. All right. I'm going to
13 give her ten days to make a written motion and I'll
14 decide whether or not I'm going to have oral argument
15 on it or not. After I read her written motion and
16 decide whether or not I'll either do a written order --
17 I'll do a written order on the motion for new trial,
18 but she has ten days from today to serve you with her
19 motion for new trial. But all of her grounds -- and to
20 send to me, Trasi, send it to me at
21 pbucknerj@sccourts.org. Send my law clerk a working
22 copy to pbucknerlc@sccourts.org. Austin, take the two
23 indictments that are armed robbery or attempted armed
24 robbery and possession of a weapon over to my
25 foreperson and have him sign the verdict form guilty,

SENTENCING BY THE COURT

1 and sign your name and date it. Austin is going to
2 show you because the stamp is in the way.

3 THE COURT: Any post-verdict motions from counsel
4 for the State?

5 MS. SWANSON: No, sir.

6 THE COURT: All right. Trasi, I'm going to ask
7 you and your client to come around for sentencing.
8 Right up front where you were before, Mr. Bradley.
9 Now, although I -- and the jury don't know this, so I
10 want them to understand this. You sought to introduce
11 during the trial of the case, Solicitor, his record. I
12 denied you that because I did not want the jury -- I
13 let you put in one petty larceny but there were, I
14 think, five prior burglary convictions; is that
15 correct? You told me that you had six?

16 MS. SWANSON: Yes, sir, five prior burglaries and
17 petty larceny and auto break-in case all stemming from
18 his juvenile record, 2012 to 2014. And, of course, you
19 heard that he was 17 during the commission of this
20 crime.

21 THE COURT: All right. So, I have -- as a
22 juvenile, he had five burglary convictions and he had a
23 petty larceny conviction; is that correct?

24 MS. SWANSON: And an auto break-in, yes, sir.

25 THE COURT: Auto break-in. All right. Is that

SENTENCING BY THE COURT

1 everything?

2 MS. SWANSON: Those are all of the convictions,
3 yes.

4 THE COURT: Now, I notice that the victim's family
5 has been here, but not present right now.

6 MS. SWANSON: Correct.

7 THE COURT: Does anyone else need, from the
8 victim's standpoint, need to address the Court for
9 purposes of sentencing?

10 MS. SWANSON: They do not.

11 THE COURT: All right. Is there anything else you
12 want to tell me about sentencing, as far as Solicitor's
13 position, before I hear from counsel for the Defendant?

14 MS. SWANSON: Your Honor, I would like to ask for
15 a 20-year sentence on the attempted armed robbery and a
16 consecutive five-year sentence on the weapons charge.
17 Originally when he was charged with everything prior to
18 this trial he was offered a 30-year sentence as a plea
19 offer. Thank you.

20 THE COURT: Is that everything now?

21 MS. SWANSON: That is everything.

22 THE COURT: Very well. All right. Ms. Campbell,
23 I'm happy now to hear from you in mitigation.

24 MS. CAMPBELL: May it please the Court, Your
25 Honor.

SENTENCING BY THE COURT

1 THE COURT: Absolutely.

2 MS. CAMPBELL: I have advised Mr. Bradley not to
3 offer a statement to Your Honor at sentencing.
4 Obviously we have issues to handle with an appeal on
5 the two indictments that the jury was able to reach a
6 verdict on. So, he is not going to be issuing a
7 statement at this time.

8 THE COURT: He understands that I'm willing to
9 talk with him?

10 MS. CAMPBELL: He does, but he's made the
11 decision, in order to protect his rights for the errors
12 of law that may or may not have been made, that he
13 needs to just make a decision and he has, to let me
14 speak for him.

15 Darryl was born and raised on St. Helena, as you
16 heard. I would say that a life of deprivation, not
17 depravity, but the kind of existence that was rooted
18 out for him from a small child forward began very early
19 on to shape a lot of what we saw happening with Darryl
20 when he was in middle school, lack of clothing, a lack
21 of money, a lack of almost basic necessities in his
22 life.

23 As you heard, his father passed away. His mother,
24 never there for him for a multitude of reasons. I
25 won't say anything against her or anything more than

SENTENCING BY THE COURT

1 she just was not there for him. He found himself as a
2 13-year-old to age of maybe 14 or 15 becoming involved
3 in activities that landed him downstairs in family
4 court, in juvenile court. And what a ride he took
5 then. Because he was sent to the Department of
6 Juvenile Justice and he spent a long period of time
7 there.

8 I have researched his juvenile records and found
9 that during the time that this young man was housed
10 there, the ACLU was conducting a study on the treatment
11 of young men there in the care of the government, and
12 Darryl was a part of that study, and some of the
13 horrific experiences that he had and went through were
14 detailed within that study and the report that was
15 issued.

16 So I say to you, when he came home, you know, at
17 16 and 17 years old, he was a changed young man. And
18 in my conversations with him about that time in his
19 life, we can't go too far or too deep because the hurt
20 is very real and it is there. I would ask Your Honor to
21 consider that he has been incarcerated since his
22 arrest. I know by law Your Honor, you know --

23 THE COURT: One of the reasons I denied your
24 motion for continuance is this case has been pending
25 for over a thousand days in Beaufort County and your

SENTENCING BY THE COURT

1 client has been in jail during that time.

2 MS. CAMPBELL: And so I would ask that you give
3 him credit for the time that he has served. Your Honor
4 has a wide latitude, zero to 20 years. There is no
5 mandatory minimum. He is a young man, and any record
6 to speak of, as I said, Your Honor, occurred when he
7 was almost at a tender age. So, I would ask Your Honor
8 to consider credit for the time that he served. Even
9 if you did a split sentence and allowed him to come out
10 under some supervised parole so that he can be given
11 some sort of skill and direction and try to salvage
12 what can be salvaged for Darryl.

13 I want something -- hope. He needs some hope and
14 he hasn't had a whole lot of that. Thank you, Judge.

15 THE COURT: Mr. Bradley, for the record, you
16 understand that I'm willing to hear anything you want
17 to tell me, but your lawyer says that you do not wish
18 to speak to me at this time because of your pending
19 motion for a new trial; is that your position?

20 THE DEFENDANT: Yes, sir, that is the best
21 decision.

22 THE COURT: All right. Mona, hand me the
23 evaluation. It was made a Court's exhibit. Counsel,
24 one of the most telling things about Mr. Bradley, which
25 the jury did not hear in the case, was South Carolina

SENTENCING BY THE COURT

1 Department of Mental Health competency evaluation
2 determining whether or not Mr. Bradley was competent to
3 stand trial. They found that he was. They use quite a
4 lot of sources of information. It involves an
5 interview of Mr. Bradley at the Medical University by
6 their forensic psychiatry people. Both a clinical
7 interview.

8 In fact, they did two. They did -- and this was
9 last year in August and July. It involved the
10 Sheriff's Department's records for incidents. It
11 involved the arrest warrants in this case and the
12 affidavit in support of warrants, his general criminal
13 history, his juvenile records, his order releasing his
14 juvenile records. The Charleston County Detention
15 Center records, the Beaufort County Detention Center
16 records. Obviously they also have his public school
17 records from Beaufort County public school. They also
18 had his adolescent unit records from the William S.
19 Hall Institute.

20 They did a psychological assessment on him. And a
21 very, very comprehensive report was given to this
22 Court, in which I found prior to commencement of this
23 trial that the psychiatrist who had examined him felt
24 that he was competent. They diagnosed him with an
25 anti-social personality disorder, which they did not

SENTENCING BY THE COURT

1 feel he was experiencing symptoms impacting his
2 competency to stand trial. And that he did -- and that
3 he was competent.

4 And they attributed the past conduct in his part
5 on his performance can be attributed to him
6 intentionally putting forth minimum effort and that he
7 was faining psychiatric symptoms and legal knowledge
8 deficits, which are all, so the jury knows and the
9 public knows, are consistent with a diagnosis of
10 anti-social personality disorder. And that is why they
11 were of the opinion that he was competent to stand
12 trial.

13 Ms. Campbell, you were absolutely correct that
14 Mr. Bradley is entitled to the credit for the time that
15 he served in jail awaiting trial. It bothers me that
16 it took that long to get it, and that is the reason I
17 wasn't putting this trial off. Mona, I'm giving you
18 that back. Thank you for giving it to me, because you
19 need it as a Court's exhibit.

20 (Pause.)

21 THE COURT: All right. Let the record reflect
22 that my law clerk has had the foreman sign the verdict
23 forms that they reached a unanimous verdict on for
24 attempted armed robbery and possession of a weapon
25 during the commission of a violent crime. The foreman

SENTENCING BY THE COURT

1 has signed his name, dated it, and written the words
2 "guilty" on the verdict form.

3 Mr. Bradley, I have carefully considered your
4 sentence because I went back and reviewed what the
5 examiners found about you. And your lawyer is
6 absolutely right, although she attempted to continue
7 this case and she feels that the Court should have
8 granted a mistrial for certain things in this case
9 which I denied. And that is certainly her right to do
10 so. I certainly felt that my rulings in your case,
11 hopefully, were correct. But that is somebody else's
12 decision ultimately and not mine. My intent was to see
13 that you got as fair a trial as possible.

14 I take into consideration several things. I take
15 into consideration your age. I take into consideration
16 that the jury was unable to reach a verdict on three of
17 the most serious charges against you, which you were
18 looking at life imprisonment and 30 years imprisonment.
19 Which the jury wasn't aware of the penalties. That is
20 not y'all's function, that is the Court's function.

21 I take into consideration the fact that your
22 lawyer is absolutely right to ask me to give you
23 credit. You are going to have over -- in fact, my
24 notes say that you have been in custody. You are
25 probably going to tell me differently. My notes tell

SENTENCING BY THE COURT

1 me that you were in custody over 1,015 days. Is that
2 right?

3 THE DEFENDANT: Yes, sir.

4 THE COURT: Well, I'm going to see to it that you
5 get credit for every day of that because I think that
6 you are entitled to it. On the other side of the fence
7 I have to look at things other than just your age, I
8 have to look at your prior record. You had five --
9 four burglaries, a breaking in an auto.

10 MS. SWANSON: Five burglaries.

11 THE COURT: Five burglaries. And petty larceny,
12 and breaking into an auto. I have a 62-year-old victim
13 with Parkinson's Disease. And I can tell this jury
14 clearly, there was sufficient evidence to convict
15 Mr. Bradley. I understand there was dispute in the
16 evidence. There always usually is in a trial of the
17 case, and that is where I have to have a jury tell me.
18 So, I take all of those things into consideration in
19 your sentence.

20 First of all, on Indictment 2017GS0700642, the
21 State versus Darryl Douglas Bradley, Junior, attempted
22 armed robbery, the sentence of the Court is Defendant
23 is committed to the State Department of Corrections for
24 a term of 20 years. The Defendant is to be given
25 credit for time served pursuant to South Carolina Code

SENTENCING BY THE COURT

1 Section 24-13-40. That is to be calculated and applied
2 by the State Department of Corrections.

3 On Indictment 2017GS0700644, possession of a
4 weapon during the commission of a violent crime,
5 sentence of the Court is Defendant is committed to the
6 State Department of Corrections for a term of five
7 years. That sentence will run consecutive to the
8 attempted armed robbery. Good luck to you, sir. Thank
9 you very much.

10 MS. SWANSON: Thank you, Your Honor.

11 THE COURT: Ladies and gentlemen, just sit right
12 there. The Defendant is in custody. Norm is going to
13 meet you for those people that need a work excuse.
14 Thank you so much for your service in this case.

15 I am declaring a mistrial on the remaining three
16 charges. This concludes your service for the week.
17 You are now exempt for three years from jury service if
18 the computer chooses it.

19 Hold on, Mr. Foreman, let me come thank you
20 personally.

21 (The jury exits the courtroom at 5:20 p.m.)

22 (Trial concluded.)

23

24

25

SENTENCING BY THE COURT

1

2 CERTIFICATE

3

4 STATE OF SOUTH CAROLINA:

5 COUNTY OF BEAUFORT:

6 I, MONA L. MANLEY, Court Reporter, certify that I was
7 authorized to and did stenographically report the foregoing
8 proceedings and that the transcript is a true and complete
9 record of my stenographic notes.

8

DATED this 18th day of August, 2020.

9

10

11

Mona L. Manley /s/

12

MONA L. MANLEY

13

Official South Carolina Court Reporter

Circuit Reporter for the 10th Circuit

(850) 893-6662

14

mmanley@sccourts.org

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BEAUFORT COUNTY SHERIFF'S OFFICE



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BEAUFORT COUNTY SHERIFF'S OFFICE



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CASE # 175082825

YOU WILL BE ASKED TO LOOK AT A GROUP OF PHOTOGRAPHS. THE FACT THAT THE PHOTOGRAPHS ARE SHOWN TO YOU SHOULD NOT INFLUENCE YOUR JUDGEMENT. YOU SHOULD NOT CONCLUDE OR GUESS THAT THE PHOTOGRAPHS CONTAIN THE PICTURE OF THE PERSON WHO COMMITTED THE CRIME. YOU ARE NOT OBLIGATED TO IDENTIFY ANYONE. IT IS JUST AS IMPORTANT TO FREE INNOCENT PERSONS FROM SUSPICION AS TO IDENTIFY GUILTY PARTIES. PLEASE DO NOT DISCUSS THE CASE WITH OTHER WITNESSES NOR INDICATE IN ANY WAY THAT YOU HAVE IDENTIFIED SOMEONE.

SIGNED <u>Alfreda Thompson</u>	SIGNED _____
DATE <u>4/19/11</u> TIME <u>3:08pm</u> OFFICER'S INIT. <u>JS</u>	DATE _____ TIME _____ OFFICER'S INIT. _____
SIGNED _____	SIGNED _____
DATE _____ TIME _____ OFFICER'S INIT. _____	DATE _____ TIME _____ OFFICER'S INIT. _____
SIGNED _____	SIGNED _____
DATE _____ TIME _____ OFFICER'S INIT. _____	DATE _____ TIME _____ OFFICER'S INIT. _____

WITNESSES

J Malphrus- BCSO

DOCKET NO. 2017GS0700642

The State of South Carolina

County of Beaufort

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

Defendant

COURT OF GENERAL SESSIONS

June Term 2017

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

ARREST WARRANT NUMBER

2017A0710400116

THE STATE

vs.

Darryl Douglas Bradley, Jr.

Indictment For

Attempted Robbery - Armed or
Alleging Armed With Deadly Weapon

SC Code: 16-11-330(B)

CDR Code: 0026

Defendant

Witness:

VERDICT

Guilty

True Bill

Foreperson of Petit Jury

Date: 2/20/20

INDICT

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

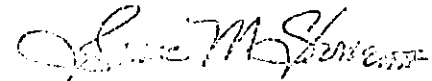
INDICTMENT
2017GS0700642

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Beaufort County present upon their oath:

Attempted Robbery - Armed or Alleging Armed With Deadly Weapon

That in Beaufort County, South Carolina, on or about April 18, 2017, the Defendant, Darryl Douglas Bradley, Jr., did commit attempted robbery while armed with a pistol, dirk, slingshot, metal knuckles, razor, or other deadly weapon, or while alleging, either by action or words, he was armed while using a representation of a deadly weapon or any object which a person present during the commission of the robbery reasonably believed to be a deadly weapon, all in violation of Section 16-11-330(B), et al. of the Codes of Law of South Carolina.

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



Solicitor

True Bill

WITNESSES

J Malphrus- BCSO

ARREST WARRANT NUMBER

2017A0710400118

VERDICT

Guilty

True Bill

Foreperson of Petit Jury

Date:

INDICT

2/20/20

DOCKET NO. 2017GS0700644

The State of South Carolina

County of Beaufort

COURT OF GENERAL SESSIONS

June Term 2017

THE STATE

vs.

Darryl Douglas Bradley, Jr.

Indictment For

Possession of Weapon During
Violent Crime

SC Code: 16-23-490

CDR Code: 0549

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

STATE OF SOUTH CAROLINA)
)
COUNTY OF BEAUFORT)

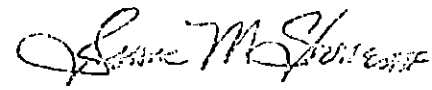
INDICTMENT
2017GS0700644

At a Court of General Sessions, convened on June 22, 2017, the Grand Jurors of Beaufort County present upon their oath:

Possession of Weapon During Violent Crime

That in Beaufort County, South Carolina, on or about April 18, 2017, the Defendant, Darryl Douglas Bradley, Jr., did possess a firearm, visibly displayed what appeared to be a firearm, or visibly displayed a knife during the commission of a violent crime and Darryl Douglas Bradley, Jr. was convicted of committing or attempting to commit a violent crime as defined in Section 16-1-60, all in violation of Section 16-23-490, et al. of the Codes of Law of South Carolina.

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



Solicitor

True Bill

STATE OF SOUTH CAROLINA

COUNTY OF Beaufort

STATE

VS.

Darryl Douglas Bradley, Jr.

AKA:

Race: Black Sex: Male Age: 17DOB: 12:00:00 AM SS#:

Address:

DL# * SID#*CDL Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No ☐

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

☒ CONVICTED OF or

PLEADS

TO: Attempted Armed RobberyIn violation of § 16-11-330(B)of the S.C. Code of Laws, bearing CDR Code # 0026☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45

(CSC winner 1' or CSC winner 3')

The charge is: ☒ As indicted.☐ Lesser Included Offense.☐ Defendant Waives Presentment to Grand Jury.

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation.☐ Negotiated Sentence.☐ Recommendation by the State.

TEST

Walter Wansley #72934

(Solicitor)

(SC Bar #)

Darryl Bradley

(Defendant)

Traci Campbell

(Attorney for Defendant)

(SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections☐ County Detention Center,for a determinate term of 20 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years

and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____;

plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☐ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2017-25-07-00644☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by the State Department of Corrections.☐ The Defendant is to be placed on Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____ days hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

Recipient: _____

*Fine: _____

§14-1-206 (Assessments 107.5%)

§14-1-211 (A)(1)(Conv. Surcharge)

§14-1-211 (A)(2)(DUI Surcharge)

§56-5-2995 (DUI Assessment)

§56-1-286 (DUI Breath Test)

Proviso 61.6 (Public Def/Prob)

§14-1-212 (Law Enforce. Funding)

§14-1-213 (Drug Court Surcharge)

§50-21-114 (BUI Breath Test Fee)

§56-5-2942(J) (Vehicle Assessment)

3% to County (if paid in installments)

\$100

\$100

\$12

\$25

\$500

\$25

\$150

\$50

\$40/each

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☐ Obtain GED☐ Attend Voc. Rehab. Or Job Corp. _____☐ May serve W/E beginning _____☐ Substance Abuse Counseling☐ Random Drug/Alcohol Testing

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter:

MP-SCCA/217 (04/2018)

Presiding Judge:

Judge Code:

Sentence Date:

2/20/202/20/202/20/20

5 yrs

359

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Beaufort

STATE

VS.

Darryl Douglas Bradley, Jr.

AKA:

Race:

Black

Sex:

Male

Age:

17

DOB:

12:00:00 AM

SS#:

Address:

DL#

SID#

INDICTMENT/CASE#:

2017GS0700644

A/W#:

2017A0710400118

Date of Offense:

04/18/2017

S.C. Code §:

16-23-490

CDR Code #:

0549

SENTENCE SHEET

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

In disposition of the said indictment comes now the Defendant who was ☒ CONVICTED OF or

LEADS

TO: Possession of a Weapon During a Violent Crime

In violation of § 16-23-490

of the S.C. Code of Laws, bearing CDR Code # 0549

☒ NON-VIOLENT ☐ VIOLENT ☐ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45 (SC w/minor 1st or SC w/minor 3rd)

The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury, (def's initials)
The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

TESTE: Darryl Douglas Bradley #72934 Travis Campbell 15149
(Solicitor) (SC Bar #) (Defendant) (Attorney for Defendant) (SC Bar #)

WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
for a determinate term of 5 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
and/or to pay a fine of \$ _____; provided that upon the service of _____ days/months/years and or payment of \$ _____;
plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of
Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☒ CONSECUTIVE to sentence on: 2017-GS-07-00642

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

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

SPECIAL CONDITIONS:

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

Total: \$ _____ plus 20% fee: \$ _____ days/hours Public Service Employment

Payment Terms: _____

☐ Set by SCDPPPS

☐ Obtain GED
☐ Attend Voc. Rehab. Or Job Corp.
☐ May serve W/E beginning _____
☐ Substance Abuse Counseling
☐ Random Drug/Alcohol Testing

Recipient: _____
*Fine: _____
§14-1-206 (Assessments 107.5%) \$ _____
§14-1-211 (A)(1)(Conv. Surcharge) \$100 \$ 100.00
§14-1-211 (A)(2)(DUI Surcharge) \$100 \$ _____
§56-5-2995 (DUI Assessment) \$12 \$ _____
§56-1-286 (DUI Breath Test) \$25 \$ _____
Proviso 61.6 (Public Def/Prob) \$500 \$ _____
§14-1-212 (Law Enforce. Funding) \$25 \$ 25.00
§14-1-213 (Drug Court Surcharge) \$150 \$ _____
§50-21-114 (BUI Breath Test Fee) \$50 \$ _____
§56-5-2942(J) (Vehicle Assessment) \$40/each \$ _____
3% to County (if paid in installments) \$ 3.75

Fine may be pd. in equal consecutive weekly/monthly
pmts. of \$ _____ Beginning _____
\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL \$ 123.75

Clerk of Court/Deputy Clerk Joseph J. Simon
Court Reporter: Monica Mawley
MP-SCCA-217 (04/2018)

Presiding Judge: _____
Judge Code: 2128
Sentence Date: 02/20/20

STATE OF SOUTH CAROLINA)
)
 COUNTY OF BEAUFORT) INDICTMENT NO.:

2017GS0700633,634,642,643,644

STATE OF SOUTH CAROLINA,)
)
 versus)
)
 DARRYL BRADLEY,) NOTICE OF MOTION AND
 Defendant.) MOTION FOR NEW TRIAL
 _____)

TO: HUNTER SWANSON, ASSISTANT SOLICITOR, 14TH JUDICIAL CIRCUIT

YOU WILL PLEASE TAKE NOTICE that the Defendant, by and through his undersigned counsel, will move before this Honorable Court for a NEW TRIAL pursuant to South Carolina Rule of Criminal Procedure Rule 29 as soon as possible on the following grounds:

1. The Court erred in failing to grant Defendant's Motion for Continuance based upon the highly improper and unduly prejudicial remarks made by the Beaufort County Clerk of Court to the Jury Panel in her morning greeting to the Jury Panel prior to the Jury Qualification wherein the Clerk of Court told the jury panel that "what we do here in this Court is not pleasant but thank you for being here".
2. The Court erred in failing to grant Defendant's Motion for Continuance when after the jury had been selected and seated but prior to the jury being sworn--- Juror #411 who had been selected and placed upon Defendant's jury for his trial sent word to the Court that she had not been honest in answering the Voir Dire asked of the jury panel. In

particular, juror #411 when questioned on the record by the Court outside the presence of her fellow jurors, with whom she had spent time in the jury deliberations room on the afternoon of February 18, 2020 and on the morning of February 19, 2020, declared that she had in fact testified in a criminal trial for the State and she had in fact been the victim of a violent crime, a bank robbery. Juror #411's dishonesty impacted the manner in which Defendant selected his jury and potentially exposed his jury to Juror #411's dishonest behavior in the jury room.

3. The Court erred in failing to grant Defendant's Motion for a Mistrial when Beaufort County Sheriff's Deputy Jennifer Snider testified on direct examination that she was "familiar with Darryl Bradley" which may have caused jurors to believe that the deputy in her role as a law enforcement officer was familiar with the Defendant due to some prior involvements or incidents with law enforcement and criminal activity or criminal charges.
4. The Court erred in failing to exclude the jail phone call submitted by the State wherein the Defendant was recorded speaking to his sister and discussed the facts of his case with his sister. (Defendant filed a written motion objecting to this evidence and that motion was made a Court's Exhibit).
5. The Court erred in failing to charge the jury the Defendant's Requested Jury Instruction on Reasonable Doubt. (Defendant filed a written proposed Reasonable Doubt Instruction and Memorandum in Support

and the requested instruction and memorandum were made a Court's Exhibit).

6. The Court erred in failing to grant Defendant's Motion for a Mistrial when Defendant timely objected to the Court's instruction to the jury that they must reach a "just" result in this case. Defendant relied on the South Carolina Supreme Court decision in *State v. Beaty*, 423 S.C. 26, 813 S.E.2d 502 (2018) in his argument that it was improper and so prejudicial to the Defendant that the error could not be cured by any additional instruction to the jury.
7. The Court erred in failing to grant Defendant's Motions for Directed Verdict.
8. The verdict was not supported by the evidence in the case and the verdict was completely inconsistent with the evidence. The jury deliberated for approximately 4 hours and requested to rehear testimony and thus listened to about one (1) hour of the testimony of both the Defendant and the alleged victim as replayed by the Court Reporter and then the jury was unable to reach a unanimous decision on three (3) of the five (5) indictments. In total, the jury sent out three (3) notes and questions to the Court during the course of their deliberations. The Court received the guilty verdicts on Indictments 2017GS0700642 Attempted Armed Robbery and 2017GS0700644 Possession of a Weapon During the Commission of a Violent Crime and declared a mistrial on the remaining three (3) indictments where the jury was unable to reach a unanimous decision--- 2017GS0700633

Criminal Sexual Conduct 1st Degree, 2017GS0700634 Burglary 1st
Degree, and 2017GS0700643 Kidnapping.

Respectfully submitted,

Trasi Campbell
14th Judicial Circuit
Chief Defender
Violent Crimes Division

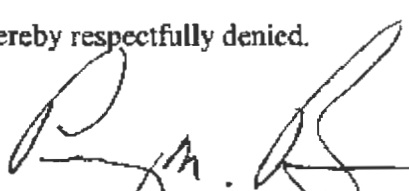
Beaufort, South Carolina
_____, 2020

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	
COUNTY OF BEAUFORT	)	Indictment Nos. 2017-GS-07-00633
	)	2017-GS-07-00634
	)	2017-GS-07-00642
	)	2017-GS-07-00643
	)	2017-GS-07-00644
STATE OF SOUTH CAROLINA	)	
	)	
v.	)	ORDER DENYING MOTION FOR NEW TRIAL
	)	
DARRYL BRADLEY,	)	
DEFENDANT	)	

This matter comes before the Court on Defendant's Motion for a new trial, which was filed February 24, 2020. This action was tried on February 17, 2020 before a jury in Beaufort County which returned a guilty verdict on the indictments for Attempted Armed Robbery (2017-GS-07-00642) and Possession of a Weapon During the Commission of a Violent Crime (2017-GS-07-00644). The Court declared a mistrial on the indictments for Criminal Sexual Conduct, 1st Degree (2017-GS-07-00633), Burglary 1st Degree (2017-GS-07-00634), and Kidnapping (2017-GS-07-00643) as the jury was unable to reach a unanimous decision after deliberations. Hunter Swanson represented the State of South Carolina and Trasi Campbell represented the Defendant, Darryl Bradley. The Defendant's motion seeks a new trial pursuant to Rule 29.

After a thorough review of Defendant's motion, the record, and relevant case law, Defendant's Motion for New Trial is hereby respectfully denied.

IT IS SO ORDERED.


 THE HONORABLE PERRY M. BUCKNER
 14TH JUDICIAL CIRCUIT

Walterboro, South Carolina

Mar 17, 2020

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,

s/ Kathrine H. Hudgins

Kathrine H. Hudgins
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 29th day of June, 2021.

RECEIVED

Jun 29 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

Appeal from Beaufort County

Honorable Perry M. Buckner, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

DARRYL DOUGLAS BRADLEY, JR.

APPELLANT

APPELLATE CASE NO. 2020-000524

CERTIFICATE OF SERVICE

Pursuant to the Supreme Court's Order "RE: Operation of the Appellate Courts During the Coronavirus Emergency," dated March 20, 2020, the undersigned hereby certifies a true copy of the Record on Appeal in the above-referenced case has been served upon Joshua A. Edwards, Esquire, a by sending to opposing counsel's primary e-mail address as listed in the Attorney Information System (AIS), this 29th day of June, 2021.

s/ Kathrine H. Hudgins

Kathrine H. Hudgins

Appellate Defender

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

ATTORNEY FOR APPELLANT