

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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SC Court of Appeals

Appeal from Colleton County

Honorable DeAndrea G. Benjamin, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

WALTER A. PALACIOS,

APPELLANT.

APPELLATE CASE NO. 2021-000620

RECORD ON APPEAL

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IN THE STATE OF SOUTH CAROLINA) IN THE COURT OF
COUNTY OF COLLETON) GENERAL SESSIONS
) 2020-GS-15-000094; 096; 454

THE STATE OF SOUTH CAROLINA)
) TRANSCRIPT OF RECORD
VS.)
WALTER ALEXANDER CHICAS PALACIOS)

June 1, 2021 - June 3, 2021

WALTERBORO, SOUTH CAROLINA

B E F O R E:

The Honorable DeANDREA G. BENJAMIN, Judge; and a jury

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

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Attorney for the State

DAVID S. MATHEWS, Assistant Public Defender
Attorney for the Defendant

Reported by: Cathy J. Provost, RMR

Official Circuit Court Reporter

1 ADDITIONAL APPEARANCES:

2 Interpreters:

3 Alfredo Ayala, Sr.

4 Beverly J. Neiderhiser

5 Rebecca McCann

6 Jairo Solano

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JURY STRIKE SHEET

	<u>NAME:</u>	<u>RACE:</u>	<u>SEX:</u>	<u>STE:</u>	<u>DFT:</u>	<u>CRT:</u>	<u>SEATED:</u>
1							
2							
3	1. John R. Withrow	W	M				X
4	3. Marvin W. Walker	B	M			X	
5	4. Elizabeth A. Prescott	W	F		X		
6	5. Michael E. Thomas	W	M				X
7	6. Harry W. Cornatzner, Jr.	W	M				X
8	7. Michael D. Reichle	W	M	X			
9	8. Benjamin A. Kinsey	W	M				X
10	9. Shirley A. Middleton	B	F				X
11	10. Dorothy B. Wiggins	B	F				X
12	11. Robert K. Steele	W	M				X
13	12. Julianna R. Paschal	W	F				X
14	13. Jaylynn C. Davis	W	M				X
15	14. Laura J. Staat	W	F			X	
16	15. Karen A. Bolcato	W	F			X	
17	16. Ashley N. Lambert	W	F	X			
18	17. Gail D. Brown	B	F				X
19	18. Jennifer S. Hiott	W	F			X	
20	19. Jerome Mosley, Jr.	B	M				X
21	20. Calvin Simmons	B	M				X
22	21. Michael L. Castleberry	W	M	X			
23	22. Hannah E. Caldwell	W	F			X	
24	23. James A. Kincheloe	W	M				X
25	24. Tony R. Lyons	W	M				X

1 -- P R O C E E D I N G S --

2 MATTER(S) OF LAW

3 THE COURT: Anything that we need to take up before jury
4 selection? I have received the state's witness list and voir
5 dire. And I have the defendant's -- do you have any voir dire,
6 Mr. Mathews?

7 ATTORNEY MATHEWS: I'm sorry, Your Honor?

8 THE COURT: I have your witness list. Do you have any voir
9 dire?

10 ATTORNEY MATHEWS: Yes, ma'am. As far as proposed voir
11 dire, I don't have any. I would only ask that the voir dire
12 requested by the state, that it would be changed to, Has any
13 member of this jury panel been a victim of a violent crime, or
14 accused, been accused of or the victim of a violent crime, rather
15 than spelling those things out. In fact, those are not the -- in
16 spelling those things out individually. So just been the victim
17 of, for the benefit of the defendant, or been accused of, for the
18 benefit of the state.

19 ATTORNEY KEENEY: My issue with that is the jury might not
20 know exactly what we mean by violent crime. It means one thing,
21 you know, via statute versus what someone's opinion is, and
22 someone could be accused or the victim in a case of domestic
23 violence and it would not necessarily be considered violent.

24 ATTORNEY MATHEWS: Your Honor, I think that's misleading.
25 And I think it's, certainly, I mean, if we're trying to get to

1 the exact charge, we don't have the degrees of it, and this is an
2 accusation of attempted criminal. It just gets too messy if you
3 start getting down to that suggestion to the jury. It's setting
4 up cant's and dividing people. The charge, we usually get on
5 that, the one Judge Buckner always gives, is, Have you or a
6 member of your immediate family been the victim of a violent
7 crime?

8 And as far as been accused of, I mean, they have, they have
9 the jury list, they have, they run rap sheets on everybody. So
10 as far as whether or not they even need that, that just seems
11 like an attempt to weed out people that, when they already have
12 the rap sheets on every single member of the jury panel, it just
13 seems unnecessary and it's just going to create further division.
14 And I would object to that.

15 THE COURT: I usually will allow the questions. I'm going
16 to overrule the objection. I usually allow questions regarding
17 the CSC and the domestic violence. I can ask a question, victim
18 or accused of a violent crime, but because the two, are
19 especially with CSC is somewhat private, I usually give the
20 jurors an opportunity to speak to me.

21 ATTORNEY MATHEWS: Can we add in there, I would ask then
22 also, Has any member of the jury panel been falsely accused of
23 any of those charges? No, I mean, this whole thing, I've never
24 seen this, and I think it's an obvious attempt to try to evoke
25 sympathy before we even get going. And if we're going to ask

1 whether or not anybody has been accused, then we should also ask
2 if anybody's been falsely accused.

3 THE COURT: Well, I'm not going to ask if they're falsely
4 accused. But I will ask if anyone's been accused or the victim
5 of a violent crime. And then I'll also specifically regarding
6 violence and a criminal sexual conduct just because I do give
7 them the an opportunity to speak to me privately regarding any of
8 that. Most people, based on my experience, hesitate. Maybe not
9 so much on domestic violence, but especially on the CSC charges,
10 hesitate to ---

11 ATTORNEY MATHEWS: If Your Honor would just note my
12 objection.

13 THE COURT: Yes, sir.

14 ATTORNEY MATHEWS: Thank you.

15 THE COURT: Yes. They hesitate to stand up for that
16 question. So I will ask that. As to the burglary, I think that
17 will fall up under the other violent crimes.

18 ATTORNEY KEENEY: Thank you, Your Honor. And I assume there
19 was no objection to the first question?

20 ATTORNEY MATHEWS: What was the first question again? Where
21 have we landed on that?

22 THE COURT: Has anybody been prosecuted by the solicitor's
23 office, the 14th Circuit.

24 ATTORNEY KEENEY: There's a few people on the list that are
25 being prosecuted by us. And so I just want to make sure we get

1 to ask the question, despite being prosecuted by the solicitor's
2 office, can you still be fair and impartial? And Mr. Mathews and
3 Mr. Walker have a few clients on ---

4 ATTORNEY MATHEWS: They have the rap sheets, I mean, as far
5 as that goes. And if they don't know this already ---

6 ATTORNEY KEENEY: It's not a matter of knowing it. It's a
7 matter of we still have to ask, are they going to be fair and
8 impartial despite the fact that -- for instance, there's one guy
9 on the jury list that I am prosecuting myself, and I believe one
10 of them represents them. So that's going to put us in an awkward
11 ---

12 THE COURT: That's a question that I'm going to ask anyway,
13 has anyone ever been represented by either one of the attorneys.
14 So they're going to stand up for that. Are these -- I'm guessing
15 if they have, if they've been prosecuted or have pending charges,
16 but no convictions, is that what you are saying?

17 ATTORNEY KEENEY: Yes.

18 ATTORNEY MATHEWS: I would object. We're not starting
19 great, Your Honor, but I do object to that.

20 THE COURT: Objection will be overruled.

21 Any other voir dire?

22 ATTORNEY MATHEWS: None from the defense, Your Honor. Are
23 we first qualifying the jury before we get into the individual
24 case, Your Honor?

25 THE COURT: Yes.

1 ATTORNEY MATHEWS: Thank you.

2 ATTORNEY KEENEY: Your Honor, do you need a copy of the
3 indictment?

4 THE COURT: Yes. And we have two different panels.
5 Apparently one group is already here, and the other group is
6 coming a little bit later. What I have been doing is, if we are
7 able to get enough, if there's no objection, if we're able to get
8 enough jurors from the first panel, we'll go ahead and pick from
9 the first panel and start. Unless there's an objection from you.

10 ATTORNEY KEENEY: No, Your Honor.

11 ATTORNEY MATHEWS: If they're good. I don't know how we did
12 it the last time. That would be my preference, but I don't care.

13 THE COURT: And the strikes, when we get into strikes,
14 they're going to be, I assume, is it 10 and 5? I didn't look
15 them up specifically. For the CSC -- I don't have the
16 indictments in front of me.

17 ATTORNEY UTSEY: (Ceth Utsey, Assistant Solicitor) I can give
18 those to you right now, Your Honor.

19 (WHEREUPON, an off-the-record discussion was held.)

20 ATTORNEY KEENEY: Would you like to swear in the
21 interpreters right now?

22 THE COURT: The clerk's going to swear them in.

23 CLERK OF COURT: Bear with me.

24 THE COURT: Get you all together. Raise your right hands.
25 I'm not sure. We have three of them.

1 (WHEREUPON, the Clerk of Court administers the oath to the
2 following interpreters: Alfredo Ayala, Sr., Yasmina Vallejos and
3 Beverly J. Neiderhiser.)

4 (All respond affirmatively.)

5 THE COURT: All right. Thank you.

6 (WHEREUPON, the Clerk of Court conducted roll call, and the
7 Court conducted exemptions and transfers necessary to qualify the
8 jury panel.)

9 (WHEREUPON, the jury panel was escorted out of the courtroom
10 at 12:23 p.m.)

11 MATTER(S) OF LAW

12 THE COURT: We're going to take a break, also, but anything
13 we need to take up before we come back for jury selection?

14 ATTORNEY KEENEY: No, Your Honor.

15 ATTORNEY MATHEWS: Your Honor, we have the one, I had the
16 one, pretrial motion. I think that Ms. Keeney does not object to
17 that. That is as to prohibit any mention that Mr. Palacios,
18 Chicas Palacios, is charged with other things. And I just filed
19 something under 404 rules of evidence just prohibiting reference
20 to any prior bad acts or unconvicted charges.

21 And I don't think there's an objection to that -- I filed
22 that to be sure -- because I'm concerned, particularly when
23 people, who don't know the system, testify, that they might start
24 getting into other things.

25 ATTORNEY KEENEY: Yes. I told my victim, through the

1 translator, or the interpreter, we're only talking about
2 November 6th of 2019; we're not talking about any other charges,
3 any other allegations. She said she understood.

4 And I told her that if she does happen to say it, then we're
5 going to have to start this all over again. And nobody wants to
6 do that. So she understands.

7 THE COURT: All right. And how do you pronounce your
8 client's last name, please?

9 ATTORNEY MATHEWS: We had Palacios. But actually, under, in
10 Honduras and a lot of Latin American countries, they have their
11 father's name first and then their mother's name. So it actually
12 would be Chicas Palacios. But I think we have it down in the
13 system as Palacios, which is actually his mother's name, and it
14 should be Chicas.

15 It's a cultural thing. But I'm still having to learn -- I
16 took Spanish for a lot of years. But his name is Walter
17 Alexander Chicas Palacios.

18 THE COURT: So Walter Alexander Chicas Palacios?

19 ATTORNEY MATHEWS: Yes, ma'am.

20 THE COURT: All right. And there was a couple other names
21 that I did not -- is it Enamorado, Carlos Alberto? This is on
22 your list, Mr. Mathews. And then there was a ---

23 ATTORNEY MATHEWS: That's Maria Del Carmen Peraza Flores, is
24 the victim.

25 THE COURT: No, no. No. 8, how do you pronounce that name?

1 ATTORNEY MATHEWS: Enamorado, Carlos Alberto Enamorado.

2 THE COURT: And no. 9?

3 ATTORNEY MATHEWS: Is Jose Ovidio Pocasangre.

4 THE COURT: Pocasangre. And do we have the interpreters on
5 the witness list?

6 ATTORNEY KEENEY: I did not put them on the witness list.
7 However, I can get their names for Your Honor so you can read
8 them out loud, as well.

9 ATTORNEY MATHEWS: This is Yasmina Vallejos.

10 THE COURT: Yeah, write them down. And I apologize ahead of
11 time, I'm going to mispronounce them. I'll probably mispronounce
12 every single one of them.

13 So we're going to take a break. Y'all want to take about
14 five minutes, restroom break. And then we'll come back, we'll be
15 ready to start.

16 (WHEREUPON, court recessed at 12:28 p.m. and reconvened at
17 12:43 p.m.)

18 (WHEREUPON, the jury panel was seated in the courtroom at
19 12:43 p.m.)

20 THE COURT: Can I see the attorneys up here?

21 (WHEREUPON, an off-the-record discussion was held at
22 sidebar.)

23 VOIR DIRE OF THE JURY PANEL/QUALIFICATION PROCESS

24 THE COURT: Ladies and gentlemen of the jury, I remind you
25 that you are under the oath that you took earlier. Once again,

1 there's a series of questions that I need to ask of you.

2 This time it's to determine if you can be fair and impartial
3 jurors to both the state and the defendant in this case. There's
4 a series of questions that I will need to ask of you.

5 Once again, some of these are sensitive and you may not wish
6 to answer them in front of the entire panel. I will give you an
7 opportunity to speak with me privately. And I said privately,
8 semi-privately, because the attorneys will be there. But I will
9 give you an opportunity to speak with me regarding any of those
10 questions or any concerns that you may have.

11 I'm going to try to speak slowly because we have
12 interpreters. If, at any point, the interpreter needs you to
13 repeat something or me to repeat, just let me know, all right.
14 All right.

15 Once again, there's a series of questions that I need to ask
16 of you. Ladies and gentlemen of the jury, I will start by
17 letting you know that we are about to begin the trial in the case
18 of the State of South Carolina against Walter Alexander Chicas
19 Palacios. All right.

20 Ladies and gentlemen of the jury, I have three indictments
21 here. I will go ahead and tell you that these are the charging
22 papers that brings the defendant before the Court. The defendant
23 in this case has pled not guilty to these charges; and that these
24 are mere allegations, so these are allegations that have to be
25 proven by the state beyond a reasonable doubt.

1 The first indictment I have in my hand is Indictment
2 2020-GS-15-94. And this is an indictment for burglary, first
3 degree. And it reads that, in Colleton County, South Carolina,
4 on or about November 6, 2019, the defendant, Walter Alexander
5 Palacios, did enter a dwelling without consent and with intent to
6 commit a crime therein, and when, in effecting entry while in the
7 dwelling or in immediate flight therefrom, one, was armed with a
8 deadly weapon; two, caused physical injury to Maria Del Carmen
9 Peraza Florez, who was not a participant in the crime; or, three,
10 displayed what appeared to be a knife. This is in violation of
11 Section 16-11-311 of the South Carolina Code of Laws.

12 On Indictment 2020-GS-15-96, the defendant is charged with
13 domestic violence, high and aggravated. The allegations in this
14 indictment read that, in Colleton County, South Carolina, on or
15 about November 6, 2019, the defendant, Walter Alexander Palacios,
16 did cause physical harm or injury to Maria Del Carmen Peraza
17 Flores, a household member of Walter Alexander Palacios, and
18 committed the offense with or without an accompanying battery,
19 and under circumstances which manifest extreme indifference to
20 the value of human life which would have reasonably caused a
21 person to fear imminent great bodily injury or death; to wit,
22 circumstances manifesting extreme indifference to the value of
23 human life include, but are not limited to, one, the use of a
24 deadly weapon; or, two, committing the offense during the
25 commission of a burglary or kidnapping. This is in violation of

1 Section 16-25-65 and 15-25-20 of the South Carolina Code of Laws.

2 The third indictment I have is 2020-GS-15-454. It is an
3 indictment for assault with the intent to commit criminal sexual
4 conduct, first degree. The allegations in this indictment read
5 that, in Colleton County, South Carolina, on or about November 6,
6 2019, the defendant, Walter Alexander Palacios, did commit the
7 offense of assault with the intent to commit criminal sexual
8 conduct, first degree, by assaulting Maria Del Carmen Peraza
9 Florez with the intent to engage in a sexual battery with Maria
10 Del Carmen Peraza Flores, and the defendant used aggravated force
11 to try to accomplish the sexual battery. This is in violation of
12 Section 16-36-56 and 16-36-52 of the South Carolina Code of Laws.

13 Ladies and gentlemen of the jury, I remind you again that
14 these are mere allegations that the state has to prove, each and
15 every element beyond a reasonable doubt.

16 There are several questions that I need to ask of you to
17 determine if you can be fair and impartial jurors to both the
18 state and the defendant state in this case.

19 Ladies and gentlemen, the first question I have to ask of
20 you, and I will ask you to stand, Is anyone related by blood or
21 marriage to either Mr. Palacios, the defendant in this case?
22 Sir, if you can stand and face the jury and pull down your mask.

23 (Defendant responds.)

24 THE COURT: All right, thank you. And the alleged victim in
25 this case is Ms. Maria Del Carmen Peraza Flores. And if you can

1 pull your mask down, ma'am.

2 (Maria Del Carmen Peraza Flores responds.)

3 THE COURT: All right, thank you. Is there any member of
4 the jury panel related by blood or marriage to either the
5 defendant or the victim in this case?

6 (No response.)

7 THE COURT: Does anyone have a close, personal or social
8 relationship with either the defendant or the victim in this
9 case?

10 (No response.)

11 THE COURT: All right. The following is a list of potential
12 witnesses. The following is a list of potential witnesses. I
13 will call the names. And if any of these witnesses are in the
14 courtroom, I will ask you to stand when your name is called.

15 Amanda Absher, she's formerly with Colleton Medical Center.
16 Caleb Bonner. Whitlee Fisk, with the Walterboro Police
17 Department. And Mr. Bonner is with the Walterboro Police
18 Department. Michelle Fraser, the solicitor's office, 14th
19 Circuit Solicitor's Office. Demetrius Gilyard, formerly with
20 Walterboro Police Department. Jessica Hadwin, Colleton Medical
21 Center. Christopher Jones, Colleton Fire and Rescue. Jesse
22 Moon, Walterboro Police Department. Karen Padilla, 14th Circuit
23 Solicitor's Office. Iris Palacios. William Cody Pruitt,
24 formerly with the Walterboro Police Department. Shane Roberts,
25 Colleton County Sheriff's Office. Angela Stallings, Colleton

1 County Sheriff's Office. Amye Stivender, formerly with the
2 Walterboro Police Department. Janette Ward, Medical University
3 of South Carolina. Robert Cook, formerly with the Walterboro
4 Police Department. Jesse Moon -- I called that one -- Walterboro
5 Police Department. Carlos Alberto Enamorado. Jose Ovidio
6 Pocasangre, P-o-c-a-s-a-n-g-r-e. Cristina Oritiz Sanchez. And I
7 think I said William Pruitt.

8 ATTORNEY KEENEY: And, Judge, there was, on the second page
9 on our witness list, Dr. Merrill Ward, Colleton Medical.

10 THE COURT: And Dr. Merrill Ward with the Colleton County
11 Medical Center.

12 All right. Is there any member of the jury panel who has
13 ever been related by blood or marriage to any of the people I
14 just listed or anyone who has a close, personal or social
15 relationship with any of these people? If so, will you please
16 stand.

17 (Juror No. 28 stands.)

18 THE COURT: All right. Yes, ma'am, your juror number?

19 JUROR NO. 28: I'm juror no. 28.

20 THE COURT: Yes, ma'am?

21 JUROR NO. 28: I am pretty close with Caleb Bonner and Cody
22 Pruitt. Close, social friends.

23 THE COURT: You said Bonner and Pruitt. And would that, the
24 fact that you're close friends with two, with the two officers, I
25 guess Pruitt and Bonner, would that affect your ability to be

1 fair and impartial in this trial?

2 JUROR NO. 28: No, ma'am.

3 THE COURT: All right, thank you. You may be seated.
4 Anyone else?

5 (Juror no. 7 stands.)

6 THE COURT: Yes, ma'am?

7 JUROR NO. 7: Juror no. 7. I work in registration at the
8 hospital, so I do have a working relationship,
9 a-sometimes-working relationship, with Dr. Ward.

10 THE COURT: And, ma'am, would that affect your ability to be
11 fair and impartial in this trial?

12 JUROR NO. 7: No, ma'am.

13 THE COURT: All right. Thank you. Anyone else?

14 (Juror no. 183 stands.)

15 JUROR NO. 183: Juror 183.

16 THE COURT: 183?

17 JUROR NO. 183: Yes, ma'am. I'm employed at Colleton
18 Medical Center, and I have a working relationship with Absher and
19 Ward.

20 THE COURT: With Dr. Ward, you said?

21 JUROR NO. 183: Yes, ma'am, and Absher, Amanda Absher.

22 THE COURT: Okay. And would that affect your ability to be
23 fair and impartial in this trial?

24 JUROR NO. 183: No, ma'am.

25 THE COURT: All right. Thank you, ma'am. And that's juror

1 183.

2 All right. Ladies and gentlemen of the jury, we have
3 interpreters in this case. And I'm probably going to mess up
4 your name, but I'll have you all stand and say your name.

5 Yasmina. You can stand. Face the jury, and if you can give
6 them your full name.

7 INTERPRETER: Yasmina Vallejos.

8 THE COURT: Pull your mask down, you can pull it down, so
9 they can see your face.

10 INTERPRETER: Okay. Yasmina Vallejos.

11 THE COURT: All right, thank you.

12 And is it Alfredo Ayala?

13 INTERPRETER: Correct.

14 THE COURT: All right.

15 INTERPRETER: Alfred Ayala, one of the interpreters.

16 THE COURT: Thank you. And then Beverly Neiderhiser.

17 INTERPRETER: Yes, ma'am. Beverly Neiderhiser. I'm an
18 interpreter.

19 THE COURT: All right. Is anyone related by blood or
20 marriage or has a close, personal social or business relationship
21 with any of our interpreters here today? If so, please stand.

22 (Juror 28 stands.)

23 THE COURT: Yes, ma'am?

24 JUROR NO. 28: Juror 28. I know Ms. Neiderhiser. I work
25 with her.

1 THE COURT: I can't hear you.

2 JUROR NO. 28: I know Ms. Neiderhiser. I work with her.

3 THE COURT: And she will be an interpreter during the trial.
4 Would that affect your ability to be fair and impartial in this
5 trial?

6 INTERPRETER: No, ma'am.

7 THE COURT: All right, thank you. All right. Next we have
8 the attorneys. I will have them stand and introduce themselves.
9 And anyone at their table or with their office, if you can stand.
10 We'll start with the state.

11 ATTORNEY KEENEY: Hi. My name is Julie Kate Keeney. I'm
12 assistant solicitor, what we call prosecutors, here in
13 Walterboro. I also prosecute for the 14th Circuit, which is
14 Beaufort County, Jasper County, Colleton County, Allendale County
15 and Hampton County.

16 With me is Ceth Utsey, also an assistant solicitor, who
17 prosecutes here at Colleton County. And also at the table is
18 Reed Evans, he is a prosecutor, or a solicitor, here in Colleton
19 County.

20 THE COURT: Yes, sir. Mr. Mathews.

21 ATTORNEY MATHEWS: Thank you, Your Honor. I'm David
22 Mathews. I work at the public defender's office here in Colleton
23 County.

24 THE COURT: And you've met everyone else at his table. Is
25 there any member of the jury panel who's ever been represented by

1 any of the attorneys involved in this office, or by anyone in
2 their office? And, as you heard, the solicitor's office, if
3 there's anyone who's been prosecuted by the 14th Circuit
4 Solicitor's Office in the past, currently or in the past, if so,
5 if you can please stand.

6 (No response.)

7 THE COURT: Is anyone, who's ever been related, by blood or
8 marriage to, or ever had a close, social or personal relationship
9 with any of the attorneys involved in this case or anyone in
10 their office? If you're related by blood or marriage to any of
11 the attorneys or anyone in the -- or has a close, personal or
12 social relationship with any of the attorneys involved in this
13 case? And that would be the 14th Circuit Solicitor's Office and
14 the Colleton County Public Defender's office. If so, please
15 stand.

16 (No response.)

17 THE COURT: Has any member of the jury panel formed or
18 expressed an opinion about any issue or matter involved in this
19 case?

20 (No response.)

21 THE COURT: Is any member of the jury panel aware of any
22 bias or prejudice towards either the state or the defendant in
23 this case?

24 (No response.)

25 THE COURT: Is there any member of the jury panel who's a

1 member of or contributor to any group which has its primary
2 concern with the promotion of law enforcement and victims'
3 rights? These groups would include, but certainly are not
4 limited to, MADD, SED, CAVC, Citizens Against Violent Crime.

5 (No response.)

6 THE COURT: Are there any members of the jury panel who is a
7 member or contributor of any group which has its primary concern
8 with, for example, like, The Innocence Project?

9 (No response.)

10 THE COURT: Is there any member of the jury panel who has
11 been accused or the victim of a violent crime? If so, please
12 stand.

13 (Jurors stand.)

14 THE COURT: Yes, sir. I'm going to have you stand up. And
15 your juror number?

16 JUROR NO. 25: Twenty-four, I think.

17 THE COURT: You said 25?

18 JUROR NO. 25: Yes, 25.

19 THE COURT: Twenty-five. And was it you or a family member,
20 immediate family member?

21 JUROR NO. 25: I was charged in '94 with a domestic
22 violence. And ---

23 THE COURT: All right, hold on one second. And was that
24 here in Colleton County?

25 JUROR NO. 25: That was in Charleston County.

1 THE COURT: And, sir, the fact that you've been charged with
2 a domestic violence charge, would that affect your ability to be
3 fair and impartial in this trial?

4 JUROR NO. 25: I believe it would.

5 THE COURT: All right, thank you. And you're juror 25;
6 right?

7 JUROR NO. 25: Twenty-five.

8 THE COURT: Thank you, sir. Anyone else accused or a victim
9 of a violent crime?

10 (No response.)

11 THE COURT: And the next question says, Have you or anyone
12 in your immediate family been accused of domestic violence or
13 criminal sexual conduct? Accused or the victim of defendant or
14 criminal sexual conduct?

15 (Jurors stand.)

16 JUROR NO. 127: Juror 127. On both sides. I've had accused
17 and have had victims, as stated, in my employment.

18 THE COURT: And, ma'am, would that affect your ability to be
19 fair and impartial in this trial?

20 JUROR NO. 127: I don't believe it would, ma'am.

21 THE COURT: I just need a yes or a no. There's no wrong
22 answer, ma'am.

23 JUROR NO. 127: No, ma'am.

24 THE COURT: Okay, thank you. You're 127.

25 Yes, ma'am, your juror number?

1 JUROR NO. 199: 199.

2 THE COURT: Yes, ma'am?

3 JUROR NO. 199: I was arrested for a domestic violence, but
4 they didn't say anything was wrong ---

5 THE COURT: Hold on one second.

6 JUROR NO. 199: I was arrested for domestic violence.

7 THE COURT: Let me ask you this. When was that, ma'am?

8 JUROR NO. 199: Back in/around '99, I believe.

9 THE COURT: And was it this office handling it?

10 JUROR NO. 199: No. It was in Charleston County.

11 THE COURT: And, ma'am, would that affect your ability to be
12 fair and impartial during this trial?

13 JUROR NO. 199: No, ma'am.

14 THE COURT: All right, thank you. All right. Anyone else?

15 ATTORNEY MATHEWS: May we approach, Your Honor?

16 THE COURT: Yes.

17 (WHEREUPON, an off-the-record discussion was held at
18 sidebar.)

19 THE COURT: Ladies and gentlemen of the jury, there's two
20 other potential interpreters. One is named Rebecca McCann. Is
21 there any member of the jury panel who's related by blood or
22 marriage or has a close, personal relationship with a Rebecca
23 McCann? And I'll give you the other name in a second.

24 (No response.)

25 THE COURT: Does any member of the jury panel know of any

1 reason whatsoever why he or she should not serve as a juror in
2 this case, with particular emphasis your ability to be fair and
3 impartial to both the state and the defendant? If so, please
4 stand. If you cannot be fair and impartial to both the state and
5 the defendant, please stand.

6 (No response.)

7 THE COURT: All right. Is there anyone that needs to speak
8 with me privately regarding any of the questions that I just
9 asked?

10 (No response.)

11 THE COURT: All right. The last interpreter's name,
12 possibly a potential, is Jairo Solano. Is there any member of
13 the jury panel who's related by blood or marriage or has a close,
14 personal social or business relationship with Jairo Solano? If
15 so, please stand.

16 (No response.)

17 THE COURT: All right. I'll ask you to hold one second.
18 And let me see the attorneys one more time.

19 (WHEREUPON, an off-the-record discussion was held at
20 sidebar.)

21 THE COURT: All right. There's, I think, juror no. 79? Is
22 there a juror no. 79?

23 JUROR NO. 79: Yes, ma'am.

24 THE COURT: All right.

25 ATTORNEY KEENEY: May I approach?

1 THE COURT: Let me see you up here one second, sir.

2 (WHEREUPON, a sidebar discussion was held on the record as
3 follows:)

4 THE COURT: We have you down on a rap sheet showing that you
5 had a criminal sexual conduct in 2000 ---

6 JUROR NO. 79: In 2000?

7 THE COURT: You were accused, but it was dismissed.

8 JUROR NO. 79: Yeah, it was.

9 THE COURT: Would that affect your ability to be fair and
10 impartial in this trial?

11 JUROR NO. 79: So if I say yeah, I can go?

12 THE COURT: I can't say that, but you have to answer the
13 question. Would that affect your ability to be fair and
14 impartial in this trial? You just have to answer yes or no.

15 JUROR NO. 79: If I'll be fair? Probably not.

16 THE COURT: Okay. All right. Juror 79. All right. Thank
17 you, you can have a seat.

18 JUROR NO. 79: Oh.

19 ATTORNEY KEENEY: Judge, may we approach?

20 THE COURT: Yes.

21 (WHEREUPON, an off-the-record discussion was held at
22 sidebar.)

23 THE COURT: I will turn it over to our madam clerk.

24 JURY SELECTION

25 MADAM CLERK REBECCA HILL: As I call your name and number,

1 if you can stand right where you are. Usually we have people
2 come up to the front, but we're going to just ask you to stand
3 where you are. And then we're going to ask the state's table and
4 then the defense table some questions, and they will determine
5 whether you are picked or whether you aren't.

6 If you are picked, if your number is picked, we're going to
7 ask you to come down the middle aisle, and we'll have our bailiff
8 directing you, and you will come and you will fill in the seat as
9 you are called and as you are picked.

10 Juror no. 248, John R. Withrow.

11 (Juror stands.)

12 MADAM CLERK REBECCA HILL: What says the state?

13 THE COURT: The attorneys, you're more than welcome to turn
14 your seats around, if you wish. I know we normally bring them up
15 but because of, you know, the pandemic, we just have them stand
16 at their seats so there won't be too much moving around.

17 ATTORNEY KEENEY: Please present this juror.

18 ATTORNEY MATHEWS: Please swear the juror.

19 MADAM CLERK REBECCA HILL: Thank you. You may come up in
20 the middle aisle, and you get the first seat in the jury box.

21 Juror no. 3, Chase R. Aiken. If you'll stand. Juror no. 3,
22 Chase Aiken.

23 (No response.)

24 MADAM CLERK REBECCA HILL: Marvin Walker, juror no. 231.

25 (Juror stands.)

1 MADAM CLERK REBECCA HILL: What says the state?

2 ATTORNEY KEENEY: Your Honor, may we approach?

3 THE COURT: Yes, ma'am.

4 (WHEREUPON, an off-the-record discussion was held at
5 sidebar.)

6 THE COURT: Sir, you may be seated.

7 MADAM CLERK REBECCA HILL: Juror 231 is excused.

8 Elizabeth Prescott, juror 183, if you'll please stand.

9 (Juror stands.)

10 MADAM CLERK REBECCA HILL: What says the state?

11 ATTORNEY KEENEY: Please present this juror.

12 MADAM CLERK REBECCA HILL: What says the defense?

13 ATTORNEY MATHEWS: Please excuse the juror from the trial of
14 this case.

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

16 MADAM CLERK REBECCA HILL: Michael Thomas, juror 225.

17 Please stand.

18 (Juror stands.)

19 MADAM CLERK REBECCA HILL: What says the state?

20 ATTORNEY KEENEY: Please present this juror.

21 MADAM CLERK REBECCA HILL: What says the defense?

22 ATTORNEY MATHEWS: Please swear the juror.

23 MADAM CLERK REBECCA HILL: If you will please come up front.

24 You've been selected. And have a seat in our jury box.

25 Harry Cornatzer, Jr., no. 45, please stand.

1 (Juror stands.)

2 MADAM CLERK REBECCA HILL: What says the state?

3 ATTORNEY KEENEY: Please present this juror.

4 MADAM CLERK REBECCA HILL: What says the defense?

5 ATTORNEY MATHEWS: Please swear the juror.

6 MADAM CLERK REBECCA HILL: If you would please come down the
7 aisle and have a seat in our jury box.

8 Juror 189, Michael Reichle.

9 (Juror stands.)

10 MADAM CLERK REBECCA HILL: What says the state?

11 ATTORNEY KEENEY: Please excuse this juror.

12 MADAM CLERK REBECCA HILL: Thank you, you may be seated.

13 Juror 122, Benjamin Kinsey.

14 (Juror stands.)

15 MADAM CLERK REBECCA HILL: What says the state?

16 ATTORNEY KEENEY: Please present this juror.

17 MADAM CLERK REBECCA HILL: What says the defense?

18 ATTORNEY MATHEWS: Please swear the juror.

19 MADAM CLERK REBECCA HILL: If you would come down the center
20 aisle, please, and have a seat in the jury box.

21 Juror 154, Shirley Middleton.

22 (Juror stands.)

23 MADAM CLERK REBECCA HILL: What says the state?

24 ATTORNEY KEENEY: Please present this juror.

25 MADAM CLERK REBECCA HILL: What says the defense?

1 ATTORNEY MATHEWS: Please swear the juror.

2 MADAM CLERK REBECCA HILL: If you would please come down the
3 center aisle and have a seat in our jury box.

4 Juror 240, Dorothy B. Wiggins. Please stand.

5 (Juror stands.)

6 MADAM CLERK REBECCA HILL: What says the state?

7 ATTORNEY KEENEY: Please present this juror.

8 MADAM CLERK REBECCA HILL: What says the defense?

9 ATTORNEY MATHEWS: Please swear the juror.

10 MADAM CLERK REBECCA HILL: If you would come down the center
11 aisle, please, and have a seat in our jury box.

12 216, Robert K. Steele.

13 (Juror stands.)

14 MADAM CLERK REBECCA HILL: What says the state?

15 ATTORNEY KEENEY: Please present this juror.

16 MADAM CLERK REBECCA HILL: What says the defense?

17 ATTORNEY MATHEWS: Please swear the juror.

18 MADAM CLERK REBECCA HILL: If you would please come down the
19 center aisle and have a seat in our jury box.

20 Juror 175, Julianna Paschal.

21 (Juror stands.)

22 MADAM CLERK REBECCA HILL: What says the state?

23 ATTORNEY KEENEY: Please present juror.

24 MADAM CLERK REBECCA HILL: What says the defense?

25 ATTORNEY MATHEWS: Please swear the juror.

1 MADAM CLERK REBECCA HILL: If you would please come down the
2 center aisle and have a seat in our jury box.

3 Juror 61, Jaylynn C. Davis.

4 (Juror stands.)

5 MADAM CLERK REBECCA HILL: What says the state?

6 ATTORNEY KEENEY: Please present this juror.

7 MADAM CLERK REBECCA HILL: What says the defense?

8 ATTORNEY MATHEWS: Please swear the juror.

9 MADAM CLERK REBECCA HILL: Please come down the center aisle
10 and have a seat in our jury box.

11 Juror 214, Laura J. Staat.

12 (Juror stands.)

13 MADAM CLERK REBECCA HILL: What says the state?

14 ATTORNEY KEENEY: Please present this juror.

15 MADAM CLERK REBECCA HILL: What says the defense?

16 ATTORNEY MATHEWS: Please excuse the juror from the trial of
17 this case.

18 MADAM CLERK REBECCA HILL: You may be seated.

19 Juror 16, Karen Bolcato.

20 (Juror stands.)

21 MADAM CLERK REBECCA HILL: What says the state?

22 ATTORNEY KEENEY: Please present this juror.

23 MADAM CLERK REBECCA HILL: What says the defense?

24 ATTORNEY MATHEWS: Please excuse the juror from the trial of
25 this case.

1 MADAM CLERK REBECCA HILL: You may be seated.
2 Juror 127, Ashley Lambert.
3 (Juror stands.)
4 MADAM CLERK REBECCA HILL: What says the state?
5 ATTORNEY KEENEY: Please excuse this juror.
6 MADAM CLERK REBECCA HILL: You may be seated.
7 Juror 22, Gail Brown.
8 (Juror stands.)
9 MADAM CLERK REBECCA HILL: What says the state?
10 ATTORNEY KEENEY: Please present this juror.
11 MADAM CLERK REBECCA HILL: What says the defense?
12 ATTORNEY MATHEWS: Please swear the juror.
13 MADAM CLERK REBECCA HILL: If you would please come down the
14 center aisle and have a seat in our jury box.
15 Juror 107, Jennifer S. Hiott.
16 (Juror stands.)
17 MADAM CLERK REBECCA HILL: What says the state?
18 ATTORNEY KEENEY: Please present this juror.
19 MADAM CLERK REBECCA HILL: What says the defense?
20 ATTORNEY MATHEWS: Please excuse the juror from the trial of
21 this case.
22 MADAM CLERK REBECCA HILL: You may be seated.
23 Juror 163, Jerome Mosley, Jr.
24 (Juror stands.)
25 MADAM CLERK REBECCA HILL: What says the state?

1 ATTORNEY KEENEY: Please present this juror.

2 MADAM CLERK REBECCA HILL: What says the defense?

3 ATTORNEY MATHEWS: Please swear the juror.

4 MADAM CLERK REBECCA HILL: If you would please come down the
5 center aisle and have a seat in our jury box.

6 Juror 203, Calvin Simmons.

7 (Juror stands.)

8 MADAM CLERK REBECCA HILL: What says the state?

9 ATTORNEY KEENEY: Please present this juror.

10 MADAM CLERK REBECCA HILL: What says the defense?

11 ATTORNEY MATHEWS: Please swear the juror.

12 MADAM CLERK REBECCA HILL: If you would please come down the
13 center aisle and have a seat on our jury.

14 That's 12 jurors, Your Honor. And now we will begin with
15 our alternate no. 1.

16 Juror 33, Michael Castleberry.

17 (Juror stands.)

18 MADAM CLERK REBECCA HILL: What says the state?

19 ATTORNEY KEENEY: Please excuse this juror.

20 MADAM CLERK REBECCA HILL: You may be seated.

21 Juror 28, Hannah Caldwell.

22 (Juror stands.)

23 MADAM CLERK REBECCA HILL: What says the state?

24 ATTORNEY KEENEY: Please present this juror.

25 MADAM CLERK REBECCA HILL: What says the defense?

1 ATTORNEY MATHEWS: Please excuse the juror from the trial
2 list of this case.

3 MADAM CLERK REBECCA HILL: You may be seated.

4 Juror 121, James Kincheloe?

5 (Juror stands.)

6 MADAM CLERK REBECCA HILL: What says the state?

7 ATTORNEY KEENEY: Please present this juror.

8 MADAM CLERK REBECCA HILL: What says the defense?

9 ATTORNEY MATHEWS: Please swear the juror.

10 MADAM CLERK REBECCA HILL: If you would please come down the
11 center aisle and have a seat in our jury box.

12 Juror 137, Tony Lyons.

13 (Juror stands.)

14 MADAM CLERK REBECCA HILL: What says the state?

15 ATTORNEY KEENEY: Please present this juror.

16 MADAM CLERK REBECCA HILL: What says the defense?

17 ATTORNEY MATHEWS: Please swear the juror.

18 MADAM CLERK REBECCA HILL: Please come down the center aisle
19 and have a seat in our jury box.

20 Alternate no. 1 and no. 2, Your Honor.

21 (WHEREUPON, the jury is selected at 1:28 p.m.)

22 THE COURT: All right. Anything else? Any objections or
23 exceptions from the state?

24 ATTORNEY KEENEY: No, Your Honor.

25 ATTORNEY MATHEWS: No, Your Honor.

1 THE COURT: All right. Ladies and gentlemen of the jury,
2 for those you who were not selected, we are going to release you
3 for the week. If you need an excuse for work, go downstairs to
4 the first floor to General Sessions, and they will be able to
5 give you a work excuse.

6 I do want to thank you again, on behalf of everyone here
7 that is involved, for your participation and your cooperation
8 this morning. I know it has been a long morning for some of you,
9 but I do want you to know that we all appreciate you being here.

10 And you are free to leave. Give those badges back. And if
11 you need a work excuse, go down to the first floor. Thank you,
12 and have a good evening.

13 (WHEREUPON, the remaining jury panel are dismissed at
14 1:30 p.m.)

15 THE COURT: For those of you who are selected, just a couple
16 things before I send you to lunch, because I'm sure you all are
17 as hungry as I am. Please do not discuss the case. Do not talk
18 to anyone about it. Please do not post anything on social media.
19 I'll give you some formal instructions when we return from lunch.
20 But I just wanted to make -- do not go Google anything or look up
21 anything regarding this case. I don't know if there's anything
22 out there, but please do not do any independent research
23 regarding anything, any issue that arises in this case.

24 For our housekeeping, please remember to keep your mask over
25 your nose and your mouth. We are going to, when you come back,

1 y'all will be spread out, there will be a seat in between so
2 y'all aren't kind of sitting on top of each other, which is
3 outside of our safety plan. So we're going to spread you all out
4 a bit, put some space in between you.

5 If, at any point, someone is not feeling well or any of
6 those symptoms, any other symptoms or anything related to COVID
7 19, or someone in your house not feeling well, please let the
8 bailiffs know. If you're not feeling well, call in, don't come
9 in, and let the bailiff or the clerk's office know. She'll give
10 you a phone number.

11 But right now, you're going to go to lunch. We'll see you
12 back at 2:45. That will give you time to get processed out, get
13 processed in.

14 Keep those badges on. If you see anyone related to the
15 trial during lunch, if you have a badge on we know that you are a
16 juror in the case and we will not speak in front of you.

17 Please do not talk to any of the participants, to anyone in
18 the courtroom about anything, and do not discuss anything with
19 each other regarding the case until the end of the trial.

20 You all have said that you can be fair and impartial jurors,
21 and part of being fair and impartial is hearing everything, the
22 law, the closing arguments and hearing all of the evidence that
23 is presented.

24 So have a wonderful lunch. We will see you back at 2:45.
25 Thank you.

1 (WHEREUPON, the jury is escorted out of the courtroom for
2 lunch at 1:34 p.m.)

3 MATTER(S) OF LAW

4 THE COURT: We struck juror no. 79, 25 and 231 for cause.
5 231 was ---

6 ATTORNEY KEENEY: 231, I think, was Mr. Walker, if that's
7 correct.

8 THE COURT: Yes.

9 ATTORNEY KEENEY: His wife is a SLED agent here in my
10 building, and I had her listed on some jail phone calls because
11 she speaks Spanish. So just out of an abundance of caution. I
12 don't know if he talked to his wife or ---

13 ATTORNEY MATHEWS: Looked pretty good, but I couldn't take a
14 chance on that.

15 THE COURT: No, no, no. And the last thing is, I need to
16 put on the record, I guess, when your client comes back, but
17 she's got a -- I kind of nodded to her a couple times to tell her
18 that she needs to interpret. Hopefully that's not -- because
19 she's supposed to take down everything that I say.

20 ATTORNEY MATHEWS: Yes, ma'am, I talked to her about it.
21 And that's one of the things, if she becomes certified, she's
22 going to have to learn. But she's done a great job of
23 communicating her thoughts as far as translating to the Court and
24 for the record. But obviously she's got some more work to do.
25 But because I've used her services through the course of the

1 investigation of this case, he's comfortable with her and that's
2 why I'm sure you won't have any objections. Whenever we get
3 back, maybe we can speak to her.

4 THE COURT: But I noticed myself that she wasn't actually
5 translating what I said.

6 ATTORNEY MATHEWS: No.

7 THE COURT: And I just don't want that to be an issue later
8 on.

9 ATTORNEY KEENEY: And for the record, we have a
10 court-certified interpreter here that's available that can sub in
11 for her. The reason I had three come is because at one point
12 we're going to need a witness interpreter when my victim
13 testifies or if any of his witnesses testify. So that's why I
14 had three, one for the victim, one for the defendant and one for
15 the witnesses. But I don't anticipate that we will get to any
16 witness testimony today that we'll need an interpreter for.

17 THE COURT: All right. So I'll just put on the record. But
18 I just wanted to bring that to your attention that I saw that.

19 ATTORNEY MATHEWS: Yes, ma'am.

20 THE COURT: And I saw you caught her a couple times, too.
21 But she has to interpret everything that is said.

22 ATTORNEY MATHEWS: Yes, ma'am. I'll do that.

23 (WHEREUPON, an off-the-record discussion was held in open
24 court.)

25 (WHEREUPON, court recessed at 1:39 p.m. and reconvened at

1 2:55 p.m.)

2 MATTERS OF LAW

3 ATTORNEY MATHEWS: Your Honor, I discussed the matter with
4 Mr. Keeney, and also with Ms. Vallejos. Am I saying that right?

5 INTERPRETER: Yasmina Vallejos.

6 ATTORNEY MATHEWS: Valejos. Anyway, and she is not -- she's
7 going to be the one translating from now on. Other than I had
8 asked her if she would sit and talk with a couple of people who
9 are here and only speak Spanish.

10 But beyond that, we'll use the court-certified one here to
11 translate for Alex, for Walter. And if Your Honor still wants to
12 ask about jury selection, I think that's probably less
13 important and I don't think he could have added much to the
14 process.

15 THE COURT: No, no.

16 ATTORNEY MATHEWS: But to keep there from being an issue
17 later on, it probably is better to go ahead and use the
18 court-certified.

19 INTERPRETER: (Alfredo Ayala) May I approach, Your Honor?

20 THE COURT: Yes, sir.

21 INTERPRETER: (Alfredo Ayala) Will you please give this to
22 the Judge. This is the pronunciation correct of Palacios.

23 THE COURT: Palacios. And I'll probably mess it up again.

24 INTERPRETER: (Alfredo Ayala) If you read it like that,
25 just like it's written, Palacios.

1 THE COURT: All right. And yours is?

2 INTERPRETER: (Alfredo Ayala) Ayala.

3 THE COURT: Ayala.

4 INTERPRETER: (Alfredo Ayala) Like I yell a lot.

5 THE COURT: Okay.

6 ATTORNEY KEENEY: And, Your Honor, I don't know if I should
7 do this or not, but should I go ahead and amend the indictment to
8 put Chicas Palacios?

9 ATTORNEY MATHEWS: Whatever. I have no objection if the
10 state's moving for that. That's fine.

11 ATTORNEY KEENEY: Just amend the indictment to put Chicas,
12 C-h-i-c-a-s, and, then hyphen, Palacios, so it will accurately
13 reflect his name.

14 THE COURT: Is the name hyphenated?

15 ATTORNEY MATHEWS: Is it hyphenated? It's not, it's not
16 hyphenated. No, Your Honor.

17 THE COURT: Walter Alexander Chicas Palacios. All right.
18 Well, I have some opening remarks. We'll swear in the jury.
19 Anything else we need to take up before we bring them in?

20 ATTORNEY MATHEWS: I don't think so, Your Honor. I guess
21 the Court's opening instructions, if Your Honor does that ---

22 THE COURT: Yeah, I'm going to do that. But anything else
23 other than that, anything else we need to take up before?

24 ATTORNEY KEENEY: No.

25 THE COURT: All right. And do you have enough witnesses

1 lined up for ---

2 ATTORNEY KEENEY: I can go up to five witnesses today, if we
3 have time for it.

4 THE COURT: All right. And Mr. Ayala, if you need me to
5 slow down at any point in time, just wave your hand and I'll do
6 it.

7 INTERPRETER: (Alfredo Ayala) Yes, ma'am. It is like I
8 yell a lot, Ayala.

9 THE COURT: Ayala.

10 INTERPRETER: (Alfredo Ayala) There you go.

11 THE COURT: Ayala, okay.

12 (WHEREUPON, the jury is seated in the courtroom at 3:00
13 p.m.)

14 THE COURT: Ladies and gentlemen of the jury, I hope you had
15 a good lunch. At this time we are ready to begin our case. I
16 will have the clerk, madam clerk, swear you in. If you all could
17 stand and raise your right hand.

18 For our alternates, if, at any point, you can't hear
19 anything, just wave your hand, okay.

20 (WHEREUPON, Madam Clerk Rebecca Hill administers oath to the
21 jury at 3:01 p.m.)

22 (Jury responds.)

23 MADAM CLERK REBECCA HILL: If you agree, you may have a
24 seat.

25 (Jury is seated.)

THE COURT INSTRUCTIONS TO THE JURY

THE COURT: All right. Ladies and gentlemen of the jury, what I will now say is intended to serve as an introduction to the trial of this case. These remarks are not a charge in the law in this case. I will instruct you on the law applicable to this case at end of the trial before you retire to consider your verdict. This is merely an explanation of the procedure that we will follow in the trial of this case so that you may better understand what may be happening.

You are not to take any notes during the trial.

The defendant in this case is charged, by indictments filed in this court, with the crimes of burglary, first degree; domestic violence, high and aggravated; and assault with intent to commit criminal sexual conduct, first degree, the elements of which will be explained to you later.

The indictment, as I told you earlier, is simply the charge by which the case is brought into court and it is not, in any sense, evidence of any of the allegations it contains.

The defendant in this case has pled not guilty to these indictments. The state, therefore, has the burden of proving each of the elements of the indictment beyond a reasonable doubt. And it will be your duty, ladies and gentlemen, to decide whether the state has met that burden.

Your purpose, as jurors, is to find and determine the facts. You're the sole judges of the facts. If, at any time, I make any

1 comment regarding the facts, you must disregard it. You are to
2 determine the facts from the testimony you hear and the other
3 evidence introduced in court. It is up to you to determine the
4 inferences which you feel may properly be drawn from the
5 evidence.

6 It is especially important that you perform your duty of
7 determining the facts diligently and conscientiously, because
8 ordinarily there is no way to correct an erroneous determination
9 of the facts by a jury.

10 On the other hand, and with equal emphasis, the same law
11 that makes you the judges of the facts makes me the judge of the
12 law. The law, as given by the Court, is the only law you may
13 consider. You must accept and follow it even though you may
14 disagree with it.

15 I cannot tell you what the facts are in this case, and you
16 cannot disagree with me about what the law is or what the law
17 should be.

18 Your job is to take the law as I give it to you, and apply
19 it to the facts as you find them from the testimony of the
20 witnesses and any other evidence that is introduced. After doing
21 that, you will render your verdict, a verdict under the solemn
22 oath that you just took as jurors.

23 You must decide this case based solely on the evidence
24 presented here in this courtroom. This means that during the
25 trial you must not conduct any independent research about this

1 case, the facts of the case, the evidence presented in the case
2 or the people or organizations involved in any way in the case.

3 Please do not try to find out information from any source
4 outside this courtroom. In other words, you must not look at
5 dictionaries or other reference materials, search the internet,
6 websites or blogs law, or use any of the electronic tools to get
7 information about this case or to help you decide the case. You
8 may not use computers, telephones, cellphones, smart phones,
9 tablets, internet or other tools of technology with communication
10 capabilities at any time while you're in the courtroom or during
11 your deliberations.

12 During your breaks for meals or overnight, if necessary, you
13 may use these devices. However, you must not use these devices
14 to communicate with anyone about the case until the case is over.
15 This means you must not use phone calls, emails, text messages,
16 Instant Messengers, Twitter, any blogs, chatrooms -- I won't name
17 them all because there's so many of them, but things such as
18 MySpace, LinkedIn, YouTube, Facebook, Instagram or any social
19 media sites to send or receive information about this case.

20 This includes any information about a party, a witness, an
21 attorney or a court officer, news accounts about the case,
22 research on any topics raised, any topics you may think would be
23 helpful in deciding the case or any testimony presented by any
24 witness.

25 Once again, during the trial please do not read, listen to

1 or watch any news reports about this case. I don't know if there
2 are any but, if there are, please do not watch anything that may
3 be in the newspaper, on the internet, radio or television. You
4 must not consider anything you may have read or heard about the
5 case outside of the courtroom, whether before or during the
6 trial.

7 Information on TV, radio and the internet or from other
8 sources might be wrong or incomplete. In our judicial system, it
9 is important that you are not influenced by anything or anyone
10 outside of this courtroom.

11 If you become aware of another juror's violation of these
12 instructions, please inform me immediately.

13 It is important that you keep an open mind and not decide
14 any issue in the case until all of the evidence has been
15 presented, the parties have made their closing arguments and I
16 have instructed you on the law in this case.

17 It is your solemn responsibility to determine the guilt or
18 innocence of the defendant, and your verdict must be based solely
19 on the evidence as it is presented to you in this trial and on
20 the law as I instruct you during and at the close of the trial.

21 In just a moment the solicitor will make what is called an
22 opening statement in which the solicitor will explain to you the
23 issues in this case, or at least what the solicitor thinks the
24 issues are in this case.

25 The attorney for the defendant may also make an opening

1 statement, although he is not required to do so. What the
2 attorneys tell you during their opening statements is not
3 evidence in this case. It is only their contention as to what
4 the issues are. The evidence in this case will be presented to
5 you by the testimony of sworn witnesses from this witness stand
6 and/or by exhibits that may be introduced into evidence.

7 From time to time during the trial you may hear one of the
8 lawyers say something like, Your Honor, I believe we have a
9 question of law, or a matter of law to discuss with you, or, Your
10 Honor, may we approach the bench? Or sometimes I, myself, might
11 find it necessary to excuse you from the courtroom for a short
12 while so the attorneys and I can discuss a matter of law.

13 The reason for this is because you are the judges of the
14 facts in this case, and sometimes when I'm discussing a matter of
15 law with the attorneys it may be necessary for me to make some
16 comment as to the facts. I am not supposed to tell you what I
17 think the facts are, so I will excuse you from the courtroom
18 while these discussions take place so that you, in no way, will
19 be influenced by anything that I may say or do in connection with
20 the facts.

21 You must decide whether or not the testimony of the
22 witnesses is believable. It is my responsibilities to rule as a
23 matter of law as to whether any certain testimony is admissible
24 at all or not but, once the testimony is admitted, whether or not
25 you believe it is solely for you to determine.

1 In deciding on whether to believe a witness, you have a
2 right to consider the interest of any witness, the bias of any
3 witness, the prejudice of any witness, the opportunity for the
4 witness to have seen the matters contained about which the
5 witness may testify, and the way the witness acts on the witness
6 stand.

7 You have the right to consider anything that is in the
8 record that will help you evaluate the testimony of the
9 witnesses. That means that it is your duty to pay close
10 attention to these witnesses, to observe the witnesses, to listen
11 to the witnesses and to pay close attention to the attorneys and
12 to the Court.

13 Please do not let your thoughts wander, but give strict
14 attention to the testimony in this case so that, at the end of
15 the testimony, after the arguments of counsel and the charge on
16 the law by the Court, then you will be able to apply the law to
17 those facts and, thus, render a verdict.

18 In order to preserve everyone's rights, I will give the
19 parties an opportunity to object to anything I've said. Any
20 objections or exceptions from the state?

21 ATTORNEY KEENEY: Nothing from the state.

22 THE COURT: Anything from the defense?

23 ATTORNEY MATHEWS: No, ma'am.

24 THE COURT: All right, thank you. We will now begin the
25 trial. I will ask, as Ms. Keeney's going to do the opening

1 statement on behalf of the state.

2 ATTORNEY MATHEWS: I may take my mask off; correct?

3 THE COURT: Yes, ma'am.

4 ATTORNEY KEENEY: May it please the Court.

5 THE COURT: Yes, ma'am.

6 ATTORNEY MATHEWS: On November the 6th of 2019 Maria Florez,
7 the victim in this case, was living with her new boyfriend, a guy
8 named Fernandes.

9 THE COURT: Hold on one second.

10 INTERPRETER: (Alfredo Ayala) Can she speak into the
11 microphone, please.

12 THE COURT: Yes. If you need to take it off, you can, so he
13 can hear. And maybe just slow down just a little bit.

14 ATTORNEY KEENEY: On November 6th of 2019, the victim in
15 this case, Maria Flores, who is here today in the courtroom, she
16 was living with her new boyfriend, a man named Fernandes. Her
17 boyfriend went to work that day, and the victim got her little
18 girl ready for school. After that, the victim went back to bed
19 to get some rest. Her door was left unlocked.

20 Before 8:00 a.m. that morning the defendant, who is the
21 victim's ex-boyfriend, entered her home without permission, came
22 into her room and attacked her. This home was located on [REDACTED]
23 North Walter Street here in Walterboro. The defendant left on
24 foot, and the victim was able to call 911.

25 You are going to hear from law enforcement in this case.

1 They're going to tell you what they observed and what they did.

2 And you're going to hear from medical personnel. The victim
3 went to Colleton Medical for her initial assessment, and then law
4 enforcement decided to take her to the Medical University of
5 South Carolina for what we call a sexual assault exam.

6 And the reason that law enforcement took her to what we all
7 know as MUSC, is because there was a lot of confusion about what
8 happened due to the language barrier. You see, the victim in
9 this case only speaks Spanish, and they were to trying to
10 communicate with her via what we call an interpreter line where
11 you make a phone call to a service and they interpret for you.

12 You're going to see some pictures in this case of the
13 victim's injuries, and you're going to hear from her then. She's
14 going to testify this week. She lives in Virginia now. And she
15 drove down here, rode down here, nine hours away, to come tell
16 you about what happened to her that day.

17 She's going to tell you that she used to live with the
18 defendant, and when she ended their relationship she then moved
19 into a different house eventually and got a new boyfriend, and
20 the defendant did not like this.

21 Now, there is going to be a lot of talk about translators or
22 interpreters and there's going to be a lot of talk about how it
23 was a confusing scene because nobody in law enforcement could
24 speak Spanish, and sometimes when you're talking to a translator
25 on the phone they don't interpret everything correctly, they

1 don't hear everything correctly.

2 But luckily this week we have court-appointed translators
3 here with us. And their job is to translate, or interpret,
4 correctly. They had to take an oath that they are going to
5 translate accurately. So Maria is going to tell you exactly what
6 happened to her that day.

7 Now, after all the witnesses have testified and you see the
8 evidence in this case, our Judge is going to tell you about the
9 law of this case. And she's going to explain to you what each of
10 these charges, the defendant is charged with, what those elements
11 are to prove that offense. And she's going to tell you that I
12 have the burden of proof, I have to prove it beyond a reasonable
13 doubt.

14 But briefly, just so you know what to be on the lookout for,
15 you're going hear the defendant's charged with burglary in the
16 first degree, that's the first charge. And I'm just going to
17 make it very simple for this purpose, because we're going to go
18 into great detail towards the end of the trial, but burglary in
19 the first degree basically means what you think it does, entering
20 someone's house without permission. Sometimes we call it a
21 dwelling, that's what the legislatures call it, a dwelling. That
22 means a house that they live in. And they have to have the
23 intent, the defendant has to have the intent, to commit a crime
24 in the house.

25 And what makes it what we call first-degree burglary,

1 there's a number of ways that we have to can prove that. One of
2 the ways is that he has a deadly weapon. One of the ways is if
3 he has a knife or presents a knife. And the other way is if he
4 injures someone in the house, which that is what I'm going to be
5 arguing to you, all three of those things. He had a deadly
6 weapon; he had a knife that he used on her; and that he injured
7 her with a knife.

8 The second charge he's charged with is domestic violence,
9 high and aggravated. Sometimes you'll hear people abbreviate it
10 and say, a DV charge, domestic violence, high and aggravated.
11 And that's when someone injures another person that they are,
12 what we call, household members with.

13 And there's a number of ways to prove a household member.
14 It can by a spouse; it can be someone you children in common
15 with; or it could be someone that you live with or used to live
16 with. Ands that's what we're talking about here, the defendant
17 used to live with Maria.

18 And what makes it high and aggravated, the Judge will
19 explain to you, is there are certain circumstances which, once
20 again, we have a deadly weapon or they do the domestic violence
21 during the commission of a burglary. So that's what we're
22 talking about.

23 And the final charge is assault with intent to commit
24 criminal sexual conduct, first degree. And I know that's pretty
25 wordy, but that is basically what we call, like, an attempted

1 criminal sexual conduct. And criminal sexual conduct is another
2 fancy way of saying sexual assault. So whether it's, you know,
3 attempted oral sexual assault or attempted actual sex. And here,
4 we don't have a completed criminal sexual conduct because he
5 never penetrated her, he never penetrated her vaginally or
6 orally; he tried to put his penis in her mouth.

7 Now, I thank you all. I'm going to go ahead and thank you
8 in advance for your patience because I recognize the fact that
9 most of us in this room do not speak Spanish. I think I took
10 about eight years of it, and there's only a few words that I
11 remember. So there's going to be a lot of talk about
12 interpretation, the accuracy of that.

13 But the best part is is that Maria's here this week. She
14 came all the way to have her day in court, and she's going to to
15 tell you exactly what happened to her. And you're going to hear
16 it from a court-appointed translator, an interpreter, so that you
17 know precisely what she is saying and what happened to her that
18 day.

19 And after you hear all the evidence in this case, you see
20 the pictures and everything's over and the Judge charges you on
21 the law, I'm going to ask that you find the defendant guilty of
22 all three charges. Thank you.

23 THE COURT: Thank you. All right. Mr. Mathews.

24 ATTORNEY MATHEWS: Thank you, Your Honor. I'm Dave Mathews.
25 As I've indicated, I have the pleasure to represent Walter

1 Alexander Chicas Palacios.

2 And I think that the evidence will show a lot of things. I
3 think you will see some confusion over language. But I think
4 there will also be clear evidence of lying, not mistakes. I
5 think one of the first things you'll hear is the 911 call that
6 Carmen made. And she said, they interpreted what she said as is,
7 he stabbed me; he stabbed me.

8 On hearing that, 911 dispatched an ambulance out there and
9 law enforcement. And you'll get to see a video from Officer --
10 former officer -- Gilyard, who was wearing a bodycam. And you'll
11 be able to see how people are acting, right, when they roll them,
12 you can see their reaction.

13 They responded to a stabbing, but what they found were
14 scratches, very small scratches. The medical evidence will show
15 the difference between a scratch and, even a, cut is when whether
16 or not you break through that one-eighth of an inch layer skin
17 that you have. There's a huge difference between a stabbing and
18 a scratch. And that may be an error in translation.

19 Perhaps it's more likely that what happened was, He cut me;
20 he cut me in the leg. A Cut may be -- that still isn't a
21 scratch. I guess it could be. But there's no way an ambulance
22 is going to come out for scratches. So that may be a
23 misunderstanding.

24 Be that as it may, you may hear Officer Stivener testify
25 that she approached, investigating a stabbing, and found there

1 was not a stabbing. One of the first things in her report, she
2 said that it was not a stabbing.

3 That may be embarrassing. You have an ambulance show up.
4 There are lots of police officers out there. But watch their
5 affect. You'll have a chance to see their affect when they came
6 up there. And you'd know whether somebody thinks something is
7 serious and something is real and when something is not serious
8 and something is not real.

9 At the appropriate time I think that the evidence will show
10 that she does start crying at some point, I suppose, for whatever
11 reason, people have lots of reasons for doing that.

12 And you'll have a chance to hear, and perhaps the translator
13 will tell you, what she said when she got -- first of all, she
14 goes up there and she's showing you where she's stabbed. You can
15 see there's not a stabbing because there's not blood everywhere,
16 there's not blood anywhere. Maybe a couple little spots on her
17 shirt. Maybe.

18 You'll have a chance to see, if they are presented to you,
19 you'll have a chance to see what the experts at MUSC presented.
20 They take pictures. Officer Stivener, I think, did as good a job
21 as she could out there, taking pictures with her camera.

22 But the SANE nurses are specialists at MUSC, and she was
23 seen at MUSC. And I think the evidence will show these were
24 really not big injuries, these were really minor issues. The
25 evidence will show, in fact, some scratching over her breast, and

1 they're actually crosshatched, okay.

2 Now, think about this in the context. I think the evidence
3 shows she gave several different stories about how things
4 happened, I mean, to point where it can't be a translating error;
5 it's got to be something that didn't happen. The first thing, He
6 cut me with a knife in my leg. That the first thing. She's
7 taken to the hospital. And it's sad because somebody's at the
8 hospital. And she's also asked questions there in the hospital.

9 I think the evidence will show that when she's questioned
10 there by the nurse there, she says that he came immediately into
11 the room and he put a knife to my head. Okay. Now, I think the
12 evidence will show that there are no scratches, there is no
13 evidence of any sort of injury to her head. None.

14 And then it gets even more outrageous. I think the evidence
15 will show when she got there to MUSC, she told the nurse there
16 that he came in first brandishing a gun.

17 Now, if your first call to 911 doesn't mention a gun,
18 there's probably not a gun. I think the evidence will show that
19 this, it just didn't happen.

20 Now, there would be some opportunities to find out about
21 this more carefully if, frankly, law enforcement had done a
22 better job, if they had taken it more seriously.

23 Even if you don't see semen or anything like, you can still
24 take a contact. You leave contact DNA when you touch things.
25 Sweat, tears, blood, semen, all of these things leave DNA. And

1 even touch leaves DNA. And something we could use to verify if
2 he was even there would be if his DNA is there. But you can't
3 find something if you you're not looking for it.

4 And I think the evidence will show that nobody bothered to
5 do this. They sent her to a SANE nurse at MUSC because they're
6 better qualified than them, frankly, and there's a special nurse
7 there that can take swabs. Look under somebody's fingernails if
8 you're scratching somebody if you're in a struggle. You take
9 swabs for the places -- maybe there wasn't ejaculation but maybe
10 there was pre-ejaculate or something like that, you can take
11 swabs there. She was cut. They can send that off to see if
12 there's blood. They can find out if there's DNA, of his or hers.

13 You'll have a chance to consider all of that. When you
14 consider this, and when you consider the evidence that is
15 presented, ultimately it does come down to whether the state is
16 going to be able to meet its considerable burden of proof. And I
17 don't think they will be able to by a long shot. But please do
18 listen carefully to whatever comes from the witness stand. Thank
19 you for your attention.

20 THE COURT: All right, thank you. Call your first witness.

21 ATTORNEY KEENEY: The state calls Angela stallings.

22 ANGELA STALLINGS,

23 having first been duly sworn, was examined and testified as
24 follows:

25 CLERK OF COURT: State your name for the record, please, and

1 spell the last name.

2 ATTORNEY KEENEY: Judge, may we approach for a second?

3 THE COURT: Yes.

4 (WHEREUPON, an off-the-record discussion was held at
5 sidebar.)

6 **DIRECT EXAMINATION**

7 BY ATTORNEY KEENEY:

8 Q Good afternoon. What's your name for the record.

9 A Angela Stallings.

10 Q Where do you work at?

11 A Colleton County Sheriff's Office.

12 Q What's your position there.

13 A Currently I am captain over the administrative services.

14 Q What are some of your duties as the captain?

15 A As an administrative captain, I am over our 911 dispatch
16 center. And then I'm over records, training, equipment, court
17 security, civil process.

18 Q And what is dispatch?

19 A Dispatch is, we actually answer all the 911 calls that come
20 into the county. We dispatch for seven agencies within Colleton
21 County. We dispatch for the Colleton County Sheriff's Office,
22 Colleton County Fire-Rescue, Walterboro Police Department,
23 Walterboro Fire Department, Edisto Police Department, Edisto Fire
24 Department and Cottageville Police Department.

25 We answer all nonemergencies and emergency calls that come

1 in. And based off of the information that we receive from the
2 caller, we determine the appropriate agency to dispatch and we
3 dispatch one or multiple agencies, depending on the type of
4 called that comes in.

5 Q And as the captain over dispatch are you what we call the
6 records custodian ---

7 A Yes, ma'am.

8 Q --- over the 911 calls?

9 A Yes, ma'am, I am.

10 Q And do you also keep documents regarding 911 calls?

11 A We do.

12 Q What are those documents called?

13 THE COURT: Hold on one second, please. Slow down. Because
14 the interpreter.

15 THE WITNESS: Yes, ma'am.

16 Q What are those documents called?

17 A Currently we just recently went to a new software called
18 Central Square. And on the dispatch side it is called a Call for
19 Service. The previous system we had, we also called it a CAD
20 report. So a CAD report and a Call for Service report is
21 basically the same.

22 Q So when someone calls 911, does the dispatcher take note of
23 like time, location, those sorts of things?

24 A Yes, ma'am.

25 Q When someone calls 911, are those phone calls recorded?

1 A Yes.

2 Q And are they recorded at the same time that the 911 call
3 comes in?

4 A Yes, ma'am.

5 Q Are those recordings kept in the ordinary course of
6 business?

7 A They are.

8 Q At our request did you rule -- or, review the 911 calls
9 related to this case?

10 A Yes, ma'am, I did.

11 Q And did you make a recording of those calls?

12 A Yes, ma'am.

13 Q And you reviewed those calls?

14 A I have.

15 Q Were you the custodian of those records in November of 2019?

16 A Yes, ma'am.

17 Q Do you know what time the 911 call came in in this case?

18 A The call for service was entered around 7:55 a.m.

19 ATTORNEY KEENEY: May I approach the witness?

20 THE COURT: Yes, ma'am.

21 (WHEREUPON, State's Exhibit 1 is marked for identification.)

22 Q I'm going to show you what's been marked as State's
23 Exhibit 1. Can you tell me if you recognize this disk?

24 A Yes, ma'am.

25 Q What is that?

1 A This is a copy of the 911 calls. And I reviewed it and I
2 put my initials and date on the disk as to when I reviewed it to
3 make sure it was accurate.

4 Q Is that a fair and accurate depiction of the 911 call
5 related to this case?

6 A Yes, ma'am.

7 Q Thank you.

8 ATTORNEY KEENEY: At this time the state moves to admit
9 State's Exhibit 1 into evidence.

10 THE COURT: Any objection?

11 ATTORNEY MATHEWS: Without objection, Your Honor.

12 THE COURT: Exhibi 1 will be entered without objection.

13 (WHEREUPON, State's Exhibit 1 is entered into the record.)

14 ATTORNEY KEENEY: Permission to publish?

15 THE COURT: Yes, ma'am.

16 ATTORNEY KEENEY: Thank you.

17 (WHEREUPON, State's Exhibit 1 is published to the jury)

18 Q So that call came in around 7:55 in the morning; is that
19 correct?

20 A Yes, ma'am.

21 Q November 6th of 2019?

22 A Yes, ma'am.

23 ATTORNEY KEENEY: Thank you. No further questions.

24 THE COURT: All right. Yes, sir?

25 ATTORNEY MATHEWS: May it please the Court. Thank you, Your

1 Honor.

2 **CROSS-EXAMINATION**

3 BY ATTORNEY MATHEWS:

4 Q Ms. Stallings, how are you today?

5 A I'm good. And you?

6 Q I'm doing all right. All right. That's not the first call
7 you got on that incident; was it?

8 A No, sir.

9 Q You got a call from somebody identifying himself as a man
10 that lived in that household?

11 A It was a male caller; yes, sir.

12 Q He was driving, apparently, and so you asked him would he
13 have her call, or somebody? So not you, but your dispatcher?

14 A Yes. They asked that the female call, if possible.

15 Q So she didn't call initially; he did. And after apparently
16 he called her back, then she called?

17 A I believe so, yes. She called after he did.

18 Q Okay. And the translation you got, that your people got --
19 and you have the transcript that said -- I was stabbed in the
20 leg?

21 A That's correct.

22 Q When somebody makes a call -- and I remember one time when
23 my kid was little, my oldest, we used to watch a show called
24 Emergency 911. Do you remember that?

25 A Yes.

1 Q We told him, If you ever have an emergency, you call 911.
2 And one time before we could catch it he called 911 because his
3 sister wouldn't share her toys with him, okay. You can imagine
4 an ambulance was not dispatched, nor was law enforcement.

5 When you get a call, before you decide how to respond, do
6 you listen to what's in the call, or does your dispatcher?

7 A So when a call comes in, the first thing that we attempt to
8 do is determine where the person is at to make sure that the
9 jurisdiction falls inside our county. Because it is common where
10 we do get calls from surrounding counties, then we have to
11 transfer that call if it's not our jurisdiction.

12 Next, we try to determine what is going on. So in this
13 situation with the first caller, that you discussed the male
14 calling and saying that a female had been stabbed, there's likely
15 a medical injury, and there's a stabbing so there is going to be
16 a law enforcement matter.

17 So in this case, based on what the dispatchers were given,
18 they would dispatch two responses. They would dispatch a law
19 enforcement response, and they would dispatch a medical response.

20 And the call that we listened to, you hear a third party
21 start talking during the call, a male voice. When the female
22 caller called in, she was Spanish-speaking. That day we did not
23 have a dispatcher on duty that spoke Spanish, so we have an
24 account with Voiance Translator where we contact them; we bring
25 them into the call; we select the language that we need.

1 We then tell the Voiance dispatcher what questions to ask.
2 They ask the question. The original caller answers those
3 questions. And then that dispatcher relays the information back
4 to us. So you heard in that call, halfway through the call, the
5 female quit talking to us. And you hear the dispatcher, the
6 female dispatcher, asking, Is she on Walter Street?

7 A lot of things take place when 911 comes in. We have the
8 information come in on the phone. Depending on the type of phone
9 that's calling in, it may be a landline, it may be a wireless
10 call. If it's a wireless call, we initially get the tower
11 location, which is a phase 1 call; and then hopefully the system
12 rebids and then it goes to a phase 2 status, which then gives you
13 the location of the caller, an approximate location. So that's
14 why the dispatcher was asking if it was on Walter Street, because
15 when that call's coming in there's a map also showing us the
16 approximate area of where that call is calling in from.

17 Q That would be the cellphone?

18 A That would be the cellphone.

19 Q So the first call you got -- now, when they call in, can you
20 tell the phone number when they call in?

21 A If it is not a disconnected phone. If it is a disconnected
22 phone and it's a wireless phone, it will come up and the area
23 code will be 911, so it doesn't actually give us the number that
24 the person is calling from.

25 Q Okay. In this case, though, you had the information that

1 the second call, the one from Ms. Flores, came from Area Code
2 [REDACTED]; is that correct?

3 A That's possible. In the initial CAD report they only had
4 one number in here, which I'm assuming ---

5 Q And that would be his phone number?

6 A --- was the initial call.

7 Q Initial call, okay.

8 A I believe so; yes.

9 Q So that's the only information you took down. So if it's in
10 the incident report, somebody else would have provided that
11 information?

12 A Correct.

13 Q Also, I said I think maybe my initial question got lost in
14 the answer there. I mentioned that my, you know, my son called
15 for an obvious nonemergency, and I got on the phone and said, I'm
16 so sorry, this is obviously not an emergency.

17 A Right.

18 Q When you get a call on domestic violence, one of your people
19 gets a call on domestic violence, and you are able to talk
20 properly, do you frequently, and maybe even most of the time,
21 just send out a law enforcement unit and they determine on the
22 scene whether it's worth calling an ambulance? Is that correct?

23 A Yes and no.

24 Q Okay.

25 A If we get a call where we believe some type of assault took

1 place, based off of what the caller tells us ---

2 Q Right.

3 A --- we may initially dispatch the medic, as well.

4 Q So if somebody calls and says, I've been stabbed, I've been
5 stabbed, you're going to send out a unit?

6 A Yes.

7 Q If somebody calls and said, I have several superficial
8 scratches, you probably would not send out a unit. Is that fair?

9 A We would ask if they need an ambulance.

10 Q Okay.

11 A And then if they say no, then we would not send one. If
12 they don't give us an answer, depending on what we're hearing on
13 the call, we may automatically send one.

14 Q So that the first call you get is a third-party male. And
15 then the second call, please have her call, she calls and says,
16 I've been stabbed, and that's most of what you get out of the
17 conversation? Right?

18 A Yes.

19 Q And based on that, just out of an abundance of caution,
20 somebody's been stabbed, send out law enforcement and send out an
21 ambulance?

22 A Correct.

23 ATTORNEY MATHEWS: Okay. I don't have anything further.

24 ATTORNEY KEENEY: Just one question.

25

REDIRECT EXAMINATION

BY ATTORNEY KEENEY:

Q If someone calls 911 and says that someone cut them in the leg, would EMS be likely dispatched?

A If we don't have any other information on the call, yes, ma'am.

ATTORNEY KEENEY: Thank you.

THE COURT: All right, you may step down. Any objection to this witness being excused?

ATTORNEY KEENEY: No, ma'am.

ATTORNEY MATHEWS: No, ma'am.

THE COURT: All right. You're free to leave, ma'am.

THE WITNESS: Thank you.

THE COURT: Call your next witness.

ATTORNEY KEENEY: State calls Demetrius Gilyard.

DEMETRIUS GILYARD,

having first been duly sworn, was examined and testified as follows:

CLERK OF COURT: State your name, and spell it, please, for the record.

THE WITNESS: My last name is Gilyard, G-i-l-y-a-r-d.

ATTORNEY KEENEY: May it please the Court.

THE COURT: Yes, ma'am.

DIRECT EXAMINATION

1

2 BY ATTORNEY KEENEY:

3 Q Officer, where do you work?

4 A Right now, Colleton County Fire-Rescue. I did work for the
5 City of Walterboro Police Department.6 Q And if you don't mind, will you turn the microphone a little
7 closer to you.

8 A Yes, ma'am.

9 Q So you work for Colleton County Fire-Rescue?

10 A Yes, ma'am.

11 Q And you said you worked part time with Walterboro Police
12 Department?

13 A Yes, ma'am.

14 Q Back in November of 2019, where were you working?

15 A The City of Walterboro Police Department.

16 Q And what was your position with the City of Walterboro?

17 A Lance corporal.

18 Q And were you working on the road or were you an
19 investigator?

20 A Yes, ma'am, I was on the road patrol.

21 Q So as a road patrol officer what were some of your duties?

22 A Patrolling the streets, residential watch, responding to
23 different calls, however they come out to us.24 Q So if a 911 call comes in to law enforcement dispatch, you
25 might respond to that call?

1 A Yes, ma'am.

2 Q On November 6th of 2019 did you get a call for this case?

3 A There was a call for this case. It was at [REDACTED] North Walter.

4 At that time we were doing, I believe, shift change. At that
5 time everybody responded that was on night shift and dayshift.

6 Q Okay. And you said at [REDACTED] North Walter Street. What town
7 was that in?

8 A In the city of Walterboro, South Carolina.

9 Q And what county is that?

10 A In Colleton County.

11 Q So when you arrived on scene what did you do?

12 A When I arrived on the scene, Officer Cook was the initial
13 officer that met with a gentleman in a bright, yellow shirt that
14 showed the offender to Officer Cook. He stated that ---

15 Q And I'm going to interrupt you right there. Were you able
16 to figure out who that gentleman in the bright shirt was or how
17 he was related to the case?

18 A To my knowledge, he stayed there.

19 Q He lived at that house?

20 A Yes, ma'am.

21 Q He was not the suspect; was he?

22 A No, ma'am.

23 Q Who else did you meet with when you got there?

24 A I met with the victim in the case. When I got to the door,
25 she seemed very distraught, very cazmatic (phonetic sp) as if,

1 you know, she was just distraught, she was in distress. She was
2 crying. Once I got to her, she showed me her injuries. I asked
3 her if she had any injuries or anything, and she showed me her
4 shoulder and, I do believe, her arm. And she was, like, just
5 pointing because there was a very large language barrier.

6 Q Do you speak Spanish?

7 A No, ma'am.

8 Q And did she speak hardly any English?

9 A No, ma'am.

10 Q So you weren't really sure what happened; were you?

11 A No, ma'am, not really.

12 Q But did you see injuries to her?

13 A Yes, ma'am.

14 Q Did y'all have anybody come on scene that was able to
15 translate for you or interpret for you?

16 A No, ma'am, not at that time.

17 Q And I know you reviewed your bodycam in this case. Correct?

18 A Yes, ma'am.

19 Q There's a lot of talk about a guy named Drew, who you called
20 Drew's wife. Who's Drew and who's his wife?

21 A He was an officer with us at the time. His wife spoke
22 Spanish. And we was trying to get her on the line, but we
23 couldn't get her.

24 Q Okay. So Drew's wife wasn't able to come to interpret?

25 A No, ma'am.

1 Q What else, who else came on scene besides officers from the
2 Walterboro Police Department? Any other agencies respond?

3 A Colleton County Fire-Rescue responded.

4 Q Okay. And that's the place you work at now?

5 A Yes, ma'am.

6 Q And when Colleton Fire-Rescue responded, what did they do?

7 A They took primary care for her. One of the paramedics
8 asked, did she have any injuries or where they were. She pointed
9 to where her bikini line was, her side and her arm, and that she
10 showed basically all her scrapes that she had and a bruise on her
11 arm.

12 Q Okay. And did anybody from Colleton Fire-Rescue, were they
13 able to speak Spanish?

14 A I do believe Chief McRoy (phonetic sp) was, but just to
15 obtain medical knowledge, if she took any medications or anything
16 like that.

17 Q So his Spanish was limited ---

18 A Yes, ma'am.

19 Q --- to basic questions about medicine ---

20 A Yes, ma'am.

21 Q So that Fire-Rescue didn't -- she shouldn't get anything
22 that she's not supposed to?

23 A Yes, ma'am.

24 Q But nobody was able to get a good statement from her on
25 scene, were they?

1 A No, ma'am. Nobody spoke fluid Spanish at the time.

2 Q Did you do anything -- is this [REDACTED] North Walter Street, what
3 kind of residence is this? Is it an apartment? A house? What?

4 A To me, it seemed like a single-story residence.

5 Q So people were living there?

6 A Yes, ma'am.

7 Q What else did you do in this case?

8 A Other than just primary care of her -- nothing more than
9 just primary care of her at the time.

10 Q Did you try to locate the suspect?

11 A I attempted to locate the suspect. I did walk the area. I
12 spoke a couple of people that was down the road, stated/asked
13 them had they seen anybody run from the residence or walk away
14 from the residence. They said no, they hadn't seen anybody.

15 Q Okay. And, to your knowledge, were there any, like, video
16 surveillance, like businesses or anything in the area that would
17 have video surveillance?

18 A There was a business right next-door to the residence, but I
19 don't believe they had any video at the time.

20 Q And the way, the way this house, or this residence, is
21 located, are there multiple entrances to get into the residence?

22 A Yes, ma'am, there is. There is a front side and back side.
23 The backside comes off of Paul Street.

24 Q So this business that you referred to, even if they did have
25 a camera, would it cover all of the entry points?

1 A No, ma'am.

2 Q And were you wearing a body camera that night?

3 A Yes, ma'am.

4 ATTORNEY KEENEY: May I approach the witness?

5 THE COURT: Yes.

6 ATTORNEY KEENEY: Your Honor, may we approach?

7 THE COURT: Yes, ma'am. Mr. Mathews.

8 ATTORNEY MATHEWS: If it's what you sent, then ---

9 ATTORNEY KEENEY: No. May we approach? Approach?

10 (WHEREUPON, an off-the-record discussion was held at

11 sidebar.)

12 ATTORNEY KEENEY: And may I approach the witness?

13 THE COURT: Yes, ma'am.

14 (WHEREUPON, State's Exhibit 2 is marked for identification.)

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

16 Exhibit 2. Do you recognize this item?

17 A Yes, ma'am.

18 Q How do you recognize it?

19 A That is a DVD of my bodycam with my initials on it.

20 Q So you reviewed and it initialed it?

21 A Yes, ma'am.

22 Q Is this a fair and accurate depiction of your bodycam

23 footage that day?

24 A Yes, ma'am.

25 ATTORNEY KEENEY: At this time the state moves to admit

1 State's Exhibit No. 2 into evidence.

2 THE COURT: Any objection?

3 ATTORNEY MATHEWS: Without objection, Your Honor.

4 THE COURT: Exhibit 2, without objection, will be entered.

5 (WHEREUPON, State's Exhibit 2 is entered into the record.)

6 ATTORNEY KEENEY: And, Your Honor, if it pleases the Court,
7 I can publish on redirect.

8 THE COURT: All right. If there's no objection.

9 ATTORNEY MATHEWS: That's fine.

10 **CROSS-EXAMINATION**

11 BY ATTORNEY MATHEWS:

12 Q Officer Gilyard, how are you today?

13 A Good. How are you?

14 Q I'm doing well. How long have you been with Fire-Rescue
15 now?

16 A About three or four months.

17 Q Okay, that's great. Did you have to learn -- maybe some of
18 this learned when you were at the police department. Did you
19 learn basically the difference between different sorts of wounds?

20 A Yes, I have.

21 Q What's the difference between a scrape and a cut?

22 A A scrape is basically a superficial, it is basically on the
23 skin surface, as whereas a cut is slightly deeper.

24 Q And a stab would be deeper still?

25 A Yes.

1 Q How do you treat a scrape?

2 A Basically we use what's called sterile water to treat it
3 basically to clean the wound, and then to bandage the wound
4 afterwards.

5 Q A BAND-AID?

6 A Yes.

7 Q As opposed to a cut which can require stitches and a
8 stabbing that can require surgery?

9 A Yes.

10 Q If you are now dispatched -- have you ever been dispatched
11 for a scrape?

12 A I have.

13 Q You have. And what did you do?

14 A Basically what I stated. I just cleaned it with sterile
15 water and pretty much a bandage.

16 Q Okay. But it's not really a big deal?

17 A No, not really.

18 Q You know some Spanish cognates; right? I mean, you know
19 what a pistolo; right?

20 A No.

21 Q You don't know what a pistola is?

22 A No. I don't speak Spanish.

23 Q Would you be shocked if I told you it was a pistol?

24 A Not really.

25 Q Did you hear anything like that when you arrived?

1 A Not to my knowledge. No.

2 Q When you showed up, I think, did you initially see the
3 fellow in the yellow shirt showing his cellphone to Officer Cook?

4 A I did.

5 Q And saying in pretty good English, This is Walter Palacios?

6 A That's what was stated.

7 Q Did you also see -- I think you may have given it to one of
8 your peers, but did you also see him give Walter's phone number
9 to the police department?

10 A I don't recall that.

11 Q Okay. All right. And congratulations, you actually did
12 more investigating than anybody else did. You walked down the
13 street. And this part of Walters Street, this is if you're on
14 Whichman Street, going toward Jeffries, right behind where you
15 get to Jeffries, behind the Pak a Sak or whatever the convenience
16 store is, there's a little cut through there; right?

17 A Yes, sir.

18 Q That's where you got the call to go; right?

19 A Yes, sir.

20 Q And Walter Street is that little cut through there. And I
21 think there's the PakNet there, and across the street is the
22 Pizza Hut across Jeffries; right?

23 A Yes.

24 Q So that's where we're talking about. All right. Wouldn't
25 have taken you very long to get out there, I suppose?

1 A Not really. It did take us longer, however, because we
2 couldn't really find the residence. It was given out [REDACTED] North
3 Walter, but the way the house sits, it's up on a hill behind a
4 bush.

5 Q Okay. So when you rolled in, did you roll in behind the
6 house or on Walter Street?

7 A Behind the house.

8 Q Behind the house. Did you see anything there, any
9 indication of anybody running or anything like that in that area?

10 A Not at the time.

11 Q So as you were rolling in shortly after the call, nobody was
12 running that you could see, and then you walked in front and went
13 to the next-door neighbor and talked to a couple there who told
14 you they didn't see any Hispanic people running, they only saw
15 one white guy smoking or something like that. Right?

16 A Yes, sir.

17 Q Okay. Do you have a protocol for taking -- I guess with
18 Fire-Rescue, maybe you don't. But at the police department, what
19 do you do if you think there might be DNA or fingerprints or
20 anything like that?

21 A Normally we call in our investigations in, they come in.
22 And right then and there what we would do, if we suspected any
23 DNA evidence, we would try to preserve it as best as possible
24 until they get there.

25 Q Was there anything to preserve when you got to Walter

1 Street?

2 A Not to my knowledge, no.

3 Q When you were there did you see any blood on the ground or
4 anything like that?

5 A Not to my knowledge.

6 Q All right. I think that will probably -- you walked in, I
7 think, to the first bedroom; right?

8 A Yep.

9 Q And I think you walked in there, and I think you walked up
10 there, and she showed you where she said her injuries were;
11 right?

12 A Yes, sir.

13 Q You walked past Officer Cook, showing the phone, and said,
14 Is Walter Palacios here? You walked past that, and she says,
15 Okay, it's here, it's here, and she showed you where she said she
16 was injured?

17 A Uh-huh.

18 Q None of which required any medical attention that you could
19 provide her?

20 A No, sir.

21 ATTORNEY MATHEWS: Okay. That's all I have pending the
22 review of the video.

23 THE COURT: Thank you. Are you ready for the video?

24 ATTORNEY KEENEY: Is it ready? I think we're still having
25 some trouble. Permission to publish?

1 THE COURT: Yes, ma'am.

2 (WHEREUPON, State's Exhibit 2 is published to the jury)

3 ATTORNEY KEENEY: I have no further questions for this
4 witness.

5 ATTORNEY MATHEWS: No questions, Your Honor.

6 THE COURT: All right. You may step down. Any objection to
7 this witness being excused?

8 ATTORNEY KEENEY: None from the state.

9 ATTORNEY MATHEWS: No.

10 THE COURT: All right, sir, you're free to leave.

11 THE WITNESS: Thank you, Your Honor.

12 ATTORNEY KEENEY: May it please the Court.

13 THE COURT: Yes.

14 ATTORNEY KEENEY: State calls Jessica Hadwin.

15 MADAM CLERK REBECCA HILL: Raise your right hand, and left
16 hand on the Bible.

17 JESSICA HADWIN,

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

20 CLERK OF COURT: State your name for the record. Spell your
21 last name. Have a seat on the witness stand.

22 THE COURT: Yes, ma'am. And if you can speak loudly and
23 into the microphone, that would be great.

24 THE WITNESS: Jessica Hadwin, H-a-d-w-i-n.

25 ATTORNEY KEENEY: May it please the Court.

(Jessica Hadwin - Direct by Attorney Keeney)

1 THE COURT: Yes, ma'am.

2 **DIRECT EXAMINATION**

3 BY ATTORNEY KEENEY:

4 Q Ms. Hadwin, where do you work?

5 A I work at Saint Francis ER.

6 Q And if you want to pull down your mask.

7 ATTORNEY KEENEY: Is that okay, Judge?

8 THE COURT: Yes. If she can speak a little bit louder so
9 that they can hear you.

10 A I work at Saint Francis ER.

11 THE COURT: They still can't hear you.

12 A Saint Francis ER.

13 ATTORNEY KEENEY: Is the mic on?

14 A Saint Francis ER.

15 Q So you work at Saint Francis in Charleston?

16 A Yes.

17 Q Where did you work in November of 2019?

18 A Colleton Medical Center ER.

19 Q And tell the jury a little bit about your education and
20 background.

21 A I went to school at O-C Tech in Orangeburg. Graduated in
22 May of 2019, and went straight to work in the ER at Colleton
23 Medical in, I believe, June or July of 2019.

24 Q Were you in nursing school?

25 A Nursing school, yes.

(Jessica Hadwin - Direct by Attorney Keeney)

1 Q So you worked -- straight out of school you went to Colleton
2 Medical, and now you are at Saint Francis. Correct?

3 A Yes.

4 Q How long have you been at Saint Francis?

5 A About nine months.

6 Q And when you worked at Colleton Medical, were you in the
7 emergency room department, or ---

8 A Yes.

9 Q And what were some of your duties as an emergency room
10 nurse?

11 A I assessed patients when they came in; triaged them;
12 medicated patients; charted.

13 Q And were you working on November 6th of 2019?

14 A Yes, ma'am.

15 Q And you were at Colleton Medical?

16 A Yes.

17 Q Did you help treat the victim in this case, Maria Flores?

18 A I did.

19 Q Do you have any idea what time she arrived at Colleton
20 Medical?

21 A About 8:22, 8:20.

22 Q In the morning time?

23 A Yes.

24 Q And were you able to easily communicate with her?

25 A No.

(Jessica Hadwin - Direct by Attorney Keeney)

1 Q Do you speak any Spanish?

2 A Very little. Not enough to communicate with her, no.

3 Q How did y'all communicate with Maria Flores?

4 A With a language line.

5 Q And what is a language line?

6 A You call a number that we have in a book. You tell who the
7 patient is, give their medical record number. And it's just a
8 regular, cordless phone, and you talk like you're talking to the
9 patient. They translate, and then tell you what the patient
10 says.

11 Q And did you observe any injuries to Maria Flores?

12 A I did.

13 Q What did you see?

14 A She had some lacerations, like abrasions, like, on her
15 abdomen area, on her legs, bruising on her arms, very tender on
16 her back to touch.

17 Q Were there any other objective observations that you saw?

18 A She was crying when she come in, very visibly upset. She
19 did vomit on the floor not long after she got there. And, yeah.

20 Q She saw the physician's assistant, Amanda Absher; correct?

21 A Uh-huh.

22 Q And was she eventually discharged from Colleton Medical?

23 A She was discharged but went with police down to MUSC to see
24 a SANE nurse.

25 Q And MUSC, Medical University of South Carolina?

1 A Yeah.

2 Q Why did y'all not do a sexual assault exam at Colleton
3 Medical?

4 A We do not have a SANE nurse or a specialist for that kind of
5 exam.

6 Q And just so the jury knows, what does SANE nurse stand for?

7 A Sexual Assault Nurse.

8 Q Examiner?

9 A Examiner, yeah.

10 Q So no one at Colleton Medical is really trained to do that
11 type of exam?

12 A No.

13 ATTORNEY KEENEY: Beg the Court's indulgence. No further
14 question.

15 ATTORNEY MATHEWS: May it please the Court.

16 THE COURT: Yes, sir.

17 **CROSS-EXAMINATION**

18 BY ATTORNEY MATHEWS:

19 Q Nurse Hadwin, where did you say you got your nursing degree?

20 A Orangeburg Tech.

21 Q Okay. My wife is the AHEC doctor here. Have you ever taken
22 classes from AHEC, Area Health Education Center?

23 A No, I don't think so.

24 Q You mentioned a SANE nurse and what the title is. What's
25 the difference in what they ---

1 ATTORNEY MATHEWS: May I take my mask off?

2 THE COURT: Yes, sir.

3 Q What's the difference between what you do and what a SANE
4 nurse does?

5 A They are specifically trained to, I guess, keep the chain of
6 evidence -- I don't know the correct words.

7 Q Chain of evidence works.

8 A Yeah, chain of evidence.

9 Q So if you're looking for DNA or blood or semen or saliva or
10 anything like that, the SANE nurse is the right choice?

11 A Yes.

12 Q Do they also have pretty good cameras? Or, you don't know?

13 A I don't know, no.

14 Q Okay. One of the things that you did is, through an
15 interpreter, you talked with Ms. Flores; is that correct?

16 A Yes.

17 Q And you took notes and put them in the patient's record; is
18 that correct?

19 A Yes.

20 Q Okay.

21 ATTORNEY MATHEWS: May I approach the witness, Your Honor?

22 I'll put my mask back on.

23 THE COURT: Yes.

24 Just for identification. I don't intend to admit this.

25 (WHEREUPON, Defendant's Exhibit 1 is marked for

1 identification.)

2 Q I'm handing you, Nurse Hadwin, what's been marked as
3 Defendant's Exhibit, for identification, No. 1, and ask if that,
4 in any way, looks familiar, the notes?

5 A Yes.

6 Q Do those appear to be your notes from treating?

7 A Yes.

8 Q Just the first, you mentioned already the complaints of
9 pain, the crying and the vomiting. Would you describe what she
10 told you, if it's highlighted there?

11 A Yes. She said that her -- she said that that her ex had
12 come in --

13 Q Would you just read it?

14 A I'm sorry. Yeah, I can read it. Language Line used to
15 communicate with Spanish-speaking patient. Patient states, I was
16 in bed and Walter came in the house and grabbed me by the hair
17 and pulled me out of the bed. He hit me in the head and tried to
18 cut my pants off with a knife. He put his penis in my mouth. He
19 did not ejaculate.

20 ATTORNEY MATHEWS: May I approach to retrieve this?

21 THE COURT: Yes. You can't hear?

22 INTERPRETER: It's really low.

23 THE COURT: Please speak a little bit louder. She can't
24 hear you.

25 INTERPRETER: Can she reread that, and a little bit slower,

1 that last statement. And speak into the mic.

2 A Language Line used to communicate with Spanish ---

3 Q Go slower, please.

4 A Language Line used to communicate with Spanish-speaking
5 patient. Patient states, in quotes, I was in bed and Walter came
6 in the house and grabbed me by the hair and pulled me out of the
7 bed. He hit me in my head and tried to cut my pants off with a
8 knife. He put his penis in my mouth. He did not ejaculate.

9 Q I'll just cover my face there. All right. So obviously you
10 would have, if she said he had a gun, you would have noted that;
11 correct?

12 A (Nods.)

13 Q So she did not tell you that he had a gun?

14 A I felt like I would have noted that.

15 Q Right, sure. All right. And definitely said, He pulled me
16 out of the bed by my hair?

17 A Yes.

18 Q And then complained -- did you find any injury to her head?

19 A Not that I recall. And I feel like I would have documented
20 that.

21 Q Okay. All right. And the SANE nurse would be somebody
22 that, if there were some ejaculate or even pre-ejaculate, they
23 would be the person to take the sample, et cetera?

24 A Yes.

25 Q All right. Did you recommend any course of treatment or did

1 the doctor, Dr. Ward or whoever saw her, recommend any course of
2 treatment?

3 A I don't recall.

4 Q Did it appear to you like there was anything, really, that
5 needed to be done?

6 A I mean, her abrasions needed cleaning. And then the doctor
7 probably prescribed some pain medicine.

8 Q But no surgery?

9 A No.

10 Q No stitches or anything like that?

11 A No.

12 ATTORNEY MATHEWS: No further questions.

13 ATTORNEY KEENEY: Brief questions.

14 THE COURT: Yes, ma'am.

15 **REDIRECT EXAMINATION**

16 BY ATTORNEY KEENEY:

17 Q In your experience as a nurse, does every patient that comes
18 in complain of a head -- or, being hit in the head actually have
19 a head injury?

20 A No.

21 Q And you don't know exactly what she said other than relying
22 upon the translator line; correct?

23 A Correct.

24 Q Because you do not speak fluid Spanish?

25 A I do not.

1 ATTORNEY KEENEY: Thank you. No further questions.

2 THE COURT: Thank you.

3 ATTORNEY MATHEWS: No follow-up, Your Honor.

4 THE COURT: All right. Any objection to this witness being
5 excused?

6 ATTORNEY MATHEWS: None.

7 ATTORNEY KEENEY: No, Your Honor.

8 THE COURT: All right. You may step down, ma'am. Thank
9 you. You're free to leave.

10 ATTORNEY KEENEY: Judge, may we approach?

11 THE COURT: Yes.

12 (WHEREUPON, an off-the-record discussion was held at
13 sidebar.)

14 THE COURT: Call your next witness.

15 ATTORNEY KEENEY: State calls Amye Stivender.

16 AMYE STIVENDER,
17 having first been duly sworn, was examined and testified as
18 follows:

19 CLERK OF COURT: State your name, and spell your last name
20 for the record.

21 THE WITNESS: My first name is Amye, A-m-y-e. Last name's
22 Stivender, S-t-i-v-e-n-d-e-r.

23 THE COURT: All right. Ms. Stivender, when you -- I see
24 you've been sitting here. If you speak slowly and pause ---

25 THE WITNESS: Yes, ma'am.

1 THE COURT: --- it helps, for the interpreters.

2 THE WITNESS: Yes, ma'am.

3 THE COURT: Thank you.

4 ATTORNEY KEENEY: May it please the Court.

5 THE COURT: Yes, ma'am.

6 (WHEREUPON, State's Exhibits 5 and 6 are marked for
7 identification.)

8 **DIRECT EXAMINATION**

9 BY ATTORNEY KEENEY:

10 Q Officer Stivender, where do you work?

11 A I currently work for SLED, which is the South Carolina Law
12 Enforcement Division.

13 Q What's your position at SLED now?

14 A I am a special agent in the special victims unit, and I work
15 child fatalities.

16 Q In November of 2019 where did you work?

17 A I worked at the Walterboro Police Department.

18 Q What was your position back then?

19 A I was a lieutenant over support services.

20 Q And on November 6th of 2019 how did you get involved in this
21 case?

22 A As a lieutenant over support services, I was over the
23 victims' advocate. Our victims' advocate was not available that
24 day, and so I responded to Colleton Medical Center and met with
25 the victim, who was already at the hospital whenever I got the

1 call.

2 Q And when you arrived at the hospital, what did you see, or
3 how was the victim?

4 A Whenever I went to the hospital, the victim was already in
5 the room. There were several nurses. I believe there was a
6 registration aide that was already in there. They were using an
7 interpreter line. And the victim was in the hospital bed. She
8 was still visibly crying and upset whenever I arrived.

9 Q Is it fair to say that, like a normal hospital visit, people
10 are kind of in and out of the room?

11 A Yes. There was a lot going on whenever I arrived at the
12 hospital.

13 Q Did you notice anything on the victim's body, anything out
14 of the ordinary?

15 A The victim did have some injuries on her. And I did ask
16 where the injuries were. We were, again, using, I believe you
17 heard the nurse say a moment ago, we were using an interpreter
18 via the telephone. So we were trying to ask questions, holding
19 up a telephone; the interpreter would hear it and ask the
20 question to the victim.

21 But I did notice some injuries on her body, and I took some
22 photos of those injuries.

23 ATTORNEY KEENEY: May I approach the witness?

24 THE COURT: Yes, ma'am.

25 (WHEREUPON, State's Exhibits 10, 11, 12 and 13 were marked

1 for identification.)

2 ATTORNEY MATHEWS: Your Honor, may we approach?

3 THE COURT: Yes, sir.

4 (WHEREUPON, an off-the-record discussion was held at
5 sidebar.)

6 THE COURT: Ladies and gentlemen of the jury, we need to
7 send you all out. Y'all can take about a five-minute break.

8 (WHEREUPON, the jury was escorted out of the courtroom at
9 4:41 p.m.)

10 MATTER(S) OF LAW

11 THE COURT: All right. Have those been premarked so that we
12 know which ones we're talking about?

13 ATTORNEY KEENEY: We were getting there. Judge, I believe
14 the two photos that Mr. Mathews has problems with is State's
15 Exhibit No. 5, which is a picture of the vaginal area of the
16 victim where her injuries were located, and State's Exhibit
17 No. 6, which is the breast area, the victim's injuries. Those
18 are the two that he's objecting to.

19 ATTORNEY MATHEWS: And these are the two, if we could, I
20 guess, just for Court's exhibit, I suppose, or whatever. Unless
21 you want to mark it as a state's exhibit.

22 ATTORNEY KEENEY: Yeah, that's fine. And so what's been
23 marked, the photos, 5 and 6, are the pictures that this officer
24 took at Colleton Medical. And then she was transported to MUSC
25 for the sexual assault exam, and that nurse did her own pictures.

1 And it was a better camera, quite frankly. And State's Exhibit
2 11 and 12. So similar areas.

3 Now, 11, which is a picture of the breast, it's a little bit
4 hard to tell just on the face of the picture what area that is
5 without explanation. And so the state's concern is, back in the
6 jury room when you see these things, they're going to be, like,
7 What in the world is that?

8 And my argument here is that it's relevant because I'm here
9 to prove assault with intent to commit criminal sexual conduct.
10 And so by the location of the injuries is one of the ways I'm
11 proving his intent. So that's why I think it's relevant.

12 THE COURT: All right. Yes, sir.

13 ATTORNEY MATHEWS: Your Honor, I just, I mean, if you say
14 that's her left breast, then I think they're going to know that
15 it's her left breast. I mean, if you look at it and you know
16 that's what it is, you can tell that's what it is. But it
17 doesn't show the areola. And it just, there's no injury to the
18 areola. There's really no reason I can think of that a jury
19 needs to see that other than context. And if you just say, Is
20 this her left breast, is that what it looked like?, I think
21 you've got all you need there, along with the exhibit number.

22 The other one is more to an area of degree, because both
23 pictures show a little bit of pubic hair, but the one that the
24 SANE nurse took is significantly less invasive and it is less
25 prejudicial to my client.

1 And that would be my basis for it, just that it is
2 unnecessary because there are pictures that are less -- gruesome
3 isn't the right word but less -- provocative, I suppose, less
4 salacious. And I feel like those pictures are salacious and
5 unnecessarily.

6 So when you have other pictures that show the same injuries
7 that -- in fact, they're better pictures, but they show the same
8 injuries in the same areas, just from a slightly different angle.

9 ATTORNEY KEENEY: Just to briefly conclude that I don't
10 think that it's that prejudicial. I don't think people are that
11 offended by a little bit of pubic hair and areoles.

12 And we've got that case from the Supreme Court where they
13 said it wasn't, it wasn't in violation of Rule 403 when they
14 showed that dog, the case where the little child was mauled by a
15 dog and those gruesome photos came in, they said the trial judge
16 they did not abuse its discretion.

17 And we are not anywhere to that degree of gruesomeness by
18 showing a, you know, breast and a vaginal area in a spot when
19 it's an intent to commit criminal sexual conduct case.

20 ATTORNEY MATHEWS: I'm going to go with salacious, not
21 gruesome. I don't think -- none of the pictures are gruesome,
22 but I think they are salacious and designed to more evoke more
23 emotion rather than actual recognition.

24 THE COURT: All right. I'm going to overrule the objection.
25 I do find that they are probative as to -- because he is charged

1 with the assault with the intent to commit criminal sexual
2 conduct. The photos, to be honest with you, I don't see much of
3 a difference between the one from ---

4 ATTORNEY KEENEY: The vaginales.

5 THE COURT: --- the vaginal one from the SANE nurse and the
6 one that she's trying to get in. Actually, the one from the SANE
7 nurse it's just larger, it's a larger photo, so I don't see where
8 that would have been more prejudicial than -- and what number is
9 that?

10 ATTORNEY KEENEY: So No. 12 is the SANE nurse photo, which I
11 intend to introduce through her testimony, the SANE nurse's
12 testimony. And No. 5 is the vaginal area that this officer took
13 at the hospital.

14 ATTORNEY MATHEWS: Your Honor, I'd also object to the phrase
15 vaginal area, because it's her panty line, it's her waste. It's
16 not -- if my biology is correct, it's probably a good four or
17 five inches away from her vagina.

18 It's not an injury to her vagina; it's an injury to her
19 panty line and not her vagina as ---

20 THE COURT: All right. I will say sustain that objection,
21 so we refer to it as her panty-line area.

22 ATTORNEY MATHEWS: Thank you, Your Honor.

23 THE COURT: But I will allow the two pictures in.

24 ATTORNEY KEENEY: Thank you, Your Honor.

25 THE COURT: All right. Let's bring them back in. Does

1 anybody need a break? We're going to try to get through this
2 witness, and see where we land. I was thinking we'll go til
3 about 5:30 or so, so we can try and finish it up.

4 (WHEREUPON, the jury is seated in the courtroom at
5 4:49 p.m.)

6 ATTORNEY KEENEY: May it please the Court.

7 THE COURT: Yes, ma'am.

8 (WHEREUPON, State's Exhibit 4 is marked for identification.)

9 ATTORNEY KEENEY: May I approach the witness?

10 THE COURT: Yes, ma'am.

11 BY ATTORNEY KEENEY:

12 Q I'm going to show you what he's been previously marked
13 State's Exhibit No. 4. Do you recognize that photo?

14 A Yes.

15 Q What is that photo?

16 A This is a photo of the victim that was taken at the hospital
17 by me.

18 Q Thank you. And is that a fair and accurate depiction of the
19 photo that you took?

20 A Yes.

21 ATTORNEY KEENEY: At this time the state moves to admit
22 State's Exhibit No. 4 into evidence.

23 ATTORNEY MATHEWS: As to 4, no objection, Your Honor.

24 THE COURT: All right. That will be entered, without
25 objection.

1 (WHEREUPON, State's Exhibit 4 is entered into the record.)

2 Q I'm going to show you State's Exhibit No. 5. Do you
3 recognize that photo?

4 A Yes.

5 Q What is that photo?

6 A This is the photo of an injury above the victim's panty line
7 that was taken at the hospital by me.

8 Q Is that a fair and accurate depiction of the injury that you
9 saw on the victim panty-line area?

10 A Yes.

11 ATTORNEY KEENEY: At this time the state moves to admit
12 State's Exhibit No. 5.

13 ATTORNEY MATHEWS: Subject to my objection, Your Honor.

14 THE COURT: Yes. It will be entered, over the objection of
15 defense.

16 (WHEREUPON, State's Exhibit 5 is entered into the record.)

17 Q Going to show you what's been marked as State's Exhibit
18 No. 6. Do you recognize that photo?

19 A Yes.

20 Q What is that a picture of?

21 A It is a picture of injuries on the victim's left breast that
22 I took at the hospital.

23 Q Is that a fair and accurate depiction of the injury to the
24 victim's breast that you saw?

25 A Yes, ma'am.

1 ATTORNEY KEENEY: At this time the state moves to admit
2 State's Exhibit No. 6.

3 ATTORNEY MATHEWS: Subject to my objection, Your Honor.

4 THE COURT: All right. That will be entered, over the
5 objection of the defense.

6 (WHEREUPON, States Exhibit 6 is entered into the record.)

7 (WHEREUPON, State's Exhibit 7 is marked for identification.)

8 Q I'm going to show you what's been marked as State's Exhibit
9 No. 7. Do you recognize that photo?

10 A Yes. This is also a photo that I took at the hospital of
11 injuries on the victim's legs.

12 Q Is that a fair and accurate depiction of the injuries that
13 you observed on the victim's legs that day?

14 A Yes.

15 ATTORNEY KEENEY: At this time the state moves to admit
16 State's Exhibit No. 7 into evidence.

17 ATTORNEY MATHEWS: No objection, Your Honor.

18 THE COURT: All right. Entered, without objection.

19 (WHEREUPON, State's Exhibit 7 is entered into the record.)

20 (WHEREUPON, State' Exhibit 8 is marked for identification.)

21 Q And I'm going to show you what's been marked as State's
22 Exhibit No. 8. Do you recognize that photo?

23 A Yes.

24 Q What is that of?

25 A More, another photo of the injury on the leg.

1 Q And is that a fair and accurate depiction of the injuries
2 that you observed on her leg that day?

3 A Yes.

4 THE COURT: That's No. 8?

5 ATTORNEY KEENEY: Yes, Your Honor, State's Exhibit No. 8.

6 THE COURT: Any objection?

7 ATTORNEY MATHEWS: No objection, Your Honor.

8 THE COURT: All right. Entered, without objection.

9 (WHEREUPON, State's Exhibit 8 is entered into the record.)

10 (WHEREUPON, State's Exhibit 9 is marked for identification.)

11 Q I'm going to show you what's been marked as State's Exhibit
12 No. 9. Do you recognize that photo?

13 A Yes.

14 Q What is that photo of?

15 A Additional injuries to the victim that I just stated, at the
16 hospital.

17 Q Was that her back area?

18 A Yes. I believe that was some -- she had cuts on her right
19 backside.

20 Q Thank you.

21 A The right back. The right back.

22 Q To her back?

23 A Yes.

24 Q Is that a fair and accurate depiction of the injuries you
25 saw to her back area?

1 A Yes.

2 ATTORNEY KEENEY: At this time the state moves to admit the
3 State's Exhibit No. 9 into evidence.

4 THE COURT: Any objection?

5 ATTORNEY MATHEWS: No objection, Your Honor.

6 THE COURT: All right. Nine will be entered, without
7 objection.

8 (WHEREUPON, State's Exhibit 9 is entered into the record.)

9 BY ATTORNEY KEENEY:

10 Q And finally I'm going to show you what's been marked as
11 State's Exhibit No. 10. Do you recognize that photo?

12 A Yes. That was some bruising that was on the victim's arm, a
13 different photo of, also at the hospital.

14 Q Is that a fair and accurate depiction of the injury to her
15 arm that you saw that day?

16 A Yes.

17 ATTORNEY KEENEY: At this time the state moves to admit
18 State's Exhibit No. 10 into evidence.

19 THE COURT: Any objection?

20 ATTORNEY MATHEWS: No objection.

21 THE COURT: It will be entered, without objection.

22 (WHEREUPON, State's Exhibit 10 is entered into the record.)

23 ATTORNEY KEENEY: Permission to publish?

24 THE COURT: Yes, ma'am.

25 ATTORNEY KEENEY: This is State's Exhibit No. 4. That is a

1 picture of Maria Flores; correct?

2 A That is correct.

3 Q And this is State's Exhibit No. 5. This is the picture of
4 the panty-line injury?

5 A That is correct.

6 Q And State's Exhibit No. 6, that's a picture of the breast
7 injury?

8 A That is correct.

9 Q State's Exhibit No. 7, is that the injury to the leg?

10 A That is correct.

11 Q State's Exhibit No. 8, is that an additional picture of the
12 leg injury?

13 A That is correct.

14 Q State's Exhibit No. 9, that's the back injury; correct?

15 A Correct.

16 Q And then State's Exhibit No. 10, right there, is that the
17 picture of the arm injury you observed?

18 A That's correct.

19 Q Thank you. I'm guessing you didn't have a fancy camera at
20 the Walterboro Police Department; did you?

21 A I did not the day at the hospital. That was actually a
22 patrol officer's camera that was used.

23 Q When you were at the hospital did you have a body camera on?

24 A I did. Yes.

25 (WHEREUPON, State's Exhibit 3 is marked for identification.)

1 ATTORNEY KEENEY: May I approach the witness?

2 THE COURT: Yes, ma'am.

3 Q I'm going to show you what's been marked as State's Exhibit

4 No. 3. Do you recognize this item?

5 A Yes, ma'am.

6 Q What is that?

7 A It is a DVD of bodycam footage.

8 Q And you reviewed this?

9 A Yes.

10 Q And you signed it that you reviewed it?

11 A Correct.

12 Q Is this a fair and accurate depiction of your bodycam

13 footage for that day?

14 A Yes, ma'am.

15 ATTORNEY KEENEY: At this time the state moves to admit

16 State's Exhibit No. 3 into evidence.

17 THE COURT: Any objection?

18 ATTORNEY MATHEWS: As long as we stop at the right point,

19 then no objection.

20 ATTORNEY KEENEY: Yes.

21 (WHEREUPON, State' Exhibit 3 is entered into the record.)

22 ATTORNEY KEENEY: Permission to publish?

23 THE COURT: Yes, ma'am.

24 (WHEREUPON, State's Exhibit No. 3 is published to the jury.)

25

1 Q So after you took the pictures of the victim's injuries, did
2 you talk to any anybody else at the hospital?

3 A Yes. After -- so, the way it works with a sexual assault,
4 as others have come up here and said, we do have to transport
5 them to MUSC. But first they have to be discharged from the
6 hospital.

7 So while I was waiting on her to be discharged from the
8 medical center, I went out into the lobby and spoke with who had
9 identified as her husband, is what I was told in the lobby, to
10 let him know that he could go back and speak with her.

11 Q And it was the man ---

12 A That was previously depicted in the yellow shirt.

13 Q Bright shirt?

14 A Yes, correct.

15 Q And he showed up at the hospital to check on Maria?

16 A That is correct.

17 Q Did you collect any items in this case?

18 A I collected the victim's clothing.

19 Q Did you notice anything about her clothes at all? It's
20 State's Exhibit No. 13.

21 THE COURT: Are you going to open it up?

22 ATTORNEY KEENEY: Maybe.

23 THE COURT: If so, do you have gloves?

24 ATTORNEY KEENEY: I'll get gloves, yeah. May I approach the
25 witness?

1 THE COURT: Yes, ma'am.

2 Q I'm going to show you what's been marked as State's
3 Exhibit 13. Look at this evidence form. Do you recognize this?

4 A Yes, ma'am.

5 Q What is this item?

6 A This was the clothing.

7 Q Collected from?

8 A Collected from the victim at the hospital. Should have been
9 the shirt, a pair of shorts and a bra.

10 ATTORNEY KEENEY: At this time the state moves to admit
11 Exhibit No. 13 into evidence.

12 THE COURT: Any objection?

13 ATTORNEY MATHEWS: No objection, Your Honor.

14 THE COURT: It will be entered, without objection.

15 (WHEREUPON, State's Exhibit 13 is entered into the record.)

16 Q And if you want to open it, you can. While you're doing
17 that, did you hear of any allegation of the suspect bleeding or
18 anything that would cause you to think that you should get the
19 clothes tested?

20 A No, ma'am. There wasn't -- in all -- there was a language
21 barrier, which everyone is aware of by now, and there were some
22 issues with determining exactly what happened, whether it was a
23 sexual assault or a possible sexual assault. We collect the
24 clothes in all possible sexual assaults.

25 So that's the reason that the clothes were collected, in

1 case there was a need to process anything or submit it with a
2 sexual assault kit, which is what we would do, if necessary.

3 Q And was there any allegation that the suspect ejaculated?

4 A Initially it was that -- we weren't sure. I believe that
5 they thought there was possibly some at first. I think that's
6 why I asked in the hospital. And, no.

7 Q She said no?

8 A She said no.

9 Q So is it --

10 A Which is why we ask.

11 Q And so why did you not send the clothes off for testing?

12 A There wasn't any reason for us to send anything off for DNA
13 purposes. The victim was able to identify her offender, and
14 there wasn't any semen on the clothing.

15 Q And no allegation of any ejaculation, so ---

16 A No, ma'am.

17 Q And you've been in law enforcement for a while; correct?

18 A Correct, 12 years.

19 Q And so this idea that every single thing you touch, your
20 DNA's going to be left behind, is that necessarily true?

21 A No, it's not necessarily true. Touch DNA is hard, I don't
22 know the science behind it, but a lot of times it is hard to do
23 touch DNA and get something back, especially if there's a lot of
24 mixed DNAs on an item.

25 Q So not every single thing you touch, your DNA's going to be

1 left behind?

2 A Correct.

3 Q Did you get a written statement from Maria Flores, the

4 victim in this case?

5 A I did not.

6 Q Why did you not do that?

7 A I believe in the hospital it was asked, and she could not

8 read or write English or Spanish.

9 Q Okay. So she can't read or write, even in Spanish?

10 A Correct. That was my understanding. Yes.

11 Q The boyfriend or husband, the man with the bright shirt that

12 showed up, were you able to determine if he was present when the

13 attack happened, or was he a natural witness to the attack? Do

14 you know?

15 A My understanding was he was not, no. He came after the

16 attack. She called him and he came from work.

17 Q And when you talk about sending or taking someone to MUSC,

18 or the Medical University of South Carolina, for a sexual assault

19 exam, is that mandatory, does the victim have to go there?

20 A No. So it is, as long as it is an adult victim, they're not

21 required; it is their choice to go there. I did offer to take

22 her to MUSC. Again, we were not sure exactly what the extent

23 was. But a sexual assault nurse examiner, they do take photos.

24 They do a kit, if necessary. They're professionals. So that's

25 reason why we go there and use them. But, no, it is not

1 required.

2 They also have social workers, interpreters. It's in
3 downtown Charleston. There's a lot more resources.

4 Q And did you ask the victim in this case whether or not she
5 was willing or wanted to go do a sexual assault exam?

6 A Yes. She said she would. I transported her to Charleston.

7 Q So y'all spent a few hours at Colleton Medical; correct?

8 A Yes. And she was discharged from there after a few hours.

9 Q And then you drove to Charleston?

10 A That is correct.

11 Q How far that is drive?

12 A About an hour, hour and 15 minutes, depending on traffic one
13 way.

14 Q And then you go spend some time at MUSC?

15 A Correct. So the way it works is, our dispatch will call
16 ahead to let them know we're coming. We check in through the ER.
17 We sat. We had to wait a little while longer for them to have an
18 interpreter because I let them know that she needed someone. And
19 then they took the victim back. And I did not go back for the
20 exam or anything. And then once they were finished, I picked the
21 victim back up and I brought her back to Walterboro.

22 Q Were y'all there at MUSC for like 30 minutes or longer?

23 A We were there all day.

24 Q So you got back to Walterboro about what time? Do you
25 remember?

1 A I remember it being after, definitely after, 5:00 because my
2 normal hours at the time were 8:00 to 5:00, and it was after
3 everyone had already left.

4 Q So you pretty much spent the whole day at the hospital?

5 A I did, yeah.

6 Q At one hospital or the other?

7 A Yes.

8 Q Now, with respect to the sexual assault exam, did you even
9 know if that was even warranted in this case?

10 A No, I did not. But as a precautionary, I did take her down
11 there to see kind of, let the SANE talk to her and go from there
12 just in case. I did it as a precautionary.

13 Q And the reason you weren't sure, the language barrier?

14 A Language barrier, correct.

15 Q When y'all got back from MUSC back to Walterboro, what did
16 y'all, what did you do?

17 A I originally transported her to her house at [REDACTED] North
18 Walter Street in Walterboro. Whenever we got there, no one was
19 home, and I didn't feel comfortable leaving her there by herself.
20 So I actually took her to her job so someone could interpret
21 for her where I needed to take her. And I took her to her
22 sister's home where her children were on Phillips Road.

23 Q And so that address, [REDACTED] Walter Street in Walterboro, that's
24 the incident location, as well?

25 A That is correct.

1 Q And what county is that in?

2 A Colleton.

3 ATTORNEY KEENEY: Beg the Court's indulgence. No further
4 questions.

5 THE COURT: All right. Thank you. Yes, sir?

6 ATTORNEY MATHEWS: Thank you, Your Honor.

7 **CROSS-EXAMINATION**

8 BY ATTORNEY MATHEWS:

9 Q All right. So you were subbing for the victim's advocate;
10 right?

11 A I supervise the victim's advocate, and she was not there
12 that day. Correct.

13 Q All right.

14 Q So you were not there acting as a detective; you were acting
15 as a victim's advocate?

16 A That is correct, sir.

17 Q Did you do the original incident report in this case?

18 A I did. Yes, sir.

19 Q And from that incident report you were able to establish
20 Ms. Flores' phone number as [REDACTED]?

21 A Is that in the incident report?

22 Q Yes.

23 A If it's in the incident report, it was either already in our
24 system as her phone number or she gave it to me. But I don't
25 recall.

1 ATTORNEY MATHEWS: Can I approach, Your Honor, just to hand
2 this to her?

3 THE COURT: Yes, sir.

4 ATTORNEY MATHEWS: Okay. I'm covering my face.

5 Q If you could just take a look at Ms. Flores's information
6 there. What have you listed as her phone number?

7 A The phone number listed is [REDACTED].

8 Q And I think the first thing you note in there is, you
9 responded to a call, the stabbing, and there was no stabbing?

10 A Dispatch said stabbing. Yes, sir.

11 Q And it was not a stabbing?

12 A And it was not a stabbing. That is correct.

13 Q Okay. All right. What's the difference between a cut and a
14 scratch?

15 A A cut generally breaks the skin, and a scratch does not but
16 is still visible.

17 Q You had mentioned that there was no reason to send anything
18 off for DNA since she identified her attacker. How long have you
19 been in law enforcement?

20 A Twelve years.

21 Q Have you ever had a witness lie to you?

22 A Yes, sir.

23 Q Pretty often?

24 A I --

25 Q It happens a lot, though. I mean, you've been lied to a

1 bunch in your job; is that correct?

2 A It does happen. Yes, sir.

3 Q Okay. So when you say there's no reason to identify, if you
4 had sent something off for DNA, DNA can be exhibited in sweat,
5 for example; is that correct?

6 A That is correct.

7 Q So you don't have to just touch something. If you're
8 sweating, that's going to transfer, also, or mix?

9 A That's correct.

10 Q Obviously blood?

11 A Yes, correct.

12 Q Saliva?

13 A Yes.

14 Q So if somebody is kissing you all over or something like
15 that or trying to, their saliva might be on you, and that's a
16 source of DNA; is that correct?

17 A Correct.

18 Q Hair fibers?

19 A Correct.

20 Q And in order to identify if anybody was there, DNA would be
21 helpful to find out if somebody's DNA, other than her own, was on
22 the shirt or pants or anything like that; is that correct? Her
23 DNA is going to be on her shirt; correct?

24 A Right. Correct.

25 Q So if you send that off and she's the only person that's

1 been around, her DNA will be on there. But if nobody else has
2 been sweating on it or bleeding on it or salivating on it, only
3 her DNA would be on it; is that correct?

4 A Potentially that's correct.

5 Q So there is a reason to send it off if you suspect somebody
6 else, if you want to find out if somebody else is there; right?

7 A That's not our job protocol.

8 Q I understand, I understand you want to identify somebody.
9 But you can identify if somebody was there, even at all, if you
10 send it off for DNA; is that right?

11 A It's possible.

12 Q If maybe the husband did something, the husband, you say you
13 approached him in the lobby to tell he can come on back; right?

14 A Correct.

15 Q And you asked him, okay, from Walter Street to the hospital,
16 what's that about, three minutes, five minutes?

17 A Five minutes.

18 Q You asked him, the husband, and I use that term I guess
19 somewhat loosely, you asked him, would he go back and pick up
20 some clothes for her. And what did he say?

21 A I know he did not go back and pick up the clothes for her.

22 Q Okay.

23 A But also, there was a language barrier with him, as well,
24 because he did not speak -- I don't know if he understood what I
25 was trying to ask him.

1 Q Did he not say that that will take 12 minutes?

2 A I don't recall him saying that.

3 Q Might he have said that?

4 A I don't --

5 Q I saw it. You asked him if he would pick up some clothes
6 and he did not?

7 A He did not pick up clothes. No, sir.

8 Q Have you ever heard of pre-ejaculate?

9 A Yes, sir.

10 Q Okay. That's something where somebody doesn't ejaculate but
11 there would still be some residue or something from --

12 A (Nods.)

13 Q Okay. Obviously that's something that also can be on there.
14 All right.

15 A Did you need me to do anything with the clothes?

16 Q No, I don't think. I've actually taken pictures of these.
17 I'm not going to seek to introduce them. Maybe, perhaps, the
18 state will. I don't need to look at the clothes.

19 ATTORNEY MATHEWS: Your Honor, may I approach?

20 THE COURT: Yes, sir.

21 ATTORNEY MATHEWS: Okay. Those are not marked for
22 identification or any other purpose. At this point, if the state
23 would introduce them, they're welcome to.

24 Q But, are those pictures of the pants, short and bra that you
25 took?

1 A Yes.

2 Q Okay.

3 ATTORNEY MATHEWS: I'm not seeking to introduce them into
4 evidence.

5 Q I took the pictures, I think, in your presence at the
6 Walterboro Police Department?

7 A That's correct.

8 Q But those are accurate pictures of what you had in the bag;
9 correct?

10 A That's correct.

11 THE COURT: I think you need to mark them. I know you're
12 not introducing them, but at mark them for ID purposes.

13 ATTORNEY MATHEWS: Sure, Your Honor. I'll mark those for
14 identification only then.

15 THE COURT: For the court reporter's sake, I think they need
16 to be marked since you referred to when you were questioning her.

17 (WHEREUPON, Defendant's Exhibits 2, 3, 4 and 5 are marked
18 for identification.)

19 Q Special Agent Stivender, I'm now handing what have been
20 marked as exhibits but not into evidence, Exhibits, Defense, 5,
21 4, 3, and 2. And are those the pictures of the clothes?

22 A Yes, sir.

23 Q After that first day you said you spent the day but you
24 weren't able to communicate with Carmen. Is that correct?

25 A Just via interpreters. Correct.

1 Q But after the original stay at Colleton County Medical
2 Center, did you use that thing to communicate with her?

3 A Yes.

4 Q You did, okay.

5 A That day.

6 Q That day?

7 A Yes.

8 Q Did you at any point after that?

9 A No, sir, I don't believe so.

10 Q Okay. Well, because, like you said, you were acting as a
11 victim's advocate and not as a detective?

12 A Yes.

13 Q Were you present when the SANE nurse there took pictures of
14 Carmen?

15 A I was not. No, sir.

16 Q Had you left, or were you just in another room?

17 A I think I was waiting outside in the car. I might have gone
18 to get something to eat. I don't remember.

19 Q Okay. All right. Did you talk anything to Carmen about her
20 life back in Honduras, the number of children she had, anything
21 like that?

22 A She didn't understand English, sir.

23 Q No. I'm saying, is that something billable or something
24 like that, where you're not just going to chitchat with somebody?
25 Because they've got stuff to do, too, I guess. Right --

1 A Right.

2 Q Okay.

3 A Are you talking about, on the car ride, did we talk?

4 Q Right.

5 A No, sir.

6 ATTORNEY MATHEWS: I don't have any further questions.

7 Thank you, Your Honor.

8 THE COURT: All right. Any redirect?

9 ATTORNEY KEENEY: No, Your Honor.

10 THE COURT: All right. Any objection to this witness being

11 excused?

12 ATTORNEY KEENEY: Not from the state.

13 ATTORNEY MATHEWS: No, Your Honor.

14 THE COURT: All right, ma'am, you may step down. And you're

15 free to leave. You can just give those back to the court

16 reporter. Thank you.

17 All right. Ladies and gentlemen of the jury, it is about

18 5:25, and so this is a good time for us to take our evening

19 break.

20 I will remind you that you are not to discuss this case; you

21 are not to do any independent research; you're not to do any

22 social media posts regarding serving on the jury.

23 Please, it's also improper for you to form any opinion in

24 your mind at this point regarding the case until you have

25 received all the evidence, the arguments of the parties and the

1 charge on the law from the Court.

2 So go home, think about something else. Have a wonderful
3 evening. And we will see you all back at 9:30 in the morning.
4 All right. Thank you.

5 (WHEREUPON, the jury is dismissed for the day at 5:27 p.m.)

6 THE COURT: All right. We will start at 9:30 in the
7 morning. Are you still on track to finish?

8 ATTORNEY KEENEY: I have two witnesses left.

9 THE COURT: Oh, you only have two witnesses. Okay.

10 ATTORNEY KEENEY: Yes, ma'am. So we should be.

11 ATTORNEY MATHEWS: Whether I have any witnesses -- so far I
12 will not, but whether I have --

13 THE COURT: I'm not going to hold you to it one way or the
14 other. And her, either, if she has more. And I'm assuming one
15 of your witnesses will be the victim, so she'll be your longest
16 witness.

17 ATTORNEY KEENEY: Yes, ma'am. Yes.

18 THE COURT: Okay. So we will be able -- probably arguing
19 the charge by tomorrow.

20 ATTORNEY MATHEWS: I think so.

21 ATTORNEY KEENEY: Sure.

22 THE COURT: If you have proposed jury charges, please send
23 those, email those, to my law clerk. Do y'all have her email
24 address?

25 ATTORNEY MATHEWS: I think so. I think we got a response.

1 Mr. Utsey sent a proposed list to Your Honor, or to your clerk,
2 and I got response to that. And so I believe I have it in that.

3 THE COURT: All right. And then start thinking about the
4 verdict form. And I'm not sure if anybody is asking for a list
5 that included anything at this point, but just start thinking
6 about it.

7 ATTORNEY MATHEWS: I already have two. But I want to see
8 how the testimony goes, too.

9 THE COURT: You already have two?

10 ATTORNEY MATHEWS: Request for charges.

11 THE COURT: Okay. She'll start working on it. What I
12 normally do is I have her type it up. She'll start working on
13 the jury charge and put everything in there, and it's easier to
14 pull it out if I decide it's not going in or if somebody doesn't
15 want to make a request. All right.

16 And that email is DBenjaminLC, like all the other judges, at
17 sccourts.org. And we will see you all in the morning.

18 ATTORNEY MATHEWS: Thank you, Judge. Have a good night.

19 ATTORNEY KEENEY: Thank you. So thank you, Judge. Have a
20 good night.

21 (WHEREUPON, court recessed for the day at 5:30 p.m. on June
22 1, 2021, and reconvened at 9:42 a.m. on June 2, 2021.)

23 MATTER(S) OF LAW

24 THE COURT: Are we ready? Anything we need to take up
25 before we start?

1 ATTORNEY KEENEY: Your Honor, I did have an issue with,
2 there's some documents that defense counsel gave me the other
3 week, last week, that he planned on asking my victim about. And
4 I can hand them to the Court if you'd like to see them. It is a
5 letter with my victim's -- signed with my victim's name.

6 Now, I've already told defense counsel that she is planning
7 on denying that that's her signature. It's a document that --
8 it's a very strange document, to say the least. It talks about
9 the department of social services; it's addressed to the
10 department so wrong; it talks about how he has free range.

11 What I think counsel's trying to get at is he's trying to
12 say that two days before this incident she tried to lift some
13 type of order of protection. I think that's what he's getting
14 at.

15 For the Court's reference, she's going to deny that she
16 wrote that document because, number one, she can't read or write,
17 even in Spanish, no less English. So I just don't want him
18 reading out the entire document in front of the jury when I don't
19 even believe he has a way to authenticate it.

20 And then the next document is a picture of my victim's name
21 on Facebook. And the picture is of her. But then the following
22 documents are not Facebook messages, they're text messages. If
23 you look at Facebook messenger, if you message someone in
24 Facebook messenger, there's a little picture that comes up in
25 each message. Those appear to be text messages the defense is

1 claiming my victim sent to this lady named Wendy who is
2 defendant's, I believe now, ex-girlfriend. And that long message
3 is in Spanish, but it's basically like a love letter about how no
4 distance will keep us apart. And I didn't see Wendy on his
5 witness list, so I don't think he's going to be able to
6 authenticate that either.

7 So he's trying to say -- and it's very confusing, I realize
8 that -- that my victim sent this love letter to the defendant's
9 girlfriend at the time to try to get it to Walter to express her
10 love for him.

11 My victim is, once again, going to deny writing that, as she
12 actually laughed and she said, No, I did not write that. And she
13 can't even read or write in Spanish.

14 So I just have a problem if he's trying to read out this in
15 front of the jury to try to impeach her with it, because I don't
16 think he can authenticate it. If that makes sense.

17 THE COURT: All right. Thank you. Well, Mr. Mathews knows
18 the rules on how you gotta get it in.

19 ATTORNEY MATHEWS: I do, Your Honor. And one of the things
20 I wanted to do on that document is, I expect her to purge
21 herself, and I wanted to get it on record in case somebody wanted
22 to prosecute her for perjury.

23 THE COURT: So you're going to -- I mean, you can ask her
24 about the document.

25 ATTORNEY MATHEWS: If she says I don't know it, then she

1 doesn't know it.

2 THE COURT: Then we just have to move on. All right.

3 Anything else?

4 ATTORNEY KEENEY: No, Your Honor.

5 THE COURT: All right. Let's bring them in.

6 (WHEREUPON, the jury is seated in the courtroom at

7 9:48 a.m.)

8 THE COURT: Good morning, ladies and gentlemen of the jury.

9 I hope you had a restful evening. We are ready to continue with
10 our testimony.

11 Before we do that, just one housekeeping matter for me. I
12 am going to appoint juror no. 216, Mr. Steele, to be our foreman.
13 And I will give you information at the end as to what your
14 responsibilities and duties are. And do you want him to move
15 now, or is he fine to sit there?

16 MADAM CLERK REBECCA HILL: It's up to you, Judge.

17 THE COURT: Usually when you all take your break, the
18 foreman, the bailiffs will show you where you need to sit. But
19 the foreman -- you have to sit, the foreman, right here, where
20 this young lady is. All right.

21 THE FOREPERSON: Yes, ma'am.

22 THE COURT: And that's the only assigned seat. And I will
23 give you some, when I do the jury charge I'll give you some,
24 explanation as to what your responsibilities are. All right.
25 Thank you.

1 THE FOREPERSON: Thank you.

2 THE COURT: All right. Call your next witness.

3 ATTORNEY KEENEY: May it please the Court, the state calls
4 Maria Flores.

5 CLERK OF COURT: Raise your right hand. Place your left
6 hand on the Bible.

7 MARIA DEL CARMEN PERAZA FLORES,
8 having first been duly sworn, was examined and testified as
9 follows:

10 CLERK OF COURT: Have a seat on the witness stand. State
11 your name. Spell your last name for the record.

12 (WHEREUPON, the interpreter translates to the witness)

13 (WHEREUPON, the witness responds.)

14 INTERPRETER: (Jairo Solano) Yes, I do swear to God.

15 THE COURT: Mr. Interpreter, I'm sorry, what's your last
16 name, sir?

17 INTERPRETER: (Jairo Solano) Jairo Solano.

18 THE COURT: Solano, yes, okay. And is he going to stand
19 right next to her?

20 ATTORNEY KEENEY: Yes.

21 THE COURT: All right. And real quickly, let me just
22 explain to the jury. All right.

23 Ladies and gentlemen of the jury, you are about to hear the
24 testimony of a witness who will be testifying in Spanish. The
25 witness will be testifying through an interpreter.

25 (Witness answers.)

1 INTERPRETER: I am living in Stanton, Virginia.

2 THE COURT: Hold on one second. Can you all hear?

3 INTERPRETER: No.

4 INTERPRETER: No.

5 THE COURT: You can't hear him. So, is there another
6 microphone?

7 MADAM CLERK REBECCA HILL: We do have one, Judge. We just
8 need to get some batteries, and I'll be right back with it. And,
9 Judge, we do have another interpreter here that needs to be
10 sworn. And Sherry can do that. Her name is Rebecca McCann, and
11 she's in the pink, sitting behind the defense. She needs to be
12 sworn in, as well.

13 (WHEREUPON, the Clerk of Court administers oath to
14 Interpreter Rebecca McCann.)

15 THE COURT: All right. Thank you. Yes, ma'am, you may be
16 seated.

17 (WHEREUPON, a microphone is provided to the interpreter.)

18 THE COURT: Are you ready?

19 Q So you said you live in Virginia; is that correct?

20 (Interpreter translates to the witness.)

21 (Witness answers.)

22 INTERPRETER: Yes.

23 Q And you rode here from Virginia to come testify this week?

24 (Interpreter translates to the witness.)

25 (Witness answers.)

1 INTERPRETER: No. I got a person to drive me here.

2 Q You rode in a car, though?

3 (Interpreter translates to the witness.)

4 (Witness answers.)

5 INTERPRETER: Yes.

6 Q How long was that drive?

7 (Interpreter translates to the witness.)

8 (Witness answers.)

9 INTERPRETER: It's about 10 hours from -- it's about 10
10 hours from there to here.

11 Q Where do you work at?

12 (Interpreter translates to the witness.)

13 (Witness answers.)

14 INTERPRETER: I work in a company that's called Dyken
15 (phonetic sp), Lyken (phoentic sp), Dyken, something like that.

16 Q What type of work do you do?

17 (Interpreter translates to the witness.)

18 (Witness answers.)

19 INTERPRETER: I feed all the people that work there in the
20 company.

21 Q Do you have any children?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: Yes. I have a daughter here.

25 Q How do you know the defendant, Walter Alexander Chicas

1 Palacios?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: Because I was living here in Waltherboro when I
5 met him.

6 Q Where did y'all meet?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: I had been here a month. And I met him when I
10 had just gotten here from Honduras and I was working in a
11 restaurant in a place, Hardeeville, it's called Hardeeville.

12 Q So you met him at that restaurant in Hardeeville?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: Yes. And he went to that restaurant. And
16 that's when I met him.

17 Q Did y'all start a dating relationship?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: Well, we -- a little bit of time was spent
21 dating, and then he came to my sister's house because that's
22 where I was living, I was living with my sister.

23 Q So you dated the defendant?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: Yes.

2 Q How long were y'all in a relationship?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: About -- we lasted about eight months in a
6 relationship.

7 Q Did y'all ever live together?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: Yes.

11 Q For about how long?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: We lasted about eight months. He would come
15 and go. One week he was in the house; one week he wasn't.

16 Q Would he keep clothes in the house with you?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Sometimes he would leave it. Sometimes he
20 would take it out.

21 Q Did y'all live together?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 A Yes.

25 Q Where was the house that y'all lived at together?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: I don't remember too well. I didn't know the
4 area too well.

5 Q Do you remember the town?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: What is in this town here, Walterboro. And
9 it's a trailer. And I know the name of the owner is Noelle. And
10 I do remember that the restaurant was about 10 minutes from the
11 house.

12 Q Okay. You just don't remember the exact address?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: No.

16 Q And I'm going to ask you what's probably a silly question,
17 but I have to ask it. Is Walter a boy or a girl?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: It's a man.

21 Q And are you a female or a male? Yeah, female or a male.

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: Female.

25 Q Thank you. You and Walter broke up; is that right?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: Yes. We had been separated about six months.

4 Q Who ended the relationship?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: I did.

8 Q How did Walter take you ending the relationship?

9 (Interpreter translates to the witness.)

10 (The witness answers.)

11 INTERPRETER: We didn't live too well together. He drank
12 too much, he used drugs too much. Things weren't going well for
13 us.

14 Q Did you eventually enter a new relationship?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Yes. The last time that we were together is
18 when he hit me, and I told him to leave the house. So he left
19 the house.

20 Q Did you -- no. My question was, did you get a new
21 boyfriend?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: Yes. After he left, I got together with a guy
25 that was from Miami.

1 Q What was that guy's name?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: Eduardo (phonetic sp).

5 Q Is that the guy in the bright yellow shirt in the footage we
6 saw?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: Yes, that's him. Yes.

10 Q And that house in the footage that we saw, [REDACTED] North Walter
11 Street here in Walterboro, is that the house that you lived in
12 with the new boyfriend?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: No.

16 Q That's not the house you were living in at the time?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: With Walter, no. It was another house.

20 Q Okay. The new boyfriend, Eduardo, is that correct?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: Yes.

24 Q Okay. The house on Walters Street that we saw in the
25 bodycam footage where the police responded on that day, is that

1 the house you lived at with the new boyfriend?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: Yes. I moved there so he wouldn't persecute
5 me anymore.

6 Q So on November 6th of 2019, the incident we're here today
7 for, can you tell me what you did that morning?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: I woke up that morning at 4:00 a.m. to cook
11 for my new boyfriend.

12 (The witness answers.)

13 INTERPRETER: Then I got my daughter ready.

14 (The witness answers.)

15 INTERPRETER: And I sent her to school.

16 Q What happened next?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: And I didn't lock the door, and went back to
20 bed. And then all of a sudden I hear footsteps coming in.

21 Q What happened next?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: So all of a sudden he just jumped on me, and
25 he grabbed me from the hair. And I could see something that

1 looked like a knife or a blade. And he was trying to take my
2 clothes off. I could tell he was trying to abuse me, and he was
3 trying to take off my clothes. And I was holding on to my
4 clothes, and he was trying to rip them off of me.

5 Q And when you say he, who are you talking about?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: Walter.

9 Q Do you see Walter Chicas Palacios in the courtroom?

10 (Interpreter translates to the witness.)

11 (The witness answers.)

12 INTERPRETER: Yes.

13 Q Can you point him out for the jury?

14 (Interpreter translates to the witness.)

15 (The witness answers.)

16 INTERPRETER: There. Over there with the white mask.

17 ATTORNEY KEENEY: Let the record reflect that she's
18 identified the defendant.

19 THE COURT: So noted.

20 Q So you said he was trying to take your clothes off. What
21 happened next?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: Then, you know, we struggled together, and I
25 tried to struggle with him. And he was saying to me, You gonna

1 pay for what you did.

2 Q Do you know what he meant by that?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Like he was jealous because I was with another
6 person.

7 Q What happened next?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: So he was beating me. And then he gave me a
11 hit and I slam against the wall, and I kind of like fainted. And
12 then I called the police.

13 Q Did anything else happen when he was trying to pull your
14 clothes off?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: No. Only that, you know, we were struggling
18 together. He was trying to take off my clothes. And he sliced
19 me -- and she pointed to both sides -- to try to take my clothes
20 off. and we were, the two of us, entrenched in each other for
21 about 20, 30 minutes, 25 minutes.

22 Q Were his clothes on or off?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: He had the zipper down.

1 Q Did he do anything else?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: Just that.

5 Q Did you see the pictures of your injuries that day?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: Yes.

9 Q So you saw the pictures of the injuries to your breast;
10 correct?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: Yes.

14 Q How did you get those injuries to your breast?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: All I remember, that I was in pain all over my
18 body. And because we were just kind of, like, wrestling with
19 each other, all I can remember is just the pain. I don't
20 remember anything else.

21 Q Do you know if he ---

22 ATTORNEY KEENEY: May I approach the witness?

23 THE COURT: Yes.

24 Q I'm going to show you what's been entered into evidence as
25 State's Exhibit 6.

1 (Interpreter translates to the witness.)

2 Q Do you recognize those injuries?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Yes.

6 Q What caused these injuries, and what is this from? Is it
7 from fingernails? Knives? Something else?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: He was trying to take my clothes off. And I
11 just know that he was just trying to take my clothes off. I know
12 he had a knife. But after that, I don't remember.

13 Q Do you remember seeing the picture, or have you seen the
14 picture, of the bruise on the back of your arm that day?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Yes.

18 (The witness answers.)

19 INTERPRETER: Yeah. And that was when he punched me. He
20 punched me here.

21 Q And have you seen the pictures of the injuries to your leg?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: Yes.

25 Q How did you get those injuries? Who did that to you?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: That was him trying to pull my shorts off,
4 because he was trying to pull it off and I was trying to hold on
5 to it.

6 Q Okay. So how did you get the marks to your leg, what caused
7 that?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: It was him with a knife, because he sliced my
11 clothes.

12 Q Did you see the pictures of the injuries to your back?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: Yeah, I saw them after when you showed me the
16 pictures.

17 Q How did you get those injuries?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: Well, in the struggle and the wrestling with
21 each other, that's how it happened. But as to what exactly
22 happened, I don't remember.

23 Q Did he have permission to come into your home that day?

24 (Interpreter translates to witness.)

25 (Witness answers.)

1 INTERPRETER: No, cause he had been threatening me and
2 threatening me. And he had no permission.

3 Q How did this all end? How did the altercation -- how did it
4 end?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: No, I don't understand.

8 Q After he was trying to pull your clothes off and caused
9 those injuries, what happened next?

10 (Interpreter translates to the witness.)

11 (The witness answers.)

12 INTERPRETER: The only thing I remember is that I ended up
13 in the hospital. That's the only thing I can remember now.

14 Q Do you remember how Walter left your house?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: No.

18 Q Do you remember going to the first hospital, Colleton
19 Medical?

20 (Interpreter translates to the witness.)

21 (The witness answers.)

22 INTERPRETER: I remember going to a hospital. I don't
23 remember which hospital.

24 Q Do you remember going to more than one hospital?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: No.

3 Q Do you remember going to Charleston, the investigator taking
4 you to Charleston?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: Yes. I remember, yeah, they took me to
8 Charleston.

9 Q When law enforcement got to your house was it hard to
10 communicate with them? Did they speak Spanish?

11 (Interpreter translates to the witness.)

12 (The witness answers)

13 INTERPRETER: No, they don't speak Spanish.

14 ATTORNEY KEENEY: Beg the Court's indulgence.

15 THE COURT: So I think we'll wait a second, I guess. The
16 lights went out.

17 Q You were in here when we played the bodycam footage,
18 correct, from the hospital?

19 (Interpreter translates to the witness.)

20 (The witness answers.)

21 INTERPRETER: Yes, I saw it.

22 Q So you ---

23 (Witness answers.)

24 INTERPRETER: But I didn't remember that.

25 Q Okay. Do you remember seeing yourself on the bodycam

1 footage in the hospital bed?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: I had not been left too well after that, so I
5 don't remember.

6 Q Can you repeat that? I'm sorry.

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: Like I just don't remember everything too
10 well. I wasn't doing too well, myself, after all this.

11 Q Okay. Do you remember making any statements about the
12 defendant's penis?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: Yes. I do remember that he was trying to put
16 his penis in my mouth. I do remember that.

17 Q But was he able to actually get it in your mouth?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: No, because I would cover myself with a
21 blanket.

22 ATTORNEY KEENEY: Beg the Court's indulgence. No further
23 question.

24 THE COURT: All right. Thank you. Yes, sir?

25 ATTORNEY MATHEWS: Thanks, Your Honor.

CROSS-EXAMINATION

1

2 BY ATTORNEY MATHEWS:

3 Q Ms. Peraza, do you usually go by Maria or do you go by
4 Carmen?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: Maria Del Carmen Peraza Flores.

8 Q I understand. Which name do you use when you're talking to
9 your friends?

10 (Interpreter translates to the witness.)

11 (The witness answers.)

12 INTERPRETER: Maria.

13 Q You were working at El Torito in Hardeeville when you met
14 Walter, or Alex?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Yes.

18 Q You also met at that time, or during that time you also met,
19 his sister, Iris; is that correct?

20 (Interpreter translates to the witness.)

21 (The witness answers.)

22 INTERPRETER: No, I didn't know her.

23 Q Okay. And so that woman right there, you don't know her?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: I got to know her after he got arrested and
2 she came to my house and threatened me.

3 Q I see. So you were never friends?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 INTERPRETER: Of course not.

7 Q But you dated Alex, or Walter, for eight months, you say?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: We were dating -- we were in a relationship
11 for about eight months.

12 Q Did you have sex?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: Yes.

16 Q You had sex with other people during that time, too; didn't
17 you?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: No.

21 Q You mentioned here under oath that you have one child here;
22 correct?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: Yes.

1 Q But you have four children altogether; is that correct?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: No, I have three. Two in Honduras and one
5 here.

6 Q Two in Honduras. Do they live with their father?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: No. They live with my mother-in-law.

10 Q With their father's mother?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: Yes.

14 Q You left with two of your kids behind, and you took one
15 child with you later. I think when you first came here you took
16 no children; is that correct?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Yes. I just brought my daughter with me.

20 Q When you left Honduras, you were still married; correct?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: No. It had been about five months that the
24 father of my children had gotten married to another woman.

25 Q Maria, what's your phone number?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: I don't know my phone number. I don't know.

4 But I think my attorney knows it, I think she knows what my phone
5 number is.

6 Q Okay. Did you tell the officer your phone number?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: That I remember, no. I don't remember.

10 Q Okay. So if she said you did, then she was lying, the
11 officer was lying?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: No. It's just like I said, I don't remember.
15 There's things I don't remember.

16 Q Okay. Do you have your phone here with you today?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: I have it there in the hotel.

20 Q In the hotel?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: Yes, where I'm being lodged.

24 Q All right. When you and Walter were dating did you send
25 each other messages?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: No. I cannot write. I can't write in English
4 or Spanish.

5 Q Okay. Can you leave voice messages?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: Voice messages, yes, and phone calls. But
9 what I use the most is phone calls.

10 Q Do you also send -- can you send images?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: No. I don't understand phones that well.

14 Q So you say you don't know how to use Facebook?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: No. I can't open up Facebook or what's up,
18 because I don't know how to read.

19 Q Okay. All right. You can't use Facebook. Obviously you
20 can't drive?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: No.

24 Q Can you count money?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: No. I don't know the numbers. Like, where I
3 work, I can't even do counting in my job.

4 Q I see. So how long was she a barmaid in Hardeeville?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: About a week, because I couldn't find no work
8 for about a week, because before I found a job with a girl.

9 Q She found a job with a girl and she was there a week?

10 (Interpreter translates to the witness.)

11 (The witness answers.)

12 INTERPRETER: The interpreter needs to ask what was said
13 last.

14 ATTORNEY MATHEWS: I'm sorry?

15 INTERPRETER: The interpreter needs to ask what was said
16 last. It got lost in translation and I couldn't remember what
17 you said.

18 Q Okay. I'm just asking her about her job history, some of
19 that. I mean, she can't count money. Can she take an order?
20 When somebody says, I'd like a hamburger, does she write that
21 down or come back and say, They ordered a hamburger?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: I talked to my boss about that. I told him,
25 Look, I don't know how to read or count. What I can do is do the

1 checks to the table.

2 Q And where is she working now?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: At a company named Lyken.

6 Q And what is her physical activity; what does she do for that
7 job?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: I put the biscuits in the oven. I do the
11 bacon and eggs. Everything that has do with cooking.

12 Q How many times would you suppose -- oh, at some point you
13 lived with your sister. Your sister's name is Iris; is that
14 correct?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Yes.

18 Q And Walter's sister is also named Iris?

19 (Interpreter translates to the witness.)

20 (The witness answers.)

21 INTERPRETER: Yes.

22 Q And you and Walter lived in your sister's house, and also at
23 one time, in Walter's sister's house?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: In my sister's house, Iris, yes.

2 Q She's denying that she lived with that Iris?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Only once we would go to visit to her house.

6 But live there, never.

7 Q How many times did she visit?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: One time.

11 Q One time, okay. How many times have you talked, spoken to
12 that Iris?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: We don't have communication.

16 Q So you have never talked to her on the phone; you have never
17 left her a voice message?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: No. No.

21 Q And you don't remember, also, your visit to Medical
22 University of South Carolina at all?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: No.

1 Q When you went to my Miami, how long had you been dating
2 Walter when you went to Miami? Or was that before? When did you
3 go to Miami?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 INTERPRETER: I have not gone to Miami.

7 Q She's never been to Miami?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: No.

11 Q You didn't tell the investigator for the solicitor's office
12 that you went to Miami?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: No. For me, go to Miami, no. The guy that
16 was with me, he was from Miami, he went to Miami.

17 Q Awe. But she's never been to Miami?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 A No.

21 Q And she never told any investigator at the solicitor's
22 office that she went to Miami?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: No, because I haven't gone to Miami. I don't

1 know anything about Miami.

2 Q Okay. All right. Are you married now?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: No.

6 Q How many times have you been married?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: Here in the United States, twice, and also
10 with the father of my children.

11 Q Okay, so three times?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: Married? Married, only once.

15 Q To the one in Honduras?

16 (Interpreter translates to the witness.)

17 (The witness answers.)

18 INTERPRETER: Yes.

19 Q So in the video where she says/refers to Eduardo in the
20 yellow shirt, that's her husband, that is not her husband?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: No, no. It's, you know, like we say in our
24 country, you know, we are dating but we're not married.

25 Q Was she having sex with the man in the yellow shirt?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: Yes.

4 Q And is that the same Eduardo or a different Eduardo than the
5 one who went to Miami?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: No, he's the same one.

9 Q You said today that you left the door unlocked; correct?

10 (Interpreter translates to the witness.)

11 (The witness answers.)

12 INTERPRETER: Yes.

13 Q But you told the solicitor's office and you told the
14 officers that it was Eduardo who left the door unlocked. Right?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Yes. He left it unlocked, and I didn't lock
18 it.

19 Q When is the last time you were pleasant with Walter?

20 (Interpreter translates to the witness.)

21 (The witness answers.)

22 INTERPRETER: It had been like about six months that we had,
23 we had been.

24 Q What month?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: That, I don't remember.

3 Q Okay. When you were back and forth between the Irises and
4 back and forth to different places, when is the last time -- did
5 you continue to do that after you broke it up?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: I was only there at my sister's house. Never
9 moved back and forth anywhere until I moved to Virginia.

10 Q When did you move to Virginia?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: It's going to be eight months, or maybe -- I
14 don't remember, maybe it's eight to nine months. Around eight or
15 nine months.

16 Q After you broke up with Walter -- when did you break up,
17 what month did you break up with Walter?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: I don't remember. I'm not going to lie and
21 tell you I know.

22 Q You're not going to lie?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: I don't remember.

1 Q Okay. You don't remember the month you broke up. Was it
2 hot or was it cold?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: It was hot around that time.

6 Q Maybe June of 2019?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: The two things, I don't remember. I don't
10 remember.

11 Q After you broke up, did you ever contact him again?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: No.

15 Q Were you aware that he had a girlfriend when he went to
16 Virginia?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: I never met any of his girlfriends.

20 Q Didn't ask if you met, I didn't ask you that. I asked if
21 she knew that he had one.

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: No, neither.

25 Q So there's no reason for you to have sent something to his

1 girlfriend, Wendy Morales (phonetic sp), in Virginia?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: No, of course not.

5 Q And the solicitor's office showed you, the investigator

6 there showed you, a message, a transcribed message from a

7 voicemail, and you don't recognize that?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: No. I have not seen something like that. My

11 conscious is clean before God.

12 Q I see.

13 (WHEREUPON, Defendant's Exhibit 6 is marked for

14 identification.)

15 ATTORNEY MATHEWS: May I approach the witness, Your Honor?

16 THE COURT: Yes, sir.

17 Q Ms. Flores, I'm handing you what's been marked Defendant's

18 Exhibit 6. Can you read the phone number?

19 (Interpreter translates to the witness.)

20 (The witness answers.)

21 INTERPRETER: Yes. It's a phone number. I don't know what

22 that phone number is. I don't know, I don't know anything about

23 that phone number.

24 Q You've never seen that phone number before?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: Well, I don't remember.

3 Q You don't remember?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 Q You don't remember if that is actually your phone number?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: No.

10 Q Are you able even to read where it says September 25th?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: I don't know how to read.

14 Q Okay. So even, how about the year 2019, can you read that?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: I don't know where it's at. I don't know.

18 Q I see.

19 ATTORNEY MATHEWS: May I approach, Your Honor?

20 THE COURT: Yes, sir.

21 ATTORNEY MATHEWS: These are already marked for

22 identification, Your Honor, as Defendant's 2, 3, 4 and 5.

23 THE COURT: Two, 3, 4 and 5, identification.

24 Q Ms. Flores, I'd ask you to look at/hold the exhibits marked

25 Defendant's 2, 3, 4 and 5.

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: What does this mean?

4 Q Is she able to recognize them?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: No, I don't recognize this.

8 Q You don't recognize those as your clothes?

9 (Interpreter translates to the witness.)

10 (The witness answers.)

11 INTERPRETER: No.

12 ATTORNEY MATHEWS: No further questions.

13 THE COURT: Redirect?

14 **REDIRECT EXAMINATION**

15 BY ATTORNEY KEENEY:

16 Q Do you remember watching the bodycam footage and seeing what
17 you were wearing that day?

18 (Interpreter translates to witness.)

19 (Witness answers.)

20 INTERPRETER: Yes.

21 Q And you remember law enforcement collecting those clothes at
22 the hospital?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: Yes.

1 Q I'm going to show you what's been marked, or what's been
2 entered, as State's Exhibit 13.

3 (Interpreter translates to the witness.)

4 Q Do you recognize this?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: Yes. That's what I was wearing that day.

8 Q Okay. And there's a picture that the defense attorney just
9 showed you.

10 (Interpreter translates to the witness.)

11 (The witness answers.)

12 INTERPRETER: Yeah. I didn't know. I didn't remember.

13 Q Does that refresh your memory? Does that look like it's the
14 same pair of shorts?

15 (Interpreter translates to the witness.)

16 Q Is that hard to tell?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Yeah. But I'm not sure if that's the same one
20 in the picture.

21 Q Okay. You weren't there when the defense attorney took this
22 picture; were you?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: No, ma'am.

1 Q But these, in fact, were the shorts you were wearing on the
2 day of the incident; correct?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Yes. Those are. Yes, those are.

6 Q I'm going to show you this tearing right here. Do you see
7 that?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: Yes.

11 Q What is that from?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: That's Walter with a knife when he was trying
15 to take off my clothes. And I was trying to hold on to my
16 clothes when he was trying to do that.

17 Q And what's this tearing right here on top?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: Yes. It was the same, with the knife.

21 Q You see this spot up here up top?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: That's blood.

25 Q That's your blood?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: Yes.

4 Q And was this blood on these shorts before the attack or did
5 Walter cause this blood to be on your shorts?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: No. It was when Walter -- because what
9 happened was that I cut my hand trying to grab my shorts and,
10 with a knife, I got cut. And I was holding on to them and
11 stained the shorts.

12 Q You see this spot right here?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: That's from my leg, where blood was coming out
16 from my leg.

17 Q And this spot right here towards the, sort of the, bottom of
18 the shorts, kind of mid bottom?

19 (Interpreter translates to the witness.)

20 (The witness answers.)

21 INTERPRETER: I was bleeding.

22 Q Okay. Is this the shirt that you were wearing on the day of
23 the incident?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: Yes, that's the one.
2 (The witness answers.)
3 INTERPRETER: Yes, that's it.
4 Q You see that spot right there ---
5 (Interpreter translates to the witness.)
6 (The witness answers.)
7 INTERPRETER: Yes.
8 Q --- on the back of the shirt?
9 (Interpreter translates to the witness.) .
10 (The witness answers.)
11 INTERPRETER: Yes.
12 Q What is that spot?
13 (Interpreter translates to the witness.)
14 (The witness answers.)
15 INTERPRETER: I don't know if it is blood. I'm not sure.
16 Q You're not sure about that one, okay. So this picture that
17 the defense attorney showed you ---
18 (Interpreter translates to the witness.)
19 (The witness answers.)
20 Q This is a picture that the defense attorney took, okay.
21 (Interpreter translates to the witness.)
22 Q You can maybe look at the brand of the shirt.
23 (Interpreter translates to the witness.)
24 (The witness answers.)
25 Q Sorry, you can't.

1 (Interpreter translates to the witness.)

2 Q Does it appear to be the same shirt?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Yeah, it kind of looks the same. Yeah.

6 Q But you just weren't present when the defense attorney took
7 this picture, so you don't really know; correct?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: No.

11 THE COURT: And this is which picture?

12 ATTORNEY KEENEY: I'm sorry. Defendant's Exhibit 4 for
13 identification only.

14 THE COURT: Okay.

15 Q Now, the defense attorney asked you if you remember going to
16 MUSC. You remember going to Charleston to the hospital; correct?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: I remember I went to the hospital. I don't
20 remember the name of the hospital.

21 Q Perfect. Thank you.

22 ATTORNEY KEENEY: No further questions.

23 THE COURT: Mr. Mathews?

24 ATTORNEY MATHEWS: Thank you, Your Honor.

25

RECROSS-EXAMINATION

1
2 BY ATTORNEY MATHEWS:

3 Q Okay. So at the hospital you talked to a nurse there;
4 right?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: Yes.

8 Q Both at Colleton and at Charleston; correct?

9 (Interpreter translates to the witness.)

10 (The witness answers.)

11 INTERPRETER: I remember speaking with a nurse, but I don't
12 remember how and when.

13 Q How many times have you ever been to the hospital? You have
14 three children, at least, so you've been that many times; right?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: To the hospital, I've only gone once to give
18 birth.

19 Q Okay. So you've been to -- how many times -- you've been to
20 two hospitals, at least, in South Carolina. Have you been to any
21 other hospitals in South Carolina?

22 (Interpreter translates to the witness.)

23 (The witness answers.)

24 INTERPRETER: I don't remember. I do remember that I've
25 gone several times to the hospital what I'm doing here.

1 Q And when you go to the hospital every single time they take
2 information from you; is that correct?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Yes.

6 Q They ask you why you're there?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: Yes.

10 Q They might take your heart rate or your blood pressure, but
11 they take some statistics from you; right?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: Yes. Yes.

15 Q When you saw the nurse at MUSC, she asked you what happened,
16 because that's what they always do at hospitals; right?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Yes.

20 Q Okay. You saw the bodycam, and they asked you what
21 happened; right?

22 (Interpreter translates to the witness.)

23 (The witness answers)

24 INTERPRETER: Yes.

25 Q You called 911, and they asked you what happened; right?

1 (Interpreter translates to the witness.)

2 (The witness answers.)

3 INTERPRETER: Yes.

4 Q When she called 911, she said -- you were cut in the leg;
5 right?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: No. I said a man has broken in and cut me
9 with a knife.

10 Q Cut me with a knife; right?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: Yes, cut me with a knife.

14 Q There was no gun? There was no gun?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Like I said, I was mostly asleep. The room
18 was dark. I could not see clear. I know he was carrying
19 something. I don't know what kind of weapon he was carrying, but
20 he was carrying something.

21 Q All right. And when the bodycam, the police got there, you
22 showed them all of your injuries; right?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: Yes.

1 Q You pulled down your pants to show your injuries there, and
2 you pulled your shirt up to show the injuries on the back and all
3 that; correct?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 INTERPRETER: Yes.

7 Q And then you talked to the nurse at Colleton in Walterboro
8 hospital, the hospital in Walterboro, and you said that he came
9 in immediately and put a knife to your head; right?

10 (Interpreter translates to witness.)

11 (Witness answers.)

12 INTERPRETER: Yes.

13 Q But you talked to another nurse and you said that he first
14 pulled you out of bed by your hair; is that correct?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: He grabbed me. And he had a knife. I grabbed
18 the knife, and I cut my fingers.

19 Q Okay. And you showed those finger cuts to the nurses there;
20 right?

21 (Interpreter translates to witness.)

22 (Witness answers.)

23 INTERPRETER: I don't remember if I did or did not show them
24 the marks. I was just very scared and very nervous.

25 Q I see. You just now said, just now just a moment ago with

1 the other attorney, that your fingers were cut. Before today had
2 ever you told that to anyone?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: I don't remember.

6 (The witness answers.)

7 INTERPRETER: I don't remember.

8 Q All right. When you then left to go to MUSC in Charleston
9 you mentioned, for the first time ever, that there was a gun;
10 right?

11 (Interpreter translates to witness.)

12 (Witness answers.)

13 INTERPRETER: I don't remember if I said that. What I did
14 talk about was the knife, because I could see that knife bright
15 and clear.

16 Q How many times have you talked to the investigators at the
17 prosecutor's office?

18 (Interpreter translates to the witness.)

19 (The witness answers.)

20 INTERPRETER: The interpreter needs to repeat what she said.
21 I could not understand.

22 Q How many times ---

23 INTERPRETER: No. I'm sorry. Her.

24 (Interpreter communicates to the witness.)

25 (The witness answers.)

1 INTERPRETER: I don't remember again, and I don't know how
2 to write, I don't know how to read. So I can't be taking notes
3 down to remember things I've done.

4 A Did you ever talk with an investigator at the solicitor's
5 office?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: Yes. It seems like I have spoken with
9 someone, but I don't remember too well. I don't know.

10 Q I see. Tell me about the broom. Tell me about the broom.

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: What do you mean?

14 Q At one point she told somebody that she fought Walter off
15 with a broom.

16 (Interpreter translates to the witness.)

17 (The witness answers.)

18 INTERPRETER: I wanted to hit him with a stick, but I did
19 not hit him with a stick.

20 Q You did not hit him with a broom?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: I wanted to hit him with a stick, but he
24 grabbed my hand. And because I know he had a knife, I got
25 scared, so I didn't want to keep trying.

1 Q All right. So if she told the people at the nurse on the
2 film that we all saw that he chased her off with a broom,
3 brookstick, that's not true?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 INTERPRETER: No. I was going to chase him with a stick.
7 And I grabbed the stick to hit him, but when I finally grabbed it
8 to chase him, he was not -- he was gone.

9 ATTORNEY MATHEWS: I think that's all I have for now, Your
10 Honor.

11 THE COURT: All right. You may step down. Thank you. All
12 right. We will go ahead and take our morning break. We'll take
13 about 10 minutes. Please do not discuss the case. Thank you.

14 (WHEREUPON, the jury is escorted out of the courtroom at
15 11:03 a.m.)

16 THE COURT: All right. We'll take about 10 minutes.

17 (WHEREUPON, court recessed at 11:04 a.m. and reconvened at
18 11:18 a.m.)

19 THE COURT: We're ready?

20 ATTORNEY KEENEY: Yes.

21 THE COURT: All right. Bring the jurors in.

22 (WHEREUPON, the jury was seated in the courtroom at
23 11:21 a.m.)

24 THE COURT: All right. We are ready for our next witness.
25 Solicitor, call your next witness.

1 ATTORNEY KEENEY: State calls Janette Ward.

2 follows:

3 CLERK OF COURT: Raise your right hand, left hand on the
4 Bible.

5 JANETTE WARD,

6 having first been duly sworn, was examined and testified as
7 follows:

8 CLERK OF COURT: Be seated on the witness stand. State your
9 name for the record, and spell last name, please.

10 THE WITNESS: Janet Ward, W-a-r-d.

11 ATTORNEY KEENEY: May it please the Court?

12 THE COURT: Yes, ma'am.

13 **DIRECT EXAMINATION**

14 BY ATTORNEY KEENEY:

15 Q Ms. Ward, where do you work?

16 A I work at the Medical University of South Carolina.

17 Q What's your position there?

18 A I am the forensic outreach nurse.

19 Q How long have you been there?

20 A I've been at MUSC since 2009. I have been with the forensic
21 program since approximately 2010 but, in a full-time role, since
22 2017.

23 Q And what is the forensic program?

24 A The clinical forensic program is a group of nurses who care
25 for patients who have been sexually assaulted, domestic violence,

1 intimate-partner violence and elder abuse.

2 Q And do you hold any certifications?

3 A Yes. I carry -- excuse me. I hold a certification, a SANE
4 certification.

5 Q What is SANE?

6 A SANE is a Sexual Assault Nurse Examiner.

7 Q So are you a registered nurse?

8 A I am a registered nurse. I graduated from nursing school in
9 2003.

10 Q On November 6 of 2019 how did you get involved in this case?

11 A I was on-call.

12 Q And who did you examine?

13 A May I?

14 Q Yes.

15 A Maria Flores.

16 Q Do you have in front of you her admission time, like, what
17 time she got there?

18 A 1/19.

19 Q And that's in the p.m.; correct?

20 A In the p.m., yes, ma'am.

21 Q What did you do? How did you examine her? Tell me about
22 that process.

23 A I'm sorry?

24 Q Tell me about the process of examining her.

25 A So when a patient is -- when we are called in to see a

1 patient that has been sexually assaulted, or domestic violence or
2 any of those things, we will meet with them in the emergency
3 room. We'll bring them back to our exam room where we will go
4 through some consents and talk to them about the process and
5 things like that.

6 In this case we needed to get an interpreter, so we paged
7 our hospital interpreting services and brought an interpreter
8 into the room.

9 Q And what was Maria Flores's demeanor that you observed?

10 A Her eyes were very downcast. She was tearful. She was --
11 she just appeared very, she appeared, scared. She appeared very
12 apprehensive to even really talk.

13 Q So was she kind of quiet?

14 A Very quiet.

15 Q So when you examined her did you make note of the injuries
16 that you saw?

17 A I did.

18 Q Can you tell us about those injuries.

19 A She had some injuries on her left arm. There was six linear
20 abrasions that were ranging in size from four centimeters to six
21 centimeters. And then she had a bruise that was six centimeters
22 by two centimeters.

23 Q And I'm going to stop you right here, and I'm going to show
24 you some pictures, okay.

25 ATTORNEY KEENEY: And I have showed these to defense

1 counsel, and I don't believe he has any objections.

2 May I approach the witness?

3 THE COURT: Yes.

4 ATTORNEY KEENEY: Thank you.

5 (WHEREUPON, State's Exhibit 18 is marked for
6 identification.)

7 Q I'm going to show you what's been marked as State's Exhibit
8 No. 18. Do you recognize this photo?

9 A Yes. That is of her left, upper arm, the contusion to her
10 left, upper arm.

11 Q And is that a fair and accurate depiction of the bruise to
12 her left, upper arm?

13 A Yes, ma'am.

14 Q And you took that picture?

15 A I did.

16 ATTORNEY KEENEY: At this time the state moves to admit
17 State's Exhibit No. 18 into evidence.

18 THE COURT: Any objection?

19 ATTORNEY MATHEWS: No objection, Your Honor. And I've seen
20 those photos, and I don't object to any of those.

21 THE COURT: It's entered.

22 (WHEREUPON, State's Exhibit 18 is entered into the record.)

23 (WHEREUPON, State's Exhibit 19 is marked for
24 identification.)

25

1 Q I'm going to show what's been marked as State's Exhibit
2 No. 19. Is that just a close-up picture?

3 A That's just a close-up picture of the same injury.

4 Q And that's a fair and accurate depiction?

5 A It is.

6 ATTORNEY KEENEY: At this time the state moves to admit
7 State's Exhibit No. 19 into evidence.

8 THE COURT: It will be entered, without objection.

9 (WHEREUPON, State's Exhibit 19 is entered into the record.)

10 (WHEREUPON, State's Exhibit 20 is marked for
11 identification.)

12 Q I'm showing you what's been marked as State's Exhibit
13 No. 20. What is that a picture of?

14 A That is the same injury, but we're using a measuring tool.
15 That is what helped us to get the exact measurements of the
16 injury.

17 Q And that's a fair and accurate depiction of the jury?

18 A It is.

19 ATTORNEY KEENEY: At this time the state moves to admit
20 State's Exhibit No. 20 into evidence.

21 THE COURT: It will be entered, without objection.

22 (WHEREUPON, State's Exhibit 20 is entered into the record.)

23 (WHEREUPON, State's Exhibit 21 is marked for
24 identification.)

25 Q And I'm showing you what's been marked as State's Exhibit

1 No. 21. Do you recognize this photo?

2 A Yes. That is of the left, upper arm and the front. And
3 it's abrasions that are -- there's six linear abrasions. The
4 abrasions go straight down, and they range from four to six
5 centimeters.

6 Q And that's a fair and accurate depiction?

7 A It is.

8 ATTORNEY KEENEY: At this time the state moves to admit
9 State's Exhibit No. 21 into evidence.

10 THE COURT: It will be entered, without objection.

11 (WHEREUPON, State's Exhibit 21 is entered into the record.)

12 (WHEREUPON, States Exhibit 22 is marked for identification.)

13 Q And I'm showing what's been marked as State's Exhibit
14 No. 22. Is that just a close-up of those ---

15 A Yes, ma'am.

16 Q --- same arm injuries?

17 A Yes, ma'am.

18 Q That's a fair and accurate depiction of those injuries?

19 A It is.

20 ATTORNEY KEENEY: At this time the state moves to admit
21 State's Exhibit No. 22 into evidence.

22 THE COURT: Without objection. It will be entered, without
23 objection.

24 (WHEREUPON, State's Exhibit 22 is entered into the record.)

25 (WHEREUPON, State' Exhibit 23 is marked for identification.)

1 Q And I'm showing you what's been marked as State's Exhibit
2 No. 23. Do you recognize this photo?

3 A I do. Same injuries, with the AFL ruler to --

4 Q That's how you measured?

5 A To measure, yes.

6 Q And that's a fair and accurate depiction?

7 A It is.

8 ATTORNEY KEENEY: At this time the state moves to admit
9 State's Exhibit No. 23 into evidence.

10 THE COURT: And that will be entered, without objection.

11 (WHEREUPON, State's Exhibit 23 is entered into the record.)

12 ATTORNEY KEENEY: Thank you. Permission to publish?

13 THE COURT: Yes, ma'am.

14 Q I'm just going put these pictures on the screen. This is
15 State's Exhibit No. 18. I'm going to put my finger right here.
16 Is that the bruise that you saw?

17 A It is.

18 Q And you measured that bruise?

19 A I did.

20 Q I'm going to show you State's Exhibit No. 19. That's a
21 close-up version of the bruise you saw?

22 A It is.

23 Q State's Exhibit No. 20. And that is the bruise that you
24 measured; correct?

25 A It is.

1 Q I'm going to show you State's Exhibit No. 21, her left,
2 upper arm. Is that the abrasion to her arm?

3 A Yes, ma'am.

4 Q That is State's Exhibit 21. State's Exhibit No. 22,
5 close-up picture of the same ---

6 A Yes, ma'am.

7 Q --- abrasion? And State's Exhibit No. 23, that's you with
8 your tape measure and measuring?

9 A Yes, ma'am.

10 Q Thank you. So moving on from her arm, the left, upper arm,
11 and the contusion that you saw, what is the next set of injuries
12 that you documented?

13 A The next set of injuries is to her left breast. There were
14 25 vertical, sharp, linear abrasions, and they ranged from four
15 centimeters to six centimeters. And then the ones that crossed,
16 they were horizontal, there were six of those that ranged from
17 two to two-and-a-half centimeters.

18 ATTORNEY KEENEY: Beg the Court's indulgence.

19 Q Was it five or six horizontal ones?

20 A I'm sorry. It is five.

21 ATTORNEY KEENEY: Okay. May I approach the witness?

22 THE COURT: Yes, ma'am.

23 (WHEREUPON, State's Exhibit 15 is marked for
24 identification.)

25

1 Q I'm going to show you what's been marked as State's
2 Exhibit No. 15. Do you recognize this photo?

3 A Yes.

4 Q What is that a photo of?

5 A Of the left breast.

6 Q Is that a fair and accurate depiction of what her left
7 breast looked like that day?

8 A It is.

9 ATTORNEY KEENEY: At this time the state moves to admit
10 State's Exhibit No. 15 into evidence.

11 THE COURT: Any objection?

12 ATTORNEY MATHEWS: No objection to any of the SANE nurse's
13 photos.

14 THE COURT: Entered, without objection.

15 (WHEREUPON, State's Exhibit 15 is entered into evidence.)

16 (WHEREUPON, State's Exhibit 14 is marked for
17 identification.)

18 Q Showing you what's been marked as State's Exhibit No. 14.
19 Do you recognize this picture?

20 A Yes.

21 Q What is that a picture of?

22 A It's the same, just a closer-up picture of the left breast.

23 Q And you can see the arm injuries, as well?

24 A You can.

25 Q That's a fair and accurate depiction of the injuries you saw

1 that day?

2 A It is.

3 ATTORNEY KEENEY: At this time the state moves to admit
4 State's Exhibit No. 14 into evidence.

5 THE COURT: Entered, without objection.

6 (WHEREUPON, State's Exhibit 14 is entered into the record.)

7 Q And I'm showing you what's been marked as State's
8 Exhibit No. 11. Do you recognize this picture?

9 A Yes.

10 Q What is that a picture of?

11 A That's a picture of the left breast, with a measuring tool.

12 Q And that's a fair and accurate depiction of the injuries you
13 saw that day?

14 A It is. Yes.

15 ATTORNEY KEENEY: At this time the state moves to move in
16 State's Exhibit No. 11 into evidence.

17 THE COURT: It will be entered, without objection.

18 (WHEREUPON, State's Exhibit 11 is entered into the record.)

19 ATTORNEY KEENEY: Thank you. Permission to publish?

20 THE COURT: Yes, ma'am.

21 Q I'm going to publish State's Exhibit No. 14. Those are the
22 injuries to the breast and the arm that you observed; correct?

23 A Yes.

24 Q And you counted the abrasions?

25 A Twenty-five vertical and five horizontal.

1 Q Okay. And then I am showing you what's been marked as
2 State's Exhibit No. 11. That is the breast injury; correct?

3 A It is.

4 Q Kind of a zoomed-in version?

5 A Yes, using measuring tools.

6 Q And then State's Exhibit No. 15 is the breast injuries taken
7 without the measuring tool?

8 A That's correct.

9 Q Moving on from the left breast injury, what is the next set
10 of injuries that you documented?

11 A Her back. To the right of the midline, 18 sharp, course
12 linear abrasions ranging from two centimeters to seven
13 centimeters, approximately.

14 ATTORNEY KEENEY: May I approach the witness again?

15 THE COURT: Yes, ma'am.

16 (WHEREUPON, State's Exhibit 16 is marked for
17 identification.)

18 Q I'm going to show you State's Exhibit No. 16. Do you
19 recognize this photo?

20 A Yes. That is a picture of the right side, with the
21 horizontal abrasions.

22 Q Or the back injury?

23 A The back injury.

24 Q And that's a fair and accurate depiction of her back
25 injuries that day?

1 A It is. Yes.

2 ATTORNEY KEENEY: Thank you. At this time the state moves
3 in State's Exhibit No. 16 into evidence.

4 THE COURT: Any objection? He said no objection to any of
5 these?

6 ATTORNEY KEENEY: Correct.

7 THE COURT: All right. It will be entered, without
8 objection.

9 (WHEREUPON, State's Exhibit 16 is entered into the record.)

10 (WHEREUPON, State's Exhibit 17 is marked for
11 identification.)

12 Q And I'm showing you what's been marked as State's Exhibit
13 No. 17. I think that's the right way, right?

14 A Yes.

15 Q What is that a picture of?

16 A That's a picture of the same injury to her back with a
17 measuring tool.

18 Q And so you counted all those?

19 A I counted all of those.

20 Q Okay.

21 ATTORNEY KEENEY: At this time the state moves to admit
22 State's Exhibit No. 17 into evidence.

23 THE COURT: It will be entered, without objection.

24 (WHEREUPON, State's Exhibit 17 is entered into the record.)

25 ATTORNEY KEENEY: Thank you. Permission to publish?

1 Q I'm going to publish State's Exhibit No. 16. And those are
2 the 18; is that correct?

3 A Eighteen. Yes, ma'am.

4 Q Eighteen abrasions. And now I'm publishing State's Exhibit
5 No. 17, which is kind of a clear, zoomed-in version with your
6 measuring tool. Correct?

7 A Yes, ma'am.

8 Q Thank you. Okay. Moving on from the back, what's the next
9 set of injuries that you identified?

10 A The suprapubic area. We observed some multiple sharp
11 abrasions, roughly seven centimeters.

12 Q Did you count those abrasions?

13 A Yes, ma'am.

14 Q And what's a suprapubic area? What are you referring to?

15 A Suprapubic is the area just below the stomach, just below
16 the waste, actually, getting ready to go into the genitalia.

17 Q Okay.

18 ATTORNEY KEENEY: May I approach the witness again?

19 THE COURT: Yes, ma'am.

20 Q I'm going to show you what's been marked as State's
21 Exhibit No. 12. Do you recognize this photo?

22 A Yes.

23 Q What is that a photo of?

24 A That is the photo of the suprapubic area with the abrasions.

25 Q Okay. Is that a fair and accurate depiction of the injuries

1 you saw that day?

2 A Yes, ma'am.

3 ATTORNEY KEENEY: At this time the state moves to enter
4 State's Exhibit No. 12 into evidence.

5 THE COURT: Entered, without objection.

6 (WHEREUPON, States Exhibit 12 is entered into the record.)

7 (WHEREUPON, State's Exhibit 24 is marked for
8 identification.)

9 Q And now I'm showing you what's been marked as State's
10 Exhibit No. 24. Do you recognize this picture?

11 A Yes. That's the same area, with a measuring tool.

12 Q And that's a fair and accurate depiction of the injury you
13 saw that day?

14 A It is.

15 ATTORNEY KEENEY: At this time the state moves to admit
16 State's Exhibit No. 24 into evidence.

17 THE COURT: It will be entered, without objection.

18 (WHEREUPON, State's Exhibit 24 is entered into the record.)

19 Q And did you count those abrasions?

20 A No, not as a number. Just multiple. You can see there are
21 multiple, different ones that go across.

22 Q Okay.

23 ATTORNEY KEENEY: Permission to publish?

24 THE COURT: Yes, ma'am.

25

1 Q I'm going to publish State's Exhibit No. 12. I'm going to
2 put my finger kind of in the area. Those are the abrasions you
3 observed that day?

4 A Yes, ma'am.

5 Q And now I'm going to publish Exhibit No. 24. Kind of hard
6 to see in the lighting, but kind of placing your measuring tool
7 over the abrasions; correct?

8 A That's correct.

9 Q And remind me, did you testify about the measurements of
10 those abrasions?

11 A Yes. They were approximately seven centimeters in length.

12 Q I'm going to show you what's already been entered into
13 evidence State's Exhibit No. 7, which is identified as pictures
14 of her legs. Did you see those injuries that day?

15 A I did not.

16 Q You just did not?

17 A I did not. She showed me where her injuries were. And I
18 would have taken photos had I saw those.

19 Q For whatever reason. Do you remember what she was wearing
20 when she was getting examined?

21 A I don't remember. I think that there -- I think she had
22 full clothing. I don't think that she had a gown on at that
23 time.

24 Q Okay.

25 A We typically will do a lot before.

1 Q So you never even got a chance to count those abrasions?

2 A No, ma'am.

3 Q And did you observe any injuries kind of towards her lower
4 back, kind of, area?

5 A No, ma'am. Just the ones on the right side.

6 Q So you didn't even get a chance to count those injuries
7 identified in State's Exhibit No. 9, either; did you?

8 A No, I did not.

9 (WHEREUPON, State's Exhibit 25 is marked for
10 identification.)

11 Q Okay. I'm going to show you what's been marked as State's
12 Exhibit No. 25. Do you recognize this document?

13 A Yes. That's just a, just an, overall picture of the
14 injuries that I had taken photos of, just looking at the body.

15 Q Is that a fair and accurate depiction of the, kind of,
16 diagram of, like, locations of injuries ---

17 A Yes.

18 Q --- that you personally observed?

19 A Yes, ma'am.

20 ATTORNEY KEENEY: Okay. At this time the state moves to
21 admit State's Exhibit No. 25 into evidence.

22 ATTORNEY MATHEWS: Without objection, Your Honor.

23 THE COURT: It will be entered, without objection.

24 (WHEREUPON, State's Exhibit 25 is entered into the record.)

25

1 Q And the point of this document is that just so that you can
2 kind of see, you know, a body, and kind of, instead of just
3 photos?

4 A That's right.

5 Q So up top, is that what you're identifying as the breast
6 injury; correct?

7 A Yes.

8 Q And then arm injury is over here, as well?

9 A Yes.

10 Q And then the suprapubic area where this line is I'm pointing
11 to; is that correct?

12 A Yes.

13 Q And then the back of the arm is a bruise; correct?

14 A That's right.

15 Q And then the lower back, or the back injuries, are right
16 there; correct?

17 A Yes.

18 ATTORNEY KEENEY: No further questions.

19 THE COURT: All right. Thank you. Yes, sir?

20 ATTORNEY MATHEWS: Thank you, Your Honor.

21 **CROSS-EXAMINATION**

22 BY ATTORNEY MATHEWS:

23 Q Ms. Ward, where did you get your nursing degree?

24 A I obtained my registered nursing degree at Hocking College
25 in Nelsonville, Ohio, back in 2003.

1 Q Okay. And every year you take courses, continuing education
2 courses?

3 A Right.

4 Q Or every couple of years, anyway?

5 A Every couple of years.

6 Q Do you take any of those with the Lowcountry Area Health
7 Education Center?

8 A Sometimes we'll take some of them.

9 Q My wife is the director there, that's why I mentioned that.
10 And what's the difference between a SANE nurse and a regular R.N?
11 Did you take additional training to do that?

12 A We did. To become A SANE nurse, you'll take a 40-hour
13 didactic, which is classroom time that you will learn all of, I
14 always call it, the pieces and parts of being a sexual assault
15 nurse, followed by a preceptorship, that you work with an
16 experienced nurse to kind of learn, to learn, how to care for the
17 patient.

18 And then once that you have gone through all of that, then
19 you become able to start seeing patients on your own.

20 Q Thank you. And what are the kinds of things that you
21 typically do? Obviously you document. And I suppose you take a
22 history, as well?

23 A Yes, sir.

24 Q And under what circumstances do you take swabs?

25 A That is when a sexual assault occurs. That's when we would

1 obtain swabs.

2 Q If they appeared to you wearing clothing that may have been
3 torn or something like that, would you also take that and give it
4 to law enforcement?

5 A Actually, we don't give give -- we package all of our stuff
6 on our own. We don't give our stuff to law enforcement.

7 Q All right. It wouldn't surprise you, though, that when
8 Ms. Flores showed up, she showed up wearing clothes other than
9 what she alleged she was assaulted in, because she was seen first
10 at Colleton County Medical Center?

11 A Correct.

12 Q And when would you take a swab and when would you not? You
13 said when it's all -- so if she says nothing ever happened, I
14 mean, there wasn't any ejaculate or anything like that and she's
15 not wearing the clothes to check, you wouldn't you have the need
16 to take a swab?

17 A The only reason that we would take a swab is if the patient
18 disclosed to us that she had been sexually assaulted. She did
19 not disclose that she had been sexually assaulted.

20 Q All right.

21 ATTORNEY MATHEWS: Your Honor, may I approach?

22 THE COURT: Yes, sir.

23 (WHEREUPON, Defendant's Exhibit 7 is marked for
24 identification.)

25

1 Q I have handed you what has been marked as Defendant's
2 Exhibit No. 7 ---

3 A Uh-uh.

4 Q --- and ask if you are able to identify that.

5 A Yes. This is a part of the documentation that I would have
6 obtained the day that I saw Ms. Flores.

7 Q And would you read what she told you happened?

8 A In the narrative?

9 Q Yes. And where it says narrative, if you would read what
10 you had written there.

11 A Patient states, I had got up early to send my parter to work
12 and my daughter to school. I was in my bedroom and the front
13 door was unlocked.

14 He, Walter, came inside and came to my bedroom. He was
15 trying to get me to take my pants and underwear off. I kept
16 saying, No, no, no. He had a knife and he was trying to cut them
17 off. He cut me here instead, and that's when she pointed to her
18 suprapubic area. I would not let him get to me. He was waving a
19 gun at me. He grabbed my arm, he scratched my arm and my breast,
20 he scratched me on my back. I was screaming, and he finally
21 left.

22 I was cleaning my wounds when my friend called and I told
23 her to help me, I need to go to the hospital.

24 Q Okay. She didn't disclose in there that she called 911, but
25 whether that happened or not, you don't know?

1 A I don't know.

2 Q And then you have methods employed by the assailant. And
3 what weapons do you have listed as being used?

4 A A knife and a firearm.

5 Q Did she indicate to you at any point that her hair had been
6 pulled?

7 A She did not.

8 Q Did she indicate to you that he had hit her at all, any
9 blows?

10 A No blows.

11 Q And you did not do a SANE exam because she said there was
12 not an actual sexual assault?

13 A That's right.

14 ATTORNEY MATHEWS: I don't have anything further.

15 THE COURT: All right. Yes, ma'am?

16 **REDIRECT EXAMINATION**

17 BY ATTORNEY KEENEY:

18 Q When you were interacting with Maria, you testified earlier
19 she wasn't very talkative. Correct?

20 A No, she was not.

21 Q So when you asked her questions, how did that process go?
22 Was she, like, blabbing out every single detail, or was she more
23 reserved?

24 A She was very reserved. I would ask a question, and she
25 would give me a direct answer with, most often with, her eyes

1 downcast. As I had stated earlier, appeared to be quite
2 frightened.

3 ATTORNEY KEENEY: Thank you. No further questions, Your
4 Honor.

5 THE COURT: All right. You may step down. Any objection to
6 this witness being excused?

7 ATTORNEY KEENEY: No, Your Honor.

8 ATTORNEY MATHEWS: No, Your Honor.

9 THE COURT: All right, ma'am, you're free to here. Thank
10 you.

11 THE COURT: All right. Call your next witness.

12 ATTORNEY KEENEY: Your Honor, at this time the state rests.

13 THE COURT: All right. Ladies and gentlemen of the jury,
14 the state has rested its case, meaning called all their
15 witnesses. At this time I am going to send you back into the
16 jury room. There's a matter of law that I need to take up
17 outside of your presence.

18 Please do not discuss the case. And we will bring you back
19 in shortly. All right. Thank you.

20 (WHEREUPON, the jury is escorted out of the courtroom at
21 11:54 a.m.)

22 MATTER(S) OF LAW

23 THE COURT: All right. I will be glad to entertain any
24 motions.

25 ATTORNEY MATHEWS: Thank you, Your Honor. I would move to

1 dismiss. The facts taken in the light most favorable to the
2 state do not, as to the domestic violence of a
3 high-and-aggravated nature, I don't know that they established a
4 cohabitation of a family member, a family household member.

5 As far as the high-and-aggravated part, there are scratches.
6 Again, they may be just a matter of whether the jury's just going
7 to believe it. I don't believe it.

8 I don't know that the state has established either a
9 household member or that there was an aggravation, also, as to
10 the charges. Let me see the charges that we're left with.

11 So I'd move to dismiss on those charges.

12 THE COURT: Dismissing the domestic violence of a
13 high-and-aggravated nature; is that it?

14 ATTORNEY MATHEWS: Yes, ma'am.

15 THE COURT: All right. Yes, ma'am?

16 ATTORNEY KEENEY: Thank you, Your Honor. The victim
17 testified that, as to the statute and how it's defined as
18 household member, a male and a female cohabiting together, she
19 testified that she lived with the defendant and that there was a
20 sexual relationship.

21 And obviously the silly question that I asked her, Are you a
22 male, female?, I believe that's enough to go to the jury.

23 And with respect to the high-and-aggravated nature of
24 domestic violence, so 16-25-65 says that, if you can prove
25 16-25-20(A), which is like the baseline element, a household

1 member caused physical injury to another household member, we're
2 talking about the physical injury that was caused.

3 To make it high and aggravated, I have to show that it was
4 committed under -- committed the offense under circumstances
5 manifesting extreme indifference to the value of human life and
6 great bodily injury to the victim. We're not under that
7 subsection. That's part 1.

8 Or, we're under part 2, which is commit the offense with or
9 without an accompanying battery and under circumstances
10 manifesting extreme indifference to the value of human life, and
11 would reasonably cause a person to fear imminent, great bodily
12 injury.

13 That's the section we're under. So you don't even have,
14 with or without accompanying battery, for it to be high and
15 aggravated; you just have to think a person in fear of great
16 bodily injury.

17 Now, they also define great bodily injury, by statute, which
18 is severe death or loss of life. I think that it can be argued
19 to the jury that, you know, him brandishing a knife, trying to
20 cut her everywhere, would cause a reasonable person to fear that
21 they are likely to be in danger.

22 Now, with respect to the extreme indifference to the value
23 of humane life, the legislature has set out in subsection D of
24 16-25-65 examples, which, one, uses a deadly weapon, which our
25 case law has shown that fists can be a deadly weapon. I've got a

1 case if Your Honor wants to look at that. And I've got cases
2 that talk about pocketknives can be deadly weapons.

3 I'm relying on *State v. Bennett*, which is a Supreme Court
4 case, 328 S.C. 251. It talks about fists can be deadly weapons.
5 That's a question of fact for the jury. Would you like the case,
6 Your Honor?

7 THE COURT: If you have a copy.

8 ATTORNEY KEENEY: That's about the fists. And then *State*
9 *v. Keith* which is 283 S.C. 597, this case talks about even a
10 pocketknife being a deadly weapon.

11 That's one way to use a deadly weapon. That's one way to
12 prove extreme indifference.

13 The other way is committing the offense during the
14 commission a burglary, which is what he's charged with and what
15 she's testified occurred. And that's about it.

16 Viewing in the light most favorable to the state with
17 respect to the domestic violence charge, I'm not sure if I heard
18 a directed verdict motion for the other offenses. But I can
19 gladly go into that, if need be.

20 ATTORNEY MATHEWS: Sure, why not? If she can go into it and
21 make an effort, for the record, I think there probably is
22 evidence of it. It is believed. But, for the record, I'll go
23 ahead and make that for the assault charge.

24 THE COURT: All right. I've taken a look at the statute.
25 And in looking alter the statute, the purposes of, and it's

1 16-25-65, I'm looking at (A) (2), and 16-25-65(D) (1) and (D) (5),
2 this Court does find that, in the light most favorable to the
3 nonmoving party, that the state has presented evidence indicia
4 enough to survive a directed verdict, specifically in looking at
5 the circumstances in terms of extreme indifference. The
6 testimony regarding the knife, a knife is, case law -- she handed
7 up the case, much case law, that says that a knife is a deadly
8 weapon.

9 And then also (D) (5), which refers to the charge of
10 committing an offense during the commission of a robbery,
11 burglary, kidnapping or theft, and he is charged with burglary.
12 Here, there's testimony, sufficient testimony here today or
13 yesterday, regarding him entering the home.

14 In terms of household member, the statute says that a
15 household member is a person that, male or female, have
16 previously lived together. Who have formerly cohabitated or
17 lived together. So I think that, based on the testimony, they
18 clearly fall under a household member.

19 And so for those reasons, I am going to deny the motion for
20 directed verdict.

21 As to the domestic violence, high-and-aggravated nature, in
22 that indictment and the other two indictments, I find that there
23 is sufficient evidence presented. And I will respectfully deny
24 the motion.

25 And to a directed verdict for the assault with the intent to

1 commit criminal sexual conduct, and also the burglary-first
2 charge.

3 All right. Any other motions?

4 ATTORNEY MATHEWS: No other motions, Your Honor. I think
5 this might be a good time -- I have not discussed in detail; I
6 have, I believe, discussed, at some point, with Mr. Chicas his
7 right to testify.

8 And I'm not sure how he feels, as it's been some time. I
9 would advise him not to, but I would want the Court inquires with
10 him. And this seems like a good time to.

11 THE COURT: Yes. That's exactly what I was planning on
12 doing, advising him of his rights to testify. We can have
13 Mr. Palacios sent up and put him under oath.

14 ATTORNEY MATHEWS: Your Honor, in the middle of getting an
15 answer to something I asked, because of the delay, I had already
16 ---

17 THE COURT: Okay, go ahead.

18 ATTORNEY MATHEWS: If I can have 30 seconds.

19 THE COURT: Finish talking with him.

20 ATTORNEY MATHEWS: Okay, Your Honor. I believe he's ready
21 for the Court's inquiry.

22 DEFENDANT'S FIFTH AMENDMENT RIGHTS

23 THE COURT: All right, thank you. I need to have him stand
24 and raise his right hand.

25

1 WALTER ALEXANDER CHICAS PALACIOS,

2 (with Translator Alfredo Ayala)

3 having first been duly sworn, was examined and testified,
4 outside of the presence of the jury, as follows:

5 ATTORNEY MATHEWS: Your Honor, I apologize. I would like --
6 may I have, you know, five minutes to talk? There are a couple
7 of questions that I had not asked him that I would like to ask.
8 This is my fault. The jury's out, so the only ones suffering ---

9 THE COURT: So what I would normally do, is I will read him
10 his rights, and then I'll give him an opportunity to talk to his
11 attorney. And then I'll give you an opportunity to say whether
12 he wishes to testify or not.

13 **EXAMINATION BY THE COURT**

14 BY THE COURT:

15 Q You are Mr. Walter Alexander Chicas Palacios. Is that
16 correct?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Yes.

20 Q At this time I am going to explain to you certain of your
21 rights. If you do not understand anything I say, please let me
22 know. If you want me to explain anything in more detail, please
23 let me know. Do you understand?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: Yes.

2 Q We have now reached the stage of the trial where you may
3 present your defense.

4 (Interpreter translates to the witness.)

5 Q You have the right to claim the protections given to you by
6 the Fifth Amendment to the Constitution of the United States.

7 (Interpreter translates to the witness.)

8 Q This amendment states, in part, no person shall be compelled
9 in any criminal case to be a witness against himself.

10 (Interpreter translates to the witness.)

11 Q This means that you cannot be required to testify in this
12 case.

13 (Interpreter translates to the witness.)

14 Q You have the right to testify on your own behalf.

15 (Interpreter translates to the witness.)

16 Q However, no one can make you testify.

17 (Interpreter translates to the witness.)

18 Q This is a personal right, and no one can waive this right
19 except you.

20 (Interpreter translates to the witness.)

21 Q If you decide to testify ...

22 (Interpreter translates to the witness.)

23 Q --- you will be subject to the same rules that govern other
24 witnesses.

25 (Interpreter translates to the witness.)

1 Q And you may be examined and cross-examined on any relevant
2 issue in this case.

3 (Interpreter translates to the witness.)

4 THE COURT: Does he have any convictions?

5 ATTORNEY KEENEY: Yes.

6 Q In addition, if you have any convictions involving
7 dishonesty or false statements, or for crimes punishable by
8 imprisonment for more than one year ...

9 (Interpreter translates to the witness.)

10 Q --- and this Court determines that the probative value of
11 admitting this evidence ...

12 (Interpreter translates to the witness.)

13 Q --- outweighs its prejudicial effect to you ...

14 (Interpreter translates to the witness.)

15 Q --- the solicitor will be able to introduce your record to
16 attack your credibility.

17 (Interpreter translates to the witness.)

18 Q If you decide to testify ...

19 (Interpreter translates to the witness.)

20 Q --- this decision on your part must be freely, voluntarily
21 and intelligently made ...

22 (Interpreter translates to the witness.)

23 Q --- with knowledge of the protection given to you by the
24 Fifth Amendment and the consequences of your decision to testify.

25 (Interpreter translates to the witness.)

1 Q If you decide not to testify ...

2 (Interpreter translates to the witness.)

3 Q I will instruct the jurors that they cannot give the fact
4 that you did not testify any consideration whatsoever.

5 (Interpreter translates to the witness.)

6 Q And that there is to be absolutely no prejudice to you
7 because you did not testify.

8 (Interpreter translates to the witness.)

9 Q It is left entirely up to you whether or not you testify.

10 (Interpreter translates to the witness.)

11 Q You may talk with your attorney, your family and friends ...

12 (Interpreter translates to the witness.)

13 Q Or anyone else ...

14 (Interpreter translates to the witness.)

15 Q --- but the final decision will be left entirely up to you.

16 (Interpreter translates to the witness.)

17 Q Do you understand what I've explained to you?

18 INTERPRETER: Repeat.

19 Q Do you understand what I have explained to you?

20 (Interpreter translates to the witness.)

21 (The witness answers.)

22 INTERPRETER: Yes, of course.

23 Q Do you have any questions about what I have explained to
24 you?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: No.

3 Q All right. And do you wish to talk with your lawyer at this
4 time regarding whether you should testify?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: Yes.

8 THE COURT: All right. We will give you -- how much time do
9 you need? And there's no rush, Mr. Mathews.

10 ATTORNEY MATHEWS: Your Honor, I say five. I don't think
11 I'll use the whole five minutes. I've made a decision, but I
12 need to discuss it. I think probably five minutes should be
13 fine.

14 THE COURT: All right. So we will take about five minutes
15 to give you an opportunity to speak with your client, and then
16 we'll come back. Thank you.

17 ATTORNEY MATHEWS: Thank you, Your Honor.

18 (WHEREUPON, court recessed at 12:13 p.m. and reconvened at
19 12:26 p.m.)

20 MATTER(S) OF LAW

21 THE COURT: All right. We just took a break.

22 Mr. Palacios, have you had an opportunity to speak to your
23 attorney? Have you had an opportunity to speak to your attorney?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: Yes.

2 THE COURT: And, Mr. Mathews, does he wish to testify?

3 ATTORNEY MATHEWS: My understanding is he does not wish to
4 testify.

5 THE COURT: Is that correct, sir, you do not wish to
6 testify?

7 (Interpreter translates to the witness.)

8 (The witness answers.)

9 INTERPRETER: Yes.

10 Q All right, thank you.

11 THE COURT: All right. I guess just for housekeeping
12 purposes, do you plan on calling any other witness?

13 ATTORNEY MATHEWS: Yes, ma'am. I am going to call Iris
14 Chicas Palacios. I don't think it will be very long.

15 THE COURT: Okay. I'll bring the jury back in, and then
16 we'll hear from her, and we'll take a break. And I'll send them
17 out to lunch.

18 I have some jury charges which I'll go over real quick. I
19 was initially hoping I can have them back at 2:00 and that we
20 could go over the jury charges. She's going to print them. Like
21 I said yesterday, she pretty much threw everything in there. It
22 shouldn't take us more than 30 minutes or so.

23 ATTORNEY KEENEY: I do, I know he's saying he's planning on
24 calling his sister. I am just guessing that he is going to try
25 to enter in some text messages that he might have. We did

1 file ---

2 THE COURT: He's saying no.

3 ATTORNEY KEENEY: He's not?

4 ATTORNEY MATHEWS: No. I'm going ask what she saw. But in
5 terms of actually the text messages themselves, she was not
6 connected to those; those were other people who are not
7 available. Wendy Morales had some of them were forwarded to my
8 client. He can testify to them, but he's not going to testify.

9 She's going to testify to things that were said to her and
10 messages that were sent to her. But there are no physical,
11 there's nothing to introduce other than her testimony.

12 ATTORNEY KEENEY: Okay.

13 THE COURT: All right.

14 ATTORNEY KEENEY: Thank you. My apologies, Your Honor.

15 THE COURT: Okay. Okay. Are we ready?

16 ATTORNEY MATHEWS: Yes, ma'am.

17 THE COURT: Let's bring them on in.

18 ATTORNEY KEENEY: Your Honor, I'm so sorry. Can we hold the
19 jury?

20 THE COURT: Can you hold the jury?

21 ATTORNEY KEENEY: My brain was spinning. I was trying to
22 process everything. They're not here; right?

23 THE BAILIFF: Are you ready?

24 THE COURT: No.

25 ATTORNEY KEENEY: Sorry. I just didn't want them to hear

1 anything.

2 THE COURT: Yes.

3 ATTORNEY KEENEY: I was, like I said, processing what he was
4 saying about what she was planning on testifying, which is that
5 she saw text messages that my victim allegedly sent to someone
6 else.

7 ATTORNEY MATHEWS: No. No. Text messages that she sent to
8 her, no third-party stuff. It's stuff that she said to her, said
9 to her and sent to her. Nobody else is involved.

10 ATTORNEY KEENEY: Can I see the text messages?

11 ATTORNEY MATHEWS: I don't have them. They're what she saw.
12 She talked about it, and she told you about one of them.

13 ATTORNEY KEENEY: Okay. Yes.

14 THE COURT: All right. Are we ready?

15 ATTORNEY KEENEY: Yes.

16 THE COURT: All right. Bring them on in.

17 (WHEREUPON, the jury is seated in the courtroom at
18 12:31 p.m.)

19 THE COURT: All right. Ladies and gentlemen of the jury, as
20 you heard before we took our break, which took a little bit
21 longer than I expected, the state has rested.

22 At this time I will ask the defense if they have any
23 witnesses to call. And as, I think, I explained to you all
24 earlier, the burden is upon the state to prove the defendant
25 guilty beyond a reasonable doubt. And so the defendant is not

1 required to call any witnesses. However, if he wishes to call
2 any witnesses, now is the time to do so.

3 So I will turn to Mr. Mathews. And Mr. Mathews, does your
4 client wish to call any witnesses?

5 ATTORNEY MATHEWS: Yes, Your Honor. Iris Chicas Palacios.

6 THE COURT: All right. Thank you.

7 IRIS CHICAS PALACIOS,

8 (With Interpreter Rebecca McCann)

9 having first been duly sworn, was examined and testified as
10 follows:

11 THE COURT: And you saw earlier, Ms McCann was sworn in as
12 an interpreter. And she will be the interpreter for this
13 witness.

14 CLERK OF COURT: State your name for the record. Spell your
15 last name.

16 INTERPRETER: (Rebecca McCann) Good afternoon.

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: My name is Iris Chias Palacios.

20 **DIRECT EXAMINATION**

21 BY ATTORNEY MATHEWS:

22 Q How are you today, Iris?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: Very well, thank you.

1 Q You live in Hardeeville?

2 (Interpreter translates to the witness.)

3 (The witness answers.)

4 INTERPRETER: Yes, sir.

5 Q How long have you lived in Hardeeville?

6 (Interpreter translates to the witness.)

7 (The witness answers.)

8 INTERPRETER: Two-and-a-half years.

9 Q And is Walter Alexander Chicas Palacios, is that your
10 brother?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: Yes.

14 Q Did you also know Maria Del Carmen Peraza Flores?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Yes. Carmen, as we know her.

18 Q And how long have you known Carmen?

19 (Interpreter translates to the witness.)

20 (The witness answers.)

21 INTERPRETER: Since 2019.

22 Q And how did you come to meet her?

23 (Interpreter translates to the witness.)

24 (The witness answers.)

25 INTERPRETER: I met her because my brother brought her to my

1 house.

2 Q And did you become friends?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: Yes, sir.

6 Q And how frequently, how many times, do you think you saw
7 Carmen?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: Many times.

11 Q Did she, in fact, stay at your house for some period of
12 time?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: Yes.

16 Q About how long?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Sometimes she would come to my house and spend
20 two or three days.

21 (The witness answers.)

22 INTERPRETER: And sometimes she was and then wasn't in the
23 house, was about a month.

24 Q She was back and forth?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: Yes.

3 Q And did you talk to each other on the phone sometimes?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 INTERPRETER: Yes.

7 Q Did she also sometimes send voice messages to you?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: Yes.

11 Q At one time did she talk to you about her life in Honduras?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: Yes.

15 Q What did she tell you?

16 (Interpreter translates to the witness.)

17 (The witness answers.)

18 INTERPRETER: Should I tell you?

19 Q Related to her husband there.

20 (Interpreter translates to the witness.)

21 A Okay.

22 INTERPRETER: Okay.

23 (The witness answers.)

24 INTERPRETER: And at one time she confessed that her husband
25 in Honduras had a lover.

1 (The witness answers.)

2 INTERPRETER: She paid to have him killed.

3 ATTORNEY KEENEY: Objection. Relevance.

4 THE COURT: Relevance?

5 ATTORNEY MATHEWS: Your Honor, it shows she's vindictive and
6 that she's jealous.

7 THE COURT: I will overrule the objection. But, yeah, let's
8 move on.

9 Q And at some point did -- what kind of relationship did
10 Walter, or Alex -- you called him Alex?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: Walter.

14 Q How was the relationship between Walter and Carmen?

15 (Interpreter translates to the witness.)

16 (The witness answers.)

17 INTERPRETER: Toxic.

18 Q And sometimes they were together, and then they weren't
19 together, or?

20 (Interpreter translates to the witness.)

21 (The witness answers.)

22 INTERPRETER: Yes, like that.

23 Q In the end, did they stop going out?

24 (Interpreter translates to the witness.)

25 (The witness answers.)

1 INTERPRETER: Yes.

2 Q What was the cause of that?

3 (Interpreter translates to the witness.)

4 (The witness answers.)

5 INTERPRETER: In addition to other things that were
6 happening.

7 (The witness answers.)

8 INTERPRETER: And one time she was at my house.

9 (The witness answers.)

10 INTERPRETER: And she went off to Miami with another guy.

11 Q And I guess that would be enough for Walter not to want to
12 go out with her anymore; right?

13 (Interpreter translates to witness.)

14 (Witness answers.)

15 INTERPRETER: Well, I think so.

16 Q All right. Nevertheless, did she come back then from Miami?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Yes.

20 Q How long was she gone before she came back?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: Really, I don't remember exactly.

24 Q Was it a few months, or just more or less?

25 (Interpreter translates to the witness.)

1 (The witness answers.)

2 INTERPRETER: No. Like, oh, a month.

3 Q When she came back, did she want to still get back together
4 with Walter?

5 (Interpreter translates to the witness.)

6 (The witness answers.)

7 INTERPRETER: Yes, sir.

8 Q And did Walter want to go back with her?

9 (Interpreter translates to the witness.)

10 (The witness answers.)

11 INTERPRETER: No.

12 Q At one point did Walter stop taking her phone calls?

13 (Interpreter translates to the witness.)

14 (The witness answers.)

15 INTERPRETER: Walter.

16 (The witness answers.)

17 INTERPRETER: Yes.

18 Q Did then Carmen reach out to you?

19 (Interpreter translates to the witness.)

20 (The witness answers.)

21 INTERPRETER: After they have separated, yes.

22 Q What did she say to you?

23 (Interpreter translates to the witness.)

24 A No.

25 (The witness answers.)

1 INTERPRETER: And that I advised him to go back with her.

2 Q Okay. So Carmen talked to you about getting Walter to come
3 back to her?

4 (Interpreter translates to the witness.)

5 (The witness answers.)

6 INTERPRETER: Yes.

7 Q Did Walter do it?

8 (Interpreter translates to the witness.)

9 (The witness answers.)

10 INTERPRETER: No.

11 Q Did Carmen then make any threats concerning Walter?

12 (Interpreter translates to the witness.)

13 (The witness answers.)

14 INTERPRETER: Yes.

15 Q Tell the jury about that.

16 (Interpreter translates to the witness.)

17 (The witness answers.)

18 INTERPRETER: One time she said ---

19 (The witness answers.)

20 INTERPRETER: Said she was capable of doing whatever ---

21 (The witness answers.)

22 INTERPRETER: So that he would come back/return to be with
23 her.

24 (The witness answers.)

25 INTERPRETER: Because no one was going to make fun of her.

1 (Interpreter and the witness converse.)

2 INTERPRETER: May I say some more words?

3 (The witness answers.)

4 INTERPRETER: She has a cousin in Honduras.

5 (The witness answers.)

6 INTERPRETER: In fact ---

7 ATTORNEY KEENEY: Objection. I'm not sure ---

8 INTERPRETER: -- -- once she called.

9 ATTORNEY KEENEY: Objection. I don't know this is relevant
10 to her having a cousin in Honduras.

11 THE COURT: Sustained.

12 ATTORNEY MATHEWS: Okay. That's fine. That's fine. We get
13 the idea of it.

14 Q Please answer any questions the prosecutor has.

15 (Interpreter translates to the witness.)

16 **CROSS-EXAMINATION**

17 BY ATTORNEY KEENEY:

18 Q This alleged conversation you had with Maria where she --
19 tell me again what you said? What did Maria say to you about
20 getting back together to Walter?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: That I advised him to go back with her.

24 Q Oh, you told him to go back to Maria?

25 (Interpreter translates to the witness.)

1 A No.

2 INTERPRETER: Yes.

3 Q You wanted Walter to date Maria again?

4 (Interpreter translates to the witness.)

5 A No.

6 INTERPRETER: No.

7 Q So what did Maria say about -- I'm confused. You

8 advised ---

9 (Interpreter translates to the witness.)

10 Q --- Walter to go back to Maria. What does that mean?

11 (Interpreter translates to the witness.)

12 (The witness answers.)

13 INTERPRETER: Yes, I advised him, but not to go back with
14 her.

15 ATTORNEY KEENEY: Okay. Beg the Court's indulgence.

16 Q Walter's your brother; correct?

17 (Interpreter translates to the witness.)

18 (The witness answers.)

19 INTERPRETER: Yes, ma'am.

20 Q You love him? You love Walter? Do you love Walter?

21 (Interpreter translates to the witness.)

22 (The witness answers.)

23 INTERPRETER: A lot.

24 ATTORNEY KEENEY: No further questions.

25 ATTORNEY MATHEWS: Nothing further, Your Honor.

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

2 INTERPRETER: Thank you.

3 THE COURT: Call your next witness.

4 ATTORNEY MATHEWS: Your Honor, I would only seek, at this
5 point, things that I had referred to, to seek to admit into
6 evidence some of these premarked things.

7 I don't know whether there will be any objection or not, but
8 let me show them to Julie Kate.

9 THE COURT: All right. Thank you.

10 ATTORNEY KEENEY: No objection to Defense's Exhibit 2, 3, 4
11 or 5.

12 THE COURT: All right.

13 ATTORNEY KEENEY: No objection to Defendant's Exhibit 1 or
14 7.

15 THE COURT: So 2, 3, 4 and 5, 1 and 7?

16 THE COURT: Yes, ma'am. I think that's 1 through 7.

17 THE COURT: One through 7.

18 ATTORNEY KEENEY: Yes, ma'am.

19 THE COURT: Will be entered, without objection.

20 (WHEREUPON, Defendant's Exhibits 1, 2, 3, 4, and 5 are
21 entered into the record.)

22 ATTORNEY MATHEWS: And, Your Honor, I don't intend to --
23 when they go back to deliberate, they've already been referred to
24 and already been discussed in some detail, but it's just to go
25 with the stack of things.

1 And beyond that, the defense would rest.

2 THE REPORTER: Your Honor, he did not ask for 6 to be
3 admitted.

4 THE COURT: What about 6?

5 ATTORNEY MATHEWS: Did I miss one? I'd love for them to see
6 it, but I don't think I can introduce that.

7 ATTORNEY KEENEY: I apologize. I do not consent to Defense
8 Exhibit No. 6.

9 THE COURT: So 2, 3, 4 and 5, and 1 and 7?

10 ATTORNEY KEENEY: Yes.

11 THE COURT: All right. You said defense rests?

12 ATTORNEY MATHEWS: Yes, ma'am.

13 THE COURT: Any reply from the state? Rebuttal?

14 ATTORNEY KEENEY: State rests its case.

15 THE COURT: All right. Ladies and gentlemen of the jury,
16 the state has rested; the defense has rested, and so you have
17 heard all of the evidence. However, we still need to have
18 closing arguments and the charge on the law.

19 I am going to -- I think this is a good time for us to take
20 a lunch break. I will have you all back at 2:15 for closing
21 arguments and the charge on the law.

22 Please do not discuss this case with each other. You have
23 not received the law in the case, so it will be improper for you
24 to discuss it with each other, any pre-deliberations, or
25 anything.

1 in there the defendant's right not to testify.

2 And what I'll do -- we'll probably be cutting down a bunch
3 of trees while we're copying -- but once we clean it up, I'll
4 give you all a final copy. And I will give a copy to the
5 interpreters so that they can read along, to try to help out.

6 ATTORNEY MATHEWS: That's fine, Your Honor. I would ask
7 that the definition of cohabitation be included.

8 THE COURT: Only thing is -- I know this is a Black's
9 dictionary, but do they have cohabitation defined in the section?

10 ATTORNEY MATHEWS: They don't. And I don't see where the
11 Court's have defined it. But I know I've seen some language in
12 some places, more than just shacking up, and staying with
13 somebody overnight doesn't mean you're cohabitating. They're
14 acting as married people and all that sort of stuff.

15 It would be very helpful if the Supreme Court or the General
16 Assembly would define it.

17 In Family Law, of course, it's defined. But it's not
18 defined in the statute.

19 THE COURT: The only concern about using the Black's Law
20 Dictionary, personally, is it talks about spouses and married
21 people. And I don't -- it would be in contradiction to the
22 statute, because the statute specifically says vows, performance,
23 vows, and then it says; and then it says, it goes on, children in
24 common; and then it goes on to say, cohabitate together or
25 formerly cohabited together.

1 ATTORNEY MATHEWS: They never said what cohabitating means.
2 I want some clarity, but if we don't get it today, that's fine,
3 that's not my main argument anyway. But it's something that I
4 had to bring it up because the General Assembly and the Supreme
5 Court has never defined it, as far as I can tell.

6 ATTORNEY KEENEY: I was going to say the same thing, Your
7 Honor, that I think the definitions of defense counsel made is
8 way too narrow. And I know a lot of times the Supreme Court and
9 Court of Appeals rely on the New Oxford American Dictionary, they
10 cite that a lot in their opinions that they use.

11 And that definition is that cohabit means live together and
12 have a sexual relationship without being married, which is pretty
13 much what we all assume cohabitation means. Because otherwise,
14 if you're holding yourself out to be a spouse, until recently,
15 common-law marriage was a thing and you would just be a spouse.

16 ATTORNEY MATHEWS: Apparently back in college, Your Honor, I
17 was married a lot.

18 ATTORNEY KEENEY: So, yes, I would object to his definition
19 of cohabitation. And I'm still looking through this. If I could
20 just have one minute.

21 THE COURT: No, no, take your time. And we'll probably even
22 stop, and we'll come back a little bit earlier so y'all can, so
23 y'all can -- she's going to have to add. Do we want -- and then
24 I'll come back -- lesser included, DV first, second and third, no
25 lesser included? Or is anybody asking for lesser included? If

1 not, I'll take it out.

2 ATTORNEY MATHEWS: I think it happened. And as far as that
3 goes, as far as there being anything else, if you believe any of
4 the stories then, you know, we would be, if you use a gun, if you
5 use a knife, that would make it high and aggravated if it was in
6 the commission. So I'm not asking for any lesser included, up or
7 down.

8 ATTORNEY KEENEY: I mean, one of the directed verdict
9 arguments I've heard was high and aggravated and how, you know,
10 he was saying that I didn't present any evidence that it was of a
11 high-and-aggravated nature. So I can assume he was going to ask
12 for a lesser included.

13 I know, to me, when you look at it, the domestic violence
14 statute is very, very wordy. And when you look at DVHAN and DV
15 first, they're pretty similar. So I don't think -- I don't think
16 I'm asking for a lesser included.

17 But, you know, then again, if defense counsel's going to go
18 and argue in closing that even if you believe her, it wasn't high
19 and aggravated ---

20 ATTORNEY MATHEWS: I don't know what I'm going to argue.
21 I've got an idea, but I don't know what I'm going to argue. I
22 know if they're asking for a lesser included, I suppose simple DV
23 third, maybe, but I wouldn't -- like I said, my overall feeling
24 is that, you know -- well, I don't know. I don't want to be
25 ineffective, and sometimes I am, you know.

1 But if the state wants a lesser included, the lesser
2 included actually would be DV third.

3 ATTORNEY KEENEY: I would say charge them all.

4 THE COURT: We were looking at them, and they are all -- the
5 statute, it says pretty much, the first kind of incorporates
6 second, the elements of the second. Obviously third would be a
7 lesser. But I guess it's something you all --

8 ATTORNEY KEENEY: Yeah. I would request that they all be
9 charged, from -- I know that it's a lot, but DVHAN down to DV
10 third. Because a lot of his questioning is about, well, is it a
11 scrape versus a cut versus whatever. I think he can argue it's a
12 superficial wound.

13 So if the jury just thinks it's a high-and-aggravated
14 nature, I think, due to the degree of injury, I think the lesser
15 is inappropriate.

16 THE COURT: All right. Yes, sir?

17 ATTORNEY MATHEWS: I guess I can live with that. Just throw
18 the whole ball of them.

19 THE COURT: We'll put all three in. Cohabitation, I think
20 the way that it is written in the statute, should be explanatory,
21 because it doesn't have a definition of cohabitation. And I
22 don't want to get into quoting a dictionary.

23 And I can mark your request as Court Exhibit 1. And I guess
24 your objection will be to me not charging --- but it is an
25 objection for the record. And if, for some reason, whatever

1 happens here today, if it has to be appealed, we'll probably find
2 out, get an answer to that question.

3 (WHEREUPON, Court's Exhibit 1 is marked for identification.)

4 ATTORNEY KEENEY: Your Honor, I'm just looking at the
5 Anderson's request charge with respect to the assault with intent
6 to commit criminal sexual conduct charge. There is a sentence in
7 that, in there, in Anderson's request, that says the state is not
8 required to show that the act was done or completed. I would
9 request that, because I did not --

10 THE COURT: I know that it's going to be -- I mean, in the
11 attempt -- any objection to it?

12 ATTORNEY MATHEWS: You know, anything they want, I pretty
13 much don't. But, you know, I think that's sort of the crux of
14 their case. I mean, it's back and forth. One nurse said it was
15 completed; another said it wasn't.

16 As far as that goes, you know, I'm certainly going to argue
17 it probably didn't happen at all and there wasn't even an
18 attempt.

19 But in terms of that language, I guess I don't care. I
20 don't care.

21 THE COURT: So what's the language again?

22 ATTORNEY KEENEY: So the way it's set out in Anderson, when
23 it talks about, it says the state must prove intent on the part
24 of defendant to commit criminal sexual conduct, first degree, and
25 then right after it says the state is not required to show that

1 the act was completed or done. I'd be fine just to say the act
2 was completed.

3 THE COURT: Okay. All right. And so we will change the --
4 add the DV as the lesser included. Anything else?

5 And take a look at it over lunch. And she's going to add
6 failure of the defendant to testify, that language. So what we
7 can do is, it's five after, we'll print off a final copy, and the
8 jury verdict form, and we'll give those to you, maybe, what,
9 about 2:00, an hour or so. That will give everybody time to get
10 lunch?

11 ATTORNEY MATHEWS: Yes, ma'am.

12 ATTORNEY KEENEY: I did notice something on page 12, where
13 you're charging domestic violence, high and aggravated. I don't
14 think that the language in this charge is the statute. I think
15 it leaves out the part -- maybe I'm missing it, and if so that's
16 completely possible -- I don't see the part where it talks about
17 how I have to prove, under the circumstances, that it's
18 manifesting extreme indifference.

19 THE COURT: Yes. I think she used the old statute.

20 ATTORNEY KEENEY: Okay. I mean, I would love to use that,
21 but I just wanted to be ---

22 THE COURT: We'll get it cleaned up.

23 (WHEREUPON, court recessed at 1:06 p.m. and reconvened at
24 2:14 p.m.)

25

1 MATTER(S) OF LAW

2 THE COURT: She's going to print a copy for you all to look
3 at. And if there's any other changes, we'll change them and then
4 we'll print a final copy to give everybody, including the
5 interpreters.

6 ATTORNEY KEENEY: Judge, I did notice something. While I
7 would love for this to be in the charge, I notice, contrary to
8 the recent case law, on page 2 about credibility of witnesses,
9 the testimony of the victim need not be corroborated for
10 prosecution.

11 THE COURT: Oh, yeah, that needs to come out.

12 ATTORNEY KEENEY: Yes, ma'am. I wish it could say, but it
13 can't be in there.

14 THE COURT: I understand. That was my case. Even though
15 the Supreme Court reversed them still.

16 ATTORNEY KEENEY: And I will put this on the record. I know
17 the attorney general's office is pushing this. I'm not
18 necessarily requesting for it to be charged, but the AG's office
19 really wants to push that testimony of any witness does not have
20 to be corroborated. That that would be a proper charge. But I'm
21 not going to ask you --

22 THE COURT: Yeah. I won't put that in here. Yes. This
23 must be from an old jury charge. Sorry. I would have stopped
24 myself.

25 Under first degree, I can list that. The state must prove

1 beyond a reasonable doubt, and it goes 7, 8, 9 and 10. You look
2 at 9, I don't think that really applies. I think we can take
3 that out. I just don't want to put that out there if it's not an
4 issue here about any prior arrest.

5 ATTORNEY KEENEY: Correct, Your Honor. I would ask that
6 8(2) come out, as well, because there's no evidence to support
7 that part of the charge. I'm not trying to say he violated a
8 protection order or anything like that.

9 THE COURT: Yeah. Because the first thing they'll do is
10 they'll send us a question about saying, Does he have an order
11 for protection?, which, of course, we can't answer. And so you
12 want it taken out on page 8(2)?

13 ATTORNEY KEENEY: Yes, ma'am.

14 THE COURT: It would be no. 3. Same thing with no. 1 on
15 page 10 ---

16 ATTORNEY KEENEY: Yes, Your Honor.

17 THE COURT: --- under prior convictions.

18 ATTORNEY KEENEY: And 3.

19 THE COURT: Yes, I took 3 out.

20 ATTORNEY KEENEY: It's household member.

21 THE COURT: Does it say household?

22 ATTORNEY KEENEY: It says it's unlawful to cause -- this is
23 from the statute, 16-25-20, It's unlawful to cause physical harm
24 or injury to a person's own household member, or offer/attempt to
25 cause physical harm or injury to a person's own household member.

1 THE COURT: Yes. So, yeah. The statute says household
2 member.

3 ATTORNEY KEENEY: It looks like it's missing the word member
4 behind household.

5 THE COURT: Yes, you just need to add member. No, because
6 it says, it says, the defendant offered to cause harm or injury
7 to a member of the defendant's own household. I think we need
8 to -- so it needs to just say to a person's own household member.
9 That's the way it reads.

10 ATTORNEY KEENEY: Yes. Judge, maybe I missed it, I'm not
11 sure, but is there going to be a part of the charge that explains
12 to the jury -- I know you go through all the lesser included, but
13 basically we don't get a verdict form where they circle, you
14 know, multiple ---

15 THE COURT: Well, I explain it to them. I talk about -- the
16 lesser included is in there. Is that your question?

17 ATTORNEY KEENEY: Yes. Do you know what page? I mean, I
18 know it talked about you describe the elements of the domestic
19 violence.

20 THE COURT: Yes, that's what I was looking for earlier.
21 There should be a charge about what lesser included means.

22 ATTORNEY KEENEY: I know I'm not articulating it very well,
23 but basically, like, you can't find him guilty of every single
24 one of these things.

25 THE COURT: Well, that's why I will explain it to them. I

1 don't want it to look like, like in civil, we do those
2 comparative negligence forms, it's the most confusing thing in
3 the world and, you know.

4 So I mean, because I can say, you know, I can put the
5 language in there, if you don't find domestic violence, high and
6 aggravated, go to number -- and you've got to put the number --
7 go to no. 4. If you don't find that it's a domestic violence,
8 first, you go to no. 5. You don't find -- I mean, that's kind of
9 what I would explain to them. I mean, I can ---

10 ATTORNEY KEENEY: That sounds good to me.

11 THE COURT: I've done it before. It's up to you all. I can
12 put a note at the bottom saying that he can't be found, since
13 these are lesser included, he can't be found, you know, guilty on
14 all four of them. But then it just ---

15 ATTORNEY KEENEY: I'm fine with what you just said that you
16 would do. I just want to make sure that was going to be said.

17 THE COURT: Any objection to that? I usually give a copy of
18 the verdict form the foreman and go over it with him. So what I
19 will say to him is that, once they look at, you know, If you all
20 find him not guilty on the domestic violence of a high and
21 aggravated nature, then you need to go to the next question. If
22 you find him not guilty on the domestic violence, first degree,
23 you need to go to question no. 5. If you find him not guilty on
24 that, you would go to no. 6. And she's going to re-number.

25 ATTORNEY KEENEY: Thank you.

1 THE COURT: And then after you answer no. 6, stop, the end
2 of your deliberations.

3 ATTORNY KEENEY: Thank you.

4 THE COURT: Do you have that language from -- I know I have
5 it, I have had it before, but can't put my hands on it, probably
6 because I'm rushing. But do either one of you have it from -- I
7 don't have any ---

8 ATTORNY KEENEY: What do you want, the lesser included?

9 THE COURT: Language, yes.

10 ATTORNY KEENEY: I will look. Judge, I don't see a
11 particular section wherein they talk about lesser included, but
12 they have examples. So, like, with an assault with intent to
13 commit CSC, first degree, it says the defendant in this case is
14 charged with assault with intent to commit first-degree CSC.
15 That is the language contained in the indictment.

16 However, under principal law recognized in the state, this
17 charge includes a lesser offense as possibilities for the jury to
18 consider. Even though the indictment refers to a pending charge
19 of assault with intent to commit CSC, first degree, you'll be
20 considering lesser charges in terms of evaluating the evidence as
21 a possibility of a verdict, possibility of charges. And it goes
22 through the possible possibilities, it's laid out, no. 1, first
23 degree; 2, second degree; third degree; then it goes to affiant
24 under the law, and 5, not guilty.

25 So I don't think I see a section where it says lesser

1 included in general. But it does in the context with the
2 actual ---

3 THE COURT: This one says, it says, If you find that the
4 state has failed to prove that the defendant committed domestic
5 violence of a high and aggravated nature, you may then consider
6 whether the state has proved beyond a reasonable doubt that the
7 defendant committed -- well, I'm sorry. If you find that the
8 state has failed to failed to prove that defendant was armed with
9 -- I'm reading the old one.

10 If you find that the state has failed to prove the defendant
11 has committed domestic violence of a high and aggravated nature,
12 also included within the offense of domestic violence of a high
13 and aggravated nature is the lesser-included offenses of domestic
14 violence, first, second and third. You may consider whether the
15 state has proved, beyond a reasonable doubt, that the defendant
16 committed domestic violence first, domestic violence, second, or
17 domestic violence, third. Does that sound -- and then I'll
18 explain what those three are.

19 ATTORNEY KEENEY: That's good with me.

20 THE COURT: Mr. Mathews?

21 ATTORNEY MATHEWS: Fine, Your Honor.

22 THE COURT: That works for you? And the verdict form is
23 okay?

24 ATTORNEY MATHEWS: Verdict form is fine, Your Honor.

25 ATTORNEY KEENEY: Yes, Your Honor.

1 THE COURT: All right. We're printing now and we're ready.

2 ATTORNEY MATHEWS: Your Honor, I am not as high tech as all
3 that. I guess I could use that stuff, but I was just going to
4 use that board. Beforehand where would Your Honor like me to set
5 it up when it's time? I don't have to pull it out until it's
6 actually time to argue, but where would you like it?

7 THE COURT: Wherever you want, that's fine.

8 ATTORNEY MATHEWS: I'm thinking right here. Would that be
9 okay, Your Honor?

10 THE COURT: That's fine. Just to mention something about
11 it, we can -- we're at that point where it's kind of iffy. I
12 just don't want to -- of course, I don't think either one of you
13 have sat through a three-hour closing before, but I don't think
14 either one of you would do that. But I ask that if you're going,
15 I think it's close to, three hours, then, yeah.

16 So I normally will not cut you off. But if it's approaching
17 three hours, then I might. If it's approaching two hours, I
18 might.

19 ATTORNEY MATHEWS: I can promise you, Your Honor I, will not
20 take two hours.

21 ATTORNEY KEENEY: I will not be taking that long, either.
22 I'm not the best at estimating how much time I take, but it will
23 not be anywhere close to two or three hours.

24 THE COURT: And so, I guess if we get to -- if we get to
25 4:00 or so, or after 4:00, because it's five till 3:00, it took

1 longer, and I think we killed the poor little printer right
2 here -- so she wanted to get the charge for you all and also for
3 the interpreters. If we get to 4:00ish before we charge, it's
4 kind of an unofficial rule, I guess, I'm fine charging them
5 tonight and letting them deliberate. But they may not get it
6 until 4:30.

7 I don't know if y'all have a position regarding that. If we
8 go ahead and start, let them start deliberating and just have a
9 strict cutoff time and then have them come back in the morning, I
10 can do -- I'd be glad to hear from you all.

11 ATTORNEY KEENEY: My personal preference would be, if we get
12 done arguing, let's say, by 4:00, we have it charged by then,
13 that we just come back in the morning and deliberate in the
14 morning, that way the charge will be fresh in their mind. I know
15 they'll get a copy of it. But it's up to Your Honor.

16 ATTORNEY MATHEWS: Your Honor, I'm trying to guess what
17 they're likely do, which is dicey. Just as a matter of,
18 generally speaking, I think probably the jury shouldn't get the
19 case real close to closing time.

20 THE COURT: Yeah.

21 ATTORNEY MATHEWS: So however Your Honor wants to do it, I'm
22 sure will be fine. But you don't want any consideration to be,
23 Let's get the heck out of here.

24 THE COURT: Exactly. And so that's my concern. And maybe
25 that's why I said it's an unofficial rule. Actually, it used to

1 be -- well, this was before I was on the bench, but it used to be
2 Chief Justice Finney's rule I believe that, judges could not
3 charge after a certain time. What was it, 3:00 or 4:00.

4 ATTORNEY MATHEWS: I don't remember a time, but I remember
5 Judge Finney.

6 THE COURT: He actually did have a rule for the reasons that
7 you have the concern about, the jurors rushing. Okay. So if it
8 gets to 4:00 or after 4:00, then I'll probably -- I like to
9 charge them right before, and then they go deliberate. So we'll
10 have to argue and charge in the morning. I mean, charge in the
11 morning. We'll argue today.

12 ATTORNEY KEENEY: Thank you.

13 (WHEREUPON, an off-the-record discussion was held.)

14 THE COURT: Oh, that was the last thing I was going to say.
15 You open; you've got to open in full, Mr. Mathews; and then any
16 reply/rebuttal.

17 All right. Let's bring them in.

18 (WHEREUPON, the jury is seated in the courtroom at
19 3:01 p.m.)

20 THE COURT: All right. Sorry for the delay. We were, I
21 assure you we were, out here working to prepare for our jury
22 charge and closing arguments.

23 So at this time we are ready for our closing arguments. You
24 will first hear from Ms. Keeney on behalf of the state; then you
25 will hear from Mr. Mathews on behalf of the defendant; and then

1 Ms. Keeney will have an opportunity to reply following
2 Mr. Mathews. So please pay close attention to the attorneys in
3 their closing argument. Yes, ma'am.

4 ATTORNEY KEENEY: Thank you, Your Honor. Fifty-four, that's
5 the number that spins, just, in my mind all week long.
6 fifty-four, so where did I get that number? That number comes
7 from the Sexual Assault Nurse that you heard from MUSC. She
8 counted the number of abrasions on Maria Flores's body, and it
9 was 54.

10 You know what's interesting about that number? Is that
11 that's not even really an accurate number of her abrasions. The
12 Sexual Assault Nurse didn't even see the one on her leg or the
13 ones on her lower back half, and she didn't even count the
14 injuries around her pubic area.

15 So what does that mean? We have more than 54 injuries to
16 Maria Flores's body. That is a lot of injuries to do to
17 yourself. That is a lot of injuries to self inflict to set some
18 man up that she's not even with anymore. She is living with a
19 new man who, need I remind you, they call each other husband and
20 wife. So she has moved on from that man.

21 Now, you heard witnesses testify in this case. First
22 witness you heard from was Angela Stallings. She's the 911 lady,
23 the lady that works for dispatch for Colleton County Sheriff's
24 Office. And she told you that she is in charge of the 911 calls.

25 And you heard the 911 call. Granted, it was a little hard

1 to hear with all the commotion with the IT people working, but
2 you heard Maria Flores on the 911 call, very distraught.

3 And you don't really know what she said because it was in
4 Spanish, but you heard that there was a guy on the line from an
5 interpreter service, and he's trying to translate what she's
6 saying. And the funny part about that -- really not funny -- is
7 that he got it wrong, he used the wrong word. She didn't even
8 say the word stab. She said, He cut me with a knife. And he
9 said, he said the word, stab.

10 And I'm not here to hate or give grief to some random guy
11 from a translator service, because he has a hard job. It is a
12 hard job to speak two languages fluently and have to be a part of
13 a 911 call, which is hectic in itself, and translate that.

14 And so that's one of the biggest problems we have, is that
15 we've got these translator lines trying to tell us what Maria's
16 saying, and things get lost in translation. We've all heard that
17 statement before.

18 I'm sure we all have either played or know about the game
19 telephone where you tell one person a story, and by the time that
20 person tells someone else it becomes a completely different
21 story. But here we've got an even worse version of it because
22 Maria can't even speak English.

23 You also heard from law enforcement that responded. Officer
24 Gilyard, who now works for fire and rescue, but at the time he
25 was working for the Waltherboro Police Department. And he

1 described the seen when he arrived. Kind of chaotic. No one
2 really knew what were going on. No one on scene could even
3 figure out what she was saying. They didn't have an interpreter
4 there, they didn't have the translator line there to interpret.
5 So they're trying to piece things together. They're trying to do
6 the best that they can with their limited resources.

7 But what was clear to him was how upset she was, and that
8 she had injuries to her. That was crystal-clear.

9 Now, he also talked about the things that he tried to do to
10 try to investigate. They already had a suspect name, there was
11 no question about who the suspect was. Walter Palacios. So he
12 canvassed the area to see if he could gather any witnesses, and
13 they weren't very helpful. So he tried.

14 The next witness you heard from was the lady that was the
15 nurse from Colleton Medical, Jessica Hadwin. And what she told
16 you was this. That Maria Flores was very tearful, very upset, to
17 the point where she threw up on the floor. She threw up on the
18 floor of a hospital.

19 And she, once again, told that you she really has no clue
20 what Maria Flores said because she doesn't speak hardly any
21 Spanish. So, once again, they had to use an interpreter line via
22 telephone and, once again, it was lost in translation.

23 But she also told you that she saw clear injuries to Maria.
24 She saw the injury to her pelvic area, to her breast, to her arm,
25 the bruise on her arm, the injuries to her leg. She saw all

1 those.

2 The next witness you heard was Amye Stivender who used to
3 work for Walterboro Police Department, but now she works for the
4 South Carolina Law Enforcement Division. And she told but her
5 involvement.

6 She went to Colleton Medical, met with Maria. Once again,
7 Maria's upset. Clearly injuries to her, and she took pictures of
8 those injuries. You have those pictures we submitted into
9 evidence. And she did the best she can with the, you know, \$100
10 camera she had.

11 She then took Maria to Charleston which, let me remind you,
12 that was Maria's choice to go to Charleston, to the second
13 hospital. We don't force victims to go get sexual body exams.
14 That is a choice.

15 So Maria Flores goes to the hospital at 8:22 in the morning,
16 took a couple hours there, to get in the car to go to MUSC an
17 hour away to go spend more time at a hospital so she can show her
18 private parts to all these random people while they take
19 pictures. Not exactly a good time.

20 Amye also talked to you about how she collected the clothes
21 in this case. It's right here in evidence. She told you that
22 she collected them from Maria. Maria has told you that these are
23 the clothes that she was wearing at the time of the crime.
24 Sorry, struggling getting the glove on. And you get to look at
25 all this evidence. Now, I suggest wearing gloves if you want to

1 look at it.

2 There is a rip here. There's a rip here. There is a rip
3 here. There are stains here which maria has told you was her
4 blood. Now, I will say the one on the back is very small, she's
5 unsure about that, but blood. Really a lot of work to set some
6 man up when she's got a new man that she lives with.

7 Now, Amye told you that she wasn't even really sure if she
8 needed to go get a sexual assault kit because she wasn't really
9 sure if there was penetration. There's a language barrier. Of
10 course, we, you know, everybody knows by now there's a language
11 barrier. So she didn't even know if that was what she needed to
12 do as an investigator or as a law enforcement officer. But she
13 did it, she took her there out of an abundance of caution.

14 And Amye told you something, I think, that's very important.
15 This concept that every single thing we touch will have DNA on
16 it, that is just a myth; that, unless you've got like ejaculation
17 or spit or blood from a suspect, you're probably not going to get
18 his DNA off of her clothes.

19 Then heard from Maria. And, bless her heart, she's not a
20 very good communicator. And I've been struggling on how to
21 communicate this without saying, without seeming rude, but she's
22 not very educated. She can't even read or write in her own
23 language. We are not talking about some mastermind criminal
24 who's got the wit, really, to manipulate all these people and set
25 them up.

1 Now, she told you how she came here from Virginia, which is
2 where she lives now. She rode in the car for probably about 10
3 hours to come have her day in court to tell y'all about what
4 happened. And then she told you about how she and Walter broke
5 up. She met a new guy, started living with him, and Walter
6 didn't take it very well.

7 And she described to you about the attack. And I realize
8 that she says, I don't know, to a lot of the questions, I don't
9 remember, but it's a traumatic experience. And I would suggest
10 to you that that's probably a normal response, that you don't
11 remember every single detail when you're being attacked while you
12 were just trying to sleep.

13 She told you about how he was trying to pull her clothes
14 off, was cutting her. She's not sure how all the injuries
15 happened, but she knows that he's the one who did it, and that he
16 tried to put his penis in her mouth, but he was not successful in
17 doing it.

18 And that's why we've got this assault with intent to commit
19 criminal sexual conduct charge, because it's not a completed
20 sexual assault, it's an attempt.

21 And also, we have him trying to pull her clothes off and
22 cutting her at her breast and in her pelvic area.

23 Now, you've heard from the sexual assault examiner, Janette
24 Ward, from MUSC. And we went through all of those photos that
25 you get to look at back in your deliberation room. And she

1 counted for you how many abrasions that she saw. We've got 6
2 linear abrasions, left, upper arm; bruise to the left, upper arm;
3 on her left breast, 25 vertical, sharp, forced linear abrasions;
4 same left breast, five horizontal sharp, forced, linear abrasion;
5 her back, 1 sharp, forced linear abrasion.

6 And then like I said, for the pubic area, she didn't even,
7 she didn't even count that. But you can see the pictures of it.
8 She didn't even count her leg or the lower back. She didn't see
9 it for whatever reason.

10 Now, I know what the defense is going to say, I know that
11 they're going to say. They're going to say, Well, she mentioned
12 a gun and she's never mentioned a gun before. And I get that
13 argument.

14 But let's not sit here and pretend that we all know the
15 normal response to being attacked in your own home. Let's not
16 pretend that there's not a language barrier. Who knows if she
17 said what the gun for, I don't know, because no one seemed to
18 understand her. Every interpreter she's even talking to via the
19 translator line has misinterpreted her. So maybe it wasn't the
20 first time she said it.

21 She's having to relive this traumatic experience every time
22 she tells a story. She's have to go tell nurses; she's having to
23 tell law enforcement; she's having to go to different hospitals;
24 she's having to come here and say it. So I get why maybe her
25 brain's just shut off and just saying, I don't remember, because

1 enough is enough.

2 Now I want to talk to you about the law in this case. I've
3 got a little PowerPoint just to go over it, because once I'm done
4 arguing and Mr. Mathews is done arguing, the Judge is going to
5 charge y'all on the law, which is what y'all have to consider.
6 That presented in court must match up to the law.

7 So we've got three charges, a burglary in the first degree;
8 domestic violence, high and aggravated; and assault with intent
9 to commit criminal sexual conduct, first degree.

10 THE COURT: Real quick. Can the jury hear? If not, grab
11 the microphone again. It's just because we have the
12 interpreters.

13 ATTORNEY KEENEY: Okay. So it's burglary in the first
14 degree. Here's what I have to prove. I have to prove that the
15 defendant entered a dwelling. And a dwelling, she will define
16 for you, the Judge will define for you, basically a place where
17 someone lives. So, a house. Without consent, which means no
18 permission to come in. And with intent to commit a crime in the
19 house.

20 So what I am telling you, is that he entered her home
21 without permission, and the crime that he intended to commit was
22 he was trying assault her, he was trying to hurt her. And then
23 what makes it first degree is that when he entered the home or
24 while inside the home he was armed with a deadly weapon.

25 Now, there's multiple ways you can prove first-degree

1 burglary. So either they have a deadly weapon, or they cause
2 injury to someone that's not a participant in the crime, or they
3 display what appears to be a knife.

4 Now, I don't have to prove all three of those things; I just
5 have to prove one of them. But I submit to you that all three of
6 those actually happened here. He had a knife, which can be
7 considered deadly weapon; he did injury to her, or cause injury
8 to her, and; then, number three, that he displayed a knife.

9 So moving on -- and let me also touch on this real quick.
10 There is no requirement that someone break into a house. They
11 don't have to bust a window/bust a door down. There's no
12 requirement like that under the law. If the door is unlock and
13 they just enter without permission, you're still dealing with a
14 burglary.

15 So this one actually is probably going to be a little hard
16 for you to see, but domestic violence, high and aggravated. The
17 first requirement that I have to prove is that he caused physical
18 harm or injury to his own household member. So household member
19 is something that our legislature has defined. And one of the
20 ways that you can prove it is if a male or female, who are
21 cohabitating or formerly cohabited. And that's what we're
22 dealing with here, they were together in a romantic relationship,
23 sexual relationship. That's what we're dealing with here.

24 I also have to prove that he committed the offense with or
25 without an accompanying battery and under circumstances

1 manifesting extreme indifference to the value of human life, and
2 would have reasonably caused a person in fear of imminent or
3 great bodily injury or death. So it's wordy. That's how I
4 remember domestic violence. The legislature is a lover of words.

5 But that basically just means that, when it says with or
6 without accompanying battery, the way they explained it to us in
7 law school, I'm sure you all heard the words assault and battery,
8 right. So assault is like if I were going up to someone, like,
9 in a hostile way and I acted like I was about to shake him and
10 I'm angry but I don't actually hit them, that's assault. A
11 battery is when you actually make the contact.

12 So when you have domestic violence, high and aggravated, you
13 don't even have to actually make contact with them in order to
14 prove the charge. You can just have an assault with a weapon.
15 If I threaten someone with a gun, that's still an assault, you
16 don't actually have to have a battery, which is the completion of
17 the contact.

18 And this is the part that I would really focus on, if I were
19 y'all. I don't have to prove she had great bodily injury. I
20 just have to prove that it was under circumstances which would
21 cause a reasonable person to fear of great bodily injury.

22 And that is what we have here. That, when you're attacking
23 someone with a knife and coming into their home without
24 permission, any reasonable person would fear that their life was
25 in jeopardy.

1 And then our legislatures sat down ways that I can prove or
2 that you could show that someone with acting with extreme
3 indifference language. And one of the ways is use of a deadly
4 weapon. And another way is committing the offense during the
5 commission of a burglary. And I don't have to prove all those
6 ways. Those are just examples, if that makes sense.

7 Like they're saying if you want to show there's an extreme
8 indifference, here's a few ways you can do it. And I submit to
9 you that there's multiple ways. It was during commission of a
10 burglary, and he had a weapon. But I don't have to prove those.

11 I'm going to skip to the next one, which is assault with
12 intent to commit criminal sexual conduct, first degree. The
13 first thing I have to prove is that he assaulted her, which I
14 already talked about briefly, which is basically the offer to do
15 injury. Not to prove he actually completed it, just an offer to
16 do it.

17 And then the second thing is that he had the criminal intent
18 to commit criminal sexual conduct, first degree. So what he
19 wanted to do was he wanted to engage, try to engage, in sexual
20 battery with the victim. And then she's going to have -- the
21 Judge is going to tell you what sexual battery is.

22 There's multiple ways to prove sexual battery. But
23 remember, I don't have to prove that he actually completed a
24 sexual battery, just that that was the intent. And so sexual
25 battery can be sex, oral sex, which sometimes we'll call

1 cunnilingus or fellatio. Cunnilingus is when oral sex is done on
2 a girl. Fellatio is when oral sex is done on a guy. Or any type
3 of intrusion to the private parts. I have to prove that was his
4 intent, to commit some type of sexual battery.

5 And the last thing I have to prove is that he used
6 aggravated force to try to accomplish a sexual battery. And the
7 legislature, one again, defined aggravated force, in that he used
8 physical force, or physical violence of a high and aggravated
9 nature, which can include the use of a deadly weapon.

10 And so the Judge is also going to charge you on reasonable
11 doubt. There's going to be a lot of talk about that. And so
12 we're going to skip to the next slide about what reasonable doubt
13 is and what it's not.

14 Does reasonable doubt mean that you have to be 100 percent
15 certain that Walter Chicas Palacios committed a crime? No. No.
16 The Judge is not going to tell you that you had, in order to be
17 convinced beyond a reasonable doubt, you've got to have DNA or
18 you've got to have video surveillance or you've got to have
19 multiple witnesses. She's not going say that. She's not going
20 to say that.

21 She's going to tell you that you have to be firmly convinced
22 of his guilt, and that there are very few things in life that we
23 know with 100 percent certainty. If I had to prove that someone
24 did something with 100 percent certainty, I assure you no person
25 in this world would ever be convicted of anything. That's pretty

1 much impossible. So you just have to be firmly convinced.

2 Now, you're going to also hear about some lesser-included
3 offenses with respect to the domestic violence, high and
4 aggravated charge. The Judge is going to go through with y'all,
5 and she's going to talk about domestic violence, what we call,
6 first degree, second degree, third degree. So I'm not going to
7 go into all the details with the domestic violence statute
8 because, like I said, it's pretty wordy.

9 But domestic violence, high and aggravated, is what I
10 charged with. That is the highest level of domestic violence.
11 First degree is right below that; second drive is even lower; and
12 third degree is the lowest.

13 So if you think he did it, or you're firmly convinced he
14 caused injury to Maria Flores but you just don't think it's of a
15 high and aggravated nature, then you convict him of the lesser
16 included.

17 The other thing the Judge is going to tell you about is
18 credibility. She's going to give you a charge about credibility.
19 And that basically means believability. What this case boils
20 down to is, Do you believe Maria Flores?

21 And I'm going to tell you the reasons why you should. She's
22 throwing up on the hospital floor. She's crying. She's got a
23 bruise on her. She's got over 54 injuries to her body. She's
24 got, whatever you want to call it, scrapes, cuts, whatever, over
25 54 of them. That's stats. She's got injuries.

1 If she's setting this man up, do you know what she needs do?
2 She needs to leave this courtroom right now, get in her car, not
3 go back to Virginia; she needs to head straight to Hollywood,
4 because she deserves an academy award, because this is a lot of
5 work to manipulate all these people and do all the aesthetics to
6 set this man up.

7 She doesn't need any man. I mean, the defense has gone on
8 and on and on about how promiscuous she is. She doesn't need a
9 new man; she clearly can get them. What's the point of setting
10 him up?

11 The other reason why you should believe her, she spent an
12 entire day at a hospital, two hospitals, traveling back and
13 forth. I think everyone in this room probably could agree that
14 spending time in a hospital is not exactly a good time. It's not
15 really how most people want to spend their time. And, you know,
16 if she was really trying to set him up, wouldn't one just be
17 enough?

18 Like I said before, the sexual exam is completely voluntary,
19 she volunteered, she chose to go there. Amye Stivender, she
20 chose to make that car ride, not to mention she rode in a car 10
21 hours one way to come tell a room full of strangers about what
22 happened to her while I am showing all of y'all, all these people
23 in the courtroom, pictures of her private parts. Who would want
24 their private parts on display? Who would want that unless it
25 happened to them and she wants them to be held accountable?

1 There is nothing to be gained here for Maria Flores. We are
2 in criminal court; we are not in civil court. There is no money
3 to be won; she doesn't get anything. If you find him guilty, the
4 only thing she gets to do is get in the car and ride 10 hours
5 back to Virginia and get on with her life. It's all she can do.

6 I want to wrap up here. But I think everyone knows that,
7 you know, domestic violence happens, sexual assault happens. And
8 the sad reality is that, instead of talking about what the
9 defendant did, it turns into a let's basically slut-shame the
10 victim, I mean, call her a liar. That's what these trials turn
11 into.

12 But she's a victim, and she's brave for coming here and
13 telling y'all what happened, taking time out of, you know, her
14 life to spend an entire week up here for something that happened
15 two years ago. But she's still telling you that he attacked her
16 with a knife two years later. She's living in Virginia. She
17 could just move on from the situation.

18 Maria Flores is here for two things and two things alone.
19 Number one is closure, so she can end this ugly Walter Palacios
20 chapter of her life, and; number two, accountability.

21 And that's what I'm asking for. I want you to hold him
22 accountable for the crimes that he committed on November 9th --
23 or, November 6th of 2019, I'm asking that you find him guilty.
24 Thank you.

25 THE COURT: Thank you.

1 ATTORNEY MATHEWS: May it please the Court.

2 THE COURT: Yes, sir.

3 ATTORNEY MATHEWS: I'm all fancy with that. I'm going to
4 bring on the paper in a little bit. I played football, too. I
5 played Sewanee, just a little tiny, little baby college. But we
6 used boards for that sort of stuff back in the day.

7 The number 54 for the number of abrasions really is
8 incredible. Now, think about how incredible that would be to
9 have 54 different nonself-inflicted wounds if you were wrestling
10 with somebody, as she testified they were. To have all of those
11 cuts, or not even cuts, scratches, because a cut breaks the skin.
12 And you can call them vertical abrasions if you want to, but
13 Officer Gilyard and the nurse here called them scratches. That's
14 a lot of scratches.

15 But imagine the skill it must take to have crosshatches over
16 your left breast that none of them broke the skin entirely, not a
17 one. And this is with wrestling, and this is with presenting
18 your penis to somebody's mouth and all these things over the
19 course of time. Imagine how difficult that must be.

20 The number 54 is an incredible number. It's incredible
21 because there's not a chance on earth that it could have happened
22 the way that Maria said it has. Not a chance. It's just not
23 believable that somebody would have that many cuts right there.
24 How still would she had to be to not break the skin?

25 We heard we were asked to have some sympathy for her

1 because, you know, many people telling different stories. It's
2 one person telling many stories. This is not somebody repeating
3 to somebody else, repeating to somebody else. This is the same
4 person tell 911 one thing. I've been stabbed, or cut. I don't
5 know, either way, perhaps that was a mistake. I don't know that
6 I heard any testimony to support it said cut, but perhaps it was.

7 Either way, there's a difference between an ambulance being
8 dispatched. Now, what happens then? Oh, my. And if you look at
9 some of the notes that you have there, it's not, again, that
10 different people are hearing, are repeating, things and it gets
11 diluted across. This is the same person. 911, I was stabbed in
12 the leg. No mention of a gun.

13 And, by the way, I notice the state's argument was very
14 distinctive on that one fact, okay. For many people, being
15 presented with a gun is the worst thing they ever face in their
16 life. And you don't remember that when you talk to 911, and you
17 don't remember that when you talk to the officer, Officer
18 Stivender, at the hospital, and you don't remember that when
19 you're talking to the nurse at Colleton County Memorial? You
20 don't remember that, but all of a sudden you're taken to
21 Charleston, Oh, and there was a gun, and a knife, and a broom.

22 These are stories that make no sense. These are not, poor,
23 poor thing, poor, poor thing there told Iris, who she said she
24 didn't know. She also said -- and I don't care what your level
25 of education is, I don't care if you can read or write, but to

1 not know your own phone number? It's stuff like that. And the
2 officer testified that she told her the phone number and wrote it
3 down, and I read it off. She said, I don't remember that, I
4 don't know my phone number. You know why she don't know her
5 phone number? Because she didn't want that piece of evidence to
6 come in. She's no dummy. And it didn't, and you don't get to
7 see it. And that's fine.

8 But you don't need to worry about that, because Walter's
9 sister -- that's the difference between a credible person being
10 translated and an incredible person being translated. I don't
11 remember if those are my clothes. When I showed the picture of
12 that, because I showed the picture of it, I took the picture, the
13 officers, they were there when I took the picture of those same
14 clothes. And I showed her the picture. Are these your clothes?
15 I don't know; I don't know.

16 That is unbelievable. It's not a mistake, it's not an error
17 in translation; it as a lie. And Maria Carmen Del Peraza Flores
18 told many, many lies. Why? Why would she do this?

19 Well, I'm reminded of a story from Genesis 39. And I don't
20 know if any of y'all are church people. Whether you are or not,
21 this is still a good story, and it's very applicable here.
22 Joseph was kidnapped by his brothers and dropped in a hole. They
23 were jealous of him, so they kidnapped him and they took him out
24 there. And he was picked up by a caravan and taken into Egypt.
25 And he starts working for a dude named Potiphar. And he becomes

1 powerful. Potiphar's one of Egypt's man men. He gives good
2 advice, and Potiphar's prospering. But Potiphar's noticed this,
3 because he was handsome in appearance and form. He's a
4 good-looking dude, and Potiphar's wife wanted to get with him.
5 And she approached him; she made her play. And he said, No,
6 ma'am; I've got it good here working; I've got everything in the
7 world that your husband has except you. I'd rather keep my job,
8 thank you very much. And she was upset. Grabbed his robe as he
9 was running out, and had him thrown in the can. Now, things
10 ended up working out okay, but he goes to prison for something he
11 didn't do. Because of what? The allegation of one lying person
12 who was jealous.

13 Is Maria Carmen, is she vindictive enough to do that?
14 According to Iris, she is. Early on Carmen, the brother of her
15 so-called household member -- that's the sister -- his sister, I
16 don't know her. And then over the course of time, Oh, okay,
17 maybe I saw her a time or two, maybe; maybe talked to her once.
18 They lived together. They lived together for some period of
19 time. Clearly they knew each other, and they communicated.

20 And Iris loves her brother, sure. She tells a story. She
21 said what had happened, how vindictive Maria is. She told her,
22 even though she was away from her, she leaves Honduras with one
23 of her three children; leaves the other two with, I guess, maybe
24 daddy's mom -- or dad, I don't know, but leaves the two children
25 behind and comes here.

1 And even though she has left her husband behind, she hears
2 that he is messing around, and tells -- I don't know if it
3 happened but I know that she told Iris that it happened, have him
4 killed. She testified that Carmen -- that Maria told her, My
5 husband was messing around, and I had somebody kill him.

6 So do you think enduring a few scratches and going to the
7 hospital and driving for a few hours, do you think that is beyond
8 somebody who is willing to have their husband killed for messing
9 around with somebody else?

10 The thing is, as far as whether or not you can tell or not
11 that something happened -- and the state has taken a great deal
12 of time talking about the things they don't have to prove. And
13 the fact of the matter is, the only person that doesn't have to
14 prove anything is Walter, the only person that doesn't have to
15 prove a thing.

16 Wouldn't that have been nice for Joseph to not -- to have
17 her prove? Now, she had clothes, I guess, so she actually had
18 some evidence.

19 And Carmen, I guess, had some scratches. Fifty-four, not
20 counting the ones on her leg. Oh, and by the way, there's more
21 injuries she talked about, too. She explained some blood by the
22 cut on her hand. You can look at some of those pictures. Look
23 at the reports. This is the first, today is the first, we ever
24 hear about a cut on her hand.

25 I can see why she might come up with that, because if you're

1 saying somebody is attacking you and there was a knife, you would
2 expect to find some defensive wounds, you would expect to find
3 some cuts on the hands or something like that. And there weren't
4 any. None of the medical reports refer to any of that stuff.

5 So while she is fighting for her life and he's got a knife,
6 not a cut on her hands, nothing. And there's some pictures.
7 Some of the pictures you can see her hands. There's no cut
8 there, there's no damage there. It's a lie; it's not a mistake;
9 it's not lost in translation; it is a lie, and it is a very
10 vindictive one.

11 I could go through, as far as the investigation that wasn't
12 done, it might be nice to have corroborating evidence. Whether
13 or not it's required, but it would be nice. But as it is, the
14 only evidence you have at all that Walter was even in South
15 Carolina, the only evidence you have, is her saying so.

16 Officer Gilyard, when he came out, he said he came down one
17 way, and it was hard to get there right away. This happened over
18 on that little stretch right as you're down Whichman Street,
19 going to Jeffries, there's the Stop n' Go or Shop n' Save, or
20 whatever, and right before you get there on Jeffries there's a
21 little cut through there, and that's Walters Street, part of
22 Walters Street, where this is supposed to have happened, right.

23 And you see in the body cam, you see Gilyard walking down
24 there. He's already come from the other direction. There's
25 nobody there. She says he left on foot. She said he left on

1 foot. If he left on foot that way, when he's rolling in he would
2 have seen him, because this was supposed to have happened pretty
3 quick, right. Nothing. Didn't see him coming in here. He went
4 out the back way, went down and talked to a couple people sitting
5 down there who was just hanging out. Did you see anybody run by,
6 any Mexican guy? No. We saw a white guy over there smoking, but
7 otherwise, no.

8 God bless him, Officer Gilyard did all the investigating
9 that was done in this case. And they came up with knowing,
10 nothing to corroborate. As far as DNA, touch DNA, okay, I'm
11 asking. But on a sexual assault, that's a pretty sweaty affair,
12 generally speaking. And if you're doing that and you're on top
13 of somebody, you're struggling and wrestling and all that sort of
14 stuff, you would expect there to be things like sweat or saliva
15 or pre-ejaculate if anything happened. There's no indication
16 that anything happened. And it wasn't sent off to be tested
17 because she said she knew who did it.

18 But things, if it had been tested, you would find out
19 whether there was any DNA other than her own. Any. Or perhaps
20 it was this new Eduardo that she went to Miami with. I don't
21 know. And as far as -- and Iris says that Carmen didn't break
22 up, Maria didn't break up with Walter; Walter broke up with
23 Maria. Because she left to go to Miami with another guy. That's
24 a pretty good reason to break up with somebody. And he had
25 enough, and he was done.

1 But afterwards, she continued to contact. And he stopped
2 taking the calls. And so she contacted Iris, who she said
3 initially, I don't know her, I don't know her. You lived with
4 her; you stayed at her house for at least a month on weekends,
5 and you don't know her? That's not a mistake, that's not an
6 accident in translation; that is a lie. I don't know my own
7 phone number. I don't know, I don't know, forme (phonetic sp).
8 Not forme, not forme. Evil vindictive, maybe. And this is the
9 sledgeham (phonetic sp), as far as that goes.

10 The only reason to get into all that stuff is to figure out
11 whether or not what kind of moral compass this gal has. And I
12 don't care who all you sleep with, it doesn't matter to me. But
13 I care if you get upset with somebody for not going with you when
14 you want to collect your little harem. I get upset about that.

15 There are 54, it's a good number, remember that, that's a
16 good number 54 times when somebody is wrestling, where a scratch
17 doesn't even break the skin. It doesn't -- it's not even cut.
18 How do you treat that, Officer Gilyard, since you're now an EMT?
19 Well, you know, you put some sterile water on it and put a
20 bandaid on it.

21 An ambulance and all the police officers out. And you saw
22 the police officers. You see their affect? They're all hanging
23 around, laughing and stuff like that. This is not a serious
24 thing. This was somebody saying there was something serious. I
25 got called out for a stabbing, and she had some scratches and she

1 had a little bruise there.

2 This is not, you know -- she's crying, okay, that's fine,
3 that's what you do. She's not stupid. She's mean, she's
4 vindictive, but she's not stupid. You've got to cry. I can't
5 make myself throw up, but I understand there are people that can.
6 And maybe she had a little bit of conscious in there or
7 something. Maybe. I don't know. But I know that throwing up is
8 not a symptom of sexual assault. That's a system of being upset.
9 But there are a lot of reasons you can be upset. If you're not
10 upset about the death of your husband's girlfriend, if you're not
11 upset about that, I don't know.

12 Anyway, you've got several different of the stories, but not
13 even all of them. One of the things that -- I contemplated
14 getting that board out. I think maybe y'all can keep up with it,
15 okay. They were, they had a chance to talk. They had, those
16 stories, she said 911 is one story.

17 Went on the scene, okay, nobody could translate. The only
18 thing, when she got to the door, initially she wasn't boo-hoo'ing
19 then. But when she got to the door, she's like, yes, right here,
20 she pulls down her elastic pants, elastic. She says, He used the
21 knife to cut off my pants at one point.

22 Look at where the scratches are. They are this way. And
23 they're elastic pants. You have them, the pictures. I didn't
24 send them back because I didn't think that you necessarily wanted
25 to handle them. You're welcome to. It's evidence. But if you

1 just want to look at the pictures, that she initially could not
2 recognize as her own clothes, but if you want to, you can open
3 them. Through some rehabilitation, the solicitor got her to say,
4 yeah, those are my clothes. Okay, you can look at those.

5 But look at the notches. This is the cut right here, two
6 parallel cuts rights here. The scratches are over here one way.
7 The cuts are there way. And yet, there are no cuts on her body
8 that way, not at that area, not where the pants would have been.

9 But when Gilyard walks in, she pulls them down and she says,
10 here and here, and she's showing this stuff off as far as that
11 goes.

12 And as far the salaciousness and the whole thing about being
13 photographed in a particularly compromising way, the solicitor's
14 office always had the option of just showing the same clothes
15 which are less salacious. You don't need to see everything in
16 order to see where the scratches are, because the scratches
17 didn't go all the way down. That is totally unnecessary.

18 And as far as whether she was exposed to that, well, I guess
19 if you're going to take a risk, you've got to go all the way, you
20 can't do this stuff halfway. But, golly, keep your story
21 straight.

22 A gun? I had somebody pull a gun on me one time, and that
23 was when I was in college. And I will never forget it. And I'm
24 lucky I didn't get killed. I just said, You better put that away
25 because if you don't kill me I'm going to kill you. And he put

1 it away. He was just messing with me. But I remember. Somebody
2 pulls a gun on me, I remember. And it's the first thing I say,
3 not the last.

4 Again, you don't need DNA if you're sure that somebody's not
5 lying. God bless her, Amye Stivender, now Special Agent
6 Stivender, good honor. She was appearing as a victim's advocate,
7 not as a detective. And the roles are different, and what you do
8 is different. She took the clothes into custody, but she didn't
9 have them sent off or anything like that. She said, well, she
10 knew who it was so we really didn't need to check unless you want
11 to find out if somebody was actually there, then you'd want to
12 know that. And if she were in the role as a detective, she
13 probably would have made a better decision.

14 Again, we mentioned the hands. No defensive wounds.

15 This was great. She's so sorry. I just, you know, I can't,
16 I can't read or write, I can't speak English, and so. But she
17 worked as a bartender. You're going to take tips, you're going
18 take change, and you can't count money? That's silly; that's
19 ridiculous. That's not true. And she's a mother. And you have
20 to be able to count. And she doesn't know her own phone number?
21 I don't think. It's nonsense stuff. I don't buy that.

22 I thought the broom was especially good. Now, she only told
23 that in one of her stories. But she told that in the story where
24 she is talking to Officer Stivender on her bodycam, that a sexual
25 assault was unable to be completed because I pulled out a broom

1 and I chased him away with a broomstick. Later on when she
2 actually testified she said, No, I just thought about that
3 because, you know, he had a knife. You know.

4 Okay. But the fact of the matter is, You did tell somebody,
5 you told, it's on the bodycam, you know, that she chased him off
6 with a broom. And now, under oath, she says here, well, I mean,
7 I thought about doing that, so it was in my mind to do that. I
8 couldn't because, of course, if he was armed, if he had a gun, if
9 somebody comes at me with a broomstick and I've got a gun,
10 probably just going to shoot her. But anyway.

11 Did you hear the description of the knife? I didn't. You
12 know why she didn't describe the knife? Because there was no
13 knife. She said there was a knife. Nobody asked, what did it
14 look like? How big was it? Was it a folding knife? Was it a
15 straight knife? These are questions you ask. And you can't say,
16 Well, there's a language barrier. Because you won't get any
17 answer if you don't ask the question. What kind of knife was it?
18 Was it a hunting knife or a kitchen knife?

19 She said he put it in his pants and he ran out. Again, how
20 big a knife? Couldn't have been too big because, like I said,
21 with the wrestling and all that stuff, it still only managed to
22 become a scratch. It's a lie. There was no description of a
23 knife because there was no knife.

24 The academy award, I thought that was great, I thought that
25 was a wonderful comment. I didn't find her acting particularly

1 persuasive, frankly. You know, I'm not a movie critic, but I'm
2 afraid I wouldn't have nominated her for any sort of -- maybe a
3 Razzie. I guess that's the award you get for the worst
4 performance. Because when the EMT comes in the house to talk to
5 her, first of all, she sees Gilyard, It's here, here, here, she
6 shows that sort of stuff, and she's fine.

7 And then the EMT gets there and you see on the video that,
8 all of a sudden, she sat back on this perfectly made bed, and
9 there's nothing damaged or disrupted in the house at all. She's
10 sitting on the bed and all of a sudden the EMT walks in there and
11 she's okay. Now she's crying. I mean, I guess what's that you
12 do as an actress, but it wasn't very convincing.

13 And then when they're pulling out at the very end, you know,
14 one of the Waltherboro Police Department officers is talking and
15 asking her questions about, Do you take any medication or
16 whatever? She's like, I don't know. She's fine. She's not
17 hysterical. She's doing this for affect. When she's asked a
18 question, she stops. Because if you're out of control, you don't
19 stop. That's acting. But that bad acting. It's not
20 academy-award acting; it's just bad.

21 And we're supposed to put -- we're supposed to put somebody
22 in jail. Y'all are being asked to send somebody off to prison
23 for a very long time because burglary is, first degree is, one of
24 the very ---

25 ATTORNEY KEENEY: Objection.

1 ATTORNEY MATHEWS: I'm not going to talk about the sentence.
2 You showed the thing up there. It's a very serious matter.

3 THE COURT: All right. Hold on one second. Objection is
4 overruled.

5 ATTORNEY MATHEWS: I won't get into the sentence, Your
6 Honor.

7 THE COURT: All right. Thank you.

8 ATTORNEY MATHEWS: If you're going to accuse somebody of
9 that, you better come real strong.

10 And when they talk about beyond a reasonable doubt, when Her
11 Honor talks about beyond a reasonable doubt -- and it's not
12 100 percent, already hedging at best there -- you better, you
13 know, that's why we have this.

14 You know, we've got a lot of things maybe not going the way
15 everybody wants it to go in America right now, but one of the
16 wonderful things we have is we've got a system where you don't
17 have to prove you didn't do it; we don't have to go through what
18 Joseph went through.

19 They have to prove that he did it, and beyond a reasonable
20 doubt, and information that you can give good reason for. And
21 you've got reasons, or the reasons that you shouldn't convict, is
22 because she's not telling the truth. And there's plenty of
23 indication that she's just lying. And so don't you need anything
24 more than that.

25 There is -- I really could go on an awfully lot longer, but

1 you guys know. You guys know. And you'll have a couple of the
2 reports. And you can compare those. And when you do, take as
3 long as you need, of course. But when you consider it, I don't
4 think it will take too long to conclude that the state has not
5 come anywhere near proving any of these offenses beyond a
6 reasonable doubt. Not even close. Thank you.

7 ATTORNEY KEENEY: May it please the Court?

8 THE COURT: Thank you.

9 ATTORNEY KEENEY: I'm going to be very brief because I know
10 y'all are ready to get on with this. But first thing I want to
11 tell you, talk about, in response to the defense, is the
12 defendant's sister, Iris. Now, she is his sister. She clearly
13 loves him. And she stood up there. And honestly, I don't even
14 know what she said. I asked her the same question two times
15 because I was trying to figure out what she was talking about,
16 that she advised her to stay with him. I don't even know what
17 that means.

18 And the only evidence that we have about this Honduras hit
19 on Maria Flores's husband is through Iris. I have never, ever
20 heard of that until today in this courtroom. Never heard of
21 that. Like, there is absolutely no evidence that Maria Flores
22 has hired a hit on her husband, to which I remind you, her
23 children are with her husband or ex-husband's mother. Does that
24 make any sense?

25 I think the defense is implying, in his closing, that the

1 husband is, in fact, dead. I don't think I heard any evidence
2 that he is dead or he was even murdered.

3 That's all a red flag. That is all him trying to distract
4 you from what the issue is. Did Walter Palacios enter Maria
5 Flores's home that day without permission and attack her? Did he
6 commit those three crimes that he's charged with?

7 Second thing I want to talk about is the clothes, the
8 pictures of the clothes, that the defense attorney took that
9 Maria said she did not recognize. She didn't recognize the
10 pictures. She told you that, she wasn't there for the pictures.
11 She didn't get it. Like I told you, she's not the most
12 intellectual human being. She did recognize her actual clothes
13 that are in evidence, the clothes that you have to look at.

14 He talked about how there's absolutely no corroboration.
15 But there is. I'm not going to count the injuries again. We've
16 exhausted that. But 54, that's a lot. That's corroboration.

17 And let me say this to you. There doesn't have to be
18 corroboration. If you believe her, if she didn't have any
19 injuries and she told you he tried to sexually assault her, you
20 can still find him guilty, because there is corroboration in this
21 case. You've got her injuries; you've got the rip in the pants;
22 you've got the blood on the shorts. So there is cooperation.

23 I think the defense attorney said she can count money if
24 she's a bartender. Well, what I heard Maria say is that all she
25 did, she delivered the checks. We've all probably been to a

1 Mexican restaurant, and there's always somewhere that, someone
2 there is just delivering the checks. She's not counting money.

3 The final thing I want to talk to you about is, I am not
4 asking you to send him to prison. That is not your job. That is
5 not even something that you need to even consider. Your job is
6 to just figure out if he is guilty. Hold him accountable for
7 what he did. Your job's not to put a man in prison. It's just
8 not.

9 I'm asking that you consider the fact that she really had no
10 reason to make this up and waste everyone's time. It's been two
11 years since this relationship with him has ended. She's living
12 in a completely different state. She's moved on.

13 Thank you for your time and patience. I know it hasn't been
14 your ideal, you know, way to spend your week, but we are
15 grateful. And this is important to Maria; it's important to the
16 defendant. And so I'm asking that you hold him accountable for
17 his actions on the day. Thank you.

18 THE COURT: All right, thank you. All right. Ladies and
19 gentlemen of the jury, in looking at the time, it's right at
20 4:00. It will take me probably another 30 or 40 minutes to give
21 you the jury charge. And then after that, you will start
22 deliberations, which would be probably close to 5:00. And we
23 don't have any idea, you don't have any idea, we don't have any
24 idea, how long that will take.

25 And so for that reason, I think what I'm going to do is

1 bring you all back in the morning and charge you on the law. And
2 then you will have tomorrow to deliberate.

3 I'm just a little concerned about -- usually we don't charge
4 at this time. It's an unofficial rule, because once we give it
5 to you, you all will be working through everything, and we want
6 you to be able to give it the consideration that it deserves.

7 So I am going to start, we'll start back, at 9:30 in the
8 morning. I will charge you on the law. And then you will be,
9 you will get it shortly thereafter for deliberations. The clerk
10 will order you lunch, which she will have menus for you in the
11 morning when you arrive for you to order your lunch. So we'll
12 take care of ordering your lunch; doing the jury charge.

13 And, Mr. Foreman, you all can eat if everybody's comfortable
14 eating in the room together, or if you'd rather take a break and
15 go outside to eat, it will be up to you to figure out what the
16 majority wants to do. So we will see you back at 9:30 in the
17 morning.

18 Please do not discuss the case, because you have not
19 received the law from the Court. Do not discuss the case with
20 anyone. Do not do any independent research; do. Not discuss
21 with your fellow jurors. We are, as I stated close to the end so
22 please, please be patient, and you will have it sooner than you
23 think, and then you'll be able to discuss it with each other
24 tomorrow.

25 So have a wonderful evening. Don't think about anything

1 that's happening here. And we'll see you tomorrow morning at
2 9:30. Thank you.

3 (WHEREUPON, the jury was escorted out of the courtroom at
4 4:02 p.m.)

5 THE COURT: All right. Anything we need to take up before
6 we recess -- well, not recess, I know we have the one matter.
7 Anything we need to take up?

8 ATTORNEY KEENEY: Nothing from the state.

9 ATTORNEY MATHEWS: No, ma'am.

10 THE COURT: All right. So see you all at 9:30 in the
11 morning. As they come in, we'll get their orders for lunch, and
12 we'll see when and what they come back with. All right. Good
13 job to both of you.

14 (WHEREUPON, court recessed for the day at 4:03 p.m. on June
15 2, 2021, and reconvened at 9:42 a.m. on June 3, 201.)

16 THE COURT: Anything we need to take up before we bring the
17 jurors in?

18 ATTORNEY KEENEY: Nothing from the state.

19 ATTORNEY MATHEWS: Nothing from the defendant, Your Honor.

20 THE COURT: All right, thank you. All right. We can bring
21 them on in.

22 (WHEREUPON, the jury is seated in the courtroom at
23 9:44 a.m.)

24 JURY CHARGE

25 THE COURT: Good morning, ladies and gentlemen of the jury.

1 At this time we are ready for the jury charge. I hope you all
2 had a restful evening. And we will continue with the trial in
3 this case. At this time I am going to charge you as to the law,
4 as to the law in the case.

5 I remind you that during this trial you and I have certain
6 duties to perform. As a trial judge, it is my responsibility to
7 preside over the trial of this case. And I also have the duty to
8 rule on the admissibility of the evidence offered during this
9 trial.

10 You're to consider only the competent evidence before you.
11 If there was any testimony ordered stricken from the record in
12 this case during this trial, you must disregard that testimony.

13 You're to consider only the testimony which has been
14 presented from this witness stand, any exhibits which have been
15 made a part of the record in this case, and any stipulations of
16 counsel.

17 I have the additional duty to charge you the law applicable
18 to this case. As a presiding judge, I am the sole judge of the
19 law of this case, and it is your duty, as jurors, to accept and
20 apply the law as I now state it to you.

21 If you already have any idea as to what the law is or what
22 the law ought to be and it does not agree with what I now tell
23 you the law is, you must abandon this idea because you are sworn
24 to accept the law and apply the law exactly as I state it to you.

25 In every case tried in this court before a jury, the jury

1 becomes the sole and exclusive judge of the facts in a case. A
2 trial judge cannot comment on or state or make any statements to
3 a trial jury about the facts in a case. Since you, the jury, are
4 the sole judges of the facts in this case, you're not to infer
5 from what I have said during the progress of this trial in ruling
6 upon the admissibility of evidence or otherwise, or anything that
7 I say now during the course of this instruction to you, that I
8 have any opinion about the facts in this case. The law does not
9 allow me to have an opinion about the facts in this case. This
10 matter is solely for you, the jury, to determine.

11 As jurors, it is your duty to determine the effect, value,
12 weight and truth of the evidence presented during the trial.

13 Ladies and gentlemen of the jury, there are two types of
14 evidence which are generally presented during a trial, direct
15 evidence and circumstantial evidence.

16 Direct evidence directly proves the existence of a fact and
17 does not require deduction. Circumstantial evidence is proof of
18 a chain of facts and circumstances indicating the existence of a
19 fact.

20 Crimes may be proven by circumstantial evidence. The law
21 makes no distinction between the weight or value to be given to
22 either direct or circumstantial evidence. However, to the extent
23 the state relies on circumstantial evidence, the circumstances
24 must be consistent with each other and, when taken together,
25 point conclusively to the guilt of the accused beyond a

1 reasonable doubt. If these circumstances merely portray the
2 defendant's behavior as suspicious, the proof has failed.

3 The state has the burden of proving a defendant guilty
4 beyond a reasonable doubt. The burden rests with the state
5 regardless of whether the state relies on direct evidence,
6 circumstantial evidence or a combination of the two.

7 Credibility of witnesses. You must determine the
8 credibility of witnesses who have testified in this case.
9 Credibility simply means believability. It becomes your duty as
10 jurors to analyze and to evaluate the evidence and determine
11 which evidence convinces you of its truth.

12 In determining the believability of witnesses who have
13 testified in this case, you may believe one witness over several
14 witnesses or several witnesses over one witness. You may believe
15 a part of the testimony of a witness and reject the remaining
16 part of the testimony of that same witness. You may believe the
17 testimony of a witness in its entirety or reject the testimony of
18 a witness in its entirety. You may consider whether the witness
19 has exhibited to you any interest, bias, prejudice or other
20 motive in this case.

21 Ladies and gentlemen of the jury, the defendant in this case
22 did not testify. I instruct you and emphasize that the fact that
23 the defendant did not testify is not a factor to be considered by
24 you in any way in your deliberations and in your consideration of
25 the question of the guilt or innocence of the defendant. It must

1 not be considered by you in any manner whatsoever.

2 A defendant has the constitutional right to remain silent,
3 and the insertion of this right must not be considered by you in
4 your deliberation.

5 I repeat, under your oath you are to draw no conclusion
6 whatsoever from the fact that the defendant did not testify in
7 this case. The fact that the defendant did not testify should
8 not even be discussed in the jury room.

9 The burden of proof, as I've told you, as I've told you, I
10 guess it was, on Tuesday is on the state. The defendant is not
11 required to prove his innocence. The burden of proof remains on
12 the state to prove guilt beyond a reasonable doubt.

13 The defendant in this case is charged with several different
14 offenses. The charges in the first indictment is first-degree
15 burglary, or burglary first. The second indictment is assault
16 with intent to commit first-degree criminal sexual conduct. And
17 indictment, the third indictment, is domestic violence of a high
18 and aggravated nature.

19 Each indictment charges a separate and distinct offense.
20 You must decide each indictment separately on the evidence and
21 the law applicable to it, uninfluenced by your decision as to any
22 other indictment.

23 The defendant may be convicted or acquitted on any or all of
24 the offenses charged. You will be asked to write a separate
25 verdict of guilty or not guilty for each indictment.

1 The indictments in this case charge the defendant with
2 first-degree burglary, or burglary first; assault with intent to
3 commit first-degree criminal sexual conduct; and domestic
4 violence of a high and aggravated nature.

5 I remind you that the fact that the defendant was arrested,
6 charged and indicted in this case is not evidence in this case
7 and cannot be considered by you as evidence of guilt in this
8 case, nor does it create any presumption or inference of guilt.

9 These documents, the indictments, are simply the formal
10 written instruments which contain the charges made against the
11 defendant. It is the formal document by which this case is
12 brought into court.

13 Ladies and gentlemen of the jury, next we'll talk about the
14 presumption of innocence. The defendant in this case has pled
15 not guilty to these indictments. And that plea puts the burden
16 on the state to prove the defendant guilty. A person charged
17 with committing a criminal offense in South Carolina is never
18 required to prove himself innocent.

19 I charge you that it is an important rule of the law that a
20 defendant in a criminal trial, no matter what the seriousness of
21 the charge may be, will always be presumed to be innocent of the
22 crime for which the indictment was issued unless guilt has been
23 proven by evidence satisfying you of that guilt beyond a
24 reasonable doubt.

25 The presumption of innocence does not end when you begin

1 your deliberations, but it accompanies the defendant throughout
2 the trial until you reach a verdict of guilt based on evidence
3 satisfying you of that guilt beyond a reasonable doubt.

4 The presumption of innocence is like a robe of righteousness
5 placed about the shoulders of the defendant, which remains with
6 the defendant until it has been stripped from the defendant by
7 evidence satisfying you of the defendant's guilt beyond a
8 reasonable doubt.

9 The presumption of innocence is not mere legal theory; it is
10 not just a legal phrase. It is a substantial right to which
11 every defendant is entitled unless you, the jury, are satisfied
12 from the evidence of the defendant's guilt beyond a reasonable
13 doubt.

14 Reasonable doubt. What is a reasonable doubt in the law? A
15 reasonable doubt is the kind of doubt that would cause a
16 reasonable person to hesitate to act. The state has the burden
17 of proving a defendant guilty beyond a reasonable doubt.

18 Some of you may have served as jurors in civil cases where
19 you were told that it is only necessary to prove that a fact is
20 more likely true than not true, such as by the greater weight of
21 the evidence, or preponderance of the evidence.

22 In criminal cases, the state's proof must be more powerful
23 than that, it must be beyond a reasonable doubt. Proof beyond a
24 reasonable doubt is proof that leaves you firmly convinced of the
25 defendant's guilt. There are very few things in this world that

1 we know with absolute certainty. And in criminal cases, the law
2 does not require proof that overcomes every possible doubt.

3 If, based on your consideration of the evidence, you are
4 firmly convinced that the defendant is guilty of the crime
5 charged, you must find the defendant guilty. If, on the other
6 hand, you think that there is a real possibility that the
7 defendant is not guilty, you must give the defendant the benefit
8 of the doubt and find him not guilty.

9 Ladies and gentlemen of the jury, in order to establish
10 criminal liability, criminal intent is required. For example,
11 the mental state required to be proven by the state for a
12 particular crime might be purpose, intent, knowledge,
13 recklessness or criminal negligence.

14 Criminal intent must be proven by the state beyond a
15 reasonable doubt. Criminal intent is always a matter that must
16 be determined by the jury from the circumstances surrounding the
17 situation. There is no way to prove intent to a mathematical
18 certainty. There's no way medical science can dissect a person's
19 brain to determine what the person had in mind. So the law says
20 that criminal intent may be inferred from the circumstances shown
21 to have existed.

22 This is how you make a determination of whether or not the
23 element requiring intent was present. It is not necessary to
24 establish intent by direct and causative evidence, but intent may
25 be established by inference in the same way as any other fact, by

1 taking into consideration the act of the parties and all the acts
2 and circumstances of the case.

3 Criminal intent is a mental state, a conscious wrongdoing.
4 It is up to you to determine what the defendant intended to do
5 based on the circumstances shown to have existed.

6 Criminal intent can arise from action or failure to act. It
7 may arise from negligence, recklessness or an indifference to
8 duty, or to consequences that is considered, by law, to be the
9 equivalent of criminal intent.

10 Ladies and gentlemen, the defendant is charged, as I've
11 stated, with first-degree burglary. The state must prove, must
12 first prove, beyond a reasonable doubt that the defendant entered
13 a dwelling without consent.

14 A dwelling is any building or portion of a building in which
15 a person ordinarily sleeps. A building constructed as a dwelling
16 that has never been occupied cannot be considered a dwelling for
17 purposes of a burglary, but a building is a dwelling even if the
18 residents are temporarily absent from the building.

19 In order to prove that the defendant entered the dwelling,
20 the state does not have to show that the defendant's entire body
21 entered the dwelling. The smallest entry is sufficient. It may
22 be any part of the body such as the hand or a foot, or even an
23 instrument such as a hook or another instrument.

24 In addition, the state does not have to prove that force was
25 used to gain entry. If a person enters a building by using

1 deception, artifice, trick or misrepresentation to get consent to
2 enter, this is an entry without consent.

3 Next, the state must prove beyond a reasonable doubt the
4 defendant intended to commit a crime, either a felony or a
5 misdemeanor, at the time of the entry. The mere entry into a
6 dwelling without consent is not burglary. If the intent to
7 commit a crime is formed after the entry, it is not a burglary.

8 On the other hand, if the defendant intended to commit a
9 crime at the time of the injury, it is a burglary even if the
10 intent was abandoned after the entry. It does not matter that
11 the intended crime was not completed.

12 Intent may be shown by acts and conduct of the defendant and
13 other circumstances from which you may naturally and reasonably
14 infer intent.

15 Finally, the state must prove beyond a reasonable doubt
16 that, one, when entering, while in the dwelling or when fleeing,
17 the defendant or an accomplice was armed with a deadly weapon or
18 explosive. A deadly weapon is an article, instrument or
19 substance which is likely to cause death or great bodily harm.

20 Whether an instrument has been used as a deadly weapon
21 depends on the facts and circumstances of each case. The
22 following are examples of instruments which may be deadly
23 weapons: A pistol, a shotgun, a rifle, a dirk, a dagger, a
24 knife, a slingshot, metal knuckles, a razor, gasoline, firebomb,
25 a Molotov cocktail, or lighter fluid. A gun may be a deadly

1 weapon even if it is not operating.

2 When entering while in the dwelling -- number two, when
3 entering, while in the dwelling or when fleeing, the defendant or
4 an accomplice caused physical injury to anyone not participating
5 in the crime.

6 And, three, when entering, while in the dwelling or when
7 fleeing, the defendant or an accomplice used or threatened to use
8 a dangerous object.

9 And, four, when entering, while in the dwelling or when
10 fleeing, the defendant or an accomplice displayed what was or
11 appeared to be a knife, pistol, revolver, rifle, shotgun,
12 machinegun or other firearm.

13 Ladies and gentlemen of the jury, the defendant in this case
14 is also charged with assault with the intent to commit
15 first-degree criminal sexual conduct. The state must prove
16 beyond a reasonable doubt that the defendant committed an assault
17 on the victim with the intent to commit first-degree criminal
18 sexual conduct.

19 The first element which the state must prove beyond a
20 reasonable doubt is that the defendant committed an assault. An
21 assault occurs when a person violently or forcefully attempts to
22 hurt or injure another person and has the present ability to
23 complete the attempted injury. An assault is the intentional
24 creation of fear or immediate bodily harm.

25 Next the state must prove beyond a reasonable doubt that the

1 defendant intended to engage in a sexual battery with the victim.
2 Intent means intending the result which actually occurs, not
3 accidentally or involuntary. Intent may be shown by acts and
4 conduct of the defendant and other circumstances from which you
5 may naturally and reasonably infer intent.

6 A sexual battery is sexual intercourse, cunnilingus,
7 fellatio, anal intercourse, or any intrusion, however slight, of
8 any part of a person's body or of any object into the genitals or
9 anal opening of another person's body, except when the intrusion
10 is accomplished for medically recognized treatment or diagnostic
11 purpose.

12 The state must also prove beyond a reasonable doubt that,
13 one, the defendant intended to use aggravated force to accomplish
14 sexual battery. Aggravated force means the use of physical
15 force, of physical violence of a high and aggravated nature, to
16 overcome the victim. This includes the threat of using a deadly
17 weapon.

18 And, two, the defendant intended for the victim to submit
19 the sexual battery while the victim was also the victim of
20 forcible confinement, kidnapping, robbery, extortion, burglary,
21 house-breaking, or any other similar act or offense.

22 The state is not required to show that the act was
23 completed.

24 The third indictment is for domestic violence of a high and
25 aggravated nature. The state must prove beyond a reasonable

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

7 To prove domestic violence of a high and aggravated nature,
8 the state must further prove, one, that the defendant committed
9 the offense under circumstances manifesting extreme indifference
10 to the value of human life and great bodily injury to the victim
11 would result; two, that the defendant committed the offense with
12 or without an accompanying battery under circumstances
13 manifesting extreme indifference to the value of human life and
14 would reasonably cause a person to fear imminent great bodily
15 injury or death; or, circumstances manifesting extreme
16 indifference to the value of human life include, but are not
17 limited to, one, the use of a deadly weapon; two, committing the
18 offense in the presence of or while being perceived by a minor;
19 three, committing the offense against a person known or who
20 reasonably should have known by the offender to be pregnant, or;
21 four, committing the offense during the commission of a robbery,
22 burglary, kidnapping or theft, or; five, committed by impeding a
23 victim's breathing, or; six, committed while using physical force
24 or threat of physical force, blocking the person access to an
25 electronic device, interfering with the person reporting to law

1 enforcement or requesting medical assistance.

2 A household member means a spouse, a former spouse, persons
3 who have a child in common, or a male and female who are
4 cohabitating or formerly have cohabitated.

5 Ladies and gentlemen of the jury, next we'll talk about
6 lesser-included offenses. If you find that the state has failed
7 to prove the defendant committed domestic violence of a high and
8 aggravated nature, you may consider whether the state has proved
9 beyond a reasonable doubt that the defendant committed domestic
10 violence, first degree; domestic violence, second degree; or
11 domestic violence, third degree.

12 Included within the offense of domestic violence of a high
13 and aggravated nature of a lesser-included offenses is domestic
14 violence, first degree; domestic violence, second degree; and
15 domestic violence, third degree.

16 First-degree domestic violence is a lesser-included offense
17 of domestic violence of a high and aggravated nature.

18 In proving the crime of domestic violence, the state must
19 prove beyond a reasonable doubt that the defendant caused
20 physical harm or injury to a member of the defendant's own
21 household, or that the defendant offered or attempted to cause
22 physical harm or injury to a member of the defendant's own
23 household, with the apparent or present ability to cause harm or
24 injury under circumstances, reasonably creating a fear of
25 imminent danger.

1 The state must also prove beyond a reasonable doubt that,
2 one, great bodily injury to the defendant's own household member
3 results, or the acts as accomplished by means are likely to
4 result in great bodily injury, or; two, the person used a
5 firearm, or; three, in the process of committing domestic
6 violence, second degree, the following also results: A,
7 committed in the presence of, or while being perceived by, a
8 minor; B, or if the person known should have reasonably been
9 known by the defendant to be pregnant; C, committed during the
10 commission a robbery, burglary, kidnapping or theft; D, committed
11 by impeding a victim's breathing, or; E, committed using physical
12 force or threat of physical force, blocking the person's access
13 to any cellphone, interfering with the person reporting to law
14 enforcement or seeking medical assistance.

15 Second-degree domestic violence is a lesser-included offense
16 of domestic violence of a high and aggravated nature. In proving
17 the crime of domestic violence, the state must prove beyond a
18 reasonable doubt that the defendant caused physical harm or
19 injury to a member of the defendant's own household, or that the
20 defendant offered or attempted to cause physical harm or injury
21 to a member of the defendant's own household, with the apparent,
22 present ability to cause harm or injury under circumstances
23 reasonably creating a fear of imminent danger.

24 For domestic violence, second degree, the state must also
25 prove beyond a reasonable doubt that, one, moderate bodily injury

1 to the person's own household member results; or the act is
2 accomplished by means likely to result in moderate bodily injury
3 to the person's own household member. Or, two, in the process of
4 committing domestic violence, third degree, the following also
5 results: A, committed in the presence of a minor; B, against a
6 person known or who reasonably should have known that that the
7 offender -- known by the offender to be pregnant; C, committed
8 during the commission of a robbery, burglary, kidnapping or
9 theft; D, committed by impeding the victim's breathing, or; E,
10 committed using physical force or threat of physical force,
11 blocking the person's access to any cellphone, interfering with
12 reporting to law enforcement or seeking medical assistance.

13 Third-degree domestic violence is also a lesser-included
14 offense of domestic violence of a high and aggravated nature. In
15 proving a crime of domestic violence, the state must prove beyond
16 a reasonable doubt that the defendant caused physical harm or
17 injury to household member, or that the defendant offered or
18 attempted to cause physical harm to a household member with the
19 apparent, present ability to cause harm or injury under
20 circumstances reasonably creating a fear of imminent danger.

21 Ladies and gentlemen of the jury, the state and the
22 defendant are entitled to the individual opinion of each juror on
23 the issues of facts in this case. It is the duty of each of you
24 to consider and weigh all of the evidence in the case, and from
25 such evidence to determine, if you can, the question of guilt or

1 innocence of the defendant.

2 There's nothing particularly different in a way a jury
3 should consider the evidence in a criminal case from that in
4 which all reasonable persons treat any questions depending on the
5 evidence presented to them. You're expected to use your good
6 sense, consider the evidence in the case for only the purpose for
7 which it has been admitted, and give it a reasonable and fair
8 construction in the light of your common knowledge of the natural
9 tendencies and inclination of human beings.

10 Your verdict in this case will be one of two forms. If,
11 from the evidence and the law, you find that the defendant is not
12 guilty, you will circle not guilty on the verdict form that I
13 will give you, Mr. Foreman, and you will sign your name.

14 If, on the other hand, you find that the defendant is guilty
15 based upon the evidence and the law which you have heard, you
16 will circle guilty on the verdict form and the foreman will sign
17 his name.

18 Your verdict must be unanimous. It must be guilty or not
19 guilty. The law requires that a jury verdict be unanimous, which
20 means that all the jurors must agree. The only two forms of the
21 verdict are guilty or not guilty.

22 Mr. Foreman, once the jury reaches a verdict of not guilty
23 or guilty, circle the verdict on the face of the verdict form and
24 sign under the verdict to signify that what you have circled is
25 the verdict of all the jurors. Then notify us by knocking on the

1 door.

2 I will give you a copy of these instructions in written
3 form. During your deliberations, you may refer to the
4 instructions to guide your decision-making. You must consider
5 the instructions as a whole and not follow some of the
6 instructions and ignore others. Please return the instructions
7 to the Court at the time your verdict is rendered.

8 Mr. Foreman, I have a copy of the verdict form that I would
9 like to go over with you, especially the portions regarding the
10 lesser included. I've discussed it and it's in the jury charge,
11 but I would like to go over the verdict form.

12 Do you have a copy that I could hand him? Ms. Robinson, can
13 I get to you hand this to him?

14 All right, Mr. Foreman, that is the verdict form that you
15 have there. And it reads, the State of South Carolina, County of
16 Colleton, in the Court of General Sessions of the 14th Judicial
17 Circuit, Indictment Nos. 2020-GS-15-94, 96 and 454, State of
18 South Carolina versus Walter Palacios. And it says, Verdict
19 Form. Please circle the appropriate verdict below, and follow
20 the accompanying instructions carefully. No. 1. As to the
21 indictment alleging burglary, first degree, we, the jury,
22 unanimously find the defendant -- and you will circle guilty or
23 not guilty.

24 No. 2. As to the indictment alleging assault with intent to
25 commit criminal sexual conduct, first degree, we, the jury, find

1 the defendant -- and once again you will circle guilty or not
2 guilty.

3 All right. No. 3. As to the indictment alleging domestic
4 violence of a high and aggravated nature, we, the jury,
5 unanimously find the defendant -- guilty or not guilty. So on
6 no. 3, if you find the defendant guilty, you will stop right
7 there.

8 If you find the defendant not guilty, then you need to look
9 to question no. 4. As to the lesser-included charge of domestic
10 violence, first degree, we, the jury, unanimously find the
11 defendant -- it will be guilty or not guilty. Once again, if you
12 find the defendant guilty, you will stop right there; and if you
13 find him not guilty, you will go to the next question.

14 No. 5 -- and you see it says or. No. 5. As to the
15 lesser-included charge of domestic violence, second degree, we,
16 the jury, unanimously find the defendant -- and it is guilty or
17 not guilty. Same thing. If you find him guilty, you stop right
18 there. If you find him guilty, you'll move to the next question.

19 And no. 6. As to the lesser-included charge of domestic
20 violence, third degree, we, the jury, unanimously find the
21 defendant -- guilty or not guilty. You will -- no. 6, once you
22 finish, the jury unanimously finds him guilty or not guilty, you
23 stop in your deliberations; you will sign where it says presiding
24 juror; and date right there next to it.

25 All right. We will send you all back into the jury room.

1 Do not begin your deliberations until you've received -- we've
2 got to collect all the evidence; we will send the evidence back;
3 also, the jury charge back; and then the verdict form. Once you
4 receive the evidence, the jury charge, the verdict form and the
5 instruction from the bailiff to begin your deliberations, then
6 you may begin your deliberations.

7 Madam clerk, she is going to order lunch. So, as I said to
8 you all before, you can decide, Mr. Foreman, or you can poll and
9 see, if they can like to eat and work in the room. Obviously
10 that's going to require you to pull your mask down. Spread out.
11 They said you all have a good bit of space back there.

12 Or if someone wants to stop, you will either leave out the
13 room and stop your deliberations. So anytime any one person
14 needs to take a break or stop, you have to stop your
15 deliberations and start back -- everyone has to deliberate
16 together, and the decision has to be unanimous. All right.

17 And I think that's everything. We will send you all back,
18 and we will be, someone should be, in with everything shortly.

19 And our alternates, we'll get you all to hang back. And
20 we'll have our 12 jurors, Mr. Bailiff, you go ahead and start
21 taking them in. Go ahead and take them back to the jury room.
22 And you can you give the verdict form back to the court reporter.
23 Thank you.

24 (WHEREUPON, the jury is escorted out of the courtroom at
25 10:19 a.m.)

1 MATTER(S) OF LAW

2 THE COURT: All right. All right. Any objections or
3 exceptions?

4 ATTORNEY KEENEY: Your Honor, the only thing that I saw or I
5 heard is, on page 16, when you were talking about domestic
6 violence, first degree, for some reason I thought you talked
7 about it but where it says a reasonable doubt, a defendant causes
8 physical harm or injury to a member of the defendant's own
9 household, for some reason I thought we rearranged that language
10 to make it helpful so it doesn't sound like that they had to be
11 in the same household at the time.

12 Other than that, I mean, I think it's probably substantially
13 correct.

14 THE COURT: I think it's just semantics.

15 ATTORNEY KEENEY: Okay.

16 THE COURT: But it says defendant's own household member.
17 But that's the way it's written, I mean, household, member of the
18 defendant's own household or household member.

19 ATTORNEY KEENEY: Okay.

20 ATTORNEY MATHEWS: No objections from the defendant, Your
21 Honor.

22 THE COURT: All right.

23 ATTORNEY KEENEY: You're probably substantially correct.

24 THE COURT: That's the way it's written. Yeah, that's the
25 way it's written in the statute.

1 ATTORNEY KEENEY: Okay.

2 THE COURT: So I'm not inclined to bring them back out. I
3 think it's pretty self-explanatory. Member of is just probably
4 semantics.

5 If not, I can change it in the -- we changed it, but
6 remember, we ended up having, we ended up having basically three
7 revisions about the charge. Four. All right.

8 She's actually going to get their lunch order.

9 If you all can come and review the exhibits.

10 (WHEREUPON, counsel examines the exhibits.)

11 THE COURT: All right. And to our alternates, I want to
12 thank you on behalf of everyone here for your service. In the
13 words of my old boss, being an alternate is like being invited to
14 the dance and not being asked to dance. So I do want to thank
15 you. As you can see, everyone returned. But there are times
16 when we use both of our alternates when someone gets sick or
17 someone has some emergency. But at this time, look, I mean, no
18 one had any emergencies or got sick or anything like that. So we
19 will not need your services any longer. But I do want to thank
20 you all for being here.

21 You're more than welcome to stick around if you want to see
22 what they're going to do. If not, you can leave. And if you
23 want to call back to the clerk's office, they'll tell you. Who
24 should they ask for about that?

25 CLERK OF COURT: General Sessions. You mean to call to see

1 what the verdict is?

2 THE COURT: Yes.

3 CLERK OF COURT: General Sessions.

4 THE COURT: You can call the General Sessions line.

5 CLERK OF COURT: 1106.

6 THE COURT: 1106. And they should be able to tell you.

7 Probably not this evening, because we don't know how long they'll

8 be out. But if you all go about your business, we do understand.

9 You're more than welcome to talk about the case now.

10 You are released from jury service. You do not have to
11 serve the next three years unless you choose to serve. If you
12 need a work excuse, just go downstairs to General Sessions, and
13 they can get you a work excuse. All right.

14 Thank you. Have a wonderful week/weekend, I guess, at this
15 point.

16 ATTORNEY MATHEWS: Looks good to me.

17 ATTORNEY KEENEY: Looks good. We can send the gloves back;
18 right?

19 THE COURT: Yeah. They're going to need the gloves.

20 ATTORNEY KEENEY: If they want to watch the videos again,
21 they're going to have to come back out here, because I have to
22 put it on ---

23 THE COURT: Y'all don't have a clean computer for them back
24 there?

25 ATTORNEY KEENEY: Well, I didn't have time to redact the

1 videos, so I just played it all in the courtroom, and there's
2 some ---

3 THE COURT: So I'm probably going to bring the foreman back
4 out to tell him that. Well, you know what? Let's get everything
5 together, and then we'll ---

6 ATTORNEY KEENEY: This is all good.

7 THE COURT: She said there's some grammatical errors in what
8 I read, and she's going to make those changes.

9 (WHEREUPON, Court's Exhibits 2 and 3 are marked for
10 identification.)

11 (WHEREUPON, the jury receives the evidence and begins their
12 deliberations at 10:25 a.m.)

13 (WHEREUPON, court recessed at 10:25 a.m. and reconvened at
14 12:31 p.m.)

15 THE COURT: All right. During the verdict, I would ask that
16 there are no outbursts in the courtroom.

17 Ready?

18 ATTORNEY MATHEWS: Yes, Your Honor.

19 THE COURT: Bring them on in.

20 (WHEREUPON, the jury is seated in the courtroom at
21 12:34 p.m.)

22 THE COURT: All right. Mr. Foreman, it's my understanding
23 that you have reached a verdict.

24 THE FOREPERSON: Yes, Your Honor.

25 THE COURT: And is that verdict unanimous?

1 THE FOREPERSON: Yes, Your Honor.

2 THE COURT: All right. And if you could just hand the
3 verdict form to the clerk.

4 (WHEREUPON, the Court inspects the verdict slip.)

5 THE COURT: All right. Madam Clerk, I ask you to publish
6 the verdict.

7 MADAM CLERK REBECCA HILL: In the State of South Carolina,
8 County of Colleton, in the Court of General Sessions of the 14th
9 Judicial Circuit, the State of South Carolina versus Walter
10 Palacios.

11 The Verdict. As to the indictment alleging burglary, first
12 degree, we, the jury, unanimously find the defendant guilty.

13 As to the indictment alleging assault with intent to commit
14 criminal sexual conduct, first degree, we, the jury find the
15 defendant guilty.

16 As to the indictment alleging domestic violence of a high
17 and aggravated nature, we, the jury, unanimously find the
18 defendant guilty.

19 THE COURT: All right.

20 MADAM CLERK REBECCA HILL: And it is signed and dated by the
21 foreperson, June 3rd, 2021.

22 THE COURT: Thank you. Anything else from the jury before I
23 release them?

24 ATTORNEY MATHEWS: I just reserve my post-trial motions.
25 But as to the jury, no.

1 THE COURT: All right. All right. Ladies and gentlemen of
2 the jury, I do want to thank you for your service here this week.
3 It has -- it is a short week, but I'm sure it feels like it's
4 been a long week. But thank you all for your service.

5 As you can see, there are matters that come up in counties
6 that cannot be resolved between the parties and the attorneys,
7 and that is when we turn to 12 citizens like you to assist us in
8 resolving issues before the court. And so I do want to thank you
9 for exercising your civic duty here this week.

10 And I hope you have a wonderful weekend. You'll be
11 released. My understanding is the lunch is here.

12 MADAM CLERK REBECCA HILL: Is here. And we're going to have
13 it brought to the jury room.

14 THE COURT: And so you can take it with you. You don't have
15 to sit back there and eat it; you can take the lunch with you.
16 Have a wonderful, have a wonderful weekend. Thank you again.

17 You do not have to serve for another three years, at least,
18 in this court. I cannot protect you from federal court,
19 municipal court, magistrate court. But in Circuit Court, you
20 will not have to serve for another three years. Thank you. Have
21 a wonderful day.

22 (WHEREUPON, the jury is dismissed and escorted out of the
23 courtroom at 12:37 p.m.)

24 THE COURT: All right. Yes, ma'am?

25 ATTORNEY KEENEY: Judge, I don't really have much for

1 sentencing. You've been here all week and listened to the facts.
2 Obviously there's a mandatory minimum involved here of 15 with
3 the burglary charge.

4 I do want to prepare a permanent restraining order for the
5 victim in this case. I just don't believe that would be an
6 issue, but I'm going to prepare that for your order.

7 THE COURT: The only other thing I need is the sentencing
8 sheet.

9 ATTORNEY KEENEY: Yes, Your Honor. I'm printing it. I
10 wasn't sure what the verdict was going to be, so I didn't prepare
11 it ahead of time. The clerk and I will be doing that. We're
12 printing them right now.

13 THE COURT: Okay. Sorry. Mr. Mathews, you wanted to renew
14 your motions, or any other motions?

15 ATTORNEY MATHEWS: Yes. Just reserve my -- I'll take a look
16 and find out what more I can do as far as that goes. If I can
17 just preserve my other post-trial motions for three days, if I
18 can do that.

19 THE COURT: All right.

20 ATTORNEY KEENEY: I'm so sorry to interrupt. Is domestic
21 violence, is that the most serious?

22 THE COURT: The burglary's going to be the more serious.

23 ATTORNEY KEENEY: We still have to check on the sentencing
24 sheet for each sentencing form.

25 THE COURT: Oh, it doesn't do it on its own? I thought it

1 did.

2 ATTORNEY KEENEY: Not in our system.

3 THE COURT: I want to say it's -- I don't know. They've
4 changed the law. Yes, ma'am, I'm happy to hear from you.

5 ATTORNEY KEENEY: Your Honor, I don't really have much to
6 say. Like I said before, obviously there's a mandatory minimum
7 involved. You've been here. Obviously it's within your
8 discretion.

9 And we are printing out a permanent restraining order that
10 we can hand up in just a little built that we are asking for.
11 Thank you.

12 And obviously, you know, he would be placed on the sexual
13 offender registry with the assault charge, in the event that he's
14 in this country. He does have an ICE hold, and so I assume he
15 would be deported after he serves his sentence.

16 THE COURT: All right. Thank you. Yes, sir?

17 ATTORNEY MATHEWS: Your Honor, obviously very, very
18 disappointed. This is one of the rare times where I would say I
19 thought the jury got it wrong.

20 But I would only ask for the minimum. I know that he can't
21 get less than 15 years for first-degree burglary. I would for
22 that. And for the other sentences, something less than that,
23 concurrent.

24 THE COURT: All right. Thank you. All right. Yes, sir.
25 Let me have him stand.

1 (WHEREUPON, the defendant stands before the Court.)

2 THE COURT: All right. Sir, on Indictment 2020-GS-15-454,
3 96 and 454, so you will be sentenced to the State Department of
4 Corrections for 18 years. Sentences will run concurrent, and
5 you'll be given credit for any time that he has served. You will
6 be required to register on the sex offender registry. And there
7 will be a permanent restraining order for 30 years not to have
8 any contact with the victim.

9 And you're going to pass that up to me?

10 ATTORNEY KEENEY: Yes, Your Honor. We are preparing it.
11 All right. Yes, ma'am.

12 INTERPRETOR: (Alfredo Ayala) Can you repeat the total
13 amount of time, please?

14 THE COURT: Eighteen, concurrent. Thank you.

15 ATTORNEY KEENEY: Did you say, for the current restraining
16 order, 30 years?

17 THE COURT: Yes.

18 (End of Transcript of Record)

19

20

21

22

23

24

25

CERTIFICATE OF REPORTER

I, Cathy J. Provost, Official Court Reporter for the Fourteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record of the proceedings had and evidence introduced in the trial/proceedings of the captioned case, relative to appeal, in the Court of General Sessions for Colleton County, South Carolina, on the 1st, 2nd and 3rd days of June, 2021.

I do further certify that I am neither of kin, counsel, nor interest to any party hereto.

Date: October 11, 2021

/s/ Cathy J. Provost
Cathy J. Provost, RMR
Official Circuit Reporter

STATE OF SOUTH CAROLINA	)	IN THE COURT OF GENERAL SESSIONS
	)	Indictment No.s: 2020GS1500094; 096; 454
COUNTY OF COLLETON	)	
State of South Carolina,	)	
	)	
Vs.	)	Request to Charge #___ Definition of
	)	"Household Member" and "Cohabitation"
WALTER PALACIOS,	)	
	)	
Defendant.	)	
_____	)	

""Household member" means:

- (1) a spouse;
- (2) a former spouse;
- (3) persons who have a child in common; or
- (4) ~~a male and female~~ a couple who are cohabitating or formerly have cohabitated"

Section 16-25-10(3), S.C. Code of Laws, as amended, and Doe v. State, 421 S.C. 490, 808 S.E.2d 807 (2017).

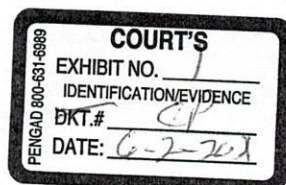
Cohabitation means to live together as ~~husband and wife~~ spouses. The mutual assumption of those marital rights, duties and obligations which are usually manifested by married people, including but not necessarily dependent on sexual relations.

Black's Law Dictionary, Fifth Edition, 1979 (and Doe v. State, 421 S.C. 490, 808 S.E.2d 807 (2017)).

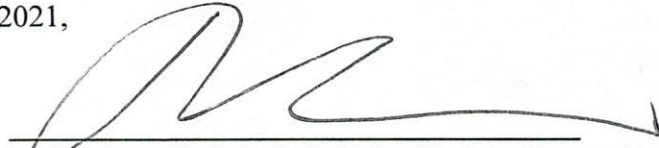
Household members are family members.

Doe v. State, 421 S.C. 490, 808 S.E.2d 807 (2017), at page 815, citing Moore v. Moore, 376 S.C. 467, 476, 657 S.E.2d 743, 748 (2008)

' A person is an inhabitant of a place when he has his domicile there and, in determining inhabitancy under the present statute, the principles governing domicile are applicable. Our decisions have defined domicile as 'the place where a person has his true, fixed and permanent home and principal establishment, to which he has, [254 S.C. 584] whenever he is absent, an intention of returning.' Phillips v. S. C. Tax Commission, 195 S.C. 472, 12 S.E.2d 13.



Respectfully Submitted the 1st Day of June, 2021,

A handwritten signature in black ink, appearing to read 'D. Mathews', written over a horizontal line.

David S. Mathews, Assistant Public Defender
Colleton County Division
14th Circuit Public Defender's Office
319 North Lucas Street
Walterboro, SC 29488
(843)549-1633

WITNESSES

WPD

DOCKET NO. 2020GS1500094

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

April Term 2021

THE STATE

vs.

Walter Alexander Palacios

Indictment For

Burglary, First Degree

SC Code: 16-11-311(A)

CDR Code: 0079

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

Defendant

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

Defendant

Witness:

C.C.C. PLS. and G.S.

ARREST WARRANT NUMBER

2019A1520300388

ACTION OF GRAND JURY

True Bill

Christopher J. Hase
Foreperson of Grand Jury

Date: 4-29-21

VERDICT

Foreperson of Petit Jury

Date:
INDICT

2021 APR 29 AM 10:10
CLERK OF COURT
GENERAL SESSIONS COURT

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

)
)
)

INDICTMENT

2020GS1500094

At a Court of General Sessions, convened on April 29, 2021, the Grand Jurors of Colleton County present upon their oath:

Burglary, First Degree

That in Colleton County, South Carolina, on or about November 6, 2019, the Defendant, Walter Alexander Palacios, did enter a dwelling without consent and with intent to commit a crime therein and when, in effecting entry or while in the dwelling or in immediate flight therefrom, 1) was armed with a deadly weapon; 2) caused physical injury to Maria Del Carmen Peraza Flores who was not a participant in the crime; or 3) did display what appeared to be a knife. This is all in violation of Section 16-11-311 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

STATE OF SOUTH CAROLINA

COUNTY OF Colleton

STATE

VS.

Walter Alexander Palacios

AKA:

Race: Hispanic Sex: Male Age: 35

DOB: 1984 SS#:

Address: Deerfield Rd, Walterboro, SC 29488, Colleton County

DL# * SID#

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

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

TO: Burglary, 1st Degree

In violation of § 16-11-311 of the S.C. Code of Laws, bearing CDR Code # 0079

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45
 (CSC w/minor 1st or CSC w/minor 3rd)

 The charge is: ☒ As indicted, ☐ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury. (def's initials)
 The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

 (Solicitor) 00145 (Defendant) X Walter A. Chicago Palacios (Attorney for Defendant) 11925
 (SC Bar #) (SC Bar #)

 WHEREFORE, the Defendant is committed to the ☒ State Department of Corrections ☐ County Detention Center,
 for a determinate term of 18 days/months/years or ☐ under the Youthful Offender Act not to exceed _____ years
 and/or to pay a fine of \$ _____ provided that upon the service of _____ days/months/years and or payment of \$ _____
 plus costs and assessments as applicable*; the balance is suspended with probation for _____ months/years and subject to South Carolina Department of
 Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.
☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by 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) \$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/cach \$ _____
 3% to County (if paid in installments) \$ 3.75
☐ Obtain GED☐ Attend Voc. Rehab. Or Job Corp. _____☐ May serve W/E beginning _____☐ Substance Abuse Counseling _____☐ Random Drug/Alcohol Testing _____

Fine may be pd. in equal consecutive weekly/monthly

pmts. of \$ _____ Beginning _____

\$ _____ Paid to Public Defender Fund

Other: _____

☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees

TOTAL \$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter: Cathy Novast

MP-SCCA/217 (04/2018)

Presiding Judge: _____

Judge Code: 2161

Sentence Date: 6-3-21

WITNESSES

WPD

76

ARREST WARRANT NUMBER

2019A1520300391

ACTION OF GRAND JURY

True Bill

Kristen Fraser

Foreperson of Grand Jury

Date: 4-29-21

VERDICT

Foreperson of Petit Jury

Date:

INDICT

DOCKET NO. 2020GS1500454

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

April Term 2021

THE STATE

vs.

Walter Alexander Palacios

Indictment For

Assault With Intent to Commit
Criminal Sexual Conduct, First
Degree

SC Code: 16-3-656, 16-3-652(1)(a)

CDR Code: 0253

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

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.

2021 APR 29 AM 10:10
CLERK OF COURT

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

INDICTMENT

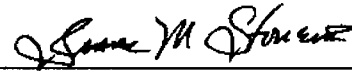
2020GS1500454

At a Court of General Sessions, convened on April 29, 2021, the Grand Jurors of Colleton County present upon their oath:

Assault With Intent to Commit Criminal Sexual Conduct, First Degree

That in Colleton County, South Carolina, on or about November 6, 2019, the Defendant, Walter Alexander Palacios, did commit the offense of Assault with Intent to Commit Criminal Sexual Conduct, First Degree by assaulting Maria Del Carmen Peraza Flores with intent to engage in a sexual battery with Maria Del Carmen Peraza Flores and Defendant used aggravated force to try to accomplish the sexual battery. This is in violation of Section 16-3-656 and 16-3-652 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

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Colleton

STATE

VS.

Walter Alexander Palacios

AKA:

Race: Hispanic Sex: Male Age: 35

DOB: 1/1984 SS#:

Address: Deerfield Rd, Walterboro, SC 29488, Colleton County

DL# * SID#

INDICTMENT/CASE#:

2020GS1500454

A/W#:

2019A1520300391

Date of Offense:

11/06/2019

S.C. Code §:

16-3-656

CDR Code #:

0253

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

PLEADS

TO: Assault with Intent to Commit Criminal Sexual conduct - First Degree

In violation of § 16-3-656, 16-3-656(2) of the S.C. Code of Laws, bearing CDR Code # 0253

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS☒ MOST SERIOUS☐ MANDATORY GPS ☐ §17-25-45(CSC w/minor 1st or CSC w/minor 3rd)The charge is: ☒ As indicted,☐ Lesser Included Offense,☐ Defendant Waives Presentment to Grand Jury

(def's initials)

The plea is: ☐ Without Negotiations or Recommendation,☐ Negotiated Sentence,☐ Recommendation by the State.

ATTEST:

(Solicitor) 100145 (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 18 days/months/years or ☐ under the Youthful Offender Act not to exceed years

and/or to pay a fine of \$ provided that upon the service of days/months/years and or payment of \$

plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of

Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

☒ CONCURRENT or ☐ CONSECUTIVE to sentence on:☒ The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by 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), 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) \$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

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter: Cathy Provost

MP-SCCA/217 (04/2018)

☐ 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:

Sex offender
Registry PRO☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge:

Judge Code:

Sentence Date:

WV
2161
6-3-21

WITNESSES

WPD



DOCKET NO. 2020GS1500096

The State of South Carolina

County of Colleton

COURT OF GENERAL SESSIONS

April Term 2021

THE STATE

vs.

Walter Alexander Palacios

Indictment For

Domestic Violence - High and
Aggravated

SC Code: 16-25-65, 16-25-20

CDR Code: 3814

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.

ARREST WARRANT NUMBER

2019A1520300390

ACTION OF GRAND JURY

True Bill



Foreperson of Grand Jury

Date: 4-29-21

VERDICT

Foreperson of Petit Jury

Date:
INDICT2021
APR 29 AM 10:10
CLERK OF COURT
JULIA A. HARRIS

STATE OF SOUTH CAROLINA

COUNTY OF COLLETON

INDICTMENT

2020GS1500096

At a Court of General Sessions, convened on April 29, 2021, the Grand Jurors of Colleton County present upon their oath:

Domestic Violence - High and Aggravated

That in Colleton County, South Carolina, on or about November 6, 2019, the Defendant, Walter Alexander Palacios, did cause physical harm or injury to Maria Del Carmen Peraza Flores, a household member of Walter Alexander Palacios, and committed the offense with or without an accompanying battery and under circumstances which manifested extreme indifference to the value of human life which would have reasonably caused a person to fear imminent great bodily injury or death, to wit: circumstance manifesting extreme indifference to the value of human life include, but are not limited to, 1) Use the of a deadly weapon; or 2) Committing the offense during the commission of a burglary or kidnapping. This is in violation of Section 16-25-65 and 16-25-20 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

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF Colleton

STATE

VS.

Walter Alexander Palacios

AKA:

Race: Hispanic Sex: Male Age: 35

DOB: 1984 SS#: 12:00:00 AM

Address: Deerfield Rd, Walterboro, SC 29488, Colleton County

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: Domestic Violence High and Aggravated Nature

In violation of § 16-25-65 of the S.C. Code of Laws, bearing CDR Code # 3814

☐ NON-VIOLENT ☒ VIOLENT ☒ SERIOUS ☐ MOST SERIOUS ☐ MANDATORY GPS ☐ §17-25-45

(CSC w/minor 1* or CSC w/minor 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.

ATTEST:

[Signature] 100145 *[Signature]* *[Signature]* *[Signature]*
 (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 18 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
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SPECIAL CONDITIONS:

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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

TOTAL

\$ 128.75

Clerk of Court/Deputy Clerk

Court Reporter: *Cathy Provost*

MP-SCCA/217 (04/2018)

☐ 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 FundOther: ☐ Appointed PD or appointed other counsel,

Proviso requires \$500 be paid to Clerk

during probation and shall be collected before any other fees.

Presiding Judge: *[Signature]*Judge Code: 2161Sentence Date: 6-3-21

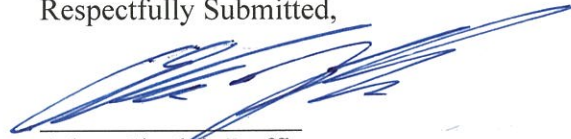
Feb 11 2022

CERTIFICATE OF COUNSEL FOR APPELLANT

SC Court of Appeals

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,



Adam Sinclair Ruffin
Appellate Defender

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

ATTORNEY FOR APPELLANT

This 11th day of February, 2022