

THE STATE OF SOUTH CAROLINA
In the Supreme Court

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Letitia H. Verdin, Circuit Court Judge

Supreme Court Appellate Case No.: _____
Court of Appeals Appellate Case No.: 2018-000825

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Mar 31 2022

S.C. SUPREME COURT

The State, ... Respondent,

v.

Matthew Jamie Bryant, ... Petitioner.

APPENDIX

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The South Carolina Court of Appeals

The State, Respondent,

v.

Matthew Jamie Bryant, Appellant.

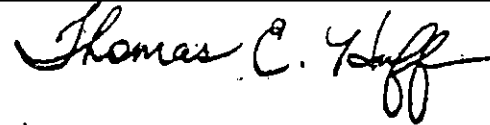
Appellate Case No. 2018-000825

ORDER

After careful consideration of the petition for rehearing, the Court is unable to discover that any material fact or principle of law has been either overlooked or disregarded, and hence, there is no basis for granting a rehearing. Accordingly, the petition for rehearing is denied. However, Opinion Number 2021-UP-396, filed November 10, 2021, is withdrawn and the attached opinion is substituted.



J.

J.

J.

Columbia, South Carolina

cc: Daniel E. Hunt, Esquire
Alan McCrory Wilson, Esquire
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The Honorable Letitia H. Verdin

**THIS OPINION HAS NO PRECEDENTIAL VALUE. IT SHOULD NOT BE
CITED OR RELIED ON AS PRECEDENT IN ANY PROCEEDING
EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
In The Court of Appeals**

The State, Respondent,

v.

Matthew Jamie Bryant, Appellant.

Appellate Case No. 2018-000825

Appeal From Pickens County
Letitia H. Verdin, Circuit Court Judge

Unpublished Opinion No. 2021-UP-396
Submitted October 1, 2021 – Filed November 10, 2021
Withdrawn, Substituted and Refiled March 2, 2022

AFFIRMED

Daniel E. Hunt, of Law Offices of Daniel E. Hunt, P.A.,
of Easley; and J. Falkner Wilkes, of Greenville, both for
Appellant.

Attorney General Alan McCrory Wilson, Assistant
Attorney General William Frederick Schumacher, IV,
both of Columbia; and Solicitor William Walter Wilkins,
III, of Greenville, all for Respondent.

PER CURIAM: Matthew Jamie Bryant appeals his conviction for criminal sexual conduct (CSC) in the second-degree and sentence of fifteen years' imprisonment. On appeal, Bryant asserted seven issues in his statement of issues but consolidated the issues in his argument section as follows: (1) the trial court erred in denying his motion for a directed verdict and (2) the trial court erred in charging the jury on second-degree CSC.¹ We affirm.

At trial, Victim testified Bryant entered her residence, grabbed her by the arm, pulled her into a bedroom, and threw her onto the bed.² She described Bryant's initial attempt to shove his penis into her mouth and her efforts to clench her jaw to deny him entry. She stated she repeatedly rejected Bryant's advances, but he was unrelenting. According to Victim, when she attempted to escape, Bryant held her down on the bed by placing his hand on her shoulder. Victim explained, "When I realized 'no' wasn't going to stop him, I stopped talking just so I could get it over with" Throughout her testimony, Victim asserted that Bryant "raped" her. The officers who responded to Victim's 911 call testified Victim was crying and shaking when they arrived at the residence. A sexual assault forensics coordinator testified she found an abrasion and bruising in Victim's vaginal area consistent with sexual assault. Finally, a forensic scientist analyzed the DNA collected from Victim's sexual assault exam and found it matched Bryant's DNA.

Following the State's case, Bryant moved for a directed verdict, arguing the State failed to present evidence he used aggravated force, an element of first-degree CSC, to sexually assault Victim. The trial court denied Bryant's motion and stated

¹ Bryant lists the following seven issues on appeal: (1) Did the court err in denying the defense's motion for directed verdict?; (2) Did the court err in charging the jury with second-degree CSC over the objection of the defense?; (3) Where the defendant was charged with one ground for conviction under the statute may the court deny a motion for directed verdict based on evidence of an additional statutory ground that was not included in the indictment?; (4) Is second-degree CSC a lesser included offense of first-degree CSC as a matter of law or does it depend on the particular facts of each case?; (5) Can a conviction on a lesser included offense not charged in the indictment stand where the case should have ended with a directed verdict?; (6) Is there sufficient evidence in the record to support the conviction in this case?; and (7) Does error below require reversal of the Appellant's conviction?

² Bryant testified that on the date in question he was thirty-four, six feet and three inches tall, and weighed one hundred and ninety pounds. Victim was seventeen and described as "five [feet] tall and one hundred pounds soaking wet."

that "at least some evidence presented, however small" suggested "that there [was] forcible confinement," an element of second-degree CSC. After presenting his defense, Bryant renewed his motion for directed verdict, which the trial court again denied. He also objected to a jury charge on second- and third- degree CSC as lesser included offenses of first-degree CSC, which the trial court overruled. The jury found Bryant guilty of second-degree CSC. We affirm

1. As to Bryant's first argument—which involves issues one, three, five, and seven—the trial court did not err by denying Bryant's motion for a directed verdict. We find Victim's testimony, the responding officer's testimony, and the sexual assault forensics coordinator's testimony, viewed in the light most favorable to the State, established evidence of first- and second-degree CSC.³ *See State v. Hernandez*, 382 S.C. 620, 624, 677 S.E.2d 603, 605 (2009) ("A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged."); *State v. Frazier*, 386 S.C. 526, 531, 689 S.E.2d 610, 613 (2010) ("When reviewing a denial of a directed verdict, an appellate court views the evidence and all reasonable inferences in the light most favorable to the State."); S.C. Code Ann. § 16-3-652(1) (2015) ("A person is guilty of criminal sexual conduct in the first[-]degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven: (a) The actor uses aggravated force to accomplish sexual battery [; or] (b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act."); S.C. Code Ann. § 16-3-651(c) (2015) ("Aggravated force' means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or

³ Moreover, Bryant was sufficiently apprised of the charges he was to defend against because second-degree CSC is a lesser included offense of first-degree CSC. *State v. Burton*, 356 S.C. 259, 264, 589 S.E.2d 6, 8 (2003) ("In a criminal case, the trial court's subject matter jurisdiction is limited to those crimes charged in the indictment and all lesser included offenses."); *State v. Summers*, 276 S.C. 11, 14-15, 274 S.E.2d 427, 429 (1981) (stating that second-degree CSC is a lesser included offense of first-degree CSC and, if the facts warrant, second-degree may be submitted to the jury under a charge of first-degree, *overruled on other grounds by State v. McFadden*, 342 S.C. 629, 539 S.E.2d 387 (2000)); *State v. Brown*, 360 S.C. 581, 589, 602 S.E.2d 392 397 (2004) ("[T]he *threat* of the use of force or violence of a high and aggravated nature, either during the assault or in the future, may constitute aggravated coercion and is sufficient to sustain a conviction of second-degree CSC . . .").

includes the threat of the use of a deadly weapon."); *Brown*, 360 S.C. at 588, 602 S.E.2d at 396 ("To convict a defendant of first-degree CSC, the State must present evidence the defendant committed a sexual battery and *actually used* aggravated force at the time of the assault"); *id.* ("The evidence must show the actual use of aggravated force occurred near in time and place to the assault, such that the effect of the aggravated force caused the victim to submit to the assault."); *State v. Lindsey*, 355 S.C. 15, 20-22, 583 S.E.2d 740, 742-43 (2003) (finding the trial court did not err in denying the defendant's motion for a directed verdict because the State presented evidence the defendant confined the victim in his automobile, grabbed her hands, and held her down with his body and hands, and the victim testified she fought her attacker); *cf. State v. Green*, 327 S.C. 581, 588, 491 S.E.2d 263, 266 (Ct. App. 1997) (finding the evidence was not sufficient to submit the issue of first-degree CSC to the jury when the victim "did not testify that [the defendant] held her down or otherwise used any force"); S.C. Code Ann. § 16-3-653(1) (2015) ("A person is guilty of criminal sexual conduct in the second[-]degree if the actor uses aggravated coercion to accomplish the sexual battery."); S.C. Code Ann. § 16-3-651(b) ("Aggravated coercion' means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person."). Accordingly, the trial court did not err in denying Bryant's motion for directed verdict because the evidence presented at trial—Bryant's size compared to Victim's, that he forced her into a bedroom, that he ignored her pleas to stop, and that he would not allow her to get off of the bed—established Bryant used aggravated force and aggravated coercion to accomplish the sexual battery.

2. As to Bryant's second argument—which involves issues two, four, and seven—the trial court did not err by charging the jury on second-degree CSC because second-degree CSC is a lesser included offense of first-degree CSC. Further, the evidence presented at trial—Victim, the responding officer, and the sexual assault forensics coordinator's testimonies—supported a charge on second-degree CSC. *See State v. Gilmore*, 396 S.C. 72, 76, 719 S.E.2d 688, 690 (Ct. App. 2011) ("If there is evidence in the record from which the jury could infer the defendant is guilty of the lesser-included offense, rather than the crime charged, the trial judge must instruct the jury on the lesser-included offense."); *Summers*, 276 S.C. at 14-15, 274 S.E.2d at 429 (stating that second-degree CSC is a lesser included offense of first-degree CSC and, if the facts warrant, second-degree may be submitted to the jury under a charge of first-degree, *overruled on other grounds by*

State v. McFadden, 342 S.C. 629, 539 S.E.2d 387 (2000)); *Brown*, 360 S.C. at 589, 602 S.E.2d at 397 ("[T]he *threat* of the use of force or violence of a high and aggravated nature, either during the assault or in the future, may constitute aggravated coercion and is sufficient to sustain a conviction of second-degree CSC").⁴

3. We find Bryant abandoned issue six because he did not argue this issue in his appellate brief. *See Fields v. Melrose Ltd. P'ship*, 312 S.C. 102, 106, 439 S.E.2d 283, 284 (Ct. App. 1993) ("An issue raised on appeal but not argued in the brief is deemed abandoned and will not be considered by the appellate court.").

AFFIRMED.⁵

THOMAS and GEATHERS, JJ., and HUFF, A.J., concur.

⁴ To the extent Bryant relies on *McFadden* to argue second-degree CSC is no longer a lesser included offense of first-degree CSC, we disagree. *McFadden* addressed a specific section of third-degree CSC and its relation to first-degree CSC. 342 S.C. at 632, 539 S.E.2d at 389. *McFadden* did not address whether second-degree CSC was a lesser included offense of first-degree CSC, leaving intact *Summers's* designation of second-degree CSC as a lesser included offense of first-degree CSC. *See id.* at 632-33, 539 S.E.2d at 389.

⁵ We decide this case without oral argument pursuant to Rule 215, SCACR.

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EXCEPT AS PROVIDED BY RULE 268(d)(2), SCACR.**

**THE STATE OF SOUTH CAROLINA
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AFFIRMED

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of Easley; and J. Falkner Wilkes, of Greenville, both for
Appellant.

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Schumacher, IV, all of Columbia; and Solicitor William
Walter Wilkins, III, of Greenville, all for Respondent.

PER CURIAM: Matthew Jamie Bryant appeals his conviction for criminal sexual conduct (CSC) in the second degree and sentence of fifteen years' imprisonment. On appeal, Bryant argues the trial court erred in (1) denying his motion for directed verdict and (2) charging the jury on second-degree CSC as a lesser included offense of first-degree CSC.

At trial, Victim testified Bryant entered her residence, grabbed her by the arm, pulled her into a bedroom, and threw her onto the bed. She described Bryant's initial attempt to shove his penis into her mouth and her efforts to clench her jaw to deny him entry. She stated she repeatedly rejected Bryant's advances, but he was unrelenting. According to Victim, when she attempted to escape, Bryant held her down on the bed by placing his hand on her shoulder. Victim explained, "When I realized 'no' wasn't going to stop him, I stopped talking just so I could get it over with" Throughout her testimony, Victim asserted that Bryant raped her. The officers who responded to Victim's 911 call testified Victim was crying and shaking when they arrived at the residence. A sexual assault forensics coordinator testified she found an abrasion and bruising in Victim's vaginal area consistent with sexual assault. Finally, a forensic scientist employed by SLED analyzed the various DNA samples collected in the case and found DNA collected from Victim's sexual assault exam matched Bryant's DNA.

Following the State's case, Bryant unsuccessfully moved for a directed verdict, arguing the State failed to present evidence he used aggravated force to sexually batter Victim. After presenting his defense, he renewed his motion for directed verdict, which the trial court again denied. Bryant also objected to a jury charge on second- and third-degree CSC as lesser included offenses of first-degree CSC, which the trial court overruled. The jury found Bryant guilty of second-degree CSC.

1. We find the trial court did not err in denying Bryant's motion for directed verdict. Victim's testimony, the responding officer's testimony, and the sexual assault forensics coordinator's testimony, viewed in the light most favorable to the State, established evidence of first-degree CSC. *See State v. Hernandez*, 382 S.C. 620, 624, 677 S.E.2d 603, 605 (2009) ("A defendant is entitled to a directed verdict when the state fails to produce evidence of the offense charged."); S.C. Code Ann. § 16-3-652(1) (2015) ("A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven: (a) The actor uses aggravated force to accomplish sexual battery [; or] (b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary,

housebreaking, or any other similar offense or act."); S.C. Code Ann. § 16-3-651(c) (2015) ("'Aggravated force' means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon."); *State v. Brown*, 360 S.C. 581, 588, 602 S.E.2d 392, 396 (2004) ("To convict a defendant of first-degree CSC, the State must present evidence the defendant committed a sexual battery and *actually used* aggravated force at the time of the assault" (emphasis in original)); *id.* ("The evidence must show the actual use of aggravated force occurred near in time and place to the assault, such that the effect of the aggravated force caused the victim to submit to the assault."); *State v. Lindsey*, 355 S.C. 15, 20-22, 583 S.E.2d 740, 742-43 (2003) (finding the trial court did not err in denying the defendant's motion for a directed verdict because State presented evidence the defendant confined the victim in his automobile, grabbed her hands, and held her down with his body and hands, and the victim testified she fought her attacker.); *cf. State v. Green*, 327 S.C. 581, 588, 491 S.E.2d 263, 266 (Ct. App. 1997) (finding the evidence was not sufficient to submit the issue of first-degree CSC to the jury when the victim "did not testify that [the defendant] held her down or otherwise used any force"). Therefore, we find Victim's testimony, the responding officer's testimony, and the sexual assault forensics coordinator's testimony established enough evidence to overcome Bryant's motion for directed verdict.

2. We find the trial court did not err in charging the jury on second-degree CSC because second-degree CSC is a lesser included offense of first-degree CSC and the evidence presented at trial supported a charge on second-degree CSC. *See State v. Summers*, 276 S.C. 11, 14-15, 274 S.E.2d 427, 429 (1981) (stating that second-degree CSC is a lesser included offense of first-degree CSC and, if the facts warrant, second-degree may be submitted to the jury under a charge of first-degree (*overruled on other grounds by State v. McFadden*, 342 S.C. 629, 539 S.E.2d 387 (2000))); *Brown*, 360 S.C. at 589, 602 S.E.2d at 397 ("[T]he *threat* of the use of force or violence of a high and aggravated nature, either during the assault or in the future, may constitute aggravated coercion and is sufficient to sustain a conviction of second-degree CSC" (emphasis in original)).¹

¹ To the extent Bryant relies on *McFadden* to argue second-degree CSC is no longer a lesser included offense of first-degree CSC, we disagree. *McFadden* addressed a specific section of third-degree CSC and its relation to first-degree CSC. 342 S.C. at 632, 539 S.E.2d at 389. *McFadden* did not address whether second-degree CSC was a lesser included offense of first-degree CSC, leaving intact *Summers's* designation of second-degree CSC as a lesser included offense of first-degree CSC. *See id.* at 632-33, 539 S.E.2d at 389.

AFFIRMED.²

HUFF, THOMAS, and GEATHERS, JJ., concur.

² We decide this case without oral argument pursuant to Rule 215, SCACR.

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Dec 09 2021

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
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APPEAL FROM PICKENS COUNTY
Court of General Sessions
Letitia H. Verdin, Circuit Court Judge

Appellate Case No.: 2018-000825

The State, ... Respondent,

v.

Matthew Jamie Bryant, ... Appellant.

PETITION FOR REHEARING

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PETITION

The Court's opinion fails to address all of the issues raised in the Appellant's brief or to point out with specificity the evidence on which it's opinion is based. This Court's opinion further misperceived the Appellant's arguments. Wherefore the Appellant moves this Court to reconsider its opinion and grant a rehearing in this case.

1) Appellant raised the issue on appeal of whether he was entitled to a directed verdict where the state failed to prove the allegation of aggravated force as alleged in the indictment. In order to convict a defendant of first-degree criminal sexual conduct under sub-section (a) the State must present evidence the defendant committed a sexual battery and actually used aggravated force at the time of the assault, *i.e.*, the defendant overcame the victim through the use of physical force, physical violence of a high and aggravated nature, or the threat of the use of a deadly weapon. The evidence must show the actual use of aggravated force occurred near in time and place to the assault, such that the effect of the aggravated force caused the victim to submit to the assault. *See State v. Green*, 327 S.C. 581, 586, 491 S.E.2d 263, 265 (Ct. App. 1997). While the Court's opinion refers generally to the testimony of several witnesses, it fails to identify the specific evidence or testimony that establishes the actual use of aggravate force as alleged in the indictment and required under the statute and relevant case law as argued in Appellant's briefs on appeal. The lack of specificity in the Court's opinion prejudices the Appellant's ability in any further appeal as the Appellant can't formulate an effective argument without knowing the specific facts on which this Court's opinion relies in establishing the element of aggravated force.

2) This Court's opinion fails to directly address the issue of whether the trial court could deny the Appellant's motion for a directed verdict based on facts relating to elements under

separate subsections of the offense that were not charged in the Appellant's indictment. The indictment in the Appellant's case specifically alleged the use of aggravated force under 16-3-651(1)(a). The indictment failed to allege any other grounds to support the charge. If the facts in record fail to establish the actual use of aggravated force, then the issue is whether the trial court could rely on evidence under other subsections of the statute that were not charged in the indictment as a basis for denying the Appellant's motion for a directed verdict. The Court's opinion fails to address the issue raised in the Appellant's briefs that a material variance existed between the particular offense charged in the indictment and the charges as presented to the jury and upon which the Appellant was convicted.

“In South Carolina, ‘[i]t is a rule of universal observance in administering the criminal law that a defendant must be convicted, if convicted at all, of the particular offense charged in the bill of indictment.’ ” State v. Gunn, 313 S.C. 124, 136, 437 S.E.2d 75, 82 (1993) (*quoting State v. Cody*, 180 S.C. 417, 423, 186 S.E. 165, 167 (1936)). “A material variance between charge and proof entitles the defendant to a directed verdict; such a variance is not material if it is not an element of the offense.” *Id.* (*citation omitted*); see 41 Am.Jur.2d Indictments & Informations § 252 (2005) (stating that one of the two ways an indictment can be improperly modified is through “a variance, whereby the charging terms of the indictment are left unaltered, but the evidence offered at trial proves facts materially different from those alleged in the indictment”).

Bailey v. State, 392 S.C. 422, 433, 709 S.E.2d 671, 677 (2011).

Here the court denied the motion for a directed verdict based on an element not charged in the indictment. In Green this Court reversed a conviction for first-degree criminal sexual conduct where the evidence failed to show aggravated force. State v. Green, 327 S.C. 581, 491 S.E.2d 263 (Ct. App. 1997). Although the Court in Green noted that there were facts in record establishing first-degree criminal sexual based on the age of the victim under S.C. Code Ann. § 16-3-655(1), it nevertheless reversed finding that Green had not been indicted under that section.

Although the Court's opinion refers to other subsections of 16-3-651(1), which were not

alleged in the indictment, it is unclear as to whether these other subsections are the basis of the Court's opinion. Because the Court's opinion fails to specify the specific testimony on which its opinion is based, it is impossible to tell whether the Court has affirmed based on grounds which were not charged in the indictment. To the extent that it has, that would be contrary to the Court's holding in Green.

The Appellant was indicted for criminal sexual conduct in the first degree. Specifically, the indictment alleged only that the Appellant did "engage in sexual battery, with [the prosecutrix], and used aggravated force to accomplish this sexual battery." From the record it appears that the trial court denied the motion for direct verdict based not on the use of aggravated force, but rather forcible confinement, which was not charged in the Appellant's indictment. The Court's opinion fails to address the issue of whether a defendant can be convicted of an offense on a ground for which he is not indicted which, under Green, would be impermissible.

3) This Court's opinion fails to address the issue that the second-degree CSC jury charge added an element that was not charged in the indictment nor an element of first-degree criminal sexual conduct. This Court opinion misperceived the Appellant's argument to rely on McFadden for the proposition that "second-degree CSC is no longer a lesser included offense of first-degree CSC." This is not the Appellant's argument. The Appellant's argument is that the holding of McFadden, along with numerous other cases, prohibit a defendant's conviction on a lesser-included charge when the lesser-included charge contains an element that was not charged in the indictment or an element of the charge for which the defendant was indicted. Here, to the extent that this Court's opinion finds that second-degree CSC based on the threat of the use of force is a lesser included offense of the Appellant's first-degree CSC as charged in the indictment, it is in error. As charged to the jury in the Appellant's case, second-degree criminal sexual conduct

added the element of aggravated coercion into the case. This was error as aggravated coercion is not an element of first-degree criminal sexual conduct, nor was aggravated coercion charged in the Appellant's indictment. "The test for determining if a crime is a lesser included offense is whether the greater of the two offenses includes all the elements of the lesser offense." State v. McFadden, 342 S.C. 629, 632, 539 S.E.2d 387, 389 (2000). If the lesser offense includes an element which is not included in the greater offense, then the lesser offense is not included in the greater offense. Hope v. State, 328 S.C. 78, 81, 492 S.E.2d 76, 78 (1997). Here the trial court's jury charge on second-degree CSC failed the essential elements test necessary to be considered a lesser included offense of the first-degree.

CONCLUSION

Based on the foregoing the Appellant's moves this Court to grant a rehearing in the case and reverse the conviction and sentence and enter a verdict of acquittal.

Respectfully submitted,

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Case No. 2016A3910100337
Appellate Case No.: 2018-000825

The State,

Respondent,

v.

Matthew Jamie Bryant,

Appellant.

CERTIFICATE OF SERVICE

I certify that I served the Appellant's Petition for Rehearing on the Respondent, and others if so indicated, this 9th day of December, 2021, by delivering a copy of same as indicated below:

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Respectfully submitted,

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December 9, 2021.

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STATEMENT OF THE ISSUES

1. Did the court err in denying the defense motion for directed verdict?
2. Did the court err in charging the jury with second-degree criminal sexual conduct over the objection of the defense?
3. Where the defendant was charged with one ground for conviction under a statute may the court deny a motion for directed verdict based on evidence of a second and additional statutory ground that ground was not included in the indictment?
4. Is second-degree criminal sexual conduct (S.C. Code Ann. § 16-3-543) a lesser and included offense of first-degree criminal sexual conduct (S.C. Code Ann. § 16-3-542) as a matter of law or does it depend on the particular facts of each case?
5. Can a conviction on a lesser included offense not charged in the indictment stand where the case should have ended with a directed verdict?
6. Is there sufficient evidence in record to support the conviction in this case?
7. Does error below require reversal of the Appellant's conviction?

STATEMENT OF THE CASE

Appellant Matthew Jamie Bryant was indicted by grand jury in Pickens County on July 29, 2016. The indictment alleged that the Appellant “did in Pickens County, on or about the 5th day of April, 2016, engage in a sexual battery, with [the prosecutrix] and used aggravated force to accomplish this sexual battery.”

A jury trial was held April 17, 2018 through April 19, 2018, in Pickens County, the Hon. Letitia H. Verdin, presiding. After the close of the state’s case the defense made a timely motion for a directed verdict arguing the lack of evidence as to aggravated force. The motion was denied. The defense renewed its motion at the close of evidence. That motion was denied and the case submitted to the jury. Over an objection by the defense the court charged the jury on second and third-degree criminal sexual conduct as lesser included offenses of first-degree criminal sexual conduct. The jury returned a verdict of guilty on second-degree criminal sexual conduct. The Appellant sentenced to fifteen years in the South Carolina Department of Corrections. A notice of appeal was timely served and filed on April 27, 2018. The Appellant is presently in state custody.

At trial the state was represented by Megan Moricle Owens, Assistant Solicitor for the Thirteenth Judicial Circuit. The Appellant was represented by Daniel E. Hunt of Easley. Subsequent to the filing of the notice of appeal J. Falkner Wilkes, of Greenville, joined Daniel E. Hunt on behalf of the Appellant. J. Benjamin Aplin, Senior Assistant Deputy Attorney General represents the Respondent on appeal.

STATEMENT OF FACTS

The Appellant was indicted for first-degree criminal sexual conduct based on the use of aggravated force. R. p. 415. The offense is alleged to have occurred in 2016 at trailer belonging to Dirk Van Holland in Easley, South Carolina. R. p. 91. Van Holland was a friend of the Appellant and Billy Reynolds, the prosecutrix's boyfriend. R. p. 199. The prosecutrix, Reynolds, and their four month old child moved in Holland's trailer a few months before the offense is alleged to have occurred. R. p. 89-91; 199. Prior to their moving in the Appellant had lived at the same trailer with Van Holland. R. p. 198-199. At the time of the alleged offense the Appellant still had furniture and belongings at the trailer. R. p. 198-201. Although staying mostly at his girlfriend's house around that time the Appellant still had a key to the trailer and would stop by occasionally to pick up some of his belongings. R. p. 198. The prosecutrix testified that she had seen the Appellant "a handful of times" but had never had any interaction with him until the day before the alleged offense when he stopped by to pick up some of his things and "grabbed her butt". R. p. 93-96. Van Holland described it to the police as being a playful thing. R. p. 154.

The prosecutrix testified that when the Appellant returned on the following day he came in the trailer, took her by the arm and led her to a bedroom where he laid her on the bed, took her pants off, and had sex with her. R. p. 97-98. While claiming to have said "no" to having sex, the prosecutrix testified that when she realized "no" wasn't going to stop him she stopped talking, just so she could get it over with. R. p. 99. The prosecutrix also testified that the Appellant had put his palm on her shoulder to keep her laying on the bed. R. p. 98. It was unclear from her testimony at what point or for how long the Appellant had his palm on her shoulder. In her statement to the police the prosecutrix didn't describe any particular aggravated force. R. p. 117-

118. Nor did she describe any threat of aggravated force, or fear of aggravated force, or the threat of the use of a deadly weapon, or any other threat of harm. R. p. 117-118. Officer Torrance Jackson testified that he was first on the scene and saw no evidence of resistance, a struggle, aggravation, or that aggravated force was used in the alleged sexual battery. R. p. 137-139. None of the photos or other evidence offered at trial showed any evidence of a struggle. R. p. 139. The prosecutrix testified only that the Appellant led her down the hall by the arm into the bedroom and that he "had an open palm on my shoulder to keep me lying on the bed. He took my shorts off of me." R. p. 98, l. 22-23. The record shows no evidence of aggravated force used to accomplish the alleged sexual battery.

ARGUMENT

1) THE COURT ERRED IN DENYING THE DEFENDANT'S MOTION FOR DIRECTED VERDICT.

Standard of Review

In cases where the State has failed to present evidence of the offense charged, a criminal defendant is entitled to a directed verdict. State v. Cherry, 361 S.C. 588, 593, 606 S.E.2d 475, 478 (2004). During trial, “[w]hen ruling on a motion for a directed verdict, the trial court is concerned with the existence or nonexistence of evidence, not its weight.” *Id.* at 593, 606 S.E.2d at 477–78 (citing State v. Gaster, 349 S.C. 545, 555, 564 S.E.2d 87, 92 (2002)); *see also* Rule 19(a), SCRCrP. The trial court should “grant the directed verdict motion when the evidence merely raises a suspicion that the accused is guilty, as ‘[s]uspicion’ implies a belief or opinion as to guilt based upon facts or circumstances which do not amount to proof.” Cherry, 361 S.C. at 594, 606 S.E.2d at 478 (citations omitted). On the other hand, “a trial judge is not required to find that the evidence infers guilt to the exclusion of any other reasonable hypothesis.” *Id.* (emphasis removed).

On appeal, “[w]hen reviewing a denial of a directed verdict, this Court must view the evidence and all reasonable inferences in the light most favorable to the state.” *Id.* (citing State v. Burdette, 335 S.C. 34, 46, 515 S.E.2d 525, 531 (1999)); *see also* State v. Mitchell, 341 S.C. 406, 409, 535 S.E.2d 126, 127 (2000) (finding that when ruling on cases in which the state has relied exclusively on circumstantial evidence, appellate courts are likewise only concerned with the existence of the evidence and not its weight). If the state has presented “any direct evidence or any substantial circumstantial evidence reasonably tending to prove the guilt of the accused,” this

Court must affirm the trial court's decision to submit the case to the jury. Cherry, 361 S.C. at 593–94, 606 S.E.2d at 478; *cf.* Mitchell, 341 S.C. at 409, 535 S.E.2d at 127 (“The trial judge is required to submit the case to the jury if there is ‘any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced.’”) (*emphasis removed*) (*citation omitted*).

Discussion

The Appellant was indicted for criminal sexual conduct in the first degree. Specifically, the indictment alleged *only* that the Appellant did “engage in sexual battery, with [the prosecutrix], and used aggravated force to accomplish this sexual battery.” The indictment therefore alleged only the element of aggravated force under S.C. Code Ann. § 16-3-652(1)(a). Forcible confinement, kidnaping, trafficking or other elements under sub-section (b) were not charged. Nor was incapacitation or other elements under sub-section (c). The Appellant was only indicted based on the allegation that aggravated force had been used to effectuate a sexual battery under sub-section (a). After the close of the state’s case the defense timely moved for a directed verdict arguing that the state had failed to offer evidence of aggravated force under sub-section (a). A review of the record shows that the defense’s motion for a directed verdict should have been granted.

By statute criminal sexual conduct in the first degree is defined as:

- (1) A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:
 - (a) The actor uses aggravated force to accomplish sexual battery.
 - (b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.
 - (c) The actor causes the victim, without the victim's consent, to become mentally

incapacitated or physically helpless by administering, distributing, dispensing, delivering, or causing to be administered, distributed, dispensed, or delivered a controlled substance, a controlled substance analogue, or any intoxicating substance.

S.C. Code Ann. § 16-3-652.

“Aggravated force” means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon. S.C. Code Ann. § 16-3-651(c).

In order to convict a defendant of first-degree criminal sexual conduct under sub-section (a) the State must present evidence the defendant committed a sexual battery and actually used aggravated force at the time of the assault, *i.e.*, the defendant overcame the victim through the use of physical force, physical violence of a high and aggravated nature, or the threat of the use of a deadly weapon. The evidence must show the actual use of aggravated force occurred near in time and place to the assault, such that the effect of the aggravated force caused the victim to submit to the assault. *See State v. Green*, 327 S.C. 581, 586, 491 S.E.2d 263, 265 (Ct. App. 1997). Here the state failed to offer any evidence as to the use of aggravated force.

The lack of any evidence of aggravated force in the present case is evident. During the state’s case Officer Torrance Jackson testified that he was first on the scene and saw no evidence that aggravated force was used in the alleged sexual battery. Jackson testified that there was no sign of a struggle. At trial the prosecutrix testified only that the Appellant led her down the hall by the arm into the bedroom and that at some point “had an open palm on my shoulder to keep me lying on the bed.” In moving for a directed verdict the defense argued the lack of evidence to show the use of aggravated force. In response the solicitor argued facts that although might have been relevant under the common-law charge of ABHAN, fell short of being proof of aggravated

force necessary to prove first-degree criminal sexual conduct:

“The presence of an aggravating circumstance necessary to sustain a prosecution for assault and battery of a high and aggravated nature (ABHAN) is insufficient to sustain a conviction for first-degree criminal sexual conduct. Lindsey, 355 S.C. at 21, 583 S.E.2d at 742; Green, 327 S.C. at 585–586, 491 S.E.2d at 264–265. Such aggravating circumstances include the infliction of serious bodily injury, great disparity in the ages or physical conditions of the parties, a difference in the sexes, the purposeful infliction of shame and disgrace, taking indecent liberties or familiarities with a female, and resistance to lawful authority. *E.g.* State v. Foxworth, 269 S.C. 496, 238 S.E.2d 172 (1977). “[A] sexual battery constitutes first-degree CSC under Section 16–3–652(1)(a) only if it was accomplished through the use of force **and** the force constitutes aggravated force.” Lindsey, 355 S.C. at 21, 583 S.E.2d at 743 (2003) (*quoting Green, supra*) (**emphasis in original**).

State v. Brown, 360 S.C. 581, 589, 602 S.E.2d 392, 397 (2004)

Here the solicitor was unable to argue any facts sufficient to establish aggravated force. Accordingly, the court found that even if the facts constituted aggravating factors under the common law crime of ABHAN, they were still insufficient to establish aggravating force as contemplated under S.C. Code Section 16-3-652(1)(a). Yet despite clearly recognizing the lack of evidence as to aggravated force under sub-section (a) as indicted, the court nevertheless denied the motion for a directed verdict, basing its decision instead on a finding of "forcible confinement" under S.C. Code Ann. § 16-3-652(1)(b), which was not specifically charged in the indictment. R. p. 307-308. The court's sudden focus on forcible confinement clearly stemmed from the solicitor's hodgepodge argument of ABHAN factors when the solicitor stated that the prosecutrix was "confined to that room." R. p. 309, l. 13. Based on that comment the court immediately asked the solicitor: "So you're saying there is at least some evidence to support the second part of the statute under CSC first degree, the victim submitted to the sexual battery while the victim was also a victim of forcible confinement, kidnapping, robbery or a similar act?" R. p.

309, l. 17-23. To which the solicitor responded: "Yes, you Honor. I don't believe she believed she could leave that bedroom, even if she wanted to." R. p. 309, l. 24-R. p. 310, l. 1. 312-314. The Court then denied the motion for directed verdict specifically on a finding that there was "at least some evidence presented, how ever small" of forcible confinement. 313. This was error.

Although undoubtably an alternative ground for first-degree criminal sexual conduct under the statute, forcible confinement under sub-section (b) was not charged in the indictment, nor announced by the court at the beginning of the trial as a ground upon which Bryant must defend. R. p. 77; R. p. 415. As a result, a material variance existed between the particular offense charged in the indictment and the charges as presented to the jury and upon which the Appellant was convicted.

"In South Carolina, '[i]t is a rule of universal observance in administering the criminal law that a defendant must be convicted, if convicted at all, of the particular offense charged in the bill of indictment.' " State v. Gunn, 313 S.C. 124, 136, 437 S.E.2d 75, 82 (1993) (*quoting State v. Cody*, 180 S.C. 417, 423, 186 S.E. 165, 167 (1936)). "A material variance between charge and proof entitles the defendant to a directed verdict; such a variance is not material if it is not an element of the offense." *Id.* (*citation omitted*); see 41 Am.Jur.2d Indictments & Informations § 252 (2005) (stating that one of the two ways an indictment can be improperly modified is through "a variance, whereby the charging terms of the indictment are left unaltered, but the evidence offered at trial proves facts materially different from those alleged in the indictment").

Bailey v. State, 392 S.C. 422, 433, 709 S.E.2d 671, 677 (2011).

Here the court denied the motion for a directed verdict based on an element not charged in the indictment. In Green this Court reversed a conviction for first-degree criminal sexual conduct where the evidence failed to show aggravated force. State v. Green, 327 S.C. 581, 491 S.E.2d 263 (Ct. App. 1997). Although the Court in Green noted that there were facts in record establishing first-degree criminal sexual based on the age of the victim under S.C. Code Ann. §

16-3-655(1), it nevertheless reversed finding that Green had not been indicted under that section. Therefore, applying Green, even if there was evidence of forcible confinement, a directed verdict would still be required as the Appellant was not charged in the indictment with forcible confinement under S.C. Code Ann. § 16-3-652(1)(b). *See also State v. King*, 211 S.C. 1, 6, 43 S.E.2d 596, 598 (1947) as to a fatal variance between the indictment and proof.

Assuming arguendo that the court could somehow consider the element of forcible confinement even though it was not charged in the indictment, the court still erred in finding that the state had produced evidence of forcible confinement as contemplated in S.C. Code Ann. § 16-3-652(1)(b). And as an initial matter it is important to note that the trial court appears to have failed in applying the proper standard of proof required in deciding a motion for directed verdict. “In ruling on a directed verdict motion, the trial court is concerned with the existence of evidence, not its weight.” State v. Smith, 359 S.C. 481, 490, 597 S.E.2d 888, 893 (Ct.App.2004) (*citing Kelsey*, 331 S.C. at 62, 502 S.E.2d at 69). “If the State presents any evidence which reasonably tends to prove the defendant's guilt or from which his guilt could be fairly and logically deduced, the trial court must send the case to the jury.” *Id.* (*citing State v. Jarrell*, 350 S.C. 90, 97, 564 S.E.2d 362, 366 (Ct.App.2002)); State v. Lewis, 403 S.C. 345, 353, 743 S.E.2d 124, 128 (Ct. App. 2013). In finding that there was evidence of forcible confinement in the present case the trial court stated: “I think, based on what I heard in the State's case and the standard being so extremely low for me to submit it to a jury, I do find that there has been some evidence – at least some evidence presented, *how ever small amount of evidence presented*, that there is a forcible confinement.” R. p. 313, l. 23. The stated “*how ever small amount of evidence*” is clearly a lesser standard than the required “reasonably tends to prove the defendant's

guilt or from which his guilt could be fairly and logically deduced” standard. Here the trial court failed to require that the evidence reach the proper threshold before denying the defense motion for a directed verdict.

When applying the proper standard, a review of the record shows that the state failed to offer any evidence that reasonably tends to prove forcible confinement or from which forcible confinement could be fairly and logically deduced. Sub-section (b) provides in pertinent part:

“The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.” S.C. Code Ann. § 16-3-652(1)(b).

Taken in context, a plain reading of forcible confinement under sub-section (b) requires evidence that the victim of a sexual battery be forcibly confined within some certain space and that the confinement be more than the prosecutrix being unable to get up and leave during the actual sexual battery.

In State v. Lindsey the court found forcible confinement where the victim was locked in a car such that she could not escape during the sexual battery. Lindsey, 355 S.C. at 21, 583 S.E.2d at 743 (2003). Applying Lindsey, being locked in a car, room, or other enclosure would constitute a forcible confinement that is separate and distinct from the immediate act of a sexual battery. Here, there is no evidence that the prosecutrix was locked in the trailer, or the bedroom, or that the bedroom door was locked in a way that prevented her from getting out, or that the bedroom door was even closed. Other than the allegation that the Appellant at some point had his open palm on her shoulder during the sexual battery there was no evidence of a separate confinement, much less a forcible confinement. The trial court’s interpretation of the statute in

this case is such that any sexual battery where the victim could not simply get up and walk during the battery automatically equates to forcible confinement, and thus would constitute first-degree criminal sexual conduct under sub-section (b). As in Green, such an interpretation would effectively turn every sexual battery into a first-degree criminal sexual conduct. Clearly this was not what was intended by the legislature.

When the term forcible confinement is read in context of the other distinct crimes and offenses enumerated under sub-section (b) it is clear that the legislature intended a forcible confinement separate from the sexual battery itself. So even if the trial court as a matter of law could somehow consider an un-indicted forcible confinement as an alternative basis for first-degree criminal sexual conduct, there was still insufficient evidence to prove a forcible confinement as contemplated under sub-section (b). The court therefore erred in denying the defense motion for directed verdict.

II. THE COURT ERRED IN CHARGING SECOND-DEGREE CRIMINAL SEXUAL CONDUCT.

Standard of Review

““In reviewing jury charges for error, we must consider the court's jury charge as a whole in light of the evidence and issues presented at trial.” ” State v. Mattison, 388 S.C. 469, 478, 697 S.E.2d 578, 583 (2010) (*quoting* State v. Adkins, 353 S.C. 312, 318, 577 S.E.2d 460, 463 (Ct.App.2003)). ““A jury charge is correct if, when the charge is read as a whole, it contains the correct definition and adequately covers the law.” ” *Id.* (*quoting* Adkins, 353 S.C. at 318, 577 S.E.2d at 464). “A jury charge that is substantially correct and covers the law does not require

reversal.” *Id.* “The trial court is required to charge only the current and correct law of South Carolina.” *Id.* at 479, 697 S.E.2d at 583. “The law to be charged must be determined from the evidence presented at trial.” *Id.* (quoting State v. Knoten, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001)). “A request to charge a correct statement of the law on an issue raised by the indictment and the evidence presented at trial should not be refused.” *Id.* (quoting State v. Austin, 299 S.C. 456, 458, 385 S.E.2d 830, 831 (1989)).

Discussion

The Appellant was indicted under first-degree criminal sexual conduct for the use of aggravated force to effectuate a sexual battery. Over the defense’s objection the court also charged the jury on aggravated coercion under second-degree criminal sexual conduct as a lesser included offense of first degree. The Appellant was subsequently convicted of second-degree criminal sexual conduct.

As charged to the jury, second-degree criminal sexual conduct added the element of aggravated coercion into the case. This was error as aggravated coercion is not an element of first-degree criminal sexual conduct. Nor was aggravated coercion charged in the indictment. “The test for determining if a crime is a lesser included offense is whether the greater of the two offenses includes all the elements of the lesser offense.” State v. McFadden, 342 S.C. 629, 632, 539 S.E.2d 387, 389 (2000). If the lesser offense includes an element which is not included in the greater offense, then the lesser offense is not included in the greater offense. Hope v. State, 328 S.C. 78, 81, 492 S.E.2d 76, 78 (1997). Here the court’s charge on second-degree failed the essential elements test necessary to be considered a lesser included offense of the first-degree.

In State v. Summers this Court held that the offense of criminal sexual conduct in second

and third degrees are lesser included offenses in a charge of criminal sexual conduct in first degree. State v. Summers, 276 S.C. 11, 274 S.E.2d 427 (1981). However, in State v. McFadden our supreme court reversed Summers holding that third degree criminal sexual conduct was not a lesser included offense of first degree criminal sexual conduct where the mental defect element specified in part (1)(b) was charged to the jury. State v. McFadden, 342 S.C. 629, 633, 539 S.E.2d 387, 389 (2000), *overruled on other grounds by State v. Gentry*, 363 S.C. 93, 610 S.E.2d 494 (2005). McFadden stands for the proposition that the court can not charge any lesser included offense in a way that adds an element not included in the charge for which the defendant is indicted. McFadden's analysis is applicable here.

Under McFadden, whether second and third-degree criminal sexual conduct are lesser included offenses of first-degree criminal sexual conduct is dependent upon whether the second and third-degree offenses as charged to the jury include elements that were not included in the first-degree, especially as charged in the indictment. Here, as in McFadden and Summers, the trial court charged second-degree criminal sexual conduct in a way that added an element not included in the first-degree, nor charged in the indictment. The indictment charged first-degree criminal sexual conduct based only on the use of aggravated force. The court's charge on second-degree removed aggravated force and added the element of aggravated coercion. In pertinent part the court charged:

“Second degree criminal sexual conduct contains all the elements of first degree criminal sexual conduct, except the circumstances of aggravation. *Instead, the State must prove beyond a reasonable doubt that the defendant used aggravated coercion to accomplish the sexual battery.*”

(*Emphasis added*). 393, l. 9-15.

"If you find that a sexual battery did occur, you must then decide whether the State has proven beyond a reasonable doubt that the defendant used aggravated coercion to accomplish the sexual battery. Aggravated coercion means that the defendant *threatened to use force or violence of a high and aggravated nature to overcome the victim or another person*, if the victim reasonably -- reasonably -- reasonably believed the defendant had the present ability to carry out the threat. Aggravated coercion may also exist if the defendant *threatened to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, or under circumstances of aggravation, against the victim or any other person.*"

R. p. 393, l. 25-394, l. 12. (*emphasis added*).

As it was defined by the court in its charge, aggravated coercion would not be an element of first-degree criminal sexual conduct. As charged to the jury, second-degree criminal sexual conduct changed both the nature and amount of force, as well as the timing of that force, required for a conviction. Aggravated force under first-degree criminal sexual conduct must be near in time or contemporaneous with, and used to effectuate, the sexual battery. See Brown, *supra*.

Second-degree criminal sexual conduct requires only aggravated coercion which includes threats to retaliate in the future by the infliction of physical harm, kidnapping, or extortion, or under circumstances of aggravation, against the victim or any other person. S.C. Code Ann. 16-3-653.

The court's charge on second-degree therefore added unindicted elements as an additional basis for conviction.

"[A] sexual battery constitutes first-degree CSC under Section 16-3-652(1)(a) only if it was accomplished through the use of force and the force constitutes aggravated force." Lindsey, 355 S.C. at 21, 583 S.E.2d at 743 (*quoting Green, supra*) (*emphasis in original*).

In contrast, the threat of the use of force or violence of a high and aggravated nature, *either during the assault or in the future*, may constitute aggravated coercion and is sufficient to sustain a conviction of second-degree CSC under Section 16-3-653. It is true that criminal sexual conduct, regardless of which form it takes under the statutory scheme, is inherently a crime of violence. See State v. Green, 336 N.C. 142, 443 S.E.2d 14, 30 (1994) (recognizing inherently

violent nature of rape). Nevertheless, degrees of violence exist in such crimes, as recognized in Lindsey, *supra*, and Green, 327 S.C. 581, 491 S.E.2d 263. The definitions of aggravated force and aggravated coercion, along with the different maximum penalties, reveal the Legislature intended to draw a distinction between the actual use of force or violence during an assault and the threat of force or violence during or after an assault, with the former resulting in a conviction of greater degree and a harsher maximum penalty. *See e.g. State v. Blackmon*, 304 S.C. 270, 273, 403 S.E.2d 660, 662 (1991) (it is well established that court's primary function in interpreting a statute is to ascertain the intention of the legislature, and when the terms of statute are clear and unambiguous, court must apply them according to their literal meaning).

State v. Brown, 360 S.C. 581, 588–91, 602 S.E.2d 392, 396–98 (2004) (*emphasis added*). Thus the trial court committed reversible error by adding unindicted elements to the case for which the Appellant was subsequently convicted.

Even assuming *arguendo* aggravated coercion is an element of criminal sexual conduct first-degree under the facts of this case, and that it could be added even though not charged in the indictment, the court's charge on second-degree remains erroneous as the facts fail to support the charge. The proper jury charge in any case is dependent upon the facts in each case. "The trial court is required to charge only the current and correct law of South Carolina." *Id.* at 479, 697 S.E.2d at 583. "The law to be charged must be determined from the evidence presented at trial." *Id.* (*quoting State v. Knoten*, 347 S.C. 296, 302, 555 S.E.2d 391, 394 (2001)).

"'Aggravated coercion' means that the actor threatens to use force or violence of a high and aggravated nature to overcome the victim or another person, if the victim reasonably believes that the actor has the present ability to carry out the threat, or threatens to retaliate in the future by the infliction of physical harm, kidnapping or extortion, under circumstances of aggravation, against the victim or any other person." S.C. Code Ann. § 16-3-651(b). Here the prosecutrix testified that the Appellant led her down the hall by her arm and at some point he placed his open

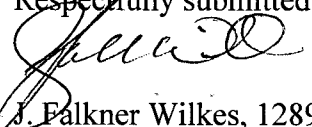
palm on her shoulder to keep her lying on the bed. While that may be construed as “force” under third-degree criminal sexual conduct, it fails to meet the definition of aggravated coercion under S.C. Code Ann. § 16-3-651(b) and thus constitute second-degree criminal sexual under S.C. Code Ann. § 16-3-653. The jury charge and conviction as to second-degree criminal sexual conduct are therefore unsupported by the facts in this case.

A reversal of the Appellant’s conviction is required. “It is a fundamental concept of criminal law that the State must prove beyond a reasonable doubt all the elements of the offense charged against the defendant. When the State fails to present sufficient proof of all the elements, a conviction must be reversed and a judgment for the defendant must be rendered under the principles of Burks v. United States, 437 U.S. 1, 98 S.Ct. 2141, 57 L.Ed.2d 1 (1978).” State v. Brown, 360 S.C. 581, 602 S.E.2d 392 (2004).

CONCLUSION

Based on the foregoing the Appellant’s conviction and sentence should be reversed, set aside and verdict of acquittal entered.

Respectfully submitted,


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July 25, 2019.

ORIGINAL

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Honorable Letitia H. Verdin, Circuit Court Judge

Appellate Case No. 2018-000825

RECEIVED

JUN 11 2019

SC Court of Appeals

THE STATE, ...RESPONDENT,

v.

MATTHEW JAMIE BRYANT, ...APPELLANT.

FINAL BRIEF OF RESPONDENT

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STATEMENT OF ISSUES ON APPEAL

- I. The trial judge properly denied Appellant's motion for a directed verdict because of the direct evidence of Appellant's guilt of first-degree CSC.
- II. The trial judge did not err in charging second-degree criminal sexual conduct because trial counsel failed to raise a specific objection to the charge.

STATEMENT OF THE CASE

On July 29, 2016, the Pickens County Grand Jury indicted Appellant on the charge of criminal sexual conduct (CSC) in the first-degree. On April 17–19, 2018, Appellant proceeded to a jury trial before the Honorable Letitia H. Verdin. Daniel E. Hunt, Esquire, represented Appellant; Assistant Solicitor Megan Owen, Esquire, represented the State. The jury found Appellant guilty of second-degree CSC and the trial judge sentenced him to fifteen years' incarceration.

Appellant filed a timely Notice of Appeal and subsequently submitted a Brief in support of his appeal. This Brief of Respondent follows.

STATEMENT OF FACTS

Victim testified she, her then-boyfriend Billy Reynolds, and their several-month-old son (Son) moved in with Dirk Van Holland, Reynold's coworker, a few months prior to her sexual assault. At that time, she was unaware that another individual, Appellant, had previously lived in the home and still retained a key to it, which he would use on occasion to retrieve his remaining possessions in the home. Victim stayed at home with Son while Reynolds and Van Holland went to work each day. The first time she encountered Appellant, she heard him entering the home so she grabbed Son and hid in a room until he left. When she informed Van Holland about the event, he informed her of Appellant's situation. (R.p.88, line 23–R.p.93, line 24).

On April 4, 2016, Appellant stopped by the home while Victim and Van Holland were there. Appellant asked Victim her age and after she refused to respond, he grabbed her buttocks. The following day, Victim was at home with Son when Appellant stopped by the home. Victim was preparing a bottle for Son when Appellant approached her from behind, grabbed her arm, pulled her into Van Holland's bedroom, and sat her down on the bed. He attempted to shove his penis into her mouth, but she clenched her jaw shut. Victim refused Appellant's advances, stating such things as: "No"; "What are you doing?"; "My son is in the other room"; and "Let me go get my son." Appellant stripped naked, then, using "an open palm on [Victim's] shoulder to keep [her] laying on the bed," he took Victim's shorts off her and began vaginal intercourse with her. After realizing Appellant was not acknowledging her verbal refusal, Victim stopped talking. (R.p.93, line 25–R.p.99, line 4).

After he completed the assault, Appellant went to the bathroom while Victim grabbed her son. Before he left, Appellant claimed he would return in twenty minutes. As soon as he exited the building, Victim called 9-1-1. Officers arrived and took a statement from Victim. They also

took her to the hospital for medical treatment and to gather evidence of the crime. (R.p.99, line 5–R.p.105, line 25).

On cross-examination, Victim admitted that in her statement to police, she claimed Appellant grabbed her by the arm and “led” her to the bedroom. She also noted that in her statement, she explained: (1) she was “thrown” onto Van Holland’s bed, (2) she kept trying to get up and off the bed, but Appellant stopped her. (R.p.110, line 16–R.p.119, line 9).

After obtaining a search warrant, officers found a paystub belonging to Appellant, which included his full name. Officers went over to Appellant’s then-residence and questioned him about the events of that day. Appellant claimed he had not been to Victim’s home that day and had not seen her since the night prior, when he dropped Van Holland off at home. Van Holland told officers had visited the home the night before, and confirmed Appellant had touched Victim’s buttocks on that occasion. (R.p.141, line 23–R.p.156, line 6; R.p.197, line 25–R.p.218, line 18).

Pamela Belkevitz, a sexual assault forensics coordinator, performed the sexual assault exam on Victim and collected the physical evidence of the CSC. Belkevitz found an abrasion and bruising in Victim’s vaginal area, consistent with a sexual assault and the details provided by Victim as to how the assault occurred. Alicia Breland, a forensic scientist employed by SLED, analyzed the various DNA samples collected in the case and found DNA collected from Victim’s sexual assault exam matched Appellant. (R.p.219, line 15–R.p.239, line 20; R.p.284, line 2–R.p.294, line 24).

During Appellant’s testimony, he admitted a sexual encounter occurred between him and Victim on April 5, 2016. However, he claimed said encounter was consensual. He claimed Victim approached him on the night of April 4, 2016, stuck her hands down the front of his

pants, and said: “I want this tomorrow.” When he went to the home the following day, he and Victim began kissing. She grabbed his hand and led him to the living room where they continued “making out.” They soon moved to the bed and had vaginal intercourse. Afterwards, she requested Appellant pick up formula for Son. When Appellant denied the request, Victim became agitated with him. Before long, officers contacted him regarding the encounter. (R.p.325, line 14–R.p.346, line 24).

Motions

At the conclusion of the first day of the trial, the trial judge asked the State whether it planned on requesting any lesser-included charges. The State informed the trial judge it planned to request charges on both second and third degree CSC. The parties all agreed to work on researching proposed charges overnight. (R.p.255, line 1–R.p.258, line 2).

At the conclusion of the State’s case, the defense moved for a directed verdict on the charged crime, claiming there was no “evidence of aggravation” in the record; trial counsel believed the lack of inflicted injuries, grabbing, physical restraints, strangulation, and verbal threats of harm. In response, the State argued the evidence, viewed in the light most favorable to its case, supported the charged crime; Victim testified Appellant grabbed her arm, led her down the hall to the bed, pushed her down when she tried to get up, tried to force his penis into her mouth, held her down, and forced his fingers and penis into her vagina. Based on this testimony, the jury could find Victim was subject to forcible confinement and/or kidnapping. After reviewing the first-degree CSC statute on the record, the State’s case presently at least “some” evidence of forcible confinement, and denied the motion. (R.p.304, line 16–R.p.314, line 3).

At the close of the defense’s case, trial counsel renewed its motion for a directed verdict of acquittal. The trial judge, citing the lack of the change in evidence, again denied the motion.

Trial counsel also lodged a general objection to charging first, second, and third-degree CSC, and requested the trial judge charge second and/or third-degree assault and battery. The trial judge denied the request for the assault and battery charges, noting it was uncontested that sexual contact occurred. Ultimately, the jury found Appellant guilty of second-degree CSC. (R.p.348, line 3–R.p.401, line 14).

STANDARD OF REVIEW

“In criminal cases, an appellate court reviews errors of law only and is bound by the factual findings of the trial court unless clearly erroneous.” State v. Bryant, 372 S.C. 305, 312, 642 S.E.2d 582, 586 (2007). “The conduct of a criminal trial is left largely to the sound discretion of the trial judge, who will not be reversed in the absence of a prejudicial abuse of discretion. Id. “An abuse of discretion occurs when a trial court’s decision is unsupported by the evidence or controlled by an error of law.” Id.

ARGUMENT

I.

The trial judge properly denied Appellant's motion for a directed verdict because of the direct evidence of Appellant's guilt of first-degree CSC.

Appellant argues the trial judge erred denying his motion for a directed verdict because the State indicted him for first-degree CSC based on evidence he used aggravated force to commit his sexual assault; forcible confinement or other methods of force specified in the first-degree CSC statute were not specified in the indictment and thus not a proper basis to deny his motion. The State disagrees with this allegation of error. Initially, the State notes this issue is not preserved for appellate review because Appellant failed to raise this argument to the trial judge. Further, even if this issue were preserved, the trial judge did not err because Appellant was indicted under the entire first-degree CSC statute, including the forcible confinement provision he now disputes. Finally, any alleged error in denying his motion is harmless because Appellant was not convicted of first-degree CSC, but a lesser-included offense which was not properly objected to at trial.

Error Preservation

In order for an issue to be preserved for appellate review, the issue must have been: (1) raised to and ruled upon by the trial court; (2) raised by the appellant; (3) raised in a timely manner; and (4) raised to the trial court with sufficient specificity. State v. Rogers, 361 S.C. 178, 183, 603 S.E.2d 910, 912–13 (Ct. App. 2004); see also JEAN HOEFER TOAL ET AL., APPELLATE PRACTICE IN SOUTH CAROLINA 57 (2nd ed. 2002) (identifying the four requirements that must be met in order for an issue to be properly preserved for appellate review). “If a party fails to

properly object, the party is procedurally barred from raising the issue on appeal.” State v. Johnson, 363 S.C. 53, 58-59, 609 S.E.2d 520, 523 (2005).

Regarding the requirement that a timely objection be raised, a defendant must make a **contemporaneous** objection to a perceived error during trial in order to preserve the issue for further review. State v. Blalock, 357 S.C. 74, 79, 591 S.E.2d 632, 635 (Ct. App. 2003); see State v. Hoffman, 312 S.C. 386, 393, 440 S.E.2d 869, 873 (1994) (“A contemporaneous objection is required to properly preserve an error for appellate review.”). Thus, when a perceived error arises, the defendant must object at the first opportunity to do so or the issue is waived. State v. Sullivan, 310 S.C. 311, 314, 426 S.E.2d 766, 768 (1993); see State v. Williams, 303 S.C. 410, 411, 401 S.E.2d 168, 169 (1991) (“A defendant must object at his first opportunity to preserve an issue for appellate review.”); see also State v. King, 349 S.C. 142, 157, n.1, 561 S.E.2d 640, 647 (Ct. App. 2002) (“[N]o objection was made contemporaneously with this testimony so as to preserve the issue for review. King's belated objection to subsequent testimony came too late.”).

As an initial matter, the State notes that Appellant's argument that the indictment failed to put him on notice that the State would pursue a conviction for first-degree assault and battery under theories of both aggravated force and forcible confinement is not preserved for Appellate review. Trial counsel failed to argue such a point at trial, depriving the trial judge of the opportunity to rule on the issue and rendering it improper for review by this Court. See Rogers, 361 S.C. at 183, 603 S.E.2d at 912–13.

Analysis

In determining whether an indictment is sufficient, the trial court must look at the indictment with a practical eye in view of all the surrounding circumstances. State v. Wade, 306 S.C. 79, 83, 409 S.E.2d 780, 782 (1991); State v. Tumbleston, 376 S.C. 90, 97, 654 S.E.2d 849,

853 (Ct. App. 2007), cert. denied, November 7, 2008 (citing, inter alia, State v. Means, 367 S.C. 374, 383, 626 S.E.2d 348, 353-54 (2006)). An indictment generally passes legal muster when it charges the crime substantially in the language of the statute prohibiting the crime or so plainly that the nature of the offense charged may be easily understood. Id. at 98, 654 S.E.2d at 853 (citing State v. Reddick, 348 S.C. 631, 635, 560 S.E.2d 441, 443 (Ct. App. 2002)).

“On appeal from the denial of a directed verdict, [the Appellate] Court views the evidence and all reasonable inferences in the light most favorable to the State.” State v. Butler, 407 S.C. 376, 381, 755 S.E.2d 457, 460 (2014). As the South Carolina Supreme Court recently reiterated: “[W]hen ruling on a directed verdict motion, the trial court views the evidence in the light most favorable to the State and must submit the case to the jury if there is “any substantial evidence which reasonably tends to prove the guilt of the accused, or from which his guilt may be fairly and logically deduced.”” State v. Bennett, 415 S.C. 232, 236-37, 781 S.E.2d 352, 354 (2016) (quoting State v. Littlejohn, 228 S.C. 324, 89 S.E.2d 924 (1955)). “Therefore, although the jury must consider alternative hypotheses, the court must concern itself solely with the existence or non-existence of evidence from which a jury could reasonably infer guilt.” Id. “Accordingly, in ruling on a directed verdict motion where the State relies on circumstantial evidence, the court must determine whether the evidence presented is sufficient to allow a reasonable juror to find the defendant guilty beyond a reasonable doubt.” Id.

In the instant case, Appellant’s claim that the ground on which the trial judge denied the motion for a directed verdict, forcible confinement, was outside the scope of his indictment, is without merit. The indictment informed Appellant he was charged with first-degree CSC pursuant to S.C. Code Ann. Section 16-3-652. It did state that he used aggravated force to accomplish the sexual battery, but did not limit its scope to S.C. Code Ann. § 16-3-652; rather, it

cited to the entirety of the statute. Further the State, through discovery, indicated to the defense that both aggravated force and forcible confinement were alleged. It is clear the State proceeded under section 16-3-652(1)(a) and (b):

A person is guilty of criminal sexual conduct in the first degree if the actor engages in sexual battery with the victim and if any one or more of the following circumstances are proven:

(a) The actor uses aggravated force to accomplish sexual battery.

(b) The victim submits to sexual battery by the actor under circumstances where the victim is also the victim of forcible confinement, kidnapping, trafficking in persons, robbery, extortion, burglary, housebreaking, or any other similar offense or act.

S.C. Code Ann. § 16-3-652(1)(a)–(b) (Supp. 2013). Under section 16-3-651(c), “aggravated force means that the actor uses physical force or physical violence of a high and aggravated nature to overcome the victim or includes the threat of the use of a deadly weapon.” S.C. Code Ann. § 16-3-651(c) (Supp. 2013).

To convict a defendant of first-degree CSC, the State must present evidence the defendant committed a sexual battery and *actually used* aggravated force at the time of the assault, i.e., the defendant overcame the victim through the use of physical force, physical violence of a high and aggravated nature, or the threat of the use of a deadly weapon. The evidence must show the actual use of aggravated force occurred near in time and place to the assault, such that the effect of the aggravated force caused the victim to submit to the assault.

State v. Brown, 360 S.C. 581, 588, 602 S.E.2d 392, 396 (2004) (italics in original and citations omitted).

In State v. Green, the Court of Appeals addressed whether it was appropriate to look to the circumstances of aggravation established for common law ABHAN to define the aggravated force required under section 16-3-652(1)(a). The Court concluded:

Therefore, under section 16-3-652(1)(a), a sexual battery constitutes first-degree CSC only if it was accomplished through the use of force and the force constitutes aggravated force. Thus, while the “aggravation” necessary for an ABHAN conviction may not be related to the force used in the attack, but, instead, to the general circumstances surrounding the attack, section 16-3-651 clearly requires that the “aggravation” necessary for a first-degree CSC conviction be associated with the degree of force used.

State v. Green, 327 S.C. 581, 586, 491 S.E.2d 263, 265 (Ct. App. 1997). The Court in Green found no aggravated force used when the assailant performed oral sex on the victim after shaving the victim’s pubic area. The Court specifically noted the victim “did not testify that he held her down or otherwise used any force” in committing the sexual battery. Id. at 588, 491 S.E.2d at 266.

In State v. Lindsey, the South Carolina Supreme Court found aggravated force was used. The Court explained the assailant “[confined] his victim in the automobile, Lindsey grabbed her hands, got on top of her and was holding her down with his body and hands.” State v. Lindsey, 355 S.C. 15, 21, 583 S.E.2d 740, 743 (2003). The Court in Lindsey noted its case was similar to State v. Frazier, 302 S.C. 500, 397 S.E.2d 93 (1990), in which the Supreme Court upheld an assault with intent to commit criminal sexual conduct in the first degree¹ conviction on evidence the defendant grabbed victim, forced her into the woods and ripped her clothes off in an effort to commit a sexual battery.

This case is much more similar to Lindsey and Frazier than it is to Green. Victim testified Appellant grabbed her arm, pulled her into a bedroom, and threw her onto the bed. Appellant attempted to for his penis into her mouth and when she tried to get off the bed, he restrained her; Victim specifically recounted Appellant using his open palm to pin her shoulder

¹ Conviction of the offense in Frazier required an assault accompanied by (1) the intent to engage in sexual battery and (2) the intent to either use aggravated force to accomplish sexual battery or to have the victim submit to sexual battery under circumstances where the victim is also the victim of forcible confinement, kidnapping, robbery, extortion or burglary. See S.C. Code Ann. § 16-3-652 and 16-3-656 (Supp. 2013).

to the bed. While she was restrained, he removed her shorts and began vaginal intercourse. Further, Victim possessed injuries to her vaginal area consistent with forced intercourse. Clearly, this testimony is similar to the testimony in Lindsey and Frazier and supported the trial judge's decision to submit the case to the jury as well as supported a reasonable juror's decision Appellant committed a sexual battery using forcible confinement and/or aggravated force.

The testimony of the victim, as well as her prior statements to police and the doctors, provided ample evidence the sexual battery was accomplished using aggravated force or under circumstances where the victim is also the victim of forcible confinement, or any other similar offense or act. As a result, the trial court did not err in submitting the case to the jury for its consideration and denying Appellant's motion for directed verdict.

Harmless Error

Appellate courts will generally not set aside a judgment based on insubstantial errors not affecting the result. State v. Sherard, 303 S.C. 172, 176, 399 S.E.2d 595, 597 (1991). After an error is found, the appellate court must then review the other evidence considered at trial besides the erroneously admitted evidence. State v. Baccus, 367 S.C. 41, 55, 625 S.E.2d 216, 223 (2006). Error is harmless beyond a reasonable doubt if it does not contribute to the verdict. State v. Fletcher, 379 S.C. 17, 25, 664 S.E.2d 480, 484 (2008).

In the instant case, even if the Court erred in denying Appellant's motion for a directed verdict on the charge of first-degree CSC, such alleged error is harmless because the jury found Appellant guilty of second-degree CSC, not first-degree CSC. Thus, even if the trial judge had directed a verdict in Appellant's favor on the first-degree charge, it would have not impacted the jury's finding of guilt on the lesser charge; reaching the lesser-included charge involved the jury

acquitting Appellant of the first-degree offense. See id., 379 S.C. at 25, 664 S.E.2d at 484.

Accordingly, it would be inappropriate for this Court to grant relief on this issue.

II.

The trial judge did not err in charging second-degree criminal sexual conduct because trial counsel failed to raise a specific objection to the charge.

Appellant argues the trial judge erred in charging the jury on second-degree CSC. However, Appellant failed to lodge a specific objection to the charge at trial, rendering any appellate challenge to it improper. Further, even if this Court determines Appellant preserved this issue, the appropriate remedy would be to remand the case for sentencing on third-degree CSC, an offense supported by the evidence at trial.

Error Preservation

In order for an issue to be preserved for appellate review, the issue must have been: (1) raised to and ruled upon by the trial court; (2) raised by the appellant; (3) raised in a timely manner; and (4) raised to the trial court with sufficient specificity. State v. Rogers, 361 S.C. 178, 183, 603 S.E.2d 910, 912–13 (Ct. App. 2004); see also State v. Patterson, 324 S.C. 5, 17, 482 S.E.2d 760, 765–66 (1997) (stating a general objection which does not specify the particular ground on which it is based is insufficient to preserve an issue for appellate review); JEAN HOEFER TOAL ET AL., APPELLATE PRACTICE IN SOUTH CAROLINA 57 (2nd ed. 2002) (identifying the four requirements that must be met in order for an issue to be properly preserved for appellate review). “If a party fails to properly object, the party is procedurally barred from raising the issue on appeal.” State v. Johnson, 363 S.C. 53, 58-59, 609 S.E.2d 520, 523 (2005).

In the instant case, Appellant failed to object to the State’s request to charge the jury on second-degree and third-degree CSC on any specific grounds. Accordingly, Appellant’s general, vague objection to inclusion of the lesser-included charges is not preserved for review by this Court. See Patterson, 324 S.C. at 17, 603 S.E.2d at 765–66.

Remand

Pursuant to S.C. Code Ann. Section 16-3-652, a person is guilty of first-degree criminal sexual conduct if the actor engages in sexual battery with a victim and one or more of the following are proven: (1) the assailant used aggravated force to accomplish the sexual battery; (2) the victim submitted to the sexual battery due to forcible confinement, kidnapping, trafficking in persons, robbery, or other similar offenses or acts; or (3) the assailed used a controlled substance, analogue of a controlled substance, or any intoxicating substance to accomplish the sexual battery. Under S.C. Code Ann. Section 16-3-654, third degree criminal sexual conduct, a lesser-included offenses of first-degree criminal sexual conduct, occurs when an actor engages in sexual battery with a victim and the State proves: (1) the actor used force or coercion to accomplish the sexual battery in the absence of aggravating circumstances; or (2) the actor knew or had reason to know the victim was mentally defective, mentally incapacitated, or physically helpless and aggravated force or coercion were not used to accomplish the sexual battery.

In State v. Brown, 360 U.S. 581, 602 S.E.2d 392 (2004), the Supreme Court of South Carolina found the trial court failed to direct a verdict in the defendant's favor on three counts of first-degree CSC because the State failed to present evidence that aggravated force accompanied any sexual acts specified in the indictments. The court further found a remand to the trial court for an entry of judgment and sentencing on the lesser-included offense of second-degree CSC inappropriate because that offense was not instructed to the jury. However, the court clarified such a remand for resentencing on a lesser-included offense is appropriate in cases in which: (1) the evidence adduced at trial failed to support one or more of the elements of the offense for which a defendant was convicted; (2) the jury was explicitly instructed on the lesser-included

offense, including the elements of said offense, for which remand is sought; (3) the record on appeal contains “sufficient” evidence supporting each element of the lesser-included offense; (4) the State seeks sentencing remand on appeal; (5) the defendant will not be unfairly or unduly prejudiced; and (6) the court remanding is convinced, after carefully considering the record along with the interests and concerns of both the defendant and victim of the crime, justice will be served by the remand. Id. at 597–98, 602 S.E.2d at 401.

Should this Court find preserved Appellant’s objection to the charge of second-degree CSC, the appropriate remedy would be to remand for resentencing on the offense of third-degree CSC. In the instant case, the jury found Appellant was guilty of a sexual assault, a fact supported by the evidence in the record. The only issue with the jury’s ruling is that second-degree CSC requires evidence of aggravated coercion, and none such evidence was presented at trial. However, the State did present evidence that Appellant used force and restrained Victim during the assault and the jury was charged on the third-degree offense. Further, a new trial on the charge would lead to the State and Appellant presenting identical cases to those at trial. Given the strength of the State’s case, and the trauma of forcing Victim to relive her sexual assault yet again, the interest of justice are best served by remanding. See id. at 597–98, 602 S.E.2d at 401.

CONCLUSION

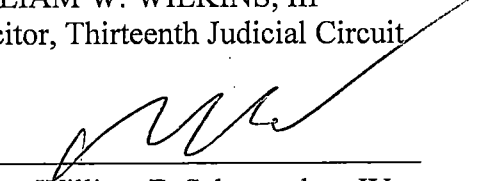
For all the foregoing reasons, it is respectfully submitted that the judgment and conviction of the lower court be affirmed.

Respectfully submitted,

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ATTORNEYS FOR RESPONDENT

June 11, 2019

STATE OF SOUTH CAROLINA
In The Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Honorable Letitia H. Verdin, Circuit Court Judge

RECEIVED

JUN 11 2019

SC Court of Appeals

Appellate Case No. 2018-000825

THE STATE, ...RESPONDENT,

v.

MATTHEW JAMIE BRYANT, ...APPELLANT.

CERTIFICATE OF COUNSEL

The undersigned certifies that this Final Brief of Respondent complies with Rule 211(b), SCACR, and 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."

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June 11, 2019

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Letitia H. Verdin, Circuit Court Judge

Appellate Case No.: 2018-000825

The State, ... Respondent,

v.

Matthew Jamie Bryant, ... Appellant.

REPLY OF APPELLANT

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JUN 27 2019
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STATEMENT OF THE ISSUES

1. Are the issues raised by the Appellant adequately preserved for appellate review?

ARGUMENT

I. THE COURT ERRED IN DENYING THE DEFENDANT'S MOTION FOR DIRECTED VERDICT.Issue Preservation

The state's argument on error preservation cites cases involving a failure to object timely to the *introduction* of evidence. Those cases are inapplicable to motion for a directed verdict based on the *lack* of the introduction of evidence. The *lack* of evidence is properly and timely made by way of a motion for a directed verdict, which defense counsel did. (R. pp. 304; 307; 313; 348). The issue as to the lack of evidence to support the indictment as charged is therefore preserved.

II. THE COURT ERRED IN CHARGING SECOND-DEGREE CRIMINAL SEXUAL CONDUCT.Issue Preservation

The state argues that the Appellant failed to adequately object to the inclusion of a charge on second and third degree sexual conduct. Specifically, the state claims that the defense made a "vague objection to the inclusion of the lesser-included charges." The state cites two cases for support. Neither are on point with the present case. Rogers dealt with the lack of any objection whatsoever and Patterson dealt with a general objection with no basis stated: "*No grounds were stated* for the objection and the trial judge overruled it." The defense objection in this case stated a basis for the objection and the judge comments make it clear that he understood the objection sufficiently to inform defense counsel that he was ruling on it and that the objection was preserved. Immediately after making the first objection the judge interrupted and stated that he

was denying counsel's objection. (R. p. 348-349). The defense renewed his objection before the charge, and the court again noted the objection and denied it. (R. p. 357, l. 2-7). The defense objection was then noted for the record again after the charge with the judge specifically stating that it was preserved for the record. (R. p. 397, l. 25-398, l. 3). Counsel's objections were sufficient to put the court on notice that a charge on criminal sexual conduct in the second degree was not appropriate in the case. The court's responses indicated to defense counsel that it understood the objection. The defense objections were therefore sufficiently preserved for appellate review.

CONCLUSION

Based on the foregoing the Appellant's conviction and sentence should be reversed, set aside and verdict of acquittal entered.

Respectfully submitted,



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In the Court of Appeals

APPEAL FROM PICKENS COUNTY
Court of General Sessions
Letitia H. Verdin, Circuit Court Judge

Appellate Case No.: 2018-000825

The State, ... Respondent,

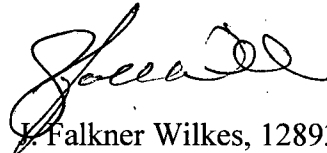
v.

Matthew Jamie Bryant, ... Appellant.

CERTIFICATE

I certify that the Brief and Reply of Appellant complies with Rule 211(b), SCACR.

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December 10, 2018.

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Court of General Sessions
Letitia H. Verdin, Circuit Court Judge

Appellate Case No.: 2018-000825

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STATE OF SOUTH CAROLINA	)	COURT GENERAL SESSIONS
COUNTY OF PICKENS	)	Case No(s) : 2016GS3901551
State of South Carolina,	)	
Plaintiff,	)	
-VS-	)	TRANSCRIPT OF RECORD
Matthew Jamie Bryant,	)	VOLUME 1 OF 3
Defendant.	)	

April 17 - 19, 2018
Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

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P R O C E E D I N G S

(Proceedings begin on the 17th day of April,
2018 at approximately 9:32 a.m.)

THE COURT: The State versus Matthew Jamie
Bryant, 2016-GS-39-1551.

Yes, ma'am?

MS. OWEN: That's correct, Your Honor. We
are here this morning to pick a jury on this
case and do pretrial motions. The defendant is
here and the victim is here, along with Rita
Burgess. I will let you tell us how you would
like to proceed.

THE COURT: All right. Well, I've
certainly heard through the grapevine through
Mr. Cleveland, just procedurally, that, y'all
might have -- I don't know what they are, but a
number of motions this morning that might be
lengthier.

MR. HUNT: Yes, ma'am, Your Honor, that's
correct.

THE COURT: Here's what I would think to
do, I think I saw jurors walking in this
morning. Why don't we go ahead and pick a jury?
I won't swear them. Then, we'll let them go. And
then maybe -- are y'all able to start this

1 afternoon? You think it will be that lengthy,
2 those motions, or no?

3 **MR. HUNT:** No, Your Honor. We had planned
4 to start in the morning.

5 **THE COURT:** Oh, yeah. That's fine. That's
6 fine by me.

7 **MS. OWEN:** What we had talked to Baker
8 about was doing motions right after we pick the
9 jury, conclude around lunch, unless they go over
10 into the afternoon, and then be prepared to do
11 openings and start with testimony tomorrow.

12 **THE COURT:** Hey, listen, I saw on the
13 weather report that it's going to 81 degrees
14 this afternoon. Nobody will turn down being out
15 for little bit this evening, so yeah. Okay.
16 That's -- please don't be concerned about that.
17 I'm happy to do that if that works -- does that
18 work for you?

19 **MR. HUNT:** Yes, ma'am. Yes, Your Honor.

20 **THE COURT:** Perfect. Well, then, we can
21 get going. I will tell you, tomorrow morning,
22 just to know who the person is sitting next to
23 me tomorrow morning, I'm going to have a law
24 clerk who's starting tomorrow morning. And if
25 y'all have any dealings with my law clerk, she

1 knows absolutely nothing because, literally,
2 tomorrow morning is her first day. I just want
3 to let y'all know that. If y'all hand her
4 something and she just stands back and says,
5 okay, then you'll understand. Okay. Any proposed
6 voir dire, anything -- witness list, anything
7 like that?

8 MS. OWEN: Yes, Your Honor.

9 THE COURT: Thank you.

10 MR. HUNT: Your Honor, we had done one ---

11 THE COURT: Sure.

12 MR. HUNT: --- and we left it at the
13 office. I apologize.

14 THE COURT: No problem. No problem. This
15 works just as good. Whoever wrote this has a
16 beautiful handwriting.

17 MS. OWEN: Would you mind sharing that,
18 Your Honor?

19 THE COURT: Absolutely. Have you or
20 anyone in your family been a victim of sexual
21 assault? Okay. So that -- all right. If you
22 were put in a position of being assaulted, would
23 you, quote, give up and allow the assault to
24 occur?

25 MS. OWEN: I don't think that's

1 appropriate.

2 **THE COURT:** I think I've got a real
3 problem with asking that particular question.
4 Let me look at the State's, and we will kind of
5 take it all into consideration. (Reviewing.)

6 Okay. And I sort of put two of these in the
7 same category as I do this other one. Do you
8 know someone who has had a baby as a teenager,
9 and do you think negatively of them because of
10 that? I assume that the victim in this case, or
11 somebody involved in the case, has had a baby as
12 a teenager?

13 **MS. OWEN:** Correct, Your Honor.

14 **MR. HUNT:** Yes.

15 **THE COURT:** Do you have any objection to
16 that question?

17 **MR. HUNT:** Your Honor, I --

18 **THE COURT:** Can I just -- let me just,
19 number 1, say this, I may need to phrase that
20 differently because every single one of us knows
21 -- I might have to stand up six or seven times
22 -- I think every one of us know somebody who has
23 had a baby as a teenager. I don't mind asking
24 maybe does anybody in the jury pool -- would you
25 think negatively of someone who has had a baby

1 as a teenager? Is that fair?

2 MR. HUNT: That's fair, Your Honor.

3 MS. OWEN: Yes, Your Honor. I'm just
4 trying to ascertain any potential bias.

5 THE COURT: Understood. Do you think if
6 someone has to live with roommates to support
7 their family, they put themselves in a bad
8 situation?

9 MR. HUNT: Your Honor, that's the same
10 thing as what you just said. I think we all,
11 especially, in today's world --

12 THE COURT: I might, if family counts as
13 yourself, I would probably have to stand up and
14 say, me, when I was certainly in college and law
15 school. You know, I don't know that there is any
16 particular reason -- I can't think of any
17 particular reason for that. I appreciate your
18 thoroughness.

19 This question, if you were put in a
20 position of being assaulted, would you give up
21 and allow the assault to occur, I find that as
22 just a very -- I will certainly allow you to --
23 we'll mark this as an exhibit with all notes,
24 that you had a typed version of it, but
25 handwrote it this morning. I'm not going to ask

1 that question. I can't imagine a juror --
2 putting a juror in a position of having to say
3 yes to that question. I don't know.

4 I'm going to strike number 2 -- I'm gonna
5 go ahead and mark it one and two on this --
6 number 2 of defendant's proposed voir dire, and
7 I'm going to strike number 8 of State's voir
8 dire, and I'm going to amend number 7.

9 **MS. OWEN:** Thank you, Your Honor.

10 **THE COURT:** Other than the State's witness
11 list, do you all intend, Mr. Hunt, to call any
12 additional witnesses that you know of?

13 **MR. HUNT:** No, Your Honor, I don't think
14 we do.

15 **THE COURT:** Very well then. Now, just so
16 that I know, we're going to start tomorrow
17 morning with the trial. How long do you
18 anticipate it will take?

19 **MS. OWEN:** I think the State will conclude
20 Thursday morning, Your Honor.

21 **THE COURT:** Thursday morning. And then we
22 will see from there. I won't put you in the
23 position of turning your hand on that. So,
24 sounds like we may finish up Thursday, you
25 think? Maybe?

1 **MR. HUNT:** Maybe.

2 **THE COURT:** Maybe Friday? So we will see.
3 Thursday or Friday, okay. All right. Very well.
4 Well -- and the strikes on this are 5 and 10, if
5 I'm not badly mistaken. You'll get 10 strikes on
6 this one. Since we anticipate it's going to be
7 three days -- since we anticipate it's going to
8 be three days, for now, I propose we pick two
9 alternates. Of course, it is one and two on the
10 alternates. All right. Any other matters we
11 need to take up with regard to the jury
12 selection before we get going?

13 **MS. OWEN:** Nothing from the State, Your
14 Honor.

15 **THE COURT:** From the defense?

16 **MR. HUNT:** Nothing, Your Honor.

17 **THE COURT:** I'm sorry about my voice. I've
18 got some allergies this morning. So, hopefully
19 -- I did stop and get me a cough drop. All
20 right. Some of these questions, of course, I may
21 give the folks the option to come up to the
22 bench and talk to me about it. So if you will be
23 just be prepared, you need to come up to the
24 bench.

25 **MR. HUNT:** Yes, Your Honor.

1 MS. OWEN: All right.

2 THE COURT: We will convene over here so
3 that my court reporter can be in the mix too.
4 Do we have our jurors outside?

5 THE CLERK: I think so, yes.

6 THE COURT: Juror number 2 and Juror
7 number 49 are mother and daughter. Y'all might
8 want that information.

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

10 THE COURT: Good morning, Ladies and
11 Gentlemen. My name is Letitia Verdin. I have
12 not met you yet this week. I am a resident judge
13 in Greenville. But Greenville and Pickens are
14 the 13th Judicial Circuit, so I'm over here in
15 Pickens a lot, which makes me very happy. It is
16 my favorite place that I go because it -- number
17 1, your Clerk of Court, Pat Welborn, takes care
18 of jurors like no one else in the state. It's
19 fantastic.

20 It surprises me time and time again -- I
21 know you met Judge Gravely, your resident judge,
22 yesterday. I don't know if he mentioned it to
23 you -- but it surprises me time and time again,
24 as long as I've done this job, that if folks
25 actually do get to serve on the jury, they say

1 that it was one of the best experiences they've
2 had. I think that is, in part, due to your Clerk
3 of Court. I, also, think it's, in part, due to
4 the fact that -- due to the fact that folks like
5 to learn about the legal system and being part
6 of the legal system. And also, I think that
7 maybe folks feel like they're giving back to a
8 country and state that has given us all so much.
9 I appreciate your service so much.

10 I'm just going to tell you everything we're
11 going to do today. I'm going to go through and
12 I'm going to ask you some questions to find out
13 if you're qualified to serve as a juror on a
14 particular case that we've got coming up. We're
15 going to introduce you to everybody involved in
16 the case. I'm going to have a few questions for
17 you.

18 After that, we're going to excuse you for
19 the balance of the day. Even if you are picked
20 to be on the jury, we're going to excuse you for
21 the balance of the day. We've got some matters
22 we need to take up and some scheduling issues.
23 Therefore, we're going to let you go and enjoy
24 what they say is going to warm up and be a
25 pretty day -- it didn't feel that warm this

1 morning -- and then we'll start back tomorrow
2 morning. We anticipate that this case will
3 probably take two days to try. It's not one of
4 the longest cases that we've had, but we do
5 think it will be about two days.

6 I want to apologize to you for my voice.
7 It's the pollen. I'm not sick. I'm not going to
8 get anybody sick. But it's the pollen. I don't
9 know if y'all are, but I'm struggling through
10 it. I thought all of our rain this weekend would
11 help, but evidently not.

12 All right. So as I told you, I've got some
13 questions I want to ask you in just a minute. I
14 don't know what method Judge Gravely employed
15 when he talked with you yesterday, but here's
16 what I'm going to ask you to do, in just a
17 moment, when I tell you a little information
18 about the case, if any of you need to respond to
19 my questions, then if you would stand, I will
20 call you. If you will, give me your name and
21 juror number. When you do that, then we'll talk
22 about how it is that you might know somebody
23 involved in the case or need to talk to me about
24 it.

25 All right. A couple of quick things. I'm

1 going to go through a list of names. Some of
2 them are fairly common names. Excuse me. Some
3 of them are fairly common names. If you even
4 think you know somebody with that name, it's
5 just better just to stand up and let's talk
6 about it now. That way, we can deal with any
7 issues up front.

8 Next, you will understand in a moment, I
9 might have a question or two that might call for
10 some personal information. I don't want to stand
11 up and talk about my personal information,
12 necessarily, in front of everybody. So here's
13 what I'm going to do, if you want -- at any time
14 in response to any question that I ask, if you
15 want to come and speak with me here at the bench
16 -- that's what we call this here, the bench --
17 you feel free to do so. Just point and say I
18 need to come up there and you come on up. The
19 attorneys are prepared, they're going to come up
20 here and we will just talk about it up at the
21 bench. Okay. I don't want to put anybody on the
22 spot whatsoever.

23 This is a case, State of South Carolina
24 versus Matthew Jamie Bryant. Mr. Bryant is
25 charged with Criminal Sexual Conduct first

1 degree. I'm going -- in a few minutes, I'm going
2 to read to you just the barest bones of
3 allegations against Mr. Bryant that the State
4 will be required to prove. Those are the
5 allegations that are contained in the
6 indictment.

7 I need to go ahead and explain to you what
8 an indictment is and what an indictment is not.
9 An indictment is just simply the document by
10 which someone is charged with a crime and
11 brought into court. That's it. It is not
12 evidence whatsoever of anybody's guilt. But for
13 our purposes here today, it would just serve, as
14 I said, to give us the barest bones of the
15 allegations against Mr. Bryant. All right.

16 To begin with, Ms. Owen, I'm going to ask
17 you to stand and introduce just the folks
18 sitting at your table.

19 MS. OWEN: Thank you, Your Honor.

20 Good morning, I'm Megan Owen. I am
21 representing the State in this matter. I work
22 for Walt Wilkins, 13th Judicial Circuit. This is
23 Rita Burgess. She is a detective with the
24 Pickens County Sheriff's Office. Then, I have
25 **Prosecutrix** [REDACTED] who was seated here to my right.

1 **THE COURT:** All right. Thank you. Any
2 member of the jury related by blood or marriage
3 or otherwise acquainted with, in any way,
4 Ms. [REDACTED] of the 13 -- excuse me -- Ms. Owen of
5 the 13th Circuit Solicitor's Office? If so,
6 please stand. Let me ask that question a little
7 more generally. Any member of the jury panel
8 believe he or she is acquainted with anyone,
9 related to anyone who works at the 13th Circuit
10 Solicitor's Office? The 13th Circuit, as I told
11 you, is Pickens and Greenville County.

12 Solicitor is what, in some states, they
13 call the district attorney or prosecutor. Any
14 member of the jury panel believe he or she is
15 acquainted with anyone who works in the 13th
16 Judicial Circuit Solicitor's Office? If so,
17 please stand. (No audible response.)

18 None are standing.

19 Any member of the jury related by blood or
20 marriage to Rita Burgess of the Pickens County
21 Sheriff's Office, have any acquaintance with her
22 in any manner? If so, please stand.

23 Yes, sir. Tell me your name and juror
24 number please.

25 **POTENTIAL JUROR:** Rodney Gregory, 70.

1 **THE COURT:** Yes, sir. Tell me how you
2 know --

3 **POTENTIAL JUROR:** I am retired Pickens
4 City Police Chief. I've had several cases with
5 her.

6 **THE COURT:** All right. Tell me this.
7 Knowing that she is the lead investigator on
8 this case, do you believe you could be a fair
9 and impartial juror in the trial of this case?

10 **POTENTIAL JUROR:** Yes.

11 **THE COURT:** All right. Thank you so much,
12 sir. I appreciate it. Anyone else?

13 (No audible response.)

14 And no further are standing.

15 Mr. Hunt, would you please stand and
16 introduce the folks at your table.

17 **MR. HUNT:** Yes, ma'am.

18 I'm Dan Hunt. I practice in Easley. At my
19 table is Matthew Jamie Bryant and also my
20 paralegal Lashonda Cooper.

21 **THE COURT:** Thank you so much, Mr. Hunt.

22 **MR. HUNT:** Thank you, ma'am.

23 **THE COURT:** Any member of the jury panel
24 related by blood or marriage, ever been
25 represented by, ever been involved in a case

1 with or acquainted with, in any way, Mr. Hunt of
2 the Pickens County bar? If so, please stand.

3 Yes, sir. Tell me your name and juror
4 number, please.

5 **POTENTIAL JUROR:** Yes, it's Dan Jacques,
6 Juror number 89.

7 **THE COURT:** Yes, sir.

8 **POTENTIAL JUROR:** About 10 years ago or
9 so, my company used the services of Mr. Hunt to
10 handle a lien for a business matter.

11 **THE COURT:** All right. Knowing that -- do
12 you still consider Mr. Hunt to be your attorney?

13 **POTENTIAL JUROR:** No, ma'am.

14 **THE COURT:** Tell me this, knowing that he
15 is an attorney in this case, do you think you
16 can still be a fair and impartial juror in the
17 trial of this case?

18 **POTENTIAL JUROR:** Yes, ma'am.

19 **THE COURT:** Thank you so much. I surely
20 do appreciate it.

21 Yes, ma'am, in the back. Yes, ma'am.

22 **POTENTIAL JUROR:** I am Ashley Anthony,
23 Juror number 4. He did a loan closing.

24 **THE COURT:** About when was that? Do you
25 remember?

1 **POTENTIAL JUROR:** Probably a year and half
2 ago.

3 **THE COURT:** Okay. Again, I'll ask you,
4 knowing Mr. Hunt's an attorney in this case, do
5 you think you could be a fair and impartial
6 juror in the trial of this case?

7 **POTENTIAL JUROR:** Yes.

8 **THE COURT:** All right. Thank you so much.
9 All right. Any member of the jury panel related
10 to or acquainted with Ms. Cooper of Mr. Hunt's
11 office? If so, please stand.

12 (No audible response.)

13 None are standing.

14 Any member of the jury panel related by
15 blood or marriage, otherwise acquainted with or
16 know anything about the defendant in this case,
17 Matthew Jamie Bryant? If so, please stand.

18 Yes, sir. Tell me your name and juror
19 number please.

20 **POTENTIAL JUROR:** Terry Holmes, juror 75.

21 **THE COURT:** Yes, sir.

22 **POTENTIAL JUROR:** Mr. Bryant is my next
23 door neighbor.

24 **THE COURT:** Okay. All right. Thank you so
25 much, sir. I'd ask you to please, certainly not

Jury Qualification

1 discuss this matter with anyone -- all right.
2 Thank you -- while you were here.

3 All right. I'm going to go through the
4 potential witnesses in this case. These are
5 outstanding attorneys on both sides. They have
6 listed every possible witness. Don't be -- don't
7 be daunted by the witness list. It's just every
8 possible witness. If any of you know any of
9 these folks, and as I said, even some common
10 names on this list, please stand and let's talk
11 about it. I'm gonna go all the way through the
12 list. If you would, just wait to stand until I
13 finish the list. All right.

14 Anyone with 911 in Pickens County; anyone
15 with 911 in Easley; Prosecutrix [REDACTED] Tony
16 Robinson of the Pickens County Sheriff's Office;
17 Torrance Jackson of the Pickens County Sheriff's
18 Office; Robert Porter of the Pickens County
19 Sheriff's Office; Michael Hendricks of the
20 Pickens County Sheriff's Office; Chris Sullivan
21 of the Pickens County Sheriff's Office; Brian
22 Gibson of the Pickens County Sheriff's Office;
23 A.J. Albrecht of the Pickens County Sheriff's
24 Office; Alysha Andrews, SLED forensic
25 scientists, that is State Law Enforcement

1 Division forensic scientists; Verona Herrera,
2 SLED forensic scientists; Lindsey Mitchell, SLED
3 forensic toxicologist; Franklin Lomax; Dirk Van
4 Holland; Pamela Belkevitz of the Easley Baptist
5 Hospital; and Aaliyah Yeargin. Any members of
6 the jury panel believe he or she is related by
7 blood or marriage or otherwise acquainted with,
8 in any way, any of these potential witnesses?
9 If so, please stand.

10 All right. I will start over here and work
11 my way to you.

12 Yes, ma'am, in the back here.

13 **POTENTIAL JUROR:** Number 153.

14 **THE COURT:** Yes, ma'am.

15 **POTENTIAL JUROR:** My daughter is a
16 supervisor in the Communications at the Pickens
17 County Sheriff's Department.

18 **THE COURT:** Okay. The fact that your
19 daughter works there, do you believe you could
20 be a fair and impartial juror in the trial of
21 this case?

22 **POTENTIAL JUROR:** Yes, ma'am.

23 **THE COURT:** Thank you.

24 Sir, in the black jacket.

25 **POTENTIAL JUROR:** Robbie Porter with the

1 Pickens County Sheriff's Office. I'm a
2 firefighter with Clemson University.

3 **THE COURT:** Tell me this, do you think you
4 could be a fair and impartial juror in the trial
5 of this case?

6 **POTENTIAL JUROR:** Yes.

7 **THE COURT:** Tell me your juror number one
8 more time.

9 **POTENTIAL JUROR:** Sorry, 137.

10 **THE COURT:** 137, thanks so much.

11 Yes, ma'am, in the back.

12 **POTENTIAL JUROR:** Ashley Anthony, Juror
13 number 4. I have two friends that work for 911.

14 **THE COURT:** Okay. If either of them were
15 to testify here about 911 records, do you think
16 you could be a fair and impartial juror in the
17 trial of this case?

18 **POTENTIAL JUROR:** Yes.

19 **THE COURT:** All right. Thank you.

20 Yes, sir, on the back row.

21 **POTENTIAL JUROR:** Dewayne Marsceau, number
22 115. I know Tony Robinson.

23 **THE COURT:** Tell me how you know him,
24 please.

25 **POTENTIAL JUROR:** My kids are friends with

1 his kids.

2 THE COURT: If he testifies in the trial
3 of this case, do you think you could be a fair
4 and impartial juror in the trial of this case?

5 POTENTIAL JUROR: Yes, ma'am.

6 THE COURT: Thank you.

7 Yes, sir. Do you know everybody on the
8 list? Just checking. All right. Thank you, sir.
9 I appreciate it.

10 THE CLERK: What's his juror number?

11 THE COURT: I'm sorry. Tell me your juror
12 number again.

13 POTENTIAL JUROR: 70.

14 THE COURT: 70. I've got here, I did not
15 put anything by it. Okay.

16 Yes, ma'am. I'm sorry.

17 POTENTIAL JUROR: No, that's fine.
18 Jennifer Whitmire, 191.

19 THE COURT: All right. Yes, ma'am.

20 POTENTIAL JUROR: My cousin is married to
21 Michael Hendricks.

22 THE COURT: Okay. Tell me this, knowing
23 that he may testify in the trial of this case,
24 do you think you could be a fair and impartial
25 juror in the trial of the case?

1 **POTENTIAL JUROR:** Yes, ma'am.

2 **THE COURT:** Thank you so much.

3 Yes, ma'am, tell me your --

4 **POTENTIAL JUROR:** Kimberly Bryant, Juror

5 16.

6 **THE COURT:** Yes, ma'am.

7 **POTENTIAL JUROR:** Brian Gibson, he is the
8 spouse -- his wife is my friend.

9 **THE COURT:** Okay. Do you think, if he
10 testifies, that you could be a fair and
11 impartial juror in the trial of this case?

12 **POTENTIAL JUROR:** Yes, ma'am.

13 **THE COURT:** I appreciate it. Thank you so
14 much.

15 All right. Ladies and Gentlemen, now I'm
16 sort of moving to some things that might be --
17 ask for things of little more personal nature.
18 If any of you want to discuss this with me at
19 the bench, I am more than happy for you to do
20 that. All right? I will say to you and
21 encourage you that it's of the utmost importance
22 -- this is an important case to the State and to
23 the defense and is of utmost importance, if you
24 feel like you need to answer any of these
25 questions, for you to please do so. In fact, not

1 to understate it, our criminal justice system
2 depends on it.

3 So let me ask these questions. I tell you
4 what, I'm going to ask three questions, and if
5 anybody needs to respond to any of these
6 questions, just wait until I ask all three of
7 the questions. All right? All right.

8 Have you or any member of your immediate
9 family ever been accused of sexual assault?
10 Immediate family is, you know, brother, sister,
11 mother, father, child, or spouse. Any member of
12 your immediate family, or you, been accused of
13 sexual assault or such a close friend that you
14 feel that you need to speak with the Court about
15 it?

16 All right. Next question is, have you or
17 any member of your immediate family ever been
18 the victim of sexual assault? Ever been accused
19 of or ever been the victim of a sexual assault,
20 including anyone who's such a close friend that
21 you feel like you need to talk to me about it.

22 All right. Any member of the jury panel,
23 would you think negatively of a person because
24 they had had a baby as a teenager? All right.
25 Would any member of the jury panel think

1 negatively about a person because they've had a
2 baby as a teenager? All right.

3 Actually, I lied, I'm going to ask you four
4 questions. I'm going to ask you another
5 question. Here it is -- actually, I need to ask
6 you two more. I keep lying to you. Okay. I'm
7 sorry.

8 I'm going to read the indictment to you. As
9 I said, this is just merely the barest bones of
10 the allegations the State is required to prove.
11 The indictment alleges that Matthew Jamie Bryant
12 did, in Pickens County, on or about the 5th day
13 of April, 2016, engage in sexual battery with
14 K.R.C. and used aggravated force to accomplish
15 this battery in violation of the Code of Laws of
16 South Carolina. Any member of the jury panel
17 believe he or she knows anything about these
18 allegations, has read anything about these
19 allegations, knows anything at all about the
20 allegations in this case?

21 My final question for you is this, does any
22 member of the jury panel believe he or she, for
23 any reason, any reason whatsoever, the nature of
24 the allegations, the witnesses involved, the
25 attorneys involved, any reason whatsoever,

1 believe he or she could not be a fair and
2 impartial juror in the trial of this case? That
3 means have a open mind -- not make your mind up
4 about any fact whatsoever until the conclusion
5 of the evidence and the final argument by the
6 attorneys -- have an open mind as to everything
7 related to this case until the end of the trial?
8 That's what I consider a fair and impartial
9 juror to be. All right.

10 Let's do a quick review.

11 Sir, you don't even need to talk to me,
12 okay? I appreciate it. Thank you so much. You
13 can have a seat.

14 Let's -- I'm going to review real quick.
15 Any member of the jury panel, family member been
16 accused of or been a victim of sexual assault;
17 would think badly of somebody because you had --
18 because that person had a baby as a teenager;
19 know anything about this incident; or believe
20 you cannot be a fair and impartial juror?
21 That's a lot. But if anybody needs to respond
22 whatsoever, please do so.

23 (Bench Conferences with potential jurors are
24 held off the record.)

25 **THE COURT:** Anybody else need to speak

1 with me about any matter whatsoever, anything at
2 all?

3 (No audible response.)

4 (Bench conference with counsel is held off the
5 record.)

6 **THE COURT:** Ms. Allen, do you mind
7 stepping up here for just a moment?

8 (Bench conference is held off the record.)

9 **THE COURT:** Anybody else feel like you
10 need to speak with me about any matter
11 whatsoever? (No audible response.)

12 I promise it all moves real quick after
13 this. (Pause.)

14 All right. Ladies and Gentlemen, we are now
15 going to move to jury selection. A couple of
16 things here, when you hear your juror name and
17 juror number called by the Clerk of Court in
18 just a moment, if you would, please stand and
19 just stay where right where you are.

20 You'll hear the attorneys say something
21 like "present the juror," "seat the juror,"
22 "excuse the juror," some things like that. Okay.
23 Don't worry about it. We're going to direct you
24 what you need to do next. If you are selected
25 for the jury, then you'll come over here and

1 have a seat in our jury box. Like I said, we
2 will direct you when you need to do that. Bring
3 all of your things with you because you won't be
4 returning to your seat.

5 Then, I want to tell you that I tried cases
6 for a long time and I struck jurors for a lot of
7 reasons, and none of them were ever personal. I
8 don't know that anybody would be too upset, but
9 if you are struck, please do not wonder if it's
10 something personal, because it is not.

11 All right. With all that being said, it
12 used to be that, a long time ago, we literally
13 would turn the crank and pulled numbers out of
14 -- kind of like the lottery. But in the wonders
15 of computers, the computer generates a list for
16 us. But that does take just a minute, so, if
17 y'all will, just bear with us for just a moment.
18 I promise this does move very fast after that.
19 All right. Thank you very much. (Pause.)

20 All right. Yes, sir.

21 **THE CLERK:** As I call your name, if you
22 would, please stand so that the attorneys can
23 see you.

24 Juror number 91, Rebecca Johnston.

25 What says the State?

1 MS. OWEN: Your Honor, I'm sorry --
2 Mr. Wellborn, please present this juror.

3 THE CLERK: And the defense?

4 MR. HUNT: Swear her.

5 THE CLERK: If you would, come forward and
6 have a seat in the jury box please.

7 Juror number 15, Kellie Black.

8 What says the State?

9 MS. OWEN: Please present this juror.

10 THE CLERK: And the defense?

11 MR. HUNT: Swear her.

12 THE CLERK: If you would, come forward and
13 have a seat in the jury box please.

14 Juror number 115, Dewayne Marsceau.

15 What says the State?

16 MS. OWEN: Please present this juror.

17 THE CLERK: And the defense?

18 MR. HUNT: Swear him.

19 THE CLERK: If you would, come forward in
20 have a seat in the jury box.

21 Juror number 124, Michael Millman.

22 What says the State?

23 MS. OWEN: Please excuse this juror.

24 THE CLERK: If you would, return to your
25 seat please, sir.

1 Juror number 140, Salvador Oropesa.

2 What says the State?

3 MS. OWEN: Please present this juror.

4 THE CLERK: And the defense?

5 MR. HUNT: Swear him.

6 THE CLERK: If you would, come forward and
7 have a seat in the jury box please, sir.

8 Juror number 53, Frank Feltus.

9 What says the State?

10 MS. OWEN: Please present this juror.

11 THE CLERK: And the defense?

12 MR. HUNT: Swear him.

13 THE CLERK: If you would, come forward and
14 have a seat in the jury box please, sir.

15 Juror number 87, Joshua Howard.

16 What says the State?

17 MS. OWEN: Please present this juror.

18 THE CLERK: And the defense?

19 MR. HUNT: Swear him.

20 THE CLERK: If you would, come forward and
21 have a seat in the jury box please, sir.

22 Juror number 47, Jessica East.

23 What says the State?

24 MS. OWEN: Please present this juror.

25 THE CLERK: And the defense?

1 **MR. HUNT:** Swear her.
2 **THE CLERK:** If you would, come forward and
3 have a seat in the jury box.
4 Juror number 62, Anita Gillespie.
5 What says the State?
6 **MS. OWEN:** Please present this juror.
7 **THE CLERK:** And the defense?
8 **MR. HUNT:** Excuse this juror.
9 **THE CLERK:** If you would, return to your
10 seat please, ma'am.
11 Juror number 14, Kara Black.
12 What says the State?
13 **MS. OWEN:** Please present this juror.
14 **THE CLERK:** And the defense?
15 **MR. HUNT:** Excuse this juror.
16 **THE CLERK:** If you would, return to your
17 seat please, ma'am.
18 Juror number 36, John Cobb.
19 What says the State?
20 **MS. OWEN:** Please excuse this juror.
21 **THE CLERK:** If you would, return to your
22 seat please, sir.
23 Juror number 33, Linda Chastain.
24 What says the State?
25 **MS. OWEN:** Please present this juror.

1 **THE CLERK:** And the defense?
2 **MR. HUNT:** Swear her.
3 **THE CLERK:** If you would, come forward and
4 have a seat in the jury box please.
5 Juror number 90, Bevington James.
6 What says the State?
7 **MS. OWEN:** Please present this juror.
8 **THE CLERK:** And the defense?
9 **MR. HUNT:** Swear him.
10 **THE CLERK:** If you would, come forward and
11 have a seat in the jury box.
12 Juror number 28, Michael Cater.
13 What says the State?
14 **MS. OWEN:** Please present this juror.
15 **THE CLERK:** And the defense?
16 **MR. HUNT:** Swear him.
17 **THE CLERK:** If you would, come forward and
18 have a seat in the jury box.
19 Juror number 123, Debra Miller.
20 What says the State?
21 **MS. OWEN:** Please present this juror.
22 **THE CLERK:** And the defense?
23 **MR. HUNT:** Excuse this juror.
24 **THE CLERK:** If you would, return to your
25 seat please, ma'am.

1 Juror number 38, Anthony Colatrella.
2 What says the State?
3 MS. OWEN: Please present this juror.
4 THE CLERK: And the defense?
5 MR. HUNT: Swear him.
6 THE CLERK: If you would, come forward and
7 have a seat in the jury box please, sir.
8 Juror number 171, Lucas Smith.
9 What says the State?
10 MS. OWEN: Please excuse this juror.
11 THE CLERK: If you would, return to your
12 seat please, sir.
13 Juror number 105, John Latimer.
14 What says the State?
15 MS. OWEN: Please excuse this juror.
16 THE CLERK: If you would, return to your
17 seat please, sir.
18 Juror number 74, Jonathan Hardin.
19 What says the State?
20 MS. OWEN: Please present this juror.
21 THE CLERK: And the defense?
22 MR. HUNT: Swear him.
23 THE CLERK: If you would, come forward and
24 have a seat in the jury box.
25 THE COURT: All right. Two alternates

1 please. One and two on the alternates.

2 **THE CLERK:** Juror number 66, Rebecca
3 Gilstrap.

4 What says the State?

5 **MS. OWEN:** Please present this juror.

6 **THE CLERK:** And the defense?

7 **MR. HUNT:** Excuse this juror.

8 **THE CLERK:** If you would, return to your
9 seat please, ma'am.

10 Juror number 20, Sheri Brookshire-Clavire.

11 What says the State?

12 **MS. OWEN:** Please excuse this juror.

13 **THE CLERK:** If you would, return to your
14 seat please, ma'am.

15 Juror number 2, Charlotte Allen.

16 What says the State?

17 **MS. OWEN:** Please present this juror.

18 **THE CLERK:** And the defense?

19 **MR. HUNT:** Please excuse this juror.

20 **THE CLERK:** If you would, return to your
21 seat please, ma'am.

22 Juror number 25, Zuzel Casado.

23 **MS. OWEN:** Please present this juror.

24 **THE CLERK:** And the defense?

25 **MR. HUNT:** Excuse this juror.

1 **THE COURT:** Will the attorneys approach?
2 (Bench Conference is held off the record.)
3 **THE CLERK:** Juror number 86, Heather
4 Howard.
5 What says the State?
6 **MS. OWEN:** Please present this juror.
7 **THE CLERK:** And the defense?
8 **MR. HUNT:** Present her.
9 **THE CLERK:** If you would, come forward and
10 have a seat in the jury box.
11 Juror number 25 -- excuse me, wrong number
12 -- Juror number 4, Ashley Anthony.
13 **MS. OWEN:** Please present this juror.
14 **THE CLERK:** And the defense?
15 **MR. HUNT:** Swear her.
16 **THE CLERK:** If you would, come forward and
17 have a seat in the jury box.
18 **THE COURT:** All right. Any objection to
19 the manner in which the jury was selected, from
20 the State?
21 **MS. OWEN:** Your Honor, I believe we
22 discussed at the bench --
23 **THE COURT:** Right. Thank you.
24 **MR. HUNT:** None, Your Honor.
25 **THE COURT:** Ladies and gentlemen who were

1 not selected to serve on this particular jury,
2 if you all -- you are released for the balance
3 of the day. If you would, call after
4 6 o'clock for further instructions for tomorrow.
5 Thank you so much.

6 (Jury panel exits at approximately 10:33 a.m.)

7 **THE COURT:** All right. Ladies and
8 Gentlemen, you will serve as our jury for this
9 case. As I said, this is a very important case
10 to both sides. I thank you so much for your
11 service. I know that when your fellow jurors get
12 excused, sometimes I know you look at them with
13 a little bit of envy. But the good news is, for
14 y'all, you are going to be leaving here in just
15 a minute. They've got to call back in and come
16 back in and go back through this whole process
17 again with Judge Gravely tomorrow morning.

18 I will say this to you, we are going to let
19 you go for the day, but I need to give you a few
20 instructions. I know you barely know anything
21 about this case at all, but you're going to go
22 home and your family is going to ask you if you
23 got picked for a jury. And when you tell them
24 you did, they're going to want to know what kind
25 of case. Please, please -- our legal system

Remarks

1 depends on this -- please don't discuss this
2 case in any way. Don't even mention to them what
3 kind of case it is, because it may elicit a
4 comment from someone and that may influence you
5 in some way. We just want you to have an open
6 mind about this case completely.

7 Furthermore, please don't do any kind of
8 independent research on the case. I know that a
9 lot of times the temptation is to look up and
10 see if there's been any -- what the elements of
11 this particular crime are in South Carolina or
12 look up something about the attorneys or
13 anything. Please do not do that.

14 I want you to go out, enjoy this pretty
15 day, forget that you are a juror on this case.
16 And then, we will start tomorrow morning at
17 9:30. So if you will be back -- they're going
18 to show you your jury deliberation room before
19 you leave -- if you will be back tomorrow
20 morning, we will start promptly with opening
21 statements. I hope you have a good evening. Once
22 again, thank you so much for your service in
23 this case. All right. Thank you.

24 (Jury exits at approximately 10:36 a.m.)

25 **THE COURT:** And just to put on the record,

1 I did have one strike I did put as a Court
2 strike. I'm always hesitant -- it didn't seem to
3 impact things too much -- we had another
4 alternate to go and it didn't seem to impact
5 things too much. I used a Court strike. I'm not
6 entirely sure that that lady understood what was
7 going on, but I wanted to make sure that she
8 didn't feel unwanted. All right.

9 I'll tell you what, before we start our
10 motions in this case, could we take a 10-minute
11 break? Is that all right with everybody?

12 MS. OWEN: Yes, Your Honor.

13 THE COURT: All right then. Let's break
14 for 10 minutes.

15 (Court goes off the record at approximately
16 10:36 a.m.)

17 (Court goes on the record at approximately
18 11:06 a.m.)

19 THE COURT: All right. So we've got some
20 motions we need to take care of; is that right?

21 MS. OWEN: Yes, Your Honor.

22 THE COURT: Do you all have an idea in
23 what order you want to take these motions?

24 MS. OWEN: Your Honor, I think we'll start
25 with the -- I think, in Mr. Hunt's position,

1 what will be worst to best. Your Honor, I have
2 filed -- provided a motion. We have a motion for
3 the State's motion in support of other bad acts.
4 I have provided a copy of this motion to
5 Mr. Hunt and I have a copy for you as well.

6 **THE COURT:** All right. Thank you. All
7 right. (Reviewing.)

8 All right. Anything you want to say at this
9 time, Mr. Hunt?

10 **MR. HUNT:** Yes, ma'am. Before we even get
11 started, quite frankly, Your Honor, this is just
12 egregious. It is egregious what has happened. On
13 Wednesday -- chatting with the Solicitor this
14 past Wednesday, I spoke with her, we're not
15 going to pursue priors? No. On Friday afternoon,
16 midday, yes we're going to -- we got an email,
17 yes, we are going to do priors, at 4:45, almost
18 5 o'clock. I had go to the bank, the local bank.
19 I came back to my office to meet with the
20 messenger, the lady from the Solicitor's office,
21 to bring me a package of 43 documents from
22 Spartanburg County. Yesterday, when I walked
23 into the courtroom, I was handed, yet again,
24 another Children's Advocacy Center from
25 Spartanburg County.

1 Your Honor, I just -- this is a -- it's a
2 Rule 5 violation. It is an absolute Rule 5
3 violation. Our case in chief -- under Rule 5,
4 the case in chief needs to be disclosed. I know
5 Ms. Owen is -- is -- is -- was not the solicitor
6 then, but the solicitor is Mr. Wilkins. He has a
7 staff -- he has an enormous staff that do all
8 that sort of thing. To wait for two years before
9 you give me that is a violation of my right to
10 due process under the federal and state
11 constitution. I just -- I just -- it's just -- I
12 just think it's just out of hand.

13 Your Honor, there are several remedies for
14 that. One is to exclude. Two is -- and that's
15 the one that we want -- or two is for
16 continuance. If I have got to fight, if I've
17 got to deal with the allegations against my
18 client that were -- the allegations, Your Honor,
19 were brought in Spartanburg County. He was --
20 they said it was -- he was charged in
21 Spartanburg County and then nolle prossed. It
22 was nolle prossed. Now, we come to Pickens and
23 we're going to have us another bite of the
24 apple. It was five years ago.

25 It's just -- I think, Your Honor, under

Motions

1 Perry and a whole line of cases -- and if I
2 misstate one of the cases I rely on, I apologize
3 to the Court. I've got copies of all of these
4 cases -- I think the prejudicial value so far
5 outweighs the probative value that it's just --
6 it's beyond -- it's beyond the pale. It's
7 absolutely beyond the pale. That's the start of
8 my objection, Your Honor.

9 I just feel like, under the Fifth Amendment
10 of the United States Constitution, the 14th
11 Amendment of the United States Constitution and
12 Article 1, Section 14 of the South Carolina
13 Constitution, as well as our Rule 5, as well as
14 the rules of -- the rules of criminal procedure
15 and the rules of evidence, it should be
16 excluded. I won't go further. There's a lot of
17 particulars, Your Honor, but I would just simply
18 say that this is -- there are some other cases,
19 I think, that address those kinds of things that
20 are there before we -- even before we get into
21 the evidence. So I -- that's my position in it,
22 Your Honor.

23 **THE COURT:** All right. Let me just say on
24 a cursory review, a very cursory review, these
25 might qualify under the line of cases and under

1 the rules to be potentially admissible as prior
2 bad acts. Let's just focus right now on -- let's
3 just focus right now on the timing. And I -- let
4 me just start by saying, I do understand
5 sometimes you get information when you get
6 information, but --

7 MS. OWEN: Judge Verdin, I would just like
8 to point out a few things that Mr. Hunt failed
9 to mention.

10 THE COURT: Okay.

11 MS. OWEN: Mr. Bryant was charged in 2013
12 with CSC with a Minor third degree.

13 THE COURT: Okay.

14 MS. OWEN: That case was held open for a
15 year. He had private counsel, Brian James, who
16 was provided with all of that discovery.

17 THE COURT: Okay.

18 MS. OWEN: In the packet provided from the
19 original solicitor who had this case, Mr. Hunt
20 had a copy of the rap sheet. He knew that this
21 allegation was out there. It was my
22 understanding when first I got this case -- I
23 have not been on this case very long -- but that
24 the prior case in Spartanburg had been nolle
25 prossed due to the victim stating she didn't

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1 remember what happened.

2 On Thursday of last week, I talked to a lay
3 witness late afternoon. At which point, he said
4 that he had heard through the grapevine that
5 they may be interested in cooperating. I got the
6 contact information for that prior victim. I
7 contacted her mother and spoke with her and her
8 mother Friday morning. At which point, they said
9 they would be willing to talk to me.

10 I then asked Spartanburg County to give me
11 what they could from the Solicitor's office.
12 That was the incident report, supplemental, DSS
13 records -- in Spartanburg. It's the Children
14 Advocacy Center report. All of that, Mr. Bryant
15 had seen previously. They have had two years to
16 review this.

17 When I spoke with Mr. Hunt last Wednesday,
18 he knew about the prior bad acts. He asked me if
19 I had intended to call prior bad acts. At that
20 time, I had not even spoken to this victim. I
21 had no idea that they would be willing to
22 cooperate. I did not have any of this
23 information.

24 I provided it the day I got it. I am
25 completely in compliance with Rule 5. We have an

1 ongoing duty to disclose when we get it. I'm
2 providing it as I get it, Your Honor. My stance
3 would be that Mr. Hunt had known about this and
4 he has had ample opportunity. He's been on this
5 case for two years. I haven't even been in this
6 office for six months to investigate and
7 understand these. He could have gotten all of
8 this information through his client or his prior
9 attorney.

10 As I stated, I gave him the information as
11 I got it. I did a motion. I gave it to him
12 yesterday morning, after I had worked on this
13 Sunday evening. I provided a copy of it to him.
14 I told him about my discussion with the victim.
15 I explained to him that the victim had
16 originally said that she didn't remember what
17 happened. At that time, she was nine. There is a
18 bit of an age discrepancy. However, now she is
19 14 and she feels differently about what happened
20 and she is willing to come forward at this
21 point. That is the basis of the motion.

22 The motion outlines for the case law that
23 we have prior bad acts, common scheme or plan. I
24 believe the similarities outweigh the
25 dissimilarities in this case. But in regards to

1 Mr. Hunt's Rule 5 violation, I don't believe the
2 State has violated Rule 5.

3 **THE COURT:** What about -- let me ask you
4 this, what about his opportunity to prepare, not
5 knowing that you had intended to use it until
6 Friday?

7 **MS. OWEN:** Well, Your Honor, I'll just say
8 he asked me on Wednesday. I had told him no. I
9 don't think two days would've made any
10 difference at that point. I called him Friday
11 morning, as soon as I got off the phone with
12 him. I believe he has had two years to prepare
13 for that, knowing that this allegation was out
14 there.

15 **MR. HUNT:** Your Honor?

16 **THE COURT:** Yes, sir.

17 **MR. HUNT:** Quite frankly, we have focused
18 entirely on the case in chief today. But now,
19 I've got -- I am faced with, I've got to defend
20 my client against two criminal sexual conducts.
21 That's the -- the onus is on the State.
22 Ms. Owen is correct, she's only been there a
23 short period of time, but the onus is on the
24 State. If they think they're going to do it,
25 they need to belly up and give me that stuff.

1 Just because it's in Brian James' hands doesn't
2 mean that I got it.

3 I've focused on my client very, very
4 definitively. I had no idea that this level of
5 -- this level of "got you" was going to be
6 practiced. That's what I feel like it is. I just
7 think that it's -- at the very least, it ought
8 to be -- at the very most, it ought to be
9 excluded. At the very least, I should be allowed
10 to have an expert review this, have someone to
11 come into this courtroom and maybe help me out
12 in my defense of my client to qualify and due
13 process. I just feel like that this is his life.
14 He is entitled to due process, and this is not.

15 **THE COURT:** All right. I tell you what,
16 I'm going to sit here and let you watch me read
17 for the next few minutes. Let's take another
18 break, I'll be back with you in about 10
19 minutes. All right? I want to take a look at a
20 few things.

21 **MS. OWEN:** Thank you.

22 **MR. HUNT:** Thank you.

23 (Court goes off the record at approximately
24 11:17 a.m.)

25 (Court goes on the record at approximately

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1 11:32 a.m.)

2 THE COURT: Well -- yes, ma'am?

3 MS. OWEN: No.

4 THE COURT: Oh, I thought you wanted to
5 add something. I've had an opportunity to look
6 at your motion a little bit -- a little bit
7 further and to look at a few things, and I don't
8 mind saying, discussed the matter with another
9 judge, just to say this, my cursory review,
10 without having any heard any of the testimony
11 about this is, that this -- this -- this
12 testimony and evidence is relevant and is
13 probably admissible. I think it is very much
14 probably admissible and -- but I understand also
15 how damning prior bad acts can be. That is why
16 our courts take such a narrow view of it. I
17 would certainly take that into account any 403
18 analysis. But ultimately, I think it may be very
19 probative evidence.

20 That being said, I don't believe that we
21 can go forward this term of court with this
22 evidence, but I will allow the State to make the
23 choice. If you want to go without the evidence,
24 I am fine to continue on. If you want this
25 evidence included then, I think, in light of all

1 fairness to the defendant, taking into
2 consideration that folks have -- you know, that
3 today is a very nerve-racking day and being
4 ready for today is a very nerve-racking day -- I
5 don't know where I was. But anyway, ultimately,
6 I will go forward without the evidence or I will
7 continue it to another term of court.

8 MS. OWEN: Thank you, Your Honor. I've
9 actually spoken about those options with the
10 victim in this case and the other victim. We're
11 going to withdraw the motion, if it were to be
12 continued. I would like to put on the record
13 that if the defendant testifies and he opens the
14 door, that he is now aware of this information
15 and he is aware that I'm aware of this
16 information and I will use it in cross if he
17 opens the door.

18 THE COURT: Absolutely. I just want to
19 make the defendant very aware of that and you're
20 going to want to be in constant discussion with
21 your attorney. But if you do take the stand in
22 this case and if you do open the door to any of
23 this being admitted, I'm likely to allow the
24 State to go into it. In other words, you will
25 want to talk to your attorney about exactly what

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1 that means, and you're going to want to have
2 constant discussions with your attorney about
3 whether you or not you plan to testify anyway.
4 All right. That's one motion done. We'll plan
5 to go forward with any other motions that you
6 have at this time.

7 MS. OWEN: Thank you, Your Honor. The
8 State would just ask for the typical rape shield
9 motion in this case, that the defense not be
10 allowed to mention anything about our victim's
11 prior sexual history in any regards. We also
12 have a motion to keep out any information
13 related to drug use. I think there's allegations
14 on both sides that there was drug use. I don't
15 think that's relevant in any matter in this
16 case. This is a straightforward criminal sexual
17 conduct case. It has nothing to do with drugs,
18 alcohol, anything of that matter, and it would
19 not be relevant in this case.

20 THE COURT: Thank you.
21 Yes, sir.

22 MR. HUNT: Please the Court, Your Honor.
23 The rape shield statute does not deal with drug
24 abuse. It deals with prior sexual conduct.

25 THE COURT: Oh, sure. And I understand

1 that. I think you were making those as two
2 separate --

3 **MS. OWEN:** Yes, Your Honor.

4 **THE COURT:** -- two separate motions.
5 Okay.

6 **MR. HUNT:** I would just submit to the
7 Court that it is relevant for the conduct that
8 was ongoing in the house at the time, as the
9 testimony will unfold. As a result of that, I
10 think that we ought to be able to question about
11 -- there is a question -- basically, there's
12 going to be a question about why my client had
13 to move out. He intends to testify as to why he
14 moved out. The only thing that we -- if Your
15 Honor wants to address that and then we'll go
16 forward. I've got one other --

17 **THE COURT:** I'll say this. I'm not going
18 to outright exclude it. It may become relevant
19 at some point. I don't want you talking about it
20 in opening statements. I don't think it's
21 necessary to talk about it in opening statements
22 anyway. That's probably too much detail for an
23 opening statement, in my opinion, anyway.

24 My sense is, I'm probably going to allow
25 it. But I'm also going to say if it's good for

1 one, it's good for the other. I'm going to let
2 testimony, probably, in both ways. If there's
3 any kind of jury instruction anybody wants me to
4 give with regard to that, I'm happy to do it.
5 I'm happy to give a limiting instruction during
6 the trial if you'd like, as well. I'm happy to
7 do that, but I won't outright exclude it. But I
8 need to -- that's probably one that I need to
9 hear a little bit more about the case before I
10 can decide.

11 **MR. HUNT:** Your Honor, the final one we
12 had, we filed a motion to allow my client under
13 the rape shield statute to testify as to his
14 interaction in the -- it's about three months
15 when he and the victim, the alleged victim,
16 lived together. It's not very much testimony
17 about the day before he and the alleged victim
18 -- the alleged crime took place. That's where we
19 would be under the rape shield statute.

20 **THE COURT:** Are you talking about that
21 they might've engaged -- that he alleges that
22 they may have engaged in some type of sexual
23 contact ---

24 **MR. HUNT:** Yes.

25 **THE COURT:** --- the day before?

1 **MR. HUNT:** The day before and several
2 times during the previous three months prior to
3 this going down.

4 **THE COURT:** Okay. To go to consent?

5 **MR. HUNT:** Yes, ma'am.

6 **THE COURT:** Yes, ma'am?

7 **MS. OWEN:** Obviously, Your Honor, we would
8 object to this testimony, but I believe the
9 defendant has a right to give his side of the
10 story. I think that that may just have to unfold
11 as it comes, but I don't believe that it's going
12 to be relevant.

13 **THE COURT:** If it turns out to be
14 relevant, then I don't think it's excluded by
15 the rape shield statute outright. I might let
16 that in, but again that's one we'll have to kind
17 of cross that bridge when we get to it.

18 **MR. HUNT:** Thank you, Your Honor.

19 **MS. OWEN:** Just a few others, Your Honor.
20 I don't know if Mr. Hunt is going to want to
21 have a Jackson v. Denno or if he stipulates that
22 his client voluntarily spoke with law
23 enforcement.

24 **THE COURT:** All right. Are you wanting to
25 have a Jackson v. Denno hearing in this matter?

1 **MR. HUNT:** No. No, Your Honor, my client
2 did, in fact, speak to the law enforcement
3 officer.

4 **THE COURT:** All right.

5 **MS. OWEN:** We also would ask for a
6 stipulation as to the defendant consenting to
7 give a buccal swab. I believe that was prior to
8 me being here, but it's my understanding that
9 was consensual.

10 **THE COURT:** All right.

11 **MR. HUNT:** Absolutely.

12 **THE COURT:** Okay.

13 **MR. HUNT:** Without a question.

14 **THE COURT:** Okay. Very good.

15 **MS. OWEN:** We just have one final thing,
16 Your Honor.

17 **THE COURT:** Absolutely. We've got all day.

18 **MS. OWEN:** Thanks. We have some -- two
19 different experts coming from SLED who did
20 forensic testing, basically. In regards to
21 Hatcher, we have subpoenaed everybody that took
22 evidence there from the Sheriff's Office, people
23 who retrieved the evidence, and then the actual
24 testers. But in regards to who had the package
25 prior to it being open or resealed, we have not

1 put them under appeal under State v. Hatcher.
2 We just have this policy that we don't have to
3 have every single person.

4 **THE COURT:** Right.

5 Yes, sir?

6 **MR. HUNT:** Your Honor, I just -- I don't
7 want to waste the Court's time and confuse --
8 and confuse the true issues in this matter.

9 **THE COURT:** I think that might be a wise
10 -- wise course of action in regards to it. That
11 does not sound like that's going to be what the
12 real crux of the case would be anyway.

13 Let me just say to you, Mr. Bryant, if you
14 have understood what our conversations have been
15 here in the past few minutes, we've been talking
16 about -- we've been talking about whether the
17 State would have to have every person in the
18 chain of custody and whether or not if every
19 person who touched something or handled
20 something, I believe, swabs were taken from,
21 whether or not they would need to be here. I'm
22 going to give you just a moment to make
23 absolutely sure that you and your lawyer are on
24 the same page, in just a moment, to talk about
25 this. Secondly, whether or not you, in fact,

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1 consented to and there was no problem with them
2 taking the buccal swab. Okay. You probably
3 remember that. And what's the other one?

4 MS. OWEN: I'm sorry. I have to look back
5 for a minute. Oh, that he spoke with law
6 enforcement.

7 THE COURT: Oh, the Jackson v. Denno.
8 That's exactly right. That you voluntarily spoke
9 with law enforcement, you weren't coerced or
10 anything like that.

11 MR. BRYANT: Yes, ma'am.

12 THE COURT: So I need you to talk to your
13 lawyer about that for just a minute and we're
14 going to come back in and hear from your lawyer
15 with you present about it. But I want you to
16 have a moment to speak about it alone. I'll step
17 out. I'll be right back.

18 (Court goes off the record at approximately
19 11:41 a.m.)

20 (Court goes on the record at approximately
21 11:43 a.m.)

22 THE COURT: Mr. Hunt, have you had enough
23 time to talk to your client?

24 MR. HUNT: Yes, ma'am.

25 THE COURT: And he consents to the

1 State's motion?

2 MR. HUNT: Yes, ma'am.

3 THE COURT: Mr. Bryant, you have any
4 questions for me about any of that that we just
5 discussed?

6 MR. BRYANT: No, ma'am.

7 THE COURT: All right. Thank you very
8 much.

9 All right. Anything else?

10 MS. OWEN: As far as I know, that
11 concludes the State's motions, Your Honor.

12 THE COURT: All right. Anything else from
13 the defense?

14 MR. HUNT: No, Your Honor..

15 THE COURT: All right. The jury has not
16 been sworn yet, so you're still on bond, is my
17 understanding. We don't need to take up that
18 matter. I purposely didn't swear them, just in
19 case we had something come up.

20 MR. HUNT: Your Honor, just so Your Honor
21 thinks about it -- and I understand about when
22 the jury is sworn in -- he does, in fact, have a
23 GIS. He has one of those -- he wears one of
24 those --

25 THE COURT: The bracelet?

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1 **MR. HUNT:** Yes, ma'am.

2 **THE COURT:** The ankle monitor?

3 **MR. HUNT:** Ankle monitor.

4 **THE COURT:** All right. Well, let me --
5 while we're talking about it, has he ever not
6 shown up for court?

7 **MS. OWEN:** Not that I'm aware of, Your
8 Honor.

9 **THE COURT:** Okay. You know, probably if he
10 continues to be just like he is today, I'll
11 probably do something that Judge Eppes used to
12 do every now and again, and that was set a trial
13 bond. I'll probably set a trial PR bond because
14 he won't have a bond once the jury is sworn.
15 I'll probably set something like at trial PR
16 bond and keep him on ankle monitor.

17 **MR. HUNT:** Thank you.

18 **THE COURT:** All right. Anything else we
19 need to take up?

20 **MS. OWEN:** Not that I'm aware of, Your
21 Honor.

22 **THE COURT:** All right then. Very well.

23 **MR. HUNT:** Nothing, Your Honor.

24 **THE COURT:** We'll start tomorrow morning
25 at 9:30.

1 MR. HUNT: Yes, ma'am.

2 THE COURT: Does that sound good? If
3 anybody wants to -- if you've got any particular
4 jury charges that come to mind or anything like
5 that -- I know it's early in the game -- but if
6 anybody has anything, you know, feel free to
7 email them. But just do email them directly to
8 me, as I won't have a law clerk until tomorrow
9 morning.

10 MS. OWEN: Yes, ma'am.

11 THE COURT: All right. Very good.

12 MR. HUNT: Thank you, Your Honor.

13 THE COURT: Thank y'all.

14 MS. OWEN: Thank you.

15 (Court goes off the record at approximately
16 11:46 p.m.)

17 (Court's Exhibit 1 is marked for
18 identification.)

19 (State's Exhibits 1 through 22 are marked for
20 identification.)

21

22

23

24

25

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, Volume 1 of 3, of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens, South Carolina, on this 6th day of July, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA	)	COURT GENERAL SESSIONS
COUNTY OF PICKENS	)	Case No(s) : 2016GS3901551
State of South Carolina,	)	
Plaintiff,	)	
-VS-	)	TRANSCRIPT OF RECORD
Matthew Jamie Bryant,	)	VOLUME 1 OF 3
Defendant.	)	

April 17 - 19, 2018
Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

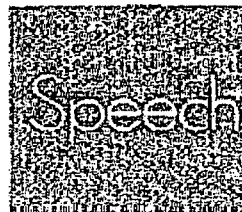
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STATE OF SOUTH CAROLINA	)	COURT GENERAL SESSIONS
COUNTY OF PICKENS	)	Case No(s) : 2016GS3901551
State of South Carolina,	)	
Plaintiff,	)	
-VS-	)	TRANSCRIPT OF RECORD
Matthew Jamie Bryant,	)	VOLUME 1 OF 3
Defendant.	)	

April 17 - 19, 2018
Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

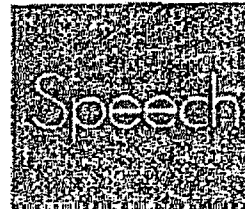
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P R O C E E D I N G S

(Proceedings begin on the 18th day of April,
2018 at approximately 9:40 a.m.)

MR. HUNT: Your Honor?

THE COURT: Yes, sir?

MR. HUNT: Please the Court. I would ask
that there be -- the witnesses who are going to
testify be sequestered.

THE COURT: Any objection to that?

MS. OWEN: No, Your Honor.

THE COURT: All right then. Any witness
who is scheduled to testify in the trial of this
case, who is under subpoena to testify on either
side listed as witness, please -- I'd ask that
you please leave the courtroom at this time.
(Pause.)

Anybody else?

Mr. Hunt, I know you know this, but just so
I've said it, while we're kind of getting things
together -- I say this to both sides -- but as I
said, I've tried a case with Mr. Hunt before.
Opening statements -- I wouldn't say that I'm
quite to the level of the late Judge Pyle -- but
opening statements are just to lay out your case
very briefly, and then let's get rolling. All

1 right? (Pause.)

2 All right. Are we ready to bring the jury
3 in from the State?

4 **MS. OWEN:** The State is ready, Your Honor.

5 **MR. HUNT:** Yes, ma'am.

6 **THE COURT:** All right then. Very well. All
7 right. Please.

8 (Jury enters at approximately 9:44 a.m.)

9 **THE COURT:** Good morning, Ladies and
10 Gentlemen. Thank you so much for being patient
11 with us. We had to take care of one matter of
12 housekeeping this morning, and that is that one
13 amongst your ranks is not here today -- you
14 probably realize that -- but has two sick
15 children, so we'll send our best wishes to her.
16 Our first order of business is going to be for
17 the clerk to swear you in.

18 Mr. Welborn?

19 **THE CLERK:** Yes, ma'am.

20 If you would, please stand. After the oath
21 is administered, answer by saying, "I will."
22 Raise your right hand. You shall well and truly
23 try the issue joined in this case of the State
24 versus Matthew Jamie Bryant and a true verdict
25 render according to the law and evidence, so

1 help you God. If you agree with that, please
2 have a seat.

3 (Each juror responds.)

4 **THE COURT:** All right. Ladies and
5 Gentlemen, what I'm going to say now to you is
6 just meant to be an introduction to the case.
7 This is not, in any way, my charge on the law to
8 you. You will get that at the end. You don't
9 need to worry about any of that until we get to
10 the very end of this case.

11 The defendant is charged with an indictment
12 filed in this court with Criminal Sexual
13 Conduct, and the elements of which I will
14 explain to you later. I told you during jury
15 selection, an indictment is not in any sense
16 evidence of anyone's guilt. It's just the
17 document by which somebody is charged and
18 brought into court. The defendant has pled not
19 guilty to this indictment and, therefore, that
20 puts the burden on the State to prove each and
21 every element of the indictment beyond a
22 reasonable doubt.

23 You are the sole judge of the facts. You
24 are to determine the facts based solely on the
25 testimony that you hear from this witness stand

1 and any exhibits that will be made a part of the
2 record. It is going to be your job, Ladies and
3 Gentlemen, to determine whether or not the State
4 has met its burden of proof beyond a reasonable
5 doubt.

6 As I said, you are the sole judge of the
7 facts. As the trial judge, I cannot comment on
8 the facts of the case. I don't have an opinion,
9 and the law does not allow me to have an
10 opinion. But, on the other hand, you are the
11 sole judge of the facts and I am the sole judge
12 of the law. You must accept the law as I give
13 it to you and follow it, even if you have a
14 different idea as to what the law is or what the
15 law ought to be. If it disagrees with what I
16 tell you it is, under your juror oath, you are
17 sworn to take that law exactly as I state it to
18 you and apply the facts as you find it.

19 We talked about this a little bit
20 yesterday. But until I advise you to begin
21 deliberations, please do not discuss this case
22 with anyone, even with your fellow jurors. Now
23 from time to time, that surprises folks because,
24 you know, on TV and in movies, jurors are
25 talking all the time about the case in the jury

1 deliberation room. But under South Carolina law,
2 you can't discuss the case with anyone, even
3 your fellow jurors. Here is the reason, we want
4 you to get the full picture before you decide
5 anything in this case. So as not to -- so you
6 don't make your mind up about any fact early,
7 I'm going to ask you not to discuss this case
8 with anyone.

9 Don't know if there's been any media
10 attention or anything like that related to this
11 case, but if there is, I'll ask you to avoid it.
12 We do anticipate that this case will go through
13 at least tomorrow.

14 As I told you, please don't do any kind of
15 independent research on what the law is or
16 anything like that. These attorneys -- listen,
17 there is no way that they would ever speak to
18 you about this case or try to speak. They just
19 -- they wouldn't even dream of it. I don't have
20 any reason to believe anybody involved in the
21 case would. But if somebody did begin to talk to
22 you about this case and you identify yourself as
23 a juror in this case and they don't immediately
24 quit talking to you, then I want you to report
25 it to this gentleman right here. He's going to

1 be with you throughout the week. Report it to
2 him. He will report it to me. I assure you I
3 will take care of that situation immediately.

4 From time to time, you may hear the
5 attorney say something like, could they approach
6 on a matter of law, or could the jury be excused
7 while we take up a matter of law. I just want to
8 explain it to you just so you don't think we're
9 hiding the ball from you in any way. I told you
10 I can't comment on the facts of the case to a
11 jury. Sometimes in ruling on a matter of law, I
12 have to comment on the facts. So as not to
13 influence you or to comment in front of you, if
14 it is something we could take up very quickly up
15 here, then we'll do that. Otherwise, I will ask
16 you to step to your jury deliberation room for
17 just a moment.

18 But I will tell you this, if we are in here
19 with you in your jury deliberation room, I
20 promise you, we are working. We understand that
21 we are trespassing on your time and taking you
22 away from your daily lives. We don't want to do
23 that a minute longer than is absolutely
24 necessary.

25 Now, you're going to have to determine the

1 believability of witnesses, the credibility of
2 witnesses. You do that with your own common
3 sense, just like you do every day. You look at
4 how they act. You look at how a witness acts.
5 You think about what they've said. You think
6 about how it matches up with other things, other
7 witnesses' testimony or the evidence in the
8 case. From that, you decide who you believe, if
9 anybody, is telling the truth. You can use
10 anything in the record to help you decide that
11 that you need.

12 In just a moment, you're going to hear
13 opening statements. The attorney from the State
14 is going to make an opening statement, Ms. Owen.
15 She is going to tell you what she believes the
16 issue in the case to be. Of course, statements
17 about attorneys are in no way evidence in this
18 case. Okay. I want to be clear about that. It is
19 just their contention as to what the issues may
20 be. Mr. Hunt, on behalf of the defendant, could
21 make an opening statement, although he doesn't
22 have to.

23 Then we're going to move into the testimony
24 and evidence. The way the day will kind of flow
25 is we'll take a morning break and then we'll

1 take a good lunch break, let you go out
2 someplace and have lunch. If you're close, you
3 can go home or whatever. We'll give you a little
4 extra time at lunch to be able to do that. We'll
5 take an afternoon break. And we think we're
6 going to stop today along about 4:45.

7 I've got a couple of rules in my courtroom
8 for jurors. Here they are: number 1, we want you
9 to be comfortable. If you need a break anytime
10 outside of our other breaks, all you do is
11 signal to this fellow right here or to me, and
12 we'll take a break immediately. No questions
13 asked. Second thing is that, as witnesses are
14 changing up, I encourage you if you feel like
15 it, to stand up and stretch a little bit. It can
16 be refreshing, I'll tell you, especially in the
17 afternoon. And I will do it, too, if it makes
18 anybody feel more comfortable.

19 Now, we've got one forelady left,
20 Ms. Anthony -- alternate -- excuse me -- not
21 forelady, an alternate. An alternate, as you
22 probably know, will just stay with us through
23 the balance of the case. If you need to step in
24 at any time and be one of the 12 jurors, if I
25 had to remove one or one had an emergency, then

1 you would fill in as if you had been one of the
2 12 jurors all along. If you are not needed and
3 we get to jury deliberations, I'll excuse you at
4 that time. I thank you very much for your
5 service.

6 Mr. Howard? Mr. Howard. All right. I'm
7 going to appoint you as foreperson of this jury.
8 Your verdict must be a unanimous one. Nobody's
9 opinion is more important than the other. I just
10 need someone to lead the discussions in the jury
11 deliberation room and to sign and date the
12 verdict form at the end. That's it. If you'd
13 accept that responsibility, I'd be most
14 grateful. All right then.

15 Finally, let me tell you, thank you so much
16 for your service in this case. As I told you,
17 it's an important case to both sides. I'm
18 already impressed this morning at how attentive
19 you all have been throughout my initial
20 instructions, and I thank you so much for that.
21 All right.

22 Any objections to my initial instructions
23 from the State?

24 **MS. OWEN:** Nothing, Your Honor.

25 **THE COURT:** Any from the defense?

1 **MR. HUNT:** None, Your Honor.

2 **THE COURT:** All right then. Very well.
3 We're ready to start with opening statements.

4 Yes, ma'am.

5 **MS. OWEN:** Thank you, Your Honor.

6 Good morning, Ladies and Gentlemen. Thank
7 you for being on time. It makes everybody's job
8 easier and gets you out here of a little
9 quicker. My name is Megan Owen. I am from the
10 Low Country. I went to school in Charleston, the
11 College of Law School. I've been here quite a
12 few years practicing law.

13 I know everybody's seen movies, seen TV,
14 heard stories, heard the news. In South
15 Carolina, we call Criminal Sexual Conduct in the
16 first degree -- it's a fancy term -- but what
17 you hear every day is rape. There are two
18 definitions or two parts -- I'm sorry -- sexual
19 battery and aggravated force. Sexual battery, in
20 this case, is digital penetration or penile
21 penetration. Aggravated force is the use of
22 force, physical or violent.

23 Last night, I was trying to figure out what
24 I was going to tell you. I've been working on
25 this case a while. I was thinking, what am I

1 going to say. I'm just going to tell you that
2 this case is summed up in four words -- I was
3 afraid that might happen -- those four words
4 are: Prosecutrix [REDACTED] was raped. Four words that I
5 would like you to remember for the duration of
6 this trial.

7 Prosecutrix [REDACTED] was 17 in April of 2016. A
8 beautiful day just like today. She was at home.
9 She was a new mother. She was a stay-at-home
10 mom. She had the worst day of her life.

11 A basic human right would be not to have
12 your body violated by any other person. I am
13 here today to prove to you beyond a reasonable
14 doubt, and that is my burden and I take that
15 burden gladly, that Jamie Bryant, who is sitting
16 at that table, raped Prosecutrix [REDACTED]

17 You're going to hear from this witness
18 stand from the victim. She's gonna tell you what
19 a terrible day that was for her. You're going
20 to hear from law enforcement who investigated
21 this case. You're going to hear from SLED who
22 did DNA analysis. You're going to hear from a
23 nurse who had to see Ms. [REDACTED] on the worst day
24 of her life and put her more -- through more
25 trauma. You're going to hear from lay witnesses,

1 that just means people were around, who saw and
2 heard things. I'm going to prove to you beyond
3 a reasonable doubt those four words: **Prosecutrix**
4 ██████ was raped. I'm going to prove to you it
5 was Jamie Bryant.

6 Ladies and Gentlemen, you are here to
7 decide the facts. I ask you to come into this
8 with your experiences, what you know, and ask
9 you to listen to everything that you hear from
10 that witness stand, and listen with your ears
11 open. I'm going to ask you, at the end of this
12 trial, to find Jamie Bryant guilty of Criminal
13 Sexual Conduct in the first degree. Thank you.

14 **THE COURT:** Thank you, Ms. Owen.

15 Mr. Hunt?

16 **MR. HUNT:** Please the Court, Your Honor.
17 Please the Court -- please the Court, Your
18 Honor.

19 I am Dan Hunt. I practice in Easley. I've
20 been in Pickens County for almost 43 years now.
21 I started out -- I grew up in Greenville, worked
22 my way through Clemson and then went to law
23 school. So, here I am. I found an opportunity
24 and came to Easley and that's what I've been
25 doing ever since.

1 I appreciate your being here today as well.
2 Interesting thing about the jury system, about
3 our system, is this business of the rule of law.
4 You all are the embodiment of the rule of law.
5 That is, that the law controls, in a sense. It
6 is the rule of our law. It has been brought
7 together over many, many years. That's what
8 we're going to be talking about here, what the
9 law is all about.

10 Ms. Owens brought up the business about
11 criminal sexual conduct and the aggravated
12 force. It's been my experience, over these
13 years, that you look at little things. You look
14 at what is there. You look at the little things
15 that are here and little things that are not
16 here. I will submit to you -- you will hear
17 stuff. You will hear a lot of stuff -- I submit
18 to you this business of aggravated force is not
19 present.

20 My client, Jamie Bryant, right there, is
21 going to tell you what happened that particular
22 day. He's going to tell you beyond a reasonable
23 doubt that he did not rape Prosecutrix [REDACTED] You
24 will hear his story. You will see him. You will
25 get to hear all of these other facts. We submit

1 to you at the end of the day, you will find him
2 not guilty.

3 I appreciate your time. I know, again, this
4 is a beautiful spring day. It was nice
5 yesterday and it's even prettier today. But,
6 again, this is what we do. This is what we do.
7 This is what we have to do to make sure that our
8 system does work, not just us, but for our
9 grands and our great-grands. This is just as
10 important as when I was serving in Vietnam. This
11 is what we have to do. I appreciate you all. I
12 appreciate you. Thank you.

13 THE COURT: Thank you, sir.

14 Ms. Owens, are you ready to call your first
15 witness?

16 MS. OWEN: We are, Your Honor. The State
17 would call Prosecutrix [REDACTED]

18 THE COURT: All right.

19 Prosecutrix [REDACTED]
20 having first been duly sworn, testifies as follows:

21 THE CLERK: If you would, have a seat and
22 state your name for the record please.

23 THE WITNESS: Prosecutrix [REDACTED]

24 DIRECT EXAMINATION

25 BY MS. OWEN:

1 Q Good morning, Prosecutrix. How are you?

2 A I've been better.

3 Q Prosecutrix will you tell the jury how old
4 you are?

5 A I am 19 years of age.

6 THE COURT: Okay. Ms. [REDACTED] can I ask you
7 to scoot up just a little bit? There we go.

8 BY MS. OWEN:

9 Q Tell the jury when your birthday is.

10 A December 27, 1998.

11 Q Where are you from?

12 A Easley.

13 Q Where did you go to high school?

14 A Easley High School.

15 Q I'm going to push this mic a little closer.

16 Okay. There we go. Prosecutrix when you were in high
17 school, who'd you live with?

18 A Mostly, my mom. I stayed with some friends,
19 but mostly, my mom.

20 Q How many people lived with your mom?

21 A Six.

22 Q Who were those people?

23 A My brothers and sisters and my mom.

24 Q What kind of house did you live in?

25 A At first, a three-bedroom apartment.

1 Q Did your mom end up having to move?

2 A Yes, ma'am.

3 Q Where did she move to?

4 A A trailer, a two-bedroom trailer.

5 Q How many bathrooms were in that trailer?

6 A One.

7 Q And there were six people living there?

8 A Yes, ma'am.

9 Q Did you get pregnant while you were in high
10 school?

11 A Yes, ma'am.

12 Q How old were you?

13 A I was 15.

14 Q How old were you when you had your baby?

15 A 15.

16 Q Did you move out of your house?

17 A Yes, ma'am.

18 Q Who did you move in with?

19 A The father of my son.

20 Q Where did y'all move to?

21 A At first, it was a motel. Then we moved in
22 with one of our friends.

23 Q Where was that?

24 A 100 Hidden Acres Drive.

25 Q Prosecutrix did you have to drop out of

1 school?

2 A Yes, ma'am.

3 Q What happened with that?

4 A I had separation anxiety. And I breast fed.
5 I couldn't take him to school with me. I tried. They
6 wouldn't let me.

7 Q So you moved in with your boyfriend to try
8 to support your family?

9 A (Nods Head.)

10 Q Were you a stay-at-home mom at that time?

11 A Yes, ma'am.

12 Q Who was living at 100 Hidden Acres Drive?

13 A Dirk Van Holland, Billy Reynolds, [REDACTED] Minor
14 and myself.

15 Q [REDACTED] Minor your little boy?

16 A Yes, ma'am.

17 Q Did you know if anyone else was living
18 there?

19 A Not at that time, not whenever I first
20 moved in.

21 Q Tell me about that.

22 A I found out there was somebody else living
23 there whenever he showed up one day and used a key to
24 get in to get some things.

25 Q Okay. Tell me about your day-to-day routine

1 with Minor

2 A I'd get up, get Billy up, and Minor would
3 normally wake up a little bit later. He would be
4 hungry. I would play with him, feed him, change him,
5 put him down for a nap, wait for him to wake up and
6 do it all over again every day.

7 Q Were you home by yourself?

8 A Yes, ma'am.

9 Q Billy and Dirk would go to work in the
10 morning?

11 A Yes, ma'am.

12 Q About what time would they leave?

13 A About 7:00 -- 6:30 to 7:00.

14 Q About what time would they come home?

15 A Dirk came home about 4:00 or 5:00. Billy
16 came home about 6:30 or 7:00, around there.

17 Q Prosecutrix did anyone ever use drugs at your
18 house?

19 A Yes, ma'am.

20 Q When you said you didn't know there was a
21 third roommate, can you tell us a little bit about
22 that and how you figured that out?

23 A Well, he showed up one day to get some
24 things and used a key. Jumped in the room with my
25 son and locked my door, because I don't know him. I'm

1 a very protective mother.

2 Q Did you see him?

3 A No.

4 Q Did you hear him leave?

5 A Yes, ma'am.

6 Q What did you do when he left?

7 A Ran to the door to see who it was.

8 Q Was someone driving away?

9 A Yeah.

10 Q How did you find out who it was?

11 A I asked Dirk when he come home.

12 Q That night?

13 A Yes, ma'am.

14 Q Dirk and Billy were friends growing up; is
15 that right?

16 A Yes, ma'am.

17 Q That's how you ended up at 100 Hidden Acres
18 Drive?

19 A Yes, ma'am.

20 Q Okay. Did Dirk tell you who it was that
21 was at the house that day?

22 A All he told me was his name was Jamie.

23 Q Jamie. Okay. Did you ever see Jamie again?

24 A A handful of times.

25 Q Did you ever speak to him, have any

1 interaction?

2 A The night before he raped me and that day.

3 Q Prior to that incident, had you had any
4 conversation with him at all?

5 A No, ma'am.

6 Q But you knew it was him because you had
7 seen him before?

8 A Yes, ma'am.

9 Q Did he ever stay the night while you were
10 there?

11 A No, ma'am.

12 Q Did he come and get stuff and leave?

13 A Yes, ma'am.

14 Q Take you to April 4th, 2016. It was two
15 years ago?

16 A Yes, ma'am.

17 Q How old were you then?

18 A 17.

19 Q How long had you been living at 100 Hidden
20 Acres Drive?

21 A It was a little bit after January. I had
22 been living there for a couple of months.

23 Q How old was Minor

24 A Minor was four months -- well, would be
25 four months, the day after.

1 Q Okay. April 4th, 2016 was like any other
2 day?

3 A Yeah.

4 Q What did you do that day?

5 A Tended to Minor [REDACTED] took care of the house
6 and waited for...

7 Q Who got home first that day?

8 A Dirk, as always.

9 Q Anyone else come home with him?

10 A No.

11 Q Anyone show up shortly after?

12 A Yes.

13 Q Who?

14 A The defendant.

15 Q Tell me what happened.

16 A I was walking to go to my bedroom. Where
17 the door was where we were living, he was standing
18 where the wall begins.

19 Q Prosecutrix I'm going to show you some
20 pictures. I'm going to show you what has been marked
21 as State's Exhibit 1. Is that Hidden Acres?

22 A Yes, ma'am.

23 Q 100 Hidden Acres. State's Exhibit 2, can
24 you use that to describe where you were standing?

25 A No, ma'am.

1 Q Okay. Can you use State's Exhibit 9 to
2 show me where you were standing?

3 A Yes, ma'am.

4 Q Okay.

5 A I was standing right there. (Indicating.)

6 Q All right.

7 A He was right in front of me.

8 Q So you were standing beside the door?

9 A Yes, ma'am.

10 Q Okay. What happened there?

11 A He asked me how old I was. I asked him why.
12 He said never mind. He grabbed my butt, and I walked
13 in my room and locked it.

14 Q You know about how long he was there?

15 A No, ma'am.

16 Q Did you hear him leave?

17 A No, ma'am.

18 Q After he left, did you do anything?

19 A I talked to Dirk.

20 Q What did you tell him?

21 A I asked him if he seen him try to touch my
22 butt. He said, oh, no, we ain't going to have that.

23 Q Jamie didn't come back that night?

24 A No, ma'am.

25 Q Let's talk about April 5th, 2016. Can you

1 tell me about that morning?

2 A It started off as any other day. That day,
3 my son turned four months. Played with my son, tended
4 to him, played with him for a while, got him back
5 down for a nap, watched him sleep, got him up, put
6 him in front of the TV where I could put on his
7 favorite movie, and I went into the kitchen to make a
8 bottle. Then, the defendant pulled in the driveway.

9 Q Did you see him pull in the driveway?

10 A Yes, ma'am.

11 Q From where?

12 A From the kitchen window.

13 Q What happened when you saw him pull in the
14 driveway?

15 A I figured he was going to get some things.

16 Q What happened after that?

17 A I was making my son a bottle out of the
18 last little bit of formula that I had. I felt him
19 coming up behind me. He grabbed my arm and pulled me
20 into Dirk's bedroom and sat me down on the bed. He
21 tried to shove his penis in my mouth, but I clinched
22 my jaw.

23 Q Were you saying anything?

24 A "No." "What are you doing?" "My son is in
25 the other room." "Let me go get my son," because he

1 was screaming the moment I got out of his sight and
2 he stayed screaming until I picked him up.

3 Q After he tried to put his penis in your
4 mouth, what did you do?

5 A Before I knew it, he was naked. (Pause.)
6 I apologize.

7 Q That's okay. Prosecutrix was he holding you
8 down?

9 A He had --

10 MR. HUNT: Your Honor?

11 THE COURT: Yes, sir.

12 MR. HUNT: I understand this -- this is
13 direct, but things like "holding you down," that
14 asks for a yes/no answer.

15 THE COURT: You're objecting to leading?

16 MR. HUNT: Yes, ma'am.

17 THE COURT: All right then. I will sustain
18 that objection. If you will, rephrase. Thank
19 you.

20 BY MS. OWEN:

21 Q Prosecutrix what was Mr. Bryant doing to you?

22 A He had an open palm on my shoulder to keep
23 me laying on the bed. He took my shorts off of me.

24 Q What happened after he took your shorts
25 off?

1 A He raped me, even with me saying no. When I
2 realized "no" wasn't going to stop him, I stopped
3 talking, just so I could get it over with, just to
4 get back to my son. That's all I was thinking about.

5 Q Prosecutrix when you say he raped you, what
6 does that mean?

7 A He forced himself inside of me for what
8 felt like forever. When he was done, he got up and
9 went to the bathroom. I got up and immediately went
10 to my son. It took him about two to three minutes to
11 get out of the room. He had a smile on his face and
12 said, I'll be back in 20 minutes. As soon as he hit
13 the door, he turned back around and smiled a smile
14 I'll never get out of my dreams. As soon as he was
15 out of the house, I grabbed the only phone that I had
16 and called 911.

17 Q What happened next?

18 A I ended up giving the 911 operator the
19 wrong address because my nerves were shot. I was at
20 the door and I was waiting on the cop car. They said
21 they were there, but I didn't see them, so I had to
22 change the address to give them the correct one. And
23 I had to wait a little bit longer because I had to
24 wait for Pickens County. The first responding
25 officer was a man. That's not what I wanted. I

1 didn't want to let him in.

2 Q Did you know anything about Jamie?

3 A I didn't know anything before, and I still
4 know nothing now.

5 Q What could you tell them about him?

6 A I could tell them he's tall, pale, a little
7 pudgy.

8 Q After the first officer got there, what
9 happened?

10 A I don't remember. The first officer got
11 there and he wanted me to write a statement. All I
12 wanted to do was take a shower and I was told I
13 couldn't. I couldn't shower for hours.

14 Q Did you go to the hospital that day?

15 A Yes, ma'am.

16 Q What happened while you were there?

17 A I sat in a room and was given Plan B pills.
18 After a little bit, they took a rape kit. Having to
19 go through that made me question if I made the right
20 decision to call the police or not.

21 Q Prosecutrix did you have a car?

22 A Yes, ma'am, but it wasn't going anywhere.
23 It was on jacks, four jacks, on each tire. All the
24 tires were taken off. You could see from the back
25 door that it wasn't going to go anywhere. You could

1 see from the side of the trailer that it wasn't going
2 to go nowhere. My neighbors could see that it wasn't
3 going nowhere.

4 Q Did your cell phone have any service?

5 A No, ma'am.

6 Q Did you move back to 100 Hidden Acres
7 Drive?

8 A I lived in the house until June, by myself
9 with my son every day. I hated being in the house,
10 especially by myself, especially after what he put me
11 through.

12 Q How has this affected you?

13 A I haven't slept in days. I haven't ate in
14 days. I don't want to be here during this, but if I
15 don't, he's going to get away with it again.

16 MS. OWEN: Your Honor, may I approach the
17 witness?

18 THE COURT: Certainly.

19 MS. OWEN: Thank you.

20 THE COURT: I give you blanket permission
21 for both sides.

22 MS. OWEN: Thank you.

23 BY MS. OWEN:

24 Q [REDACTED] Prosecutrix when you were on phone with 911,
25 was anyone else in the house?

1 A Me and my son.

2 Q Where was he?

3 A In my arms.

4 Q You were holding him?

5 A The whole time. I didn't put him down until
6 my mama took him from me.

7 Q I'm going to show you some pictures. I'm
8 going to put them on the projector. I'm going to show
9 you what's been marked as State's Exhibit 2. Can you
10 identify that?

11 A That's the living room. The TV is all the
12 way up against the window closest to the door.

13 Q Okay.

14 MS. OWEN: Your Honor, I ask to move this
15 in as State's Exhibit 2.

16 THE COURT: Any objection to that?

17 MR. HUNT: No, Your Honor.

18 THE COURT: All right. It's so admitted.
19 (State's Exhibit 2 is admitted into the record.)

20 MR. HUNT: Your Honor, I apologize. I'm
21 having a hard time hearing.

22 THE COURT: That's fine. As long as the
23 jury -- can y'all all hear fine? I always tend
24 to ask the person in the far left corner if you
25 could hear. Okay. Good.

1 BY MS. OWEN:

2 Q I'm going to show you what's been marked as
3 State's Exhibit 1. Can you identify that?

4 A That's the trailer.

5 Q 100 --

6 A 100 Hidden Acres Drive.

7 MS. OWEN: Your Honor, I ask to move that
8 into evidence as State's Exhibit 1.

9 THE COURT: Any objection?

10 MR. HUNT: None, Your Honor.

11 THE COURT: All right. So admitted.

12 MS. OWEN: Thank you.

13 (State's Exhibit 1 is admitted into the record.)

14 BY MS. OWEN:

15 Q I'm going to show you what is marked as
16 State's Exhibit 9. Do you recognize this photo?

17 A Yes, ma'am.

18 Q Can you tell us what it is?

19 A It's a photo taken from the kitchen closest
20 to Dirk's bedroom, facing the front door.

21 MS. OWEN: Okay. I'd ask that this be
22 admitted into evidence as State's Exhibit 9,
23 Your Honor.

24 MR. HUNT: No objection.

25 THE COURT: All right. It's so admitted.

1 (State's Exhibit 9 is admitted into the record.)

2 BY MS. OWEN:

3 Q I'm going to show you what has been marked
4 as State's Exhibit 11. Can you identify that?

5 A That's where I slept.

6 MS. OWEN: Ask that that be entered into
7 evidence as State's Exhibit 11, Your Honor.

8 THE COURT: Any objection?

9 MR. HUNT: Without objection.

10 THE COURT: All right. It's admitted.

11 (State's Exhibit 11 is admitted into the
12 record.)

13 BY MS. OWEN:

14 Q Prosecutrix I'm going to show you what's been
15 marked as State's Exhibit 5. Do you recognize this
16 photo?

17 A Yeah.

18 Q Can you tell us what it is?

19 A That's Dirk's bedroom where he raped me.

20 MS. OWEN: Your Honor, I ask that this be
21 admitted into evidence as State's Exhibit 5.

22 MR. HUNT: Without objection.

23 THE COURT: All right. It is so admitted.

24 (State's Exhibit 5 is admitted into the record.)

25 BY MS. OWEN:

1 Q I'm going to show you State's Exhibit 6.
2 Can you identify that?

3 A Yes.

4 Q You're going to have to speak into the
5 microphone just a little bit. Okay?

6 A Yes, ma'am.

7 Q What is that?

8 A That's Dirk's bed.

9 MS. OWEN: Okay. Your Honor, I ask that
10 this be admitted into evidence as State's
11 Exhibit 6.

12 MR. HUNT: Yes, ma'am.

13 THE COURT: It's so admitted.

14 (State's Exhibit 6 is admitted into the record.)

15 BY MS. OWEN:

16 Q [REDACTED] Prosecutrix did you want to have sex with
17 Jamie Bryant?

18 A No, ma'am.

19 Q Thank you.

20 MS. OWEN: No further questions for this
21 witness, Your Honor.

22 THE COURT: All right. Those exhibits --

23 MS. OWEN: I'd ask that they be published
24 to the jury.

25 THE COURT: All right. Very well.

1 All right. Mr. Hunt?

2 MR. HUNT: May it please the Court, Your
3 Honor?

4 THE COURT: Yes.

5 MR. HUNT: A couple of things to put
6 together. I'm going to use the State's.

7 THE COURT: I'm sure they don't mind.

8 CROSS-EXAMINATION

9 BY MR. HUNT:

10 Q Ms. [REDACTED] you were in the house when Jamie
11 came over to the house?

12 A I was always in the house. Yes, sir.

13 Q Were the doors locked?

14 A The bottom lock.

15 Q Pardon me?

16 A The bottom lock.

17 Q I guess I don't understand.

18 A The door, yes, not the hatch lock.

19 Q Right. Did you let him in?

20 A No.

21 Q Okay. How did he get in?

22 A He let himself in.

23 Q And where were you when he first came in
24 the house?

25 A I was in the kitchen.

1 MS. OWEN: Objection, Your Honor. I don't
2 think Mr. Hunt stipulated a time that this
3 happened.

4 THE COURT: I'm sorry. I apologize. I
5 didn't hear.

6 MS. OWEN: I'm not sure that Mr. Hunt's
7 clarified when he's asking this happened.

8 THE COURT: All right. If you'd just -- if
9 you'd just rephrase your question to say when
10 you're meaning.

11 BY MR. HUNT:

12 Q What time of day was it?

13 MS. OWEN: I'm sorry, Your Honor.

14 I'm not sure what day you mean, Mr. Hunt.

15 MR. HUNT: The day that the alleged
16 incident took place.

17 MS. OWEN: Thank you.

18 BY MR. HUNT:

19 Q What time of day on the day -- the day this
20 alleged incident took place, what time of day was it?

21 A 10:00 or 11:00.

22 Q It was 10:00 or 11:00?

23 A Yes.

24 Q And you say Jamie let himself into the
25 house?

1 A Yes, sir.

2 Q Is that right? Okay. You were in the
3 kitchen; is that right?

4 A Yes, sir.

5 Q Now, I thought I heard you say that you had
6 taken -- he had been there before and you had taken,
7 you had put yourself in your bedroom. Did I hear you
8 say that?

9 A Yes, sir.

10 Q Because you didn't know who he was?

11 A No, sir. I didn't.

12 Q All right. So you -- you had never
13 interacted with him?

14 A No.

15 Q You had seen him the night before?

16 A Yes, sir.

17 Q Now he had things in the house; did he not?

18 A I don't know. We didn't go in that room.

19 Q Right. Would it surprise you to know that
20 he did, in fact, have other items that were in that
21 house at that time?

22 A I know he had microwave ---

23 Q Pardon?

24 A --- that he come and got that day.

25 Q Okay. So he had been -- Jamie's room was on

1 the other side of the house from where your room was;
2 was it not?

3 A No, sir. My room was the room right next to
4 the bathroom. My room was the smallest room in the
5 house.

6 Q Your room had the crib in it, right?

7 A Yes, sir.

8 Q Now, you said, I thought I heard you say
9 that -- well, you did say you had gone in the room.
10 When this guy comes in and you say you don't know him
11 and your child's there, you had -- you were there in
12 the kitchen; is that not right?

13 MS. OWEN: Your Honor, I think Mr. Hunt
14 needs to clarify what day.

15 MR. HUNT: Again, Your Honor, the day of
16 the incident. On the day of the incident. On
17 the day of the incident.

18 THE COURT: All right. Very well.

19 THE WITNESS: On the day of the incident,
20 I didn't have a chance to take me and my son to
21 the bedroom. I was trying to make a bottle.

22 BY MR. HUNT:

23 Q I'm sorry. Excuse me. Say that again?

24 A On the day of this incident, I didn't have
25 a chance to take me or my son back to any bedroom. I

1 was in the process of trying to feed my son.

2 Q Right. But you were in the kitchen.
3 Apparently, he had come in the house and you say --
4 were you concerned or what?

5 A I figured he was just going to get some
6 things. I seen out the window whose car it was. I
7 knew the car.

8 Q Okay. So you didn't -- you didn't -- you
9 didn't -- you didn't say -- you didn't run? You do
10 any of that sort of thing; did you? So let me ask
11 you this, what's the first thing you say he did?

12 A He grabbed my arm and he took me into
13 Dirk's room.

14 Q He took you?

15 A He sat me on the bed.

16 Q All right. All right. I think you gave a
17 statement on April the 5th, 2016, at 13:07 or 3:07
18 p.m.; is that not right?

19 A I also had been there a couple of hours
20 before I gave my initial statement.

21 Q Yes, ma'am. Okay.

22 A And the statement should say he led me to
23 the bedroom.

24 Q Yes, ma'am. As a matter of fact, it does;
25 didn't it? It does say he led you to the bedroom.

1 When you say, he led you to the bedroom, did he just
2 take you by the arm?

3 A Yes, he grabbed my arm and led me to the
4 bedroom.

5 Q And you -- I'm sorry, but this is a -- I
6 think this is a blow-up of one of those that you had;
7 is that not right? I think this is an absolute blow-
8 up of what we just put in. Now, if you -- if you
9 would please, ma'am, you were either here or in the
10 kitchen; were you not?

11 A I was in front of the microwave ---

12 Q Okay.

13 A --- making my son a bottle.

14 Q Now, how did he lead you to the bedroom?

15 A I was facing the microwave ---

16 Q Right.

17 A --- trying to feed my son ---

18 Q Right.

19 A --- trying to make him the last bottle that
20 I had.

21 Q I understand. But you had to walk, did you
22 not? You were standing here at this microwave. You
23 walked back, apparently.

24 A No, I did not. He walked up behind me ---

25 Q Right.

1 A --- all the way to this microwave ---

2 Q Right.

3 A --- grabbed me by my arm and led me to

4 Dirk's bedroom.

5 Q When you say led, he -- did he have you by
6 the hand?

7 A No, he had me by my arm.

8 Q Okay. This was the same guy that you had
9 been concerned about before and you let him lead you
10 down the hall, ma'am?

11 A The hall that you're talking about ---

12 Q Yes, ma'am.

13 A --- isn't a hall. It's big enough for a
14 back door. And that little piece of wall that you see
15 where the (Indiscernible) was at.

16 Q Right. Okay. So he led you to the bedroom,
17 as you said on your statement; did he not?

18 A Yes, sir. I wrote the statement. I recall
19 how I felt writing the statement. I remember the
20 tears I shed writing this statement. I also remember
21 jotting stuff down so that the first responding
22 officer would leave me alone about a statement. I was
23 more worried about my son.

24 Q At 3:07, I think there's going to be an
25 actual --

1 MS. OWEN: Objection, Your Honor. I think
2 the actual time is 13:07.

3 THE COURT: Okay. All right.

4 MR. HUNT: Your Honor, I submit to the
5 Court, 13:07 extrapolates to 3:07.

6 THE COURT: Okay.

7 MS. OWEN: I'm sorry, Your Honor, 1:07. It
8 would be 1:07.

9 THE COURT: I got you.

10 MR. HUNT: Excuse me.

11 THE COURT: Don't know much about military
12 time.

13 MR. HUNT: I don't think I do either, Your
14 Honor.

15 BY MR. HUNT:

16 Q So, at 1:07, you gave a statement within
17 the hour of what had happened -- what you say had
18 happened; is that not right?

19 A No, sir. It was within an hour and a half.

20 Q Okay. So, in any event, he led you down the
21 hall, I think you say in your statement. That's a
22 hall that goes from -- you said you were at the
23 microwave. You came out -- you came out from there
24 and you backed up?

25 A No, sir. I did not back up.

1 Q Yeah, but you say he grabbed you by your
2 arm?

3 A Yes, sir.

4 Q Well, now if you say that somebody led
5 you --

6 A Would you like for me to demonstrate?

7 Q You didn't say he grabbed you. You didn't
8 say any of that. You said he led you down the hall;
9 did you not?

10 A You can pick apart my statement.

11 Q Ma'am?

12 A The statement that I wrote at the house,
13 when I'm being told over and over again to write a
14 statement by the first responding officer -- my main
15 concern was my son.

16 Q Okay. That officer didn't force you --

17 A No, he didn't force me to write no
18 statement. He didn't force me to write anything.

19 Q He didn't?

20 A But I was in a hurry.

21 Q Okay. Now, you also say you were thrown on
22 the bed?

23 A Yeah.

24 Q Okay. Grabbed my arm and led me to other
25 roommate's bedroom and then he threw me on the bed?

1 A May I demonstrate?

2 THE COURT: Just one second. Hold on one
3 second. Will the attorneys approach?

4 MR. HUNT: Yes, ma'am.

5 (Bench conference is held off the record.)

6 THE COURT: Ma'am, after Mr. Hunt
7 questions you, the lawyer from the State is
8 going to have another chance to, so we'll clear
9 anything you'd like to up at that time. Okay?

10 THE WITNESS: Okay.

11 BY MR. HUNT:

12 Q Now, the next thing you say here is, he
13 tried to take off my shorts --

14 MS. OWEN: Objection, Your Honor. I
15 believe he's reading this in. If he wants
16 Ms. [REDACTED] to read in her statement, that's fine,
17 but I don't think he can testify.

18 THE COURT: All right.

19 BY MR. HUNT:

20 Q Ms. [REDACTED] I'm going to hand you a copy of
21 your statement. If you would, tell me what it says
22 about your shorts, ma'am.

23 A I'm sorry. Can you help me? I have -- I
24 have bad eyesight. Will you help me? Point out
25 where it is.

1 Q Yes, ma'am. Certainly. Right there.

2 (Indicating.)

3 Threw me on the bed. Then, right there, it
4 says -- start right there.

5 MS. OWEN: Your Honor, can we please have
6 Mr. Hunt mark that as his exhibit?

7 THE COURT: All right. We'll mark that as
8 Defense Exhibit Number 1 just for
9 identification.

10 (Defendant's Exhibit 1 is marked for
11 identification.)

12 THE WITNESS: Tried to take off my shorts.
13 Wouldn't stop. I tried getting up, but he
14 wouldn't stop, saying, I know you want it. No
15 one has to know.

16 BY MR. HUNT:

17 Q Okay. Now which -- which line are you on
18 now?

19 A I just finished reading the one where it
20 said he tried to take my shorts off. I finished that
21 sentence.

22 Q Pardon me?

23 A I finished that sentence.

24 Q Now, you said he tried to take your shorts
25 off. I tried to stop him, but he said no. He wouldn't

1 stop. I kept trying to get up, but he stopped me.

2 MS. OWEN: Your Honor, I think if Mr. Hunt
3 wants Ms. [REDACTED] to read it, she can.

4 THE COURT: Well, I think we're having a
5 little bit difficulty because she doesn't have
6 her glasses.

7 THE WITNESS: My dog ate my glasses. I do
8 apologize.

9 THE COURT: What's that?

10 THE WITNESS: My dog ate my glasses. I do
11 apologize.

12 THE COURT: She doesn't have her glasses
13 with her here today. So in light of that
14 circumstance, if you wouldn't mind, why don't we
15 let Mr. Hunt try to read that to her.

16 MS. OWEN: I'd ask that it read in the
17 entirety.

18 THE COURT: All right. Yes, sir.

19 BY MR. HUNT:

20 Q He came -- he came through the front door
21 as I was in the kitchen making a bottle. He came up
22 from behind me and started to grab my butt. I tried
23 to move away. I asked him what he was doing. He said,
24 I know you want to fuck me. I said no. Then, he
25 grabbed my arm and led me to my other roommate's

1 bedroom and threw me on the bed. He tried to take off
2 my shorts. I tried to stop him. I kept saying no, but
3 he wouldn't stop. I tried getting up, but he stopped
4 me. I told him no over and over again. He kept
5 saying, I know you want to. No one has to know it.
6 You will be -- this will -- it will be a one-time
7 thing. I said no.

8 He started to kiss me. He stuck his tongue
9 in my mouth. He took my shorts off and took his
10 clothes off and got on top of me and forced himself
11 inside of me. I seemed -- it seemed to last forever.
12 But when he finished, he threw -- before he finished,
13 he finished himself off. I got up and put my shorts
14 back on and left the room to get to -- I guess -- my
15 son.

16 He stayed a few minutes. Then, he came out
17 and said he was going to his mom's, that he had to be
18 back in 30 minutes. Now --

19 MS. OWEN: What's the last part?

20 THE WITNESS: 30 minutes. In this
21 statement --

22 MS. OWEN: Prosecutrix

23 There is one more line you didn't read.

24 MR. HUNT: He is Jamie.

25 MS. OWEN: Thank you.

1 BY MR. HUNT:

2 Q Now, so you said he tried to take your
3 shorts off?

4 A He did.

5 Q He led you down -- pardon me?

6 A He did.

7 Q He -- you went down -- again, I want to
8 make sure I understand this. You got -- you were
9 standing here at this microwave --

10 MS. OWEN: Objection, Your Honor, asked
11 and answered.

12 THE COURT: Overruled. I will allow you to
13 ask it.

14 BY MR. HUNT:

15 Q You are standing here at this microwave.
16 He, somehow or another, leads you down the hall,
17 leads you up here. You have to make a turn. You walk
18 down this way to the bedroom; is that not right?

19 A (No audible response.)

20 Q Is that not right?

21 A (No audible response.)

22 Q It is right.

23 A No, it's not.

24 Q Yes, ma'am.

25 A You think it happened in just minutes. It

1 happened in seconds.

2 Q Yes, ma'am. All right. I want you to look
3 at something. You say you did not want to; is that
4 right?

5 A Yes, that is completely right.

6 Q Let me ask you something, I made -- I've
7 taken the State's -- some of the State's stuff and
8 I've blown them up. All right. And this is just a
9 blow-up of one of the State's exhibits, but it shows
10 here that there's a lot of things here in this
11 kitchen. Okay.

12 A Tattoo equipment.

13 Q Yes, ma'am. I want you to look at this
14 large poster right here. Show me, if you are being
15 led and you are being forced against your will, what
16 weapons are here to help you?

17 A They were many knives in the house.

18 Q Many knives in the house?

19 A Many.

20 Q You know how to use a knife; don't you?

21 A But I am not going to risk my son's life,
22 because he is much bigger than I am.

23 Q Ma'am, there was a knife right here within
24 your arm's reach; wasn't there?

25 A No, there wasn't.

1 Q There is a butcher block right there on
2 that counter. A butcher block right there on that
3 counter; wasn't there?

4 A You obviously --

5 Q Ma'am?

6 MS. OWEN: Objection, Your Honor.
7 Speculation.

8 THE COURT: I'm just going to -- ma'am, if
9 you'll just maybe take a deep breath and then
10 answer.

11 THE WITNESS: I need a minute.

12 THE COURT: Just take a deep breath. Hold
13 on. Hold on now. Just take a minute and then
14 we're going -- we're going to pick back up. All
15 right. (Pause.)

16 Hold on.

17 All right. Ladies and Gentlemen, we're
18 probably to a point of our morning break. I'm
19 going to ask you to step to your jury
20 deliberation room. Please don't discuss the case
21 with anyone.

22 I'd ask everybody in the gallery to remain
23 seated until the jury leaves. Okay? And
24 absolutely no talking while the jury leaves.
25 (Jury exits at approximately 10:50 a.m.)

1 **THE COURT:** Ma'am, we have taken a break
2 so you could, maybe, gather your thoughts for a
3 minute or just gather your emotions, but I need
4 to tell you something. On this break, you can't
5 discuss your testimony with anybody. Okay? All
6 right.

7 Let's be in recess for 10 minutes.

8 **MR. HUNT:** Thank you, Your Honor.

9 (Court goes off the record at approximately
10 10:51 a.m.)

11 (State Exhibits 23 through 27 are marked for
12 identification.)

13 (Court goes on the record at approximately
14 11:11 a.m.)

15 **THE COURT:** All right. Do you think we are
16 ready to proceed?

17 **MS. OWEN:** I would like to approach with
18 Mr. Hunt, if I may, Your Honor.

19 **THE COURT:** Sure.

20 (Bench Conference is held off the record.)

21 **THE COURT:** All right. Y'all ready to
22 bring the jury back in?

23 **MR. HUNT:** Yes, Your Honor.

24 **MS. OWEN:** Yes.

25 (Jury enters at approximately 11:14 a.m.)

1 **THE COURT:** All right. Ladies and
2 Gentlemen. I think we are now ready to resume
3 cross-examination.

4 **MR. HUNT:** May it please the Court, Your
5 Honor?

6 **THE COURT:** Yes.

7 **BY MR. HUNT:**

8 **Q** Now, the -- you all were in the bedroom
9 when this act took place; is that not right?

10 **A** We were in Dirk's room, yes.

11 **Q** You were in Dirk's room? Okay. Now, there
12 have been a couple of -- State's Exhibits 5 and 6,
13 they are in evidence now. I want to show you a couple
14 of blow-ups. This is a blow-up -- this is a blow-up
15 of State's Number 5. Do you see this?

16 **A** No, sir.

17 **MR. HUNT:** May I approach, Your Honor?

18 **THE COURT:** Certainly.

19 **MR. HUNT:** I'm going to approach with this
20 blow-up, Your Honor.

21 **THE COURT:** And I just give both attorneys
22 blanket permission throughout the trial. You
23 don't need to ask.

24 **BY MR. HUNT:**

25 **Q** Now, if I remember correctly, the -- the --

1 what you say is an assault, occurred on the side of
2 the bed; is that not right?

3 A Yes, sir.

4 Q And I am here. If you would look at these,
5 this is -- this bed had been made that morning; had
6 it not been?

7 A I don't recall.

8 Q Ma'am?

9 A I don't recall.

10 Q Had -- but now this -- this is a -- this
11 fixture -- this photograph was made right after the
12 police officers came; was it not?

13 A Yes, sir.

14 Q Okay. Show me in here where the struggle
15 took place?

16 A He placed me on that corner over there.

17 Q He placed you right here?

18 A Right here. (Indicating.)

19 Q Okay. Is that where -- is that where -- so
20 were you sitting on the bed when your pants came off?

21 A (No audible response.)

22 Q So you were standing up?

23 A No, I was sitting down. He took my shorts
24 off of me.

25 Q You laid on your back -- now, if he's

1 taking your shorts off of you, correct me if I'm
2 wrong, you've got a couple of hands; don't you?

3 A (No audible response.)

4 Q Do you not?

5 A Yes, sir. I have two.

6 Q All right. I want to show you something
7 else. In this same State's Exhibit 5, look on the
8 other side of that bed. Look on the other side of
9 that bed. Do you see that cup? Do you see it, ma'am?

10 A (No audible response.)

11 Q Do you see that glass cup?

12 A Yes, sir.

13 Q Do you see the glass candy dish?

14 A Yes, sir.

15 Q On the other side of the room, there was a
16 lamp; was there not?

17 A I don't recall.

18 Q Okay. But here on the side of the bed where
19 you say this all took place, where is the evidence of
20 the struggle?

21 MS. OWEN: Objection, Your Honor, I
22 believe he's asking her to --

23 THE COURT: Overruled. I'm going to allow
24 her to answer it.

25 BY MR. HUNT:

1 Q Ma'am, where's the evidence of the
2 struggle?

3 A I didn't struggle because I had a
4 four-month-old son laying in a seat in the living
5 room strapped down. I didn't struggle so I could get
6 to my son faster.

7 Q Ma'am, if you're concerned about taking
8 care of your son, wouldn't you be concerned about
9 taking something and getting him off of you?

10 A (No audible response.)

11 Q Ma'am, there's no evidence of a struggle --

12 MR. HUNT: I'm going to approach, Your
13 Honor, on number 6.

14 THE WITNESS: Would you repeat the
15 question please?

16 BY MR. HUNT:

17 Q If you are concerned about your son, why
18 aren't you showing -- where is the evidence of a
19 struggle between you and him?

20 A (No audible response.)

21 Q I want to you to look at this one. This one
22 has been marked as, I think, Number 6.

23 A I froze.

24 Q Pardon me?

25 A I froze.

1 Q Well, now, if he took your pants off while
2 you are on the bed -- did you have on shorts?

3 A Yes, sir.

4 Q If you're going to take off shorts, --

5 A You only need one hand.

6 Q Ma'am?

7 A You only need one hand.

8 Q But you've got to -- if you're standing up
9 and you're taking off your shorts --

10 A I wasn't standing up.

11 Q You were sitting on the bed?

12 A I was on my back.

13 Q Okay. What did you do with your feet, if he
14 is trying to take your shorts off of you?

15 A I can't remember.

16 Q Ma'am, you said, your statement, I believe
17 -- we've seen that -- he took your pants -- he took
18 his pants off; did you not?

19 A Yes.

20 Q Okay. While he was taking his pants off,
21 you didn't try to strike him, say, in his private
22 parts?

23 A I wasn't paying any attention.

24 Q Ma'am?

25 A I wasn't paying any attention. What I was

1 more concerned about was the screams I heard from my
2 four-month-old son.

3 Q Right. And if you are concerned about your
4 child --

5 A I did whatever it takes, however long it
6 takes.

7 Q Ma'am, in your -- in your presentation, in
8 the State's presentation on State's 5 and 6, there's
9 no evidence of struggle because there wasn't one; is
10 that correct?

11 A There was.

12 MS. OWEN: Objection, Your Honor. Asked
13 and answered multiple times.

14 THE COURT: Overruled. I'm going to allow
15 him to cross-examine her.

16 MR. HUNT: Thank you, Your Honor.

17 BY MR. HUNT:

18 Q Now, in this also -- this room, there is a
19 towel or something over the bathroom or closet or
20 something like that; is there not?

21 A That's a bathroom.

22 Q Okay. Was it removed? Was it damaged in
23 this struggle?

24 A The floor in front of the sink ---

25 Q Ma'am?

1 A --- is caving in.

2 Q Okay.

3 A He went to that bathroom ---

4 Q Okay?

5 A --- after he got done.

6 Q Okay. Now I meant to ask this a while ago,

7 I admit to ask this a while ago, you were living

8 there with -- who was your child's father? He was

9 there? Who is that?

10 A Billy.

11 Q Are you still with him?

12 A No.

13 Q Okay. So you're living with somebody else
14 now?

15 A Yes.

16 Q Okay. Now, you also talked about drug use.

17 What were y'all using there in the house?

18 A Methamphetamine and marijuana.

19 Q You and Dirk and your boyfriend were all
20 using meth and marijuana; is that right?

21 A Not on a daily basis.

22 Q Ma'am?

23 A Not on a daily basis, but yes.

24 Q But you were using meth?

25 A Not by choice.

1 Q Okay. This another one of those instances
2 where someone forced you to take meth?

3 A I'm an open book. Ask me any question you
4 really want to ask.

5 Q Okay. Yes, ma'am. You said also, in the
6 house, you had many knives. I think I heard you say
7 that.

8 A There were two beside the TV in the living
9 room.

10 Q Ma'am?

11 A There were two beside the TV in the living
12 room. There was one in the drawer next to the red
13 chair in the living room.

14 Q Right.

15 A There was a couple stashed in that little
16 thing across from (Indiscernible) in Dirk's room.
17 There was a couple of them stashed in there too. I
18 can tell you where every knife was in that house.

19 Q But you didn't use one. You didn't use one.

20 A Because he's a lot bigger than I am. What's
21 a knife going to do to him? I froze for my son.

22 Q Were your clothes -- were your clothes
23 torn?

24 A He took my shorts off.

25 Q They weren't torn?

1 A No. He didn't take anything else off.

2 Q Your top wasn't torn or anything? I guess
3 you had a top on. I would assume you had a top on.

4 A Yes, I did.

5 Q He didn't tear that off of you; did he?

6 A No, he left it.

7 MR. HUNT: No further questions, Your
8 Honor.

9 THE COURT: All right. Any redirect?

10 MS. OWEN: Just briefly, Your Honor.

11 **REDIRECT EXAMINATION**

12 BY MS. OWEN:

13 Q Prosecutrix did you freeze?

14 A Completely. Once I realized no didn't mean
15 no to him, I froze.

16 MR. HUNT: Your Honor, that's not
17 responsive to a question.

18 THE COURT: Overruled.

19 BY MS. OWEN:

20 Q I'm going to show you what's been marked as
21 Defendant's Exhibit 1. Is this your statement?

22 A Yes.

23 MS. OWEN: Your Honor, I would like to
24 move this into evidence.

25 THE COURT: Any objection?

1 **MR. HUNT:** None, Your Honor.

2 **THE COURT:** All right then. It's been
3 marked as Defendant's Number 1 for
4 identification purposes, but we will mark it and
5 enter it as State's Number 1 -- excuse me
6 State's Number ---

7 **MS. OWEN:** It should be 28, Your Honor.

8 **THE COURT:** --- 28. Is that okay?

9 (State's Exhibit 28 is marked and admitted into
10 the record.)

11 **BY MS. OWEN:**

12 **Q** Did you want to have sex with Jamie Bryant?

13 **A** No, ma'am.

14 **Q** Thank you.

15 **MS. OWEN:** No further questions, Your
16 Honor.

17 **THE COURT:** All right. Anything else?

18 **MR. HUNT:** Nothing else, Your Honor.

19 **THE COURT:** All right. Ma'am, you can step
20 down.

21 Yes, ma'am.

22 **MS. OWEN:** Thank you, Your Honor. The
23 State would call Torrance Jackson.

24 **THE CLERK:** If you would, place your left
25 hand on the Bible and raise your right hand.

TORRANCE JACKSON

having first been duly sworn, testifies as follows:

THE CLERK: Thank you. If you would, have a seat and state your name for the record.

THE WITNESS: Deputy Torrance Jackson.

DIRECT EXAMINATION

BY MS. OWEN:

Q Good morning, Torrance. How are you?

A Good morning. Fine, ma'am. How are you doing?

Q Good. Tell the jury a little bit about yourself. Where do you work?

A I work for the Pickens County Sheriff's Office.

Q How long you been there?

A I've been here three years.

Q Where did you work prior?

A Richland County Sheriff's Office and Springdale Police Department in Columbia.

Q For how long?

A I have a total of 11 years in law enforcement.

Q What do you do for the Sheriff's Office now?

A I'm now on the Warrants and Fugitive

1 Apprehension Team. Basically, if you have a warrant,
2 I come find you.

3 Q What were you doing April 5th of 2016?

4 A I was on road patrol assigned to Region 4,
5 which is the Easley area, Zone 4.

6 Q What was your shift that day? Do you
7 remember?

8 A We were on day shift.

9 Q What does that mean?

10 A 6 a.m. to 6 p.m.

11 Q Did you get a call out to 100 Hidden Acres
12 Drive?

13 A Yes, ma'am.

14 Q Can you tell me about that call?

15 A Yes, ma'am. I was dispatched to that
16 location, which is in Pickens County, in reference to
17 an incident. I arrived on scene and made contact with
18 a young, white female who was crying, shaking. She
19 appeared to be scared. There was a young child in the
20 house.

21 After being able to get her to calm down,
22 she indicated to me that she had been raped. She,
23 further, went into detail and stated that she was in
24 the kitchen fixing a bottle for her young child who
25 was present at the house when the subject that she

1 described as a roommate came into the residence,
2 walked in the kitchen, grabbed her from behind and
3 stated -- excuse my language -- you know you want to
4 fuck me.

5 She then stated she told him no and that he
6 grabbed her by the arm and took her into the bedroom
7 where he threw her on the bed. She stated she said
8 no. He stated, you know you want this. It will be one
9 time. No one has to know. She stated the subject then
10 got her pants down and then penetrated her vaginally.
11 And then, as she described it, he seemed to -- was
12 about to finish, that he pulled out.

13 She stated that she then put her clothes
14 on, ran into the living room to get her baby, and
15 that the subject, after a while, came out of the
16 bedroom and said he was going to his mother's house
17 and he would be back in 30 minutes.

18 Q Did you see her baby when you got there?

19 A Yes, ma'am.

20 Q Was there anyone else there?

21 A No, ma'am.

22 Q Did you see a car there?

23 A Eventually, I went around back. There was a
24 vehicle in the back that was, like, propped up on
25 blocks or whatever you call it.

1 Q Did you get a written statement from her?

2 A Yes, ma'am.

3 Q After you did that, what did you do?

4 A I then contacted Lieutenant Burgess who was
5 over our Special Victims Unit and also Lieutenant
6 Robinson who was over Forensics.

7 Q Did they come out?

8 A Yes, ma'am.

9 Q Torrance, when you got there, what did Kay-
10 Anna look like?

11 A She was crying. She was very scared. Even
12 at one point when I tried to comfort her, she jumped
13 back. It took a while for me to get her to calm down
14 so she could tell me what happened and give a
15 statement.

16 Q Did she go to the hospital that day?

17 A Yes, ma'am.

18 Q Were you still there when she left?

19 A Yes, ma'am.

20 MS. OWEN: No further questions for this
21 witness, Your Honor.

22 THE COURT: Any questions for this
23 witness?

24 MR. HUNT: Yes, Your Honor.

25 CROSS-EXAMINATION

1 BY MR. HUNT:

2 Q Officer Jackson, you were the first one on
3 the scene?

4 A Yes, sir.

5 Q Okay. And you came in the house and you
6 were -- did you take the photographs?

7 A No, sir. I didn't take the photographs.

8 Q You didn't take the photographs. You just
9 looked at the scene; did you not?

10 A That's correct, sir.

11 Q Okay. Now, Officer Jackson, you looked
12 around the house, I assume?

13 A Yes, sir.

14 Q And you had an opportunity to observe it.
15 Now -- and I think this is a blow-up of one of the
16 exhibits that's already in evidence.

17 A Yes, sir.

18 Q Now, I want to show you -- I want to ask
19 you something. Where -- if I might --

20 A Yes, sir.

21 Q -- get back here -- where is all the
22 evidence of the struggle?

23 A I didn't state there was a struggle.

24 Q Do you see any evidence of resistance? Do
25 you see anything that would lead you to believe that

1 there was some aggravation going on, some aggravated
2 force?

3 A No, sir.

4 Q I want you to look here. This photograph
5 was made soon after you arrived; wasn't it?

6 A Yes, sir.

7 Q That trash can was standing right there,
8 wasn't it?

9 A That's correct, sir.

10 Q There is a -- there's a rug right here?

11 A That's correct.

12 Q There's no evidence of a struggle on that
13 rug; is there?

14 A No, sir.

15 Q All right. So from what she said, she had
16 come out from in here and walked -- they had been led
17 down the hall, down to this bedroom right here; is
18 that not right?

19 A That's correct.

20 Q And again, no evidence of anything going
21 on. Now, these two photographs, sir, are -- one is 5
22 and one is 6. I'm going to ask you about them anyway
23 -- these are photographs of the bedroom; is that not
24 right?

25 A That's correct.

1 Q This is what you saw when you first got
2 there; is that not right?

3 A Yes, sir.

4 Q All right, sir. Where in this room -- show
5 me -- is evidence of a struggle?

6 A I don't see any, sir.

7 Q Okay. Where is the evidence in this room --
8 in this photograph of a struggle?

9 A None, sir.

10 Q As a matter of fact, that looks like the
11 imprint of someone's backside; doesn't it?

12 MS. OWEN: Objection, Your Honor,
13 speculation.

14 THE COURT: I will allow him to answer, if
15 he knows.

16 BY MR. HUNT:

17 Q Right here on the side of the bed?

18 A Honestly, sir, I don't --

19 Q Yes, sir. But, I mean, look at this, sir.
20 You've got here in this photograph -- this is the
21 reason it was blown up?

22 A Yes, sir.

23 Q -- you've got, it looks to me, like a
24 backside cheek on one side, a middle, and another
25 backside cheek; does it not?

1 MS. OWEN: Objection, Your Honor.

2 THE COURT: I will sustain your objection
3 at this point. Let's move on from that.

4 BY MR. HUNT:

5 Q But again, nothing was disheveled. Nothing
6 was torn up. Nothing like that?

7 A That's correct.

8 Q All right. Thank you. No further questions.

9 THE COURT: Any other questions for this
10 witness?

11 MS. OWEN: Just briefly.

12 REDIRECT EXAMINATION

13 BY MS. OWEN:

14 Q Torrance, did Prosecutrix tell you the
15 defendant stayed in the bedroom a few minutes after
16 he finished?

17 A Yes, ma'am.

18 Q So we don't know what the bedroom looked
19 like before; do we?

20 A That's correct.

21 Q So the defendant could have pulled that up?

22 A Yes, ma'am.

23 Q Okay. We would not see any evidence of a
24 struggle because he could have covered it up?

25 A That's correct.

1 Q Thank you.

2 THE COURT: Anything else for this
3 witness?

4 MR. HUNT: Nothing, Your Honor.

5 THE COURT: All right, sir. You can step
6 down.

7 THE WITNESS: Thank you.

8 THE COURT: Thank you.

9 Yes, ma'am. I'm sorry.

10 MS. OWEN: That's okay. Thank you, Your
11 Honor. The State would call Rita Burgess.

12 MR. HUNT: Your Honor, may I approach?

13 THE COURT: Certainly.

14 (Bench conference is held off the record.)

15 RITA BURGESS

16 having first been duly sworn, testifies as follows:

17 THE CLERK: Thank you. If you would, have
18 a seat and state your name for the record
19 please.

20 THE CLERK: Rita Burgess.

21 DIRECT EXAMINATION

22 BY MS. OWEN:

23 Q Good morning, Rita. How are you?

24 A I'm good. Thank you. How are you?

25 Q Good. Could you tell the jury a little bit

1 about yourself, where you work, how long you have
2 been here?

3 A Sure. I am Lieutenant over the Special
4 Victims Unit of the Pickens County Sheriff's Office.
5 I've been employed there just shy of 28 years.

6 Q What are your duties there?

7 A I am, like I said, the Lieutenant over the
8 Special Victims Unit, which is, I'm assigned to
9 investigate cases involving juvenile crimes, all sex
10 crimes, missing persons and a number of other
11 investigations that we conduct. Also, I supervise
12 victim services, domestic violence, sex offender
13 registry, school resource officers, and a number of
14 other units that I supervise.

15 Q You have been in law enforcement 28 years?

16 A Right at 28 years, yes, ma'am.

17 Q Were you on call on April 5th, 2016?

18 A I was not on call. I was actually on my
19 regular duty.

20 Q Okay. Did you get a call?

21 A Yes, I did, from uniform patrol.

22 Q What did you understand that call to be?

23 A Because I'm over the Special Victims Unit
24 and investigate sex crimes, I'm typically notified of
25 any sex crime that is reported to our uniform patrol

1 division. On this particular day, I was notified of
2 this incident here on Hidden Acres Drive in Easley. I
3 was asked to respond.

4 Q Is that in Pickens County?

5 A Yes, ma'am.

6 Q Did you arrive on the scene?

7 A I did.

8 Q What did you find there?

9 A I met with Officer Jackson, who kind of
10 gave me a brief briefing of what was going on. Then I
11 went inside and spoke with the victim, Prosecutrix

12 [REDACTED]

13 Q What was her demeanor like?

14 A She was crying. She was shaking
15 uncontrollably. She was very upset.

16 Q What did you decide to do at that point?

17 A Once she completed her statement, I had
18 asked her to go over to the hospital and have a
19 sexual assault kit performed.

20 Q Did she do that?

21 A She did.

22 Q At that point, what did you decide you
23 needed to do to further your investigation?

24 A I needed to obtain a search warrant for the
25 room that was occupied by the person she identified

1 as Jamie.

2 Q Did you get a search warrant?

3 A I did.

4 Q Was that execute -- search warrant
5 executed?

6 A Yes, ma'am.

7 Q Okay. Do you remember what you found?

8 A The purpose of the search warrant was for
9 us to try to find something that would possibly
10 identify who he was by name because we had nothing to
11 go on other than the name of Jamie. We found a pay
12 stub from Davey's Tree Service that had the full name
13 of Matthew Jamie Bryant.

14 Q Were photographs taken that day?

15 A Yes, ma'am.

16 THE COURT: Excuse me just a moment.

17 If y'all would, step out for just a minute.
18 I think I'm going to have to get myself under
19 control. I'm very sorry.

20 (Jury exits at approximately 11:38 a.m.)

21 (Court goes off the record at approximately
22 11:38 a.m.)

23 (Court goes on the record at approximately
24 11:41 a.m.)

25 THE COURT: I'm sorry. Okay. Are y'all

1 ready to bring the jury back in? I think I've
2 settled down.

3 MS. OWEN: Okay.

4 THE COURT: Okay.

5 (Jury enters at approximately 11:42 a.m.)

6 THE COURT: Ladies and gentlemen, I am so
7 sorry. I've got some allergies. I don't know. I
8 apologize, but I think I've got myself squared
9 away. We're ready to proceed.

10 Yes, ma'am.

11 MS. OWEN: Thank you, Your Honor.

12 BY MS. OWEN:

13 Q I am going to put some pictures up here.
14 Prosecutrix described a little bit the layout of the
15 house. I'm going to use the pictures we've already
16 put up and have you go through those with us. Okay?

17 A Okay.

18 Q State's Exhibit 1?

19 A Yes, ma'am. That's the outside of the front
20 of the home.

21 Q Okay. State's Exhibit 2.

22 A When you come in the front door, you walk
23 into the living room area, which is what you see here
24 and then the kitchen in the background.

25 Q Okay. Then, the baby seat, just as she

1 described it?

2 A Yes, ma'am.

3 Q We've seen this, but this would be State's
4 Exhibit 5?

5 A Yes, that's the bedroom off of the kitchen
6 where she stated that the assault occurred.

7 Q Okay. I'm going to show you what has been
8 marked as State's Exhibit 10. Can you identify that?

9 A Yes, that's -- when you come in the front
10 door, there is a hallway to the right. That's that
11 hallway.

12 Q Okay. State's Exhibit 12?

13 A That is the back bedroom that was
14 identified to be the one that Jamie's belongings were
15 in.

16 Q All right. Thank you. State's Exhibit 13?

17 A Same room.

18 Q State's Exhibit 14?

19 A That's also the same room.

20 Q State's Exhibit 15?

21 A That would be the same room also.

22 Q Okay. State's Exhibit 16 and 17?

23 A This is a piece of mail from Davey's Tree
24 Service with the name Matthew Bryant listed. This is
25 the same picture, just a close-up of the name and

1 address.

2 Q Thank you. All right. State's Exhibit 10,
3 would you repeat what that was?

4 A When you come in the front door, there's a
5 hallway immediate to the right. That's the hallway.

6 Q Okay. This bedroom would belong to who?

7 A That's the room that Prosecutrix and Billy
8 were sharing.

9 Q Okay. And this bedroom belonged to?

10 A That's the bedroom that belonged to Jamie.

11 MS. OWEN: All right. Your Honor, I'd ask
12 to move State's Exhibit 10 into evidence.

13 THE COURT: Any objection?

14 MR. HUNT: None, Your Honor.

15 THE COURT: All right. They are so
16 admitted -- it's so admitted.

17 (State's Exhibit 10 is admitted into the
18 record.)

19 BY MS. OWEN:

20 Q Rita, before you got there, I assume that
21 no one had gone into that room, correct?

22 A To my knowledge, no.

23 Q Okay. And that door was closed when you got
24 there?

25 A Yes, ma'am.

1 Q And you waited until you got the search
2 warrant to open it?

3 A Yes, ma'am.

4 Q Show you what has been marked as State's
5 Exhibit 12?

6 A Yes, that's the room that belonged to
7 Jamie.

8 Q Okay. No furniture in there?

9 A No, ma'am.

10 MS. OWEN: Your Honor, I'd ask that
11 State's Exhibit 12 be entered into evidence.

12 THE COURT: Any objection?

13 MR. HUNT: None, Your Honor.

14 THE COURT: It is so admitted.

15 (State's Exhibit 12 is admitted into the
16 record.)

17 BY MS. OWEN:

18 Q State's Exhibit 13?

19 A That's the same room.

20 MS. OWEN: Your Honor, I ask that this
21 also be admitted into evidence.

22 THE COURT: Any objection?

23 MR. HUNT: None, Your Honor.

24 (State's Exhibit 13 is admitted into the
25 record.)

1 BY MS. OWEN:

2 Q Rita, I know what this is, but would you
3 please tell us?

4 A That's the same room, just a different
5 angle.

6 MS. OWEN: Your Honor, we would ask the
7 State's Exhibit 14 also be admitted into
8 evidence.

9 THE COURT: Any objection to that?

10 MR. HUNT: None, Your Honor.

11 (State's Exhibit 14 is admitted into the
12 record.)

13 BY MS. OWEN:

14 Q All right. Rita, what is that?

15 A That's the same room, just a different
16 corner.

17 MS. OWEN: State's Exhibit 15, we'd ask to
18 move into evidence, Your Honor.

19 THE COURT: Any objection?

20 MR. HUNT: None, Your Honor.

21 (State's Exhibit 15 is admitted into the
22 record.)

23 BY MS. OWEN:

24 Q Now, Rita, right here, could you identify
25 that?

1 **A** That's the piece of mail that was from
2 Davey's Tree Service with the name of Matthew Bryant
3 listed.

4 **Q** Okay. Is that what's shown in State's
5 Exhibit 16?

6 **A** Yes, ma'am.

7 **MS. OWEN:** We ask that be moved into
8 evidence, Your Honor.

9 **MR. HUNT:** Without objection.

10 **THE COURT:** All right. It's admitted.

11 (State's Exhibit 16 is admitted into the
12 record.)

13 **BY MS. OWEN:**

14 **Q** And 17, is that a close-up?

15 **A** Yes, ma'am.

16 **Q** Okay. So we see the name Matthew Bryant?

17 **A** Yes, ma'am.

18 **Q** What's the address listed?

19 **A** 122 Kennedy Street in Easley.

20 **Q** We see Davey's Tree; is that right?

21 **A** That's correct.

22 **Q** Okay. Was anything else located in that
23 bedroom?

24 **A** No, ma'am. Nothing that was pertinent to
25 our investigation.

1 Q Okay. Was another officer there helping
2 take photographs and do inventory of what you found?

3 A Yes, we requested Forensics to respond.
4 They do the photographing of the scene and collect
5 any evidence that needs to be collected.

6 Q Okay. Rita, after you were able to identify
7 a name and possible address and Davey Tree Service,
8 what did you do there?

9 A Well, I had already contacted Sergeant
10 Hendricks who is also an investigator in the Special
11 Victims Unit and requested his assistance. He had
12 obtained a possible address for where -- a current
13 address where Jamie may be staying.

14 Q And were you able to determine that it was
15 Matthew Jamie Bryant?

16 A Yes, ma'am.

17 Q What address was he possibly staying at?

18 A I believe it was 404, but let me look at my
19 records here. 404 Henry Street in Easley.

20 Q Okay. Did you respond out to 404 Henry
21 Street?

22 A Yes, I did.

23 Q What did you find there?

24 A Matthew Jamie Bryant.

25 Q Was anyone else there?

1 A There was a small child there. I believe at
2 the time that we first got there, that may have been
3 all that was there.

4 Q Okay. Did Jamie Bryant know why you were
5 there?

6 A I told him why we were there. He said he
7 did not know -- he was not familiar with what we were
8 speaking of, but I did tell him why we were there and
9 what the allegations were.

10 Q Okay. Would it be normal protocol, if
11 somebody's been named as a suspect, to go over their
12 Miranda rights with them?

13 A Yes.

14 Q Did you do that with him?

15 A I did.

16 Q Did he understand his rights?

17 A He did.

18 Q Waived them freely and voluntarily?

19 A He did.

20 Q Did he sign the Miranda form?

21 A He did. I provided him a written form, in
22 which he read over and signed.

23 Q After you had him sign that, did you talk
24 to him a little bit more about these allegations?

25 A Yes, I did.

1 Q Okay. Can you tell me what that
2 conversation was like?

3 A He denied that he had even had contact with
4 Prosecutrix [REDACTED] that day and that he had not been over
5 to the house, that he had been to his mother's house
6 briefly during lunchtime, but that he had not been
7 over to the home on Hidden Acre.

8 Q Okay. And what was he supposedly doing that
9 day?

10 A He was babysitting the little child that
11 was in the home.

12 Q Okay. Rita, he said he hadn't been to
13 Hidden Acres that day?

14 A Yes.

15 Q He said he had not been there the day
16 prior?

17 A He admitted he had some property in a room
18 over there, but that he had not been there, that he
19 was not staying there, and hadn't been there.

20 Q Did he tell you he'd been there the night
21 before?

22 A He did. He stated that he and his
23 girlfriend had taken Dirk Van Holland home the night
24 before.

25 Q But he didn't spend the night there?

1 A No, ma'am.

2 Q Did you ask him if you could take any
3 evidence?

4 A I did. I asked him for a buccal swab, which
5 is for a DNA sample.

6 Q Did he provide one?

7 A No, ma'am, he requested an attorney.

8 Q Okay. Did that conclude your conversation?

9 A Yes, it did.

10 Q Did anyone else show up on the scene while
11 you were there?

12 A Yes, ma'am. A gentleman by the name of Dirk
13 Van Holland showed up, along with Franklin Lomax.

14 Q Did you speak to either one of them?

15 A I spoke with Dirk Van Holland.

16 Q Did he give you a statement?

17 A Yes, ma'am.

18 Q Could you tell us what that statement was?

19 A Yes, ma'am. He gave me information that
20 Mr. Bryant had came to the house on Hidden Acres the
21 night before and that he had approached **Prosecutrix** in
22 the house the night before and that he was trying to
23 touch **Prosecutrix** on her buttocks area. He actually
24 described it as what he called playing grab ass with
25 her and that she became uncomfortable and went to her

1 room and locked herself in her room.

2 Q Did Mr. Van Holland say that he had been at
3 404 Henry Street at all that day?

4 A He did. He stated that he and Franklin
5 Lomax typically go to that address every day for
6 lunch. When they arrived on scene that day,
7 Mr. Bryant had asked them to listen out for the
8 little girl that was asleep because he needed to run
9 to his mother's house for a few minutes and not to
10 wake the baby.

11 Q Okay. Did he say that he came back?

12 A Yes, he said he was gone for a brief period
13 of time and that he later returned so that they could
14 go back to work.

15 Q Okay. Rita, was the victim sent to Easley
16 Baptist?

17 A Yes, ma'am.

18 Q And while she was there, did she have a
19 rape kit done?

20 A She did.

21 Q Was that eventually sent to SLED?

22 A Yes, ma'am.

23 Q Could you explain to the jury what SLED is?

24 A That is the State Law Enforcement Division
25 located in Columbia. We send all of our evidence to

1 them for analysis. So anything, any forensic exams
2 that need to be performed on those kits are done by
3 analysts at the State Law Enforcement Division.

4 **Q** Okay. Were you able to also take medical
5 records from Easley Baptist?

6 **A** From her sexual assault kit, yes, ma'am.

7 **MS. OWEN:** Your Honor, I have no further
8 questions for this witness.

9 **THE COURT:** Yes, sir.

10 **MR. HUNT:** May it please the Court, Your
11 Honor.

12 **THE COURT:** Yes.

13 **CROSS-EXAMINATION**

14 **BY MR. HUNT:**

15 **Q** Now, Rita, you went into the -- you went in
16 the house and you had those -- you saw all of those
17 photographs? Where'd they go? Now, Jamie did, in
18 fact -- based upon what you found in the photographs
19 that were made, Jamie did, in fact, have property in
20 that house; did he not?

21 **A** Yes, he did.

22 **Q** Apparently, he had been living there some;
23 had he not been?

24 **A** According to his statement to me, he had
25 not been staying there. He just had some property

1 over there.

2 Q Right. But is it fair to say he did -- at
3 one point, had, in fact, lived over there?

4 A That is a possibility.

5 Q Yes, ma'am. Because not normally would you
6 leave a television or two and a suitcase -- I think
7 there was a suitcase -- a suitcase there and a number
8 of shirts in that closet?

9 A That's correct.

10 Q So he don't normally -- he wouldn't
11 normally have wardrobe still here, there, and around
12 the place; would he?

13 A I can't advise, but he did have things in
14 that room, yes.

15 Q Yes, ma'am, including clothes, including a
16 suitcase, including televisions and all that sort of
17 thing?

18 A That's correct.

19 Q Which would lead one to believe, if you're
20 really looking at it, that he had lived there some?

21 A He, at least, had property stored there.

22 Q Yes, ma'am. Okay. Now, in fact, there was
23 a baby seat of some sort there; wasn't there?

24 A Yes, sir.

25 Q Do you know who that belonged to?

1 A I do not.

2 Q Okay. And some cups or something was sent
3 to -- the 122 Kennedy Street, that's where Jamie's
4 mother lived; was it not?

5 A That's correct.

6 Q All right. So he lived there and then -- or
7 whatever, however, he stored there. But he had been
8 there and he had been there the night before,
9 obviously?

10 A That's correct.

11 Q Now, I heard you say that Mr. Van Holland
12 told you that they'd been in the house the night
13 before. Did I hear you say that they had been doing
14 some grab ass? Is that what you said?

15 A That's how he described it, that Jamie was
16 playing what he called grab ass with Prosecutrix to the
17 point that she became uncomfortable and took the baby
18 and locked herself in her room.

19 Q So you don't know who was grabbing whose
20 backside when they're doing that?

21 A He said Jamie was playing grab ass with
22 Prosecutrix and she became uncomfortable and went her
23 room and locked the door.

24 Q All right. I think I saw -- of course, have
25 you got a copy of Kirk -- Dirk Van Holland's

1 statement?

2 A Yes, I do.

3 Q Could you get it please, sir -- please,
4 ma'am?

5 A Yes, sir. I have it here.

6 MR. HUNT: If I might approach, Your
7 Honor.

8 BY MR. HUNT:

9 Q Thank you. Apparently from Dirk's statement
10 to you, he had left to go somewhere; is that not
11 right?

12 A On which day?

13 Q On the 5th, on the day of the alleged
14 incident.

15 A He had been at work that morning.

16 Q I thought -- I thought -- you're talking
17 about Dirk? You're talking about Dirk there?

18 A Yes, I thought that's who you were talking
19 about.

20 Q Yes. Pardon me. From Dirk's statement to
21 you, Dirk and Franklin went to where Jamie was; is
22 that not right?

23 A At 404 Henry Street.

24 Q Right. Then Jamie said, I got to leave,
25 right?

1 A That's correct.

2 Q Jamie told him he was going to his mother's
3 house.

4 A That's correct.

5 Q He didn't, apparently?

6 A That's right.

7 Q All right. But there's not anything in
8 there about -- that Dirk has put in his statement
9 about, as you say, grab ass, right?

10 A That's correct.

11 Q All right. But there is in there about
12 Jamie leaving and knowing he was going somewhere,
13 right?

14 A Yes.

15 Q And you learned from Dirk, in your
16 statement from him, that he and -- he had been at the
17 house the night before with Jamie's girlfriend and
18 Jamie and -- something had gone on inside the house?

19 A Yes, he said that Jamie was inside the home
20 and his girlfriend, Brandy, was outside in the car.
21 During that time is when Jamie was inside playing
22 what he called grab ass.

23 Q All right. You don't know who was playing
24 who -- who all was playing what when they were
25 playing grab ass; do you?

1 A All I can say is he said Jamie was playing
2 grab ass with Prosecutrix and Prosecutrix became
3 uncomfortable and locked herself in her room.

4 Q Now one thing, when you were taking -- you
5 were taking a statement from Jamie and Jamie denied,
6 Jamie's fiancé's daughter was also there at the
7 house?

8 A She did show up, yes ---

9 Q Right.

10 A --- as well as his girlfriend, later on.

11 Q Right.

12 A She also showed up.

13 Q Right. Okay. All right.

14 MR. HUNT: I don't think I have any
15 further questions, Your Honor. Thank you.

16 THE COURT: Anything else from this
17 witness?

18 MS. OWEN: Nothing, Your Honor.

19 THE COURT: All right, ma'am. You can step
20 down.

21 MS. OWEN: Your Honor, for scheduling
22 purposes, what would you like to do?

23 THE COURT: How long do you anticipate
24 your next witness to be, or are you ready to
25 take a break?

1 **MS. OWEN:** The next two witnesses we have
2 will probably take between 20 and 30 minutes.

3 **THE COURT:** Each? All right. Are they
4 here?

5 **MS. OWEN:** Yes, Your Honor, they are here.

6 **THE COURT:** Is everybody else all right if
7 we try to do one more witness? All right. Very
8 well then. Let's do one more witness.

9 **MS. OWEN:** Thank you, Your Honor. Your
10 Honor, the State would call Tony Robinson.

11 **TONY ROBINSON**
12 having first been duly sworn, testifies as follows:

13 **THE CLERK:** Thank you, sir. If you would,
14 have a seat and state your name for the record
15 please.

16 **THE WITNESS:** Tony Robinson.

17 **DIRECT EXAMINATION**

18 **BY MS. OWEN:**

19 **Q** Tony, how are you?

20 **A** Just fine.

21 **Q** Good. Could you tell the jury a little bit
22 about yourself, where you work, how long you been
23 there?

24 **A** Lieutenant with the Pickens County
25 Sheriff's Office. I'm over Forensics and Property and

1 Evidence storage. Been there almost 20 -- almost 29
2 years.

3 Q What are your duties?

4 A We respond to crime scenes and document
5 crime scenes, collect evidence. We store the
6 evidence. We make sure the evidence gets sent to the
7 proper forensic lab to be analyzed.

8 Q Have you been doing that all 29 years?

9 A Yes, ma'am.

10 Q Were you called out to 110 Hidden Acres
11 Drive?

12 A Yes, ma'am.

13 Q Can you tell me why?

14 A Deputy Jackson called for Forensics to
15 respond to a sexual assault.

16 Q What did you do while you were there?

17 A After a search warrant was obtained for the
18 scene, we -- I photographed and documented the scene
19 and collected some evidence.

20 Q Why did you all decide to obtain a search
21 warrant?

22 A There were several adults -- as we
23 understood it, there were several adults who lived in
24 the residence, but only the victim was present. Due
25 to that, we just felt like it would be best to have a

1 search warrant before we searched the residence.

2 Q All right. And you said you documented the
3 scene. What does that mean?

4 A Photographs, mainly.

5 Q Okay. What else did you do while you were
6 there?

7 A I did collect some evidence and searched
8 for evidence also.

9 Q Okay. Tony, I'm going to show you -- we
10 already put some photographs into evidence. I'm going
11 to show you what's been marked as State's Exhibit 7.
12 Are you able to identify that?

13 A I can.

14 Q I'm going to show you what's been marked as
15 State's Exhibit 18. Can you identify that?

16 A Yes.

17 Q State's Exhibit 19?

18 A Yes.

19 Q State's Exhibit 20?

20 A Yes. These are all photographs that I took.

21 Q Okay. Thank you. Just to be clear, all of
22 these photographs were obtained from this residence;
23 is that correct?

24 A Yes, ma'am.

25 Q All right. When you executed the search ,

1 warrant, were you going into a room that you thought
2 may possibly be the defendant's?

3 A Yes.

4 Q Okay. What were you looking for there?

5 A The main reason I went into that room was
6 all we knew was his name was Jamie. I wanted to try
7 to find some evidence of who Jamie -- what his full
8 name may be.

9 Q Okay. Were you able to obtain that
10 information?

11 A I did.

12 Q I'm going to show you what has been marked
13 as State's Exhibit 18. Can you identify that for us?

14 A That's a photograph in that room of the
15 closet.

16 Q Okay. Would that be what would be Jamie's
17 room, you would assume?

18 A Yes.

19 MS. OWEN: Your Honor, I ask that that be
20 placed into evidence as State's Exhibit 18.

21 THE COURT: Any objection?

22 MR. HUNT: Without objection.

23 THE COURT: All right then.

24 (State's Exhibit 18 is admitted into the
25 record.)

1 BY MS. OWEN:

2 Q That's a suitcase, correct?

3 A Yes, suitcase on the floor beside the
4 closet.

5 Q Okay. I'm going to show you what's been
6 marked as State's Exhibit 19. Are you able to
7 identify that?

8 A Yes.

9 Q What is it?

10 A It's a photograph inside that suitcase, I
11 believe, of some documents.

12 MS. OWEN: Okay. I ask that that be
13 admitted into evidence, Your Honor, as State's
14 Exhibit 19.

15 THE COURT: All right.

16 MR. HUNT: Without objection.

17 (State's Exhibit 19 is admitted into the
18 record.)

19 BY MS. OWEN:

20 Q I'm going to show you what's been marked as
21 State's Exhibit 20.

22 A That's one of the documents inside of that
23 prior picture that shows the name.

24 Q Were you able to read that name and
25 address?

1 **A** It's Matthew J. Bryant, 122 Kennedy Street
2 in Easley, South Carolina.

3 **MS. OWEN:** I ask that that be moved into
4 evidence as well, Your Honor.

5 **THE COURT:** Any objection?

6 **MR. HUNT:** No objection.

7 **THE COURT:** All right. It's so admitted.

8 **MS. OWEN:** Thank you.

9 (State's Exhibit 20 is admitted into the
10 record.)

11 **BY MS. OWEN:**

12 **Q** Did you collect anything else from that
13 room?

14 **A** I collected another document with a name on
15 it.

16 **Q** Okay. I'll show you what has been marked as
17 State's Exhibit 26?

18 **A** Yes, this is that document.

19 **Q** Okay. Can you tell the jury what this
20 document is?

21 **A** I believe it's a DMV, Department of Motor
22 Vehicles, paper with the name Matthew Jamie Bryant on
23 it with the same address, 122 Kennedy Street.

24 **Q** Full address?

25 **A** Yes.

1 **MS. OWEN:** Your Honor, I ask that this be
2 moved into evidence as State's Exhibit 26.

3 **THE COURT:** Any objection?

4 **MR. HUNT:** No objection.

5 **THE COURT:** All right.

6 (State's Exhibit 26 is admitted into the
7 record.)

8 **BY MS. OWEN:**

9 **Q** You were able to identify Jamie as Matthew
10 Jamie Bryant?

11 **A** That's correct.

12 **Q** Did you go to speak to him?

13 **A** No, ma'am. I did not speak to him.

14 **Q** Okay. Did you have some further involvement
15 in this case?

16 **A** Other than collecting the evidence and
17 making sure it got into the forensics lab.

18 **Q** I'm going to show you what's been marked as
19 State's Exhibit 23. Can you identify that?

20 **A** That's a package that contains clothing
21 from the victim that was collected at the hospital.

22 **Q** Okay. Can you identify this?

23 **A** Yes.

24 **Q** State's Exhibit 25. Can you tell me what
25 that is?

1 **A** That is the DNA standard. We call it a
2 buccal swab. It's a swab taken inside the mouth to
3 obtain a DNA standard from a person. That's the swab
4 I took from Mr. Bryant.

5 **Q** When did you obtain that swab?

6 **A** August 1st of 2016.

7 **MS. OWEN:** Your Honor, I ask that that be
8 moved into evidence as State's Exhibit 25.

9 **THE COURT:** Any objection?

10 **MR. HUNT:** None, Your Honor.

11 **THE COURT:** It's so admitted.

12 (State's Exhibit 25 is admitted into the
13 record.)

14 **BY MS. OWEN:**

15 **Q** Tony, later on, did you have to obtain a
16 second buccal swab?

17 **A** I did.

18 **Q** Would you please identify this?

19 **A** Yes, this is a buccal swab I also collected
20 from the victim's son.

21 **Q** Okay. That's State's Exhibit 24. Could you
22 repeat who you collected this buccal swab from?

23 **A** That's from the victim's son, **Minor**

24 **Q** Okay. Do you know when you collected that?

25 **A** July 14th of 2017.

1 Q Okay. Now, Tony, what's normal protocol
2 once these items are collected?

3 A They're collected. They are sealed --
4 immediately sealed up in those paper envelopes.
5 They're stored in our evidence room, which only
6 evidence personnel has access to. Then they're all
7 transported to the SLED forensic lab at a given time.

8 Q Okay. Did that take place in this case?

9 A It did.

10 Q Did you transport them or someone else?

11 A The buccal swab from Matthew Jamie Bryant
12 was transported to SLED by Deputy Brian Gibson, who
13 worked with me at that time. I transported the one
14 from Minor [REDACTED] the son, on July 20th of 2017.

15 Q After evidence is analyzed at SLED, what
16 happens to it?

17 A They seal it back up and send it back to
18 Pickens County Sheriff's Office for storage.

19 Q Okay. Is that where this evidence has been?

20 A It has been there, yes, ma'am.

21 Q Do we know that because it's been signed
22 and dated?

23 A Signed, dated and seals are still intact.

24 Q Okay. I'm just going to show you this
25 briefly. We know that it's yours because -- would you

1 explain to the jury where it has been at the
2 Sheriff's Office?

3 A It has got our case number on it. It is got
4 Mr. Bryant's name on this one, Minor [REDACTED] name on
5 that one. As I said, I seal it with evidence tape.
6 And then when we arrive at SLED, we actually seal it
7 in the plastic envelopes.

8 Q Okay. After they test it, are they resealed
9 by SLED?

10 A Yes.

11 Q Does anyone open these after that?

12 A No, ma'am.

13 Q These have been in your care and custody at
14 the Sheriff's Office since they came back?

15 A They have.

16 MS. OWEN: I have no further questions
17 for this witness, Your Honor.

18 THE COURT: Any questions, Mr. Hunt?

19 MR. HUNT: Please the Court.

20 CROSS-EXAMINATION

21 BY MR. HUNT:

22 Q Officer Robinson, when you got there -- I
23 think in your statement you talk about the bed in the
24 room where the alleged assault took place had been
25 made prior to the assault; is that not right?

1 A That was my understanding, yes.

2 Q Yes, sir. And you took the -- I'm just
3 gonna show you a couple of photographs here. You
4 took these -- were you the one who took the
5 photographs?

6 A I took those photographs, yes, sir.

7 Q All right. And are they indicative -- if I
8 can get closer -- they are indicative of what this --
9 where this all took place; is that not right?

10 A That was my understanding, yes, sir.

11 Q All right, sir. And this, as well?

12 A Yes, sir.

13 Q Apparently, it took place here on the side
14 of the bed; is that not right?

15 A That's my understanding.

16 Q As a matter of fact, you see the outline of
17 someone's backside there; can you not?

18 A You can see a wrinkle in the bed. I'm
19 assuming it's from somebody being on the bed at some
20 time.

21 Q Yes, sir. Yes, sir. And that's all you saw;
22 is that not right?

23 A That's correct.

24 Q You went in the house and you also saw the
25 -- you saw the kitchen; did you not, sir?

1 **A** I saw the kitchen, yes.

2 **Q** And you made these photographs?

3 **A** I did.

4 **Q** And things appear to be in order; do they
5 not?

6 **A** Yes.

7 **Q** I have no further questions. Thank you,
8 sir.

9 **THE COURT:** Any other questions for this
10 witness?

11 **MS. OWEN:** No, Your Honor.

12 **THE COURT:** Sir, you can step down.

13 Well, he was so quick. Are y'all all right
14 with sneaking in one more? All right. Thank
15 you. I appreciate it.

16 Do we have one more?

17 **MS. OWEN:** Your Honor, I know he was here,
18 but he had a call, so I'm not sure. Can we
19 check?

20 **THE COURT:** If you don't mind just
21 checking quickly, and if it turns out he's not
22 here, no problem.

23 **MS. OWEN:** Thank you. (Pause.)

24 He's here, Your Honor.

25 **THE COURT:** Oh, he is? Okay. Fantastic.

1 This is one of these -- well, I'm going to stand
2 up, I guess. It's up to you. Again, if anybody
3 can't hear anything at any time, please do let
4 me know. If you can't hear anything or can't see
5 anything, they are presenting this for you, so I
6 want you to be able to see and hear everything.

7 MS. OWEN: Your Honor, that witness is
8 gone, but we have one more.

9 THE COURT: Oh, okay. Fantastic. You think
10 he's fairly short?

11 MS. OWEN: Yes. Your Honor, the State
12 calls Franklin Lomax.

13 THE CLERK: If you will, put your left
14 hand on the Bible and raise your right hand.

15 FRANKLIN LOMAX
16 having first been duly sworn, testifies as follows:

17 THE CLERK: If you would, have a seat and
18 state your name for the record please.

19 THE WITNESS: My name is Franklin Lomax.

20 DIRECT EXAMINATION

21 BY MS. OWEN:

22 Q How are you, Franklin?

23 A Pretty good.

24 Q Good. Mr. Lomax, do you know the victim in
25 this case?

- 1 A I know of her.
- 2 Q But you don't know her?
- 3 A No.
- 4 Q Do you know the defendant?
- 5 A Yes.
- 6 Q How?
- 7 A That's my brother-in-law.
- 8 Q Is he married to your sister?
- 9 A He is engaged, currently engaged.
- 10 Q Okay. You know you know why you're here?
- 11 A Yes.
- 12 Q Did Jamie used to work with you?
- 13 A Yes.
- 14 Q Where?
- 15 A At Davey's Tree Service.
- 16 Q Okay. Let's talk about the week of April
- 17 4th, 2016. Can you tell me what happened with Jamie
- 18 at work?
- 19 A He knocked the power off. Protocol, when
- 20 you knock the power off at our job, is you get
- 21 suspended for two days until the company safety
- 22 department comes out and inspects the situation.
- 23 Q So he was suspended for two days?
- 24 A Yes.
- 25 Q Is that April 4th and 5th?

1 A That Monday, he knocked the power off, so
2 whatever day it was.

3 Q Where was he living at that time?

4 A At the time, he was living with us at 404
5 Henry Street.

6 Q Had he previously stayed at 110 Hidden
7 Acres Drive?

8 A Yes.

9 Q Do you remember why?

10 A He and my sister got into an argument
11 prior. He was over there for --

12 THE COURT: Could I get you to scoot up
13 just a little bit? Thank you so much.

14 BY MS. OWEN:

15 Q I'm sorry. Could you repeat that?

16 A Him and my sister got into an argument a
17 couple of weeks before. He was staying with Dirk Van
18 Holland.

19 Q But he had moved back in with you or was in
20 the process of?

21 A Yes, yes. Well, he moved back in that
22 weekend before.

23 Q And you were living at 404 Henry Street, as
24 well, right?

25 A Yes.

1 Q On April 5th, 2016, did you come home for
2 lunch?

3 A Yes.

4 Q Can you tell me about that?

5 A I came home for lunch a little bit after
6 12:00, approximately about 10 minutes after. He asked
7 me to watch my niece while he ran to his parents'
8 house to get his migraine medicine.

9 Q Did you watch your niece?

10 A Yes.

11 Q How old was she?

12 A 10 months, 11 months, somewhere in there.

13 Q She was a baby?

14 A Yes.

15 Q Approximately how long was he gone?

16 A Probably 30 minutes or so.

17 Q Then he came back?

18 A Yes.

19 Q He tell you where he had been?

20 A No.

21 Q Did you go back to work?

22 A Yes.

23 Q What happened after that?

24 A One of the detectives showed up on our job
25 site and asked for Dirk Van Holland and Mr. Bryant. I

1 was up in the bucket. I came down because they had
2 told me on the radio. Dirk was actually the officer
3 -- was the guy that was running traffic when the
4 officer asked him. He went back to the shop because
5 he didn't know what the situation was. So when he
6 come back out, the detectives and patrol kept on
7 riding the thing.

8 And then they stopped and asked me a
9 question and stuff. They asked me for Mr. Bryant. I
10 told them he was suspended, but he was with my
11 sister. He was at the house. I could call him. So I
12 called and let the detective talk to him. He sent a
13 patrol officer over to 404 Henry Street to the place
14 we lived. Once they did that, they radioed back to
15 the detective saying they had him in their vision, so
16 the detective left us and went to the scene -- I
17 mean, went to them.

18 Q Eventually, did you go back to 404 Henry
19 Street that day?

20 A Yes, I did.

21 Q Did you give a written statement to what
22 you knew?

23 A Yes, I did.

24 MS. OWEN: No further questions for this
25 witness, Your Honor.

1 **THE COURT:** All right. Mr. Hunt, you have
2 any questions for this witness?

3 **MR. HUNT:** No questions, Your Honor.

4 **THE COURT:** All right, sir. You can step
5 down.

6 **MS. OWEN:** Your Honor, may this witness be
7 excused?

8 **THE COURT:** Any objection to that?

9 **MR. HUNT:** None, Your Honor.

10 **THE COURT:** All right, sir. Thank you for
11 being here.

12 **MS. OWEN:** Your Honor, I don't believe we
13 have any more witnesses.

14 **THE COURT:** Sure. That's fine. That's
15 fine. All right. Ladies and Gentlemen, we're
16 going to be in recess for lunch until 1:45. If
17 you will, be back in your jury deliberation room
18 at 1:45. We will begin promptly thereafter.
19 Once again, I sound like a broken record, and
20 I'm sorry, but please don't discuss the case
21 with anyone. Thank you so much. I hope you have
22 a good lunch.

23 Everyone else remain seated while the jury
24 leaves please.

25 (Jury exits at approximately 12:17 p.m.)

1 **THE COURT:** Just to let everybody know why
2 I ask you to remain seated while the jury is
3 leaving is because I had a trial in which
4 everyone gets up and sort of starts moving
5 around, and then the natural tendency is to talk
6 about what just happened. I had a juror come in
7 one time and say, as everybody was moving
8 around, they heard witnesses talking about the
9 case. I appreciate your bearing with me on that.
10 All right. Anything we need to take up
11 before we break for lunch?
12 **MS. OWEN:** Nothing from the State, Your
13 Honor.
14 **THE COURT:** Anything from the defense?
15 **MR. HUNT:** Nothing, Your Honor.
16 **THE COURT:** All right. I'm going to set a
17 trial bond, Mr. Bryant. I'm going to set a
18 personal recognizance bond of \$40,000 for you.
19 You've got your ankle monitor still on.
20 **MR. BRYANT:** Yes, ma'am.
21 **THE COURT:** All of that is still in
22 effect.
23 **MR. BRYANT:** Yes, ma'am.
24 **THE COURT:** You know, absolutely no
25 contacting in any way.

1 MR. BRYANT: Yes, ma'am.

2 THE COURT: All of those provisions are
3 still in place, but I will not take you into
4 custody. All right.

5 MR. BRYANT: Yes, ma'am.

6 THE COURT: All right. Very well.

7 MR. BRYANT: Thank you.

8 MS. OWEN: Thank you, Your Honor.

9 MR. HUNT: Thank you.

10 (Court goes off the record at approximately
11 12:19 p.m.)

12 (Court goes on the record at approximately
13 1:54 p.m.)

14 THE COURT: Are there any matters we need
15 to take up before we bring the jury back in,
16 from the State?

17 MS. OWEN: Your Honor, just for scheduling
18 purposes --

19 THE COURT: Sure.

20 MS. OWEN: -- I anticipate we will have
21 one, two, three, four, five, six witnesses this
22 afternoon.

23 THE COURT: Okay.

24 MS. OWEN: I don't know that we will go
25 all the way until 4:45. I have a SLED witness

1 tomorrow, and then one more witness after that.
2 We will be ready to rest in the morning.

3 THE COURT: That actually is perfectly
4 fine with me.

5 MS. OWEN: Okay.

6 THE COURT: So I appreciate that.
7 Anything, Mr. Hunt?

8 MR. HUNT: Nothing, Your Honor.

9 THE COURT: Okay. Perfect. You're all
10 right with that schedule as well?

11 MR. HUNT: Yes, ma'am. Yes, ma'am.

12 THE COURT: All right. Then we're good to
13 go.

14 MS. OWEN: Your Honor, I'm just going to
15 give this to Mr. Hunt. Mr. Van Holland is going
16 to testify this afternoon.

17 THE COURT: All right. Are all of our
18 jurors back?

19 I saw three jurors at lunch. They were at
20 the table next to me. We didn't talk about
21 anything related to the case, of course not.
22 They can attest, I tried to eat fast.

23 (Jury enters at approximately 1:56 p.m.)

24 THE COURT: All the men on the back row
25 and the women on the front. I trust you had a

1 good lunch. I know three of you did because we
2 ate at the same place. We are now ready to
3 begin. We've been talking a little bit about
4 the schedule for this afternoon. I always like
5 to know when things are going to end because,
6 somehow or another, it just feels shorter to me.
7 I don't know. Don't think we will go all the
8 way to 4:45 today. I think we will probably stop
9 somewhere, maybe even as close as we can to
10 4 o'clock or something.

11 MS. OWEN: Hope so.

12 THE COURT: So we'll see. Don't hold us to
13 it. We're going to give it a try.

14 MS. OWEN: Thank you, Your Honor. The
15 State will call Robert Porter.

16 ROBERT PORTER

17 having first been duly sworn, testifies as follows:

18 THE CLERK: If you would, have a seat and
19 state your name for the record please.

20 MS. OWEN: Sergeant Robert Porter.

21 DIRECT EXAMINATION

22 BY MS. OWEN:

23 Q Good afternoon, Robert. How are you?

24 A Fine.

25 Q Good. Tell the jury a little bit about

1 yourself, where you work and what you do.

2 A I am currently employed with the Pickens
3 County Sheriff's Office. I've been employed with the
4 Sheriff's Office since 2005 in the uniform patrol
5 division. I was with the Clemson City Police
6 Department for five years before that.

7 Q How long have you been in law enforcement?

8 A As a full-time officer, since March of
9 2000.

10 Q Okay. 2018, about 18 years?

11 A Yes.

12 Q Were you working in 2016 at the Sheriff's
13 Office?

14 A I was.

15 Q Specifically, April 2016?

16 A I was enrolled as a uniform patrol
17 supervisor.

18 Q Okay. And do you know why you're here
19 today?

20 A I do.

21 Q What was your role in this case?

22 A I was -- received a call from Palmetto
23 Baptist -- or Communications received a call from
24 Palmetto Baptist saying that there was a sexual
25 assault kit that needed to be collected and brought

1 to our Property and Evidence storage. So I went to
2 Palmetto Baptist and met with the nurse and collected
3 the kit and brought it to the Sheriff's Office
4 evidence storage.

5 Q Palmetto Baptist is Easley Baptist
6 Hospital?

7 A Yes.

8 Q I'm going to show you what's been marked as
9 State's Exhibit 27. Do you recognize that?

10 A Yes, this is the kit that the nurse
11 delivered to me.

12 Q Is it in substantially the same condition
13 as when you got it?

14 A Other than when I had it, the tapes were
15 sealed.

16 Q Okay. Right here?

17 A Yes.

18 Q What did you do with it once you got it?

19 A Walked out to the parking lot. I secured it
20 to the truck vault in my SUV. Then I drove directly
21 to the Sheriff's Office to secure it in the
22 refrigerated evidence locker we have.

23 Q Is that normal protocol?

24 A That's the only protocol.

25 MS. OWEN: Your Honor, I ask that this be

1 marked into evidence as State's Exhibit 27.

2 THE COURT: Any objection?

3 MR. HUNT: None, Your Honor.

4 THE COURT: All right. It's so admitted.

5 (State's Exhibit 27 is admitted into the
6 record.)

7 BY MS. OWEN:

8 Q Does that conclude your involvement in this
9 case?

10 A Yes.

11 MS. OWEN: I have no further questions,
12 Your Honor.

13 THE COURT: All right.

14 MR. HUNT: No questions, Your Honor.

15 THE COURT: Thank you, sir, for being
16 here.

17 THE WITNESS: Thank you.

18 MS. OWEN: May this witness be excused?

19 THE COURT: Any objection to that?

20 MR. HUNT: No, ma'am.

21 THE COURT: Thank you.

22 MS. OWEN: Your Honor, the State will call
23 Brian Gibson.

24 BRIAN GIBSON

25 having first been duly sworn, testifies as follows:

1 **THE CLERK:** Thank you, sir. If you would,
2 have a seat and state your name for the record
3 please.

4 **THE WITNESS:** Brian Edward Gibson.

5 **DIRECT EXAMINATION**

6 **BY MS. OWEN:**

7 **Q** Good afternoon, Brian. How are you?

8 **A** Good.

9 **Q** Good. Would you tell the jury a little bit
10 about yourself, what you do, and where you work?

11 **A** I work at the Pickens County Sheriff's
12 Office. I've been there 25-plus years. Currently, I
13 am a school resource officer at A.R. Louis
14 Opportunity School.

15 **Q** What does that mean?

16 **A** I'm a school resource officer. I'm there at
17 the school. If anything goes wrong, I'm basically
18 there to make sure the kids are safe, to make sure
19 the kids have a safe environment, as well as the
20 faculty, staff, and everybody involved at the school.

21 **Q** Okay. What did you do before that?

22 **A** Prior to that, I was assigned to the
23 Forensics unit. I was with Forensics for 22 years. I
24 just took over as a school resource officer this --
25 starting this school year. So, prior to that, 22

1 years in Forensics.

2 Q We've heard from Tony Robinson today. He
3 gave us a little bit about Forensics. Could you tell
4 the jury a little bit about what you did in
5 Forensics?

6 A Our Forensics unit -- I'm sure still
7 operates the same way it did when I was there. We
8 investigate anything that our detectives call us out
9 for and our road patrol units. We work burglaries. We
10 work malicious damage cases, homicides, suicides, any
11 kind of sex-related crimes, anything that -- when we
12 gain any kind of evidence, part of that is taking
13 photographs, collecting evidence, footprints,
14 fingerprints, taking photographs of everything,
15 testing fingerprints. Just anything that we can think
16 of that we can get some evidence to find out who did
17 what -- who did the crime so we can put somebody in
18 jail.

19 Q All right. In this case, were you still
20 working in evidence in April of 2016?

21 A Yes, I was.

22 Q How about August of 2016?

23 A Yes, I was.

24 Q Do you recall what your involvement was in
25 this case?

1 A Vaguely.

2 Q Okay. I'm going to show this to you. It is
3 marked as State's Exhibit 25. Do you recognize this?

4 A Yes, I do.

5 Q Can you tell us what this is?

6 A It is a known standard from our suspect.

7 It was collected and sent to South Carolina Law

8 Enforcement Division, also known as SLED, for

9 analysis and testing.

10 Q Did you take it to SLED?

11 A Yes, I did.

12 Q How do you know you did that?

13 A Because I have the city official as my
14 name, the date, my agency and where it was heat-
15 sealed at the top, I have my initials and the date
16 that I put it into the bag and sealed it.

17 Q What date did you take that?

18 A 8/18 of 2016.

19 Q Okay. Show you what has been marked is
20 State's Exhibit 27. Do you recognize that?

21 A Yes, I do.

22 Q Okay. Can you tell us what it is?

23 A That is a SLED sexual assault evidence
24 collection kit. It's standard. There's different
25 parts in the kit. It is mainly useful in collecting

1 evidence of any type of sexual assault case.

2 Q Did you also transport that to SLED?

3 A Yes, I did.

4 Q How can you tell?

5 A I put the date, printed my name, signed my
6 name and put the time that it was taken to SLED.

7 Q Okay. Normal protocol would be you got
8 these from your evidence locker and transported them?

9 A Normal protocol is we either get it from
10 our evidence lockers or we get it directly from an
11 officer. In this case, I believe it was collected out
12 of an evidence locker. It was locked and secured.

13 Q When you transported it to SLED, it was
14 secured?

15 A Yes. I drove a pickup truck with a cover,
16 lockable cover. It goes in the back of my vehicle.
17 You can't carry that sort of thing in a passenger
18 compartment. It was in the back of my truck, cover
19 down, put the lock where nobody could get to it until
20 I got to SLED.

21 Q Does that conclude your involvement in this
22 case?

23 A Yes.

24 MS. OWEN: Your Honor, I have no further
25 questions for this witness.

1 **THE COURT:** Any questions?

2 **MR. HUNT:** No, Your Honor.

3 **THE COURT:** All right, sir. You may step
4 down.

5 **THE WITNESS:** Thank you.

6 **THE COURT:** Yes, sir.

7 **MS. OWEN:** Your Honor, may this witness be
8 excused?

9 **THE COURT:** Any objection?

10 **MR. HUNT:** None.

11 **THE COURT:** Thank you for being here.

12 **MS. OWEN:** Your Honor, the State would
13 call Michael Hendricks.

14 **MICHAEL HENDRICKS**

15 having first been duly sworn, testifies as follows:

16 **THE CLERK:** Thank you, sir. If you would,
17 have a seat and state your name for the record.

18 **THE WITNESS:** My name is Michael
19 Hendricks.

20 **DIRECT EXAMINATION**

21 **BY MS. OWEN:**

22 **Q** How are you, Michael?

23 **A** Good.

24 **Q** Good. What is your position at the
25 Sheriff's Office?

1 A Detective in the Special Victims Unit.

2 Q How long have you been doing that?

3 A I've been in the investigations for 11
4 years.

5 Q Did you do something prior to
6 investigations?

7 A I worked on the road.

8 Q How long did you do that?

9 A Three years.

10 Q Okay. You've been in law enforcement for 14
11 years?

12 A Yes.

13 Q Okay. Do you work with Rita Burgess?

14 A I do, yes.

15 Q Can you tell me a little about your duties?

16 A We investigate crimes that are sexual in
17 nature. We also investigate crimes against children.
18 We also investigate missing persons, cases of that
19 nature.

20 Q Okay. Michael, on April 5th, 2016, were
21 you working regular shift?

22 A I was, yes.

23 Q Did you get called out to 100 Hidden Acres
24 Drive, as well?

25 A I did, yes.

1 Q Can you tell me what happened when you got
2 there?

3 A When I got there, Lieutenant Burgess was
4 executing a search warrant of the residence at 100
5 Hidden Acres. They were in -- she was in the far
6 right bedroom when you walk in the front door, with
7 Lieutenant Tony Robinson.

8 When I walked in the room, Lieutenant
9 Burgess found a pay stub of Matthew Jamie Bryant that
10 said Davey Tree Service on it. At that point, he was
11 considered a suspect. Lieutenant Burgess stated that
12 Davey Tree Service was working right down the road
13 and asked that I go down there and try to find the
14 whereabouts of Mr. Bryant.

15 Q Did you do that?

16 A I did, yes.

17 Q What happened when you got down the road?

18 A When I got down the road, I spoke with what
19 would have been his coworkers. They stated he was not
20 working that day, but he did work with Davey's Tree
21 Service. They stated -- actually, they were able to
22 contact him on the phone and then put him on the
23 phone with me, which point, he told me he was at 404
24 Henry Street in Easley. During the conversation, he
25 invited me and Lieutenant Burgess to come and speak

1 with him.

2 Q Okay. Did you go to 404 Henry Street?

3 A I did, yes.

4 Q Let me back up a little. Davey Tree
5 Service, do you remember where they were, where they
6 were working, where you found them?

7 A It was Olive Street or somewhere in that
8 area. It was very close to where we were at.

9 Q Approximately one minute, two minutes,
10 three minutes?

11 A A minute, yeah.

12 Q Okay. You are at 100 Hidden Acres Drive.
13 It takes you a minute to get to Olive Street where
14 Davey's Tree Service was?

15 A Correct.

16 Q Then you go to 404 Henry Street. How far is
17 that?

18 A Again, it's a very short distance. I could
19 be there -- from where I was at, I could be there in
20 less than five minutes.

21 Q Okay. So about five minutes later, you
22 arrive at 404 Henry Street?

23 A Correct.

24 Q What happens there?

25 A I made contact with a Jessica Hayes inside

1 the residence. She is related to Jamie Bryant's
2 girlfriend. Lieutenant Burgess, I believe, went out
3 and spoke with Mr. Bryant. Jessica told me that
4 Mr. Bryant had been babysitting her child, 10-month-
5 old child late in that day. At some point, Franklin
6 Lomax and Dirk Van Holland showed up. Then I was
7 instructed to go speak with Franklin and retrieve a
8 statement from him.

9 Q Okay. Did you do that?

10 A I did, yes.

11 Q What was your understanding of what
12 happened that day?

13 A What I understood to have happened was that
14 Mr. Bryant was, in fact, babysitting this child. Dirk
15 Van Holland and Franklin Lomax -- Franklin Lomax,
16 from what I understood lived there, came home for
17 lunch at about 12:10. As soon as they walked in the
18 door, Mr. Bryant asked that they watch the
19 10-month-old child while he went to see his mother.
20 He then left.

21 Mr. Lomax told me that he told him he
22 needed to be back before they had to be back to work
23 or he needed to be back by 12:40, I believe was the
24 instructions he gave him. He said he did return
25 between 12:40 and 12:45. I asked him to give a

1 written statement, which he did.

2 Q Okay. So you understood that Jamie left
3 around 12:10 ---

4 A Correct.

5 Q --- and was back at the house at about
6 12:40, 12:45?

7 A Correct.

8 Q He was gone a total of 30 to 35 minutes?

9 A That is correct.

10 Q From your location to the incident location
11 is what you described was about 5 to 6 minutes?

12 A Yes.

13 Q Did you have any contact with Jamie Bryant?

14 A He was there at the house when they
15 arrived. We started dividing. Lieutenant Burgess went
16 and spoke with him while I was speaking with Jessica
17 inside the house. Then, I went to talk with Franklin,
18 but I did not interview Mr. Bryant.

19 Q Okay. Detective Hendricks, I don't have
20 any more questions. Thank you.

21 THE COURT: Any questions, Mr. Hunt?

22 MR. HUNT: Just a couple, Your Honor.

23 CROSS-EXAMINATION

24 BY MR. HUNT:

25 Q So, Officer Hendricks, the -- Jamie, from

1 your information, he left the house at 12:10 and he
2 was back by 12:40, 12:45?

3 **A** That's what I was told, yes, sir.

4 **Q** Yes, sir. All right. Thank you. No further
5 questions.

6 **THE COURT:** All right. Anything else?

7 **MS. OWEN:** Not from this witness, Your
8 Honor.

9 **THE COURT:** All right. Sir, you can step
10 down.

11 **MS. OWEN:** Your Honor, may this witness be
12 excused for the balance of the day?

13 **MR. HUNT:** Yes, ma'am.

14 **THE COURT:** All right. Certainly. Thank
15 you.

16 **MS. OWEN:** Your Honor, the State would
17 call Dirk Van Holland.

18 **DIRK VAN HOLLAND**

19 having first been duly sworn, testifies as follows:

20 **THE CLERK:** Sir, if you would, have a seat
21 and state your name for the record please.

22 **THE WITNESS:** Dirk Van Holland.

23 **DIRECT EXAMINATION**

24 **BY MS. OWEN:**

25 **Q** How are you, Dirk?

1 A Good.

2 Q Good. Dirk, do you know why you're here
3 today?

4 A Yes, ma'am.

5 Q Okay. Let's talk about back to January of
6 2016. Were you living in Easley then?

7 A Yes, ma'am.

8 Q Where were you living?

9 A 100 Hidden Acres Drive.

10 Q Okay. Who all lived there with you?

11 A Originally, just me. Then I offered to rent
12 Jamie a room on the other end of the trailer. We
13 worked together at Davey Tree. Some time during that
14 month, he did move in.

15 Q Was he coming and going?

16 A Yes, ma'am.

17 Q Where would he go when he wasn't staying at
18 the trailer?

19 A Usually, he would be with Brandy, to the
20 best of my knowledge, which was his girlfriend at the
21 time.

22 Q Do you know what address she was residing
23 at? Do you remember?

24 A I want to say that name was Beverly. It's
25 over behind the hospital in Easley.

1 Q Okay. Dirk, at some point, did someone
2 else move into the trailer?

3 A Yes, ma'am.

4 Q Who?

5 A A friend of mine by the name of Billy
6 Reynolds and his girlfriend Prosecutrix and their small
7 child Minor

8 Q Okay. Did you rent them a third room?

9 A Yes, ma'am.

10 Q Can you tell me what your day-to-day life
11 was at your house?

12 A Pretty typical. During the day, the males
13 would all be at work. Prosecutrix would be there with
14 her child. We didn't have transportation. Jamie had a
15 car at the time. She would just be there during the
16 day with the kid until we got home from work. Billy
17 usually came home around the same time I did, which
18 was 4:00 or 5 o'clock.

19 Q You and Jamie worked together; is that
20 right?

21 A Yes.

22 Q But Billy did not work with you all?

23 A No, ma'am.

24 Q What was Prosecutrix like when she lived
25 there?

1 A She was very reserved. **Prosecutrix** was quiet.
2 She just seems to be just young and cared a lot for
3 her baby. You could tell. Seemed like she was trying
4 to be a good mother. She was always concerned with,
5 you know, making sure there was money for formula and
6 stuff like that, for Billy to be working and paying
7 bills and stuff. Seemed like they were trying to do
8 the right thing.

9 Q Dirk, when y'all were working, did you ever
10 come back to the house for lunch or did you normally
11 go somewhere else?

12 A Normally, we would go, usually, down by,
13 like, Carolina Grill, which is also near the
14 hospital. It was a popular place that we ate lunch.
15 Sometimes I would go with Franklin to his sister's
16 house on Beverly and eat lunch since we did get an
17 hour for lunch. Sometimes if the trucks were parked
18 down at Carolina Grill and some of the guys were
19 going there, we would just walk a couple of blocks up
20 the road and eat lunch there at Brandy's, which was
21 Franklin's sister's house.

22 Q Okay. We're going to fast forward a little
23 bit to April of 2016. At some point, did Jamie move
24 stuff out of his room and, in the process, move to
25 Brandy's?

1 A Yes, ma'am.

2 Q Okay. In your room, was any of the
3 furniture Jamie's?

4 A Yes, ma'am.

5 Q What?

6 A The bed, which was a king-size bed. He had
7 eventually told me that I could keep that bed, that
8 he was going to be pretty much living with Brandy
9 full-time. I took it as a favor, also just to keep
10 him from having to move stuff around. I'm sure he
11 took what he wanted to take when he left.

12 Q It was your understanding that he was
13 moving to Brandy's and that was pretty much going to
14 be it because he gave you his bed?

15 A Yes, ma'am. We did talk about that. He did
16 mention that he didn't wish to live there any longer,
17 that he was just going to be staying with Brandy.

18 Q I'm showing you what's been marked as
19 State's Exhibit 5.

20 A Yes, ma'am.

21 Q Do you recognize that?

22 A Yes, ma'am.

23 Q What is it?

24 A That's the king-size bed once it was in my
25 room, which is the master bedroom.

1 Q Okay. So Jamie gave this to you and he had
2 moved, basically?

3 A Yes, ma'am.

4 Q Did he turn his key back in yet or did he
5 still have that?

6 A He still had the key.

7 Q Okay. April 4th, 2016 was a Monday. Do you
8 remember what happened that day?

9 A It was the day that the detective
10 approached me --

11 Q It was the day before the detective
12 approached you?

13 A Yes, ma'am.

14 Q Okay. Tell me about that.

15 A I went to work. After work, I went with
16 Franklin to where he was living at Brandy's. We hung
17 out outside for a couple of hours. Eventually, Brandy
18 and Jamie took me home to 100 Hidden Acres.

19 Q Okay. Who was there when you got home?

20 A Just Prosecutrix and Minor

21 Q What happened when you got in the house?

22 A Well, we pulled up and I think I was
23 getting some stuff out of the back seat, probably my
24 book bag stuff and some stuff from work. Jamie
25 entered the house before me. We crossed paths when I

1 entered the house. Prosecutrix was coming from the
2 kitchen area through the living room. I was coming
3 from the front door through the living room towards
4 my bedroom, which was on the other side of the
5 kitchen. Me, Prosecutrix and Jamie all crossed paths.
6 Prosecutrix was going back toward the end of the trailer
7 where their two bedrooms were. Jamie was right behind
8 her. He just, like, made a grabbing motion towards
9 her bottom side, her wrist area. Her arm was down in
10 this area. He just kind of lunged out and reached
11 like that, like just to be kind of pursuing her, so
12 to speak.

13 Q Okay. I know it's been two years. Do you
14 remember anything that was said?

15 A No, I didn't really listen to the dialogue.
16 They went down the hallway as I went into my bedroom.
17 Then I back came out into the kitchen area, just to
18 kind of look down the hallway and see what they were
19 doing or whatever. I know Brandy was still right
20 outside the driveway, still in the car. I just could
21 see the shadows on the wall, like, him standing there
22 talking. She was, like, in the doorway of her room or
23 right at the doorway. Like I said, I cannot hear any
24 of that dialogue really, that I can remember.

25 So I just kind of went back toward my

1 bedroom, in my bedroom and sat down on the bed. Soon
2 after that, Prosecutrix just came marching firmly back
3 and just came right in my bedroom and, like, just
4 pointed stiffly toward the door like that.

5 (Demonstrating.)

6 That's exactly what she did. She was, like,
7 you need to get your friend. In my mind, I'm just
8 like guy stuff, you know, he's pursuing her and she
9 don't like it. That's just what I made of that.
10 That's what was said when she came and pointed toward
11 the door. At this time, I think he had already exited
12 the front door.

13 Q So him pursuing her, as you said, grabbing
14 at her, made her uncomfortable? .

15 A That's the way I took it. Yes, ma'am.

16 Q The next day, did you go to work?

17 A Yes, ma'am.

18 Q Did the police come by your work?

19 A Yes, ma'am. They did.

20 Q What happened after that?

21 A He asked for me and he asked for Jamie. I
22 just told him that Jamie was not at work. He was off
23 that day. He had two days off for, like, a safety
24 violation. Instead of, like, terminating him or
25 anything, they just gave him two days off. So I told

1 the detective that.

2 This was near the end of the day when we
3 were getting ready to take the trucks back in to
4 Easley Combined. So, we went and turned in the
5 trucks and got off work. By the time my ride, who
6 also worked at Davey Tree, gave me a ride to 100
7 Hidden Acres, Franklin had called his phone, meaning
8 the person who drove me home and said the detective
9 want you to meet over here at Brandy's. They want to
10 talk to you. You're not in any trouble. They just
11 want you to give a statement.

12 Well, he actually put the detective on the
13 phone, which I think it was the gentleman that was
14 just in here, the male detective. I was talking with
15 him on the phone. He said just come over to Brandy's
16 so they can get a statement or we can have a
17 discussion and everybody can go.

18 Q Okay. Did you go over there?

19 A Yes, ma'am.

20 Q Who did you talk to when you got there?

21 A I spoke with Ms. Burgess.

22 Q Did you give her a written statement?

23 A Yes, ma'am. I did.

24 Q That day, had you gone over there for
25 lunch?

1 A Yes, ma'am.

2 Q Tell me about that.

3 A We had the pickup truck that day, which was
4 to put cones and signs that we set out on the road
5 when we're trimming roadside and stuff. It's a way to
6 get things done a little quicker than taking the
7 bucket trucks up and down the road to set up the work
8 zone. We had the pickup truck.

9 Me and Franklin, during lunch, like I said,
10 we didn't go to Carolina Grill that day. Some of the
11 other guys did. We went to his sister, Brandy's. We
12 pulled in the driveway. Franklin was already going
13 inside by the time I was really getting out of the
14 truck. He was going in the carport door. Him and
15 Jamie crossed paths. Jamie was coming out.

16 Jamie just said, what's up. You know, we
17 crossed paths. I went inside. Franklin said that
18 Jamie wanted him to watch the baby while he went to
19 his mother's and got migraine medicine.

20 While we were there for our lunch break,
21 the baby got put to sleep or was in a bouncer or
22 something. Me and Franklin were in the kitchen area,
23 between there and the little carport, right there at
24 the little side door. Before we -- it was time for
25 us to go back from our lunch break, Jamie did return

1 and came back inside and sat on the [REDACTED] I think I
2 was still in the kitchen finishing eating or throwing
3 my food away or something. He just came in and sat on
4 the [REDACTED] and started watching TV.

5 Q Approximately what time did you arrive
6 there, do you think?

7 A Say 10 after 12:00, 15 after 12:00.

8 Q Okay. Approximately what time did Jamie
9 come back?

10 A 10 till 1:00, 15 till 1:00.

11 Q Cause y'all had to be back at work, right?

12 A Yes, ma'am. That gave us our minutes
13 leaving to go to lunch at 12 to get there, which we
14 were working on that side of town, Olive Street. It's
15 over near the hospital. So 10 minutes, we were there,
16 arriving there. We took our lunch there. We gave
17 ourselves 10 to 15 minutes to get back by 1:00. So we
18 were leaving by, like, 12:45, 12:50 to go back.

19 Q Okay. And by the time you got back to work,
20 how long were you at work before the police showed
21 up?

22 A About an hour or two, say about two hours
23 max.

24 Q Not very long?

25 A Not very long.

1 Q Later, you went back to 404 Henry Street
2 and met with Detective Burgess?

3 A Yes, ma'am.

4 Q You gave your statement?

5 A Yes, ma'am.

6 Q You stated you didn't have transportation;
7 is that right?

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

9 Q Ms. Burgess gave you a ride home?

10 A She did.

11 Q Did you tell her what you had seen the
12 night before?

13 A I did.

14 Q Dirk, where do you live now?

15 A I live in Newberry.

16 Q How long have you lived there?

17 A I been there -- I've been in Newberry four
18 months now.

19 Q When was the last time you saw or talked to

20 **Prosecutrix**

21 A It's been well over a year, at least.
22 Probably around the time or right after the incident.

23 MS. OWEN: I don't have any further
24 questions for this witness, Your Honor.

25 THE COURT: All right. Yes, sir, Mr. Hunt.

1 MR. HUNT: May it please the Court?

2 THE COURT: Yes, sir.

3 CROSS-EXAMINATION

4 BY MR. HUNT:

5 Q Dirk, if I understood you correctly, you
6 lived in the house first; is that not right, sir?

7 A Yes, sir.

8 Q Okay. And you -- then Jamie moved in; is
9 that right?

10 A Yes, sir.

11 Q And Jamie was there -- I think I heard you
12 say he was there on and off. He would be with Brandy,
13 and then he would be back in the house and that sort
14 of thing.

15 A Yes, sir.

16 Q At the time of all of this going on in
17 April, he was, in fact, moving out of the house; was
18 he not?

19 A Yes, sir.

20 Q The afternoon that you came over there --
21 that he came over there on April the 4th, he was
22 getting things out of the house; was he not?

23 A I can't say that for sure.

24 Q But they had carried you to the house, and
25 he was inside the house that day; was he not?

1 A Yes, sir.

2 Q You say he and Prosecutrix was standing at her
3 room and they were chatting; is that not right?

4 A Yes, sir.

5 Q And so the -- she -- how long were you in
6 the house while they were talking? I think I heard
7 you say they -- tell me again. You had gone to your
8 bedroom. You knew they were down the hall?

9 A Yes, sir.

10 Q They were chatting?

11 A Yes, sir.

12 Q Then you came out and she said, he's got to
13 go or something like that?

14 A He was already exiting before she crossed
15 back through the living room to my bedroom.

16 Q All right. That was all you saw that day;
17 is that not right?

18 A Yes, sir.

19 Q Okay. Let me ask you this, y'all had -- all
20 of you over there -- well, how many of you over there
21 were using drugs?

22 A I know I was, and I had known Billy to be a
23 drug addict at times in the past.

24 Q Right.

25 A Nothing was ever done in front of me, so

1 it's hard for me to say.

2 Q You know there had been -- there had been
3 drug activity in the house; had there not been?

4 A Yes, sir.

5 Q As a matter of fact, you had been in the
6 house -- you were working; is that not right?

7 A Yes, sir.

8 Q But there were times in the house when
9 people were staying up all night long; were they not?

10 A That's possible.

11 Q Yes, sir. And doing drugs all night long;
12 is that not right?

13 A That's possible.

14 Q Yes, sir. As a matter of fact, they would
15 wake you and Jamie up doing drugs during the night?

16 A I can't say that.

17 Q All right. But it was -- first, you; then,
18 Jamie; then, Billy and **Prosecutrix** is that right?

19 A Yes, sir.

20 Q All right. You saw she said no, you can't
21 -- no, that day, but you did see them standing in the
22 doorway chatting back and forth; is that not right?

23 A Yes, sir.

24 Q All right. You didn't see any interaction
25 between the them?

1 A No, sir.

2 Q You did not see -- you did not see them --
3 had you, during the time when they were -- the both
4 of them were living in the house, did you see any
5 interaction between Jamie and Prosecutrix

6 A No, sir.

7 Q You never did?

8 A No, sir.

9 Q You couldn't say whether or not something,
10 in fact, happened during that time, could you?

11 A No, sir.

12 Q All right. Now, you gave a statement to
13 Lieutenant Burgess and asked her to write your
14 statement. I want to approach.

15 THE COURT: Certainly.

16 BY MR. HUNT:

17 Q Have you seen it? Have you seen this
18 statement?

19 A (No audible response.)

20 Q That's your signature; isn't it, sir?

21 A Yes, sir.

22 Q All right. Have you -- have you -- have you
23 read -- did you read the statement and sign it?

24 A At that time, yes.

25 Q All right. Where on the statement -- where

1 on this statement did you tell Lieutenant Burgess
2 that you had seen Jamie be put out of the house or
3 had -- Prosecutrix had said -- had wanted Jamie to leave
4 the night before?

5 A The conversation came up after the
6 statement was given.

7 Q All right. Conveniently, today? You
8 didn't amend your statement?

9 A (No audible response.)

10 Q You haven't amended your statement?

11 A (No audible response.)

12 Q No, sir, you haven't. So you didn't tell
13 that to Lieutenant Burgess; did you?

14 A It wasn't talked about.

15 Q No, sir. No, sir. Now, Mr. Van Holland,
16 you've got -- you've had a pretty colorful career;
17 haven't you, sir?

18 A You can say that.

19 Q Yes, sir. As a matter of fact, you're on
20 house arrest right now; aren't you, sir?

21 A That's right.

22 Q You've been charged with several felonies;
23 haven't you, sir?

24 MS. OWEN: Objection, Your Honor. I think
25 we can go into a limited amount of information.

1 **THE COURT:** All right. Why don't y'all
2 approach about that?

3 (Bench Conference is held off the record.)

4 **BY MR. HUNT:**

5 **Q** You have a shoplifting conviction; don't
6 you, sir?

7 **A** Yes, sir.

8 **Q** You're on house arrest right now; aren't
9 you, sir?

10 **A** Yes, sir.

11 **Q** For that?

12 **A** Yes, sir.

13 **Q** Okay. The shoplifting conviction was for
14 \$2000 or less; is that not right, sir?

15 **A** Yes, sir.

16 **MR. HUNT:** Okay. I don't have any further
17 questions, Your Honor.

18 **THE COURT:** Any other questions for this
19 witness?

20 **MS. OWEN:** Just briefly, Your Honor.

21 **THE COURT:** Sure.

22 **REDIRECT EXAMINATION**

23 **BY MS. OWEN:**

24 **Q** Mr. Van Holland, you freely admitted you've
25 done drugs and you've shoplifted; is that right?

1 A Yes, ma'am.

2 Q Does that mean you're lying about what you
3 know?

4 A No, ma'am.

5 Q Okay. And the night before the police came
6 to your work, you saw Jamie Bryant, as you stated,
7 grab Prosecutrix on the rear?

8 A Yes, ma'am.

9 Q You saw them go down the hall?

10 A Yes, ma'am.

11 Q You don't know if he asked her, how old are
12 you; do you?

13 A No, ma'am.

14 Q You don't know what he asked her?

15 A No, ma'am.

16 Q All you know is, after he left, she told
17 you, get your friend?

18 A She did.

19 Q In your original statement you gave law
20 enforcement, you just talked to them about lunch; is
21 that correct?

22 A That's correct.

23 Q Because that's what they asked you about?

24 A Right.

25 Q Ms. Rita took you home?

1 A Yes, ma'am.

2 Q On the way home, that's when you told her
3 about the night before?

4 A Right.

5 Q Did you feel like that was pertinent
6 information for her to know?

7 A I did, considering as I was learning about
8 what was accused.

9 MS. OWEN: I don't have any further
10 questions, Your Honor.

11 THE COURT: Any other questions?

12 MR. HUNT: Yes, Your Honor.

13 **RECROSS EXAMINATION**

14 BY MR. HUNT:

15 Q But you didn't amend your statement. Nobody
16 had you amend your statement; did they, sir?

17 A I don't even know what that means.

18 Q You didn't add -- you didn't add anything.
19 You didn't have them write you another statement
20 down; did you, sir?

21 A No, no.

22 Q Okay. Also, I thought when you were
23 testifying a while ago, you said there was a grab at
24 **Prosecutrix** backside?

25 A Right.

1 Q It was a grab at -- it wasn't an actual
2 grab. You didn't see him --

3 A He may have touched her. Like I said, they
4 were going in that direction. I saw his arm go out
5 toward her bottom side. Whether he actually touched
6 it or grabbed it or she was far enough in front of
7 him to where his hand didn't meet her, he was close.
8 I know what I saw.

9 Q Would you call it, they were playing grab
10 ass?

11 A Yes, sir.

12 Q They were playing grab ass?

13 A (No audible response.)

14 Q Yes, sir. They were.

15 A More or less.

16 Q Both of them?

17 A I can't say that she was playing.

18 Q Yes, sir. But she was there?

19 A She was there.

20 Q She didn't cry out?

21 A No.

22 Q She didn't fuss?

23 A Upon his departure.

24 Q Okay. She didn't scream?

25 A No.

1 Q Would it interest you to know that she, in
2 fact, groped him that day?

3 A I don't believe it.

4 Q You don't know?

5 A I don't.

6 Q But she wasn't screaming?

7 A I never heard anything like that.

8 MS. OWEN: Objection, Your Honor.

9 THE COURT: Sustained.

10 MR. HUNT: No further questions.

11 THE COURT: All right. Any other
12 questions?

13 MS. OWEN: Just one.

14 REDIRECT EXAMINATION

15 BY MS. OWEN:

16 Q Did you see Prosecutrix touch Jamie?

17 A No, ma'am.

18 Q All right. No further questions.

19 THE COURT: Any other questions, Mr. Hunt?

20 MR. HUNT: None, Your Honor.

21 THE COURT: All right. Sir, you can step
22 down.

23 MS. OWEN: Let me make sure my next
24 witness is here.

25 THE COURT: Just to let you know, Ladies

1 and Gentlemen, trials are somewhat like a
2 production or a play. You've got to have
3 everybody there at the perfect time. Sometimes
4 it doesn't work out exactly.

5 MS. OWEN: Your Honor, the State would
6 call Pamela Belkevitz.

7 PAMELA BELKEVITZ
8 having first been duly sworn, testifies as follows:

9 THE CLERK: Thank you. If you would, have
10 a seat and state your name for the record
11 please.

12 THE WITNESS: My name is Pam Belkevitz.

13 DIRECT EXAMINATION

14 BY MS. OWEN:

15 Q How are you, Pam?

16 A Good.

17 Q Tell the jury a little bit about where you
18 work and what you do.

19 A I work in the Emergency Room at Baptist
20 Easley. I'm the sexual assault forensics
21 coordinator. I'm also the ED coordinator, cause we do
22 both jobs. I'm mainly an ER nurse, but we do the
23 sexual assaults. We get called in for those when they
24 come in.

25 Q Okay. Can you tell the jury a little bit

1 about your education and your training?

2 A I've got a bachelor of science in nursing.
3 I've got a certification in sexual assault nurse
4 examiner, which is just a national certification. If
5 you pass their test, you get a national certification
6 in that. Training for this is a 40-hour class. It's
7 a week class. You go through clinicals, which is 20
8 pelvic exams. You do advocacy training, law
9 enforcement training, you work with the physicians on
10 pelvics, learn STDs, things like that. Then, to be
11 certified, you take a national test, which is a
12 little bit higher up. It is a higher standard than
13 just a sexual assault nurse.

14 Q Have you taken that test?

15 A Uh-huh.

16 Q When did you take that test?

17 A 2006.

18 Q What does that certify you to do?

19 A It just means that I'm nationally certified
20 to do sexual assault exams. You can do it without
21 certification. It just means you've got more
22 experience and more training. It's a different kind
23 of level. I've been doing the sexual assault exams
24 since 1999. I got the certification in 2006 and have
25 done -- kept that ever since. You have to get

1 recertified every two years.

2 Q Do you also have to do continuing education
3 classes?

4 A Uh-huh. We do.

5 Q Can you tell us about that?

6 A Continuing education is really hospital-
7 dependent. Each hospital determines what they want
8 them to have. With ours, we do the state -- we have
9 a state level forensic coordinator who does the whole
10 state thing. We go through them to get yearly
11 training, which is usually four different trainings
12 throughout the year, sometimes it's on photography,
13 sometimes it's on STDs, just redoing what we already
14 know just to make sure we're up to date on the
15 current things.

16 Q And you keep up with yours?

17 A Uh-huh.

18 Q Where did you get your bachelors?

19 A University of Phoenix.

20 Q You been a nurse since 1999?

21 A No, I've been a nurse since 1994. I got my
22 sexual assault training in '99. That's when we
23 started our forensics department at Baptist Easley.

24 MS. OWEN: Your Honor, I move to qualify
25 Ms. Belkevitz as an expert in forensic nursing

1 and sexual assault.

2 THE COURT: In forensic nursing?

3 MS. OWEN: And sexual assault exams.

4 THE COURT: Any objection or further voir
5 dire?

6 MR. HUNT: None. None, Your Honor.

7 THE COURT: All right then. Ladies and
8 gentlemen, the rules of evidence ordinarily
9 don't permit a witness to testify as to opinions
10 and conclusions. An exception to this rule is
11 for witnesses we call expert witnesses. The
12 witness has, through some education, specialized
13 training, become an expert in some field. That
14 witness can be qualified to give her opinion on
15 a subject and may also give the reasons for her
16 opinion.

17 This witness is now qualified by the Court
18 as an expert in the area of forensic nursing and
19 sexual assault examinations. You may give her
20 opinion the weight you believe it deserves and
21 use it in any way that you see fit.

22 Yes, ma'am.

23 MS. OWEN: Thank you, Your Honor.

24 BY MS. OWEN:

25 Q Ms. Belkevitz, I am not an expert in this

1 area. So, I know you did a report. I'm going to refer
2 to it as we go so that I don't mess anything up. Can
3 you please tell the jury what time you saw Prosecutrix
4 [REDACTED]

5 A Well, she came in at 3:04. We have to have
6 a medical screening by the physician that's there
7 just to make sure there's nothing, like, broken arms.
8 So he finished at 15:30. I started after that, which
9 should be about 15:35, 15:40, somewhere around there.

10 Q Okay.

11 A It says the exam itself started at 16:45,
12 so that's a quarter to 5:00.

13 Q But she arrived --

14 A She arrived at 3:05, yeah.

15 Q In a normal course of doing a patient
16 assessment, do they give you a history of what has
17 just happened while they are there?

18 A Yes, we always get a history.

19 Q Did you speak to this patient?

20 A Yes.

21 Q Her name is Prosecutrix [REDACTED] is that
22 correct?

23 A Yes.

24 Q I don't know if that's in your report or
25 not, but you did an approximate height and weight on

1 her?

2 A That might be on the ER part on it. It
3 doesn't go into our forensic record.

4 Q Okay. You spoke to her?

5 A Uh-huh.

6 Q What did she tell you?

7 A She told me -- when we get history, we let
8 them read behind us to make sure that it's correct.
9 She told me that Jamie, who is a previous roommate,
10 was supposed to be moving out that day. She was
11 making a bottle for her child and that he grabbed her
12 and said a couple of things. She told him no. He took
13 her into a room and sexually assaulted her and tried
14 to get her to give oral sex. Didn't succeed in that,
15 sexually assaulted her, got up, left and then she
16 called the police.

17 Q Okay.

18 A That's just a basic overview of it.

19 Q General?

20 A Yeah.

21 Q Did she tell you approximately what time he
22 came by her house?

23 A 12:15.

24 Q She say anything about anything that
25 happened that night before?

1 **A** Yeah, she said he made some kind of
2 statement the night before, but she just blew it off,
3 some kind of joke about wanting to sleep with her,
4 but she just kind of blew it off.

5 **Q** And then she told you that she -- he had
6 tried to make her perform oral on him?

7 **A** Yes.

8 **Q** And the intercourse occurred?

9 **A** Yes.

10 **Q** Okay. I believe you're on Page 4?

11 **A** Yes, uh-huh.

12 **Q** Did she tell you at that point that he had
13 held her down?

14 **A** Yeah, said she was held down by her upper
15 forearms.

16 **MR. HUNT:** Your Honor, I know this is an
17 expert and that sort of thing, but it's still --
18 leading is leading.

19 **THE COURT:** Agreed. Sustained.

20 **MS. OWEN:** Thank you, Your Honor.

21 **BY MS. OWEN:**

22 **Q** When you were treating her, you got a
23 history from her. We will move on to the actual
24 findings.

25 **MR. HUNT:** Your Honor, I'm having a

1 terrible time hearing. If I might stand --

2 **THE COURT:** Please sit or stand wherever
3 you could hear best.

4 **MR. HUNT:** Thank you.

5 **BY MS. OWEN:**

6 **Q** All right. I'm going to put something up on
7 the board that's demonstrative. Ms. Belkevitz, I may
8 have you come stand over here.

9 **A** Okay.

10 **Q** I hope this doesn't offend anybody, but I
11 do have a demonstrative of a woman's vagina. Now, in
12 order to do the exam, you had to get some discussion
13 from her about what had happened; is that correct?

14 **A** Yes.

15 **Q** Okay. In relation to any sort of trauma,
16 what were the indicators that she told you that any
17 type of assault happened?

18 **A** The findings that I found were an abrasion
19 in this area --

20 **THE COURT:** We're having a hard time
21 hearing because you are --

22 **THE WITNESS:** Sorry. I'm sorry. The
23 findings that I found, when you do an exam, you
24 look outside first and then you do what we call
25 a speculum exam. You put a speculum in and it

1 opens up. What I found was, in this area here,
2 she had a little abrasion there and then the
3 bruising went up into the vagina, the bottom
4 part of what we call the posterior vagina.

5 THE COURT: Ma'am, I'll tell you what, I
6 think it may be easier if you return to your
7 seat ---

8 THE WITNESS: Okay.

9 THE COURT: --- and let's give you a laser
10 pointer.

11 THE WITNESS: Yeah, that'd be great.

12 MS. OWEN: Thank you.

13 THE COURT: I just want everybody to be
14 able to hear you.

15 THE WITNESS: Right. Okay. Thanks. So the
16 area where the injury was was right here. You
17 have right in that area -- you have hymenal
18 tissue, which is here, which everybody has. Then
19 this area right below is the posterior
20 vestibular fossa. The injury was right here with
21 the bruising going from 4:00 to 8 o'clock, which
22 is here to here. You do the area -- this is like
23 a clock. This is 12. This is 6.

24 So the bruising was here that went into
25 her, what we call the posterior vagina, which is

1 the back wall of the vagina. If you stand up,
2 it's the part that's near your back. It's
3 towards your back. That's the area where the
4 bruising was, in that area, which is pretty
5 common for assault patients.

6 BY MS. OWEN:

7 Q Why?

8 A Well, when women want to have sex, when
9 they choose to have intercourse, number 1, there's
10 lubrication. Number 2, you tilt your pelvis. It is
11 not something you consciously do, but you tilt your
12 pelvis to receive the penis. It's just something that
13 naturally happens. When you don't have lubrication
14 and you don't tilt your pelvis, it hits right here in
15 this area, down in this area here. If you think about
16 this being the vagina and then the penis is here, it
17 hits here.

18 So it's pretty consistent. That's where
19 most of our injuries are seen with sexual assault.
20 That's where we find the majority of them, depending
21 on if you're laying on your back or on your knees,
22 stuff like that. Sometimes if you're in different
23 position, they are in different areas. It was
24 consistent with what she was telling us about how it
25 happened.

1 Q Okay. Did you say that there was a tear
2 somewhere?

3 A Yeah, it was a tiny -- it was a small one
4 right here, right at the fossa navicularis, that area
5 right there.

6 Q Did you take some swabs?

7 A I did.

8 Q Why?

9 A Well, we tried to collect DNA, number 1, to
10 see if there's any DNA. We also test for STDs to make
11 sure there's nothing else going on in there. Some
12 redness can be caused by STDs. We want to make sure
13 if they've got redness, it's not caused by that. We
14 check for that. We send the swabs off to SLED to do
15 DNA testing.

16 Q Where did you swab Ms. [REDACTED]

17 A She got swabbed around the mouth, face -- I
18 think she said there was some kissing going on --
19 then we swabbed this area here inside the vagina.
20 Those go to SLED. Then, we did some outside.

21 Q Of the vagina?

22 A Uh-huh.

23 Q Did you swab anywhere on her arms or chest
24 area?

25 A Let me look. I have to look. (Reviewing.)

1 By this, I can't -- I don't know if there's
2 -- sometimes I put it in here that I swabbed an area,
3 but sometimes we don't. They get sent to SLED with a
4 checkoff sheet. That, unfortunately, is not part of
5 our information here. A lot of times we send off
6 stuff and we don't actually have documentation of
7 that. I don't have a documentation in here that it
8 was sent. If it was on the SLED report, I don't have
9 a documentation on my chart that I swabbed anywhere
10 else.

11 Q Okay. We know you swabbed around her mouth?

12 A Right.

13 Q And her vaginal area?

14 A Right.

15 Q Okay.

16 A Yes.

17 Q What was her demeanor like?

18 A Well, she was trembling. When you have
19 something that is traumatic, you get that tremble,
20 that little shaking. It looks like you're really
21 cold, but you're not cold. You just can't quit
22 shaking. She did that. Actually, I documented that
23 we actually had to stop or something because she was
24 trembling. On my record, I put that she was
25 trembling, which is -- let me find where I put that

1 on here. (Reviewing.)

2 During history, had episodes of trembling.

3 Yeah, I remember because she was -- I kept thinking

4 she was cold, but she was really just shaking from

5 the assault, from the trauma of it. She had the

6 tremors, like when you're in a car wreck and

7 everything is over with. That fight or flight, you

8 get the shakes. It was like that.

9 Q Okay. And when you collected all of this
10 stuff, the swabs, did you collect anything else?

11 A When we send off for pregnancy test, we
12 give some STD medicine, we give Plan B. So we send
13 off -- we collect blood for our lab. So if the
14 physician wants to order any test, we put blood in
15 the kit, so if they need anything, and then the
16 swabs. That's usually all we do.

17 Q In this case, you, obviously, did a kit?

18 A Yes.

19 Q Let me show you what's been marked as
20 State's Exhibit 27. Do you recognize that?

21 A Yes.

22 Q What is it?

23 A This is what we call a SLED kit. This is
24 where we collect evidence. We put everything in this
25 box. It gets sealed. We sign it off to the next

1 person. It never leaves my sight until the next
2 person takes over. Then it doesn't leave their sight
3 until the next person takes over. That's the kit I
4 did.

5 Q Okay. And you know that because it has your
6 signature on it?

7 A Yes. Uh-huh.

8 Q One last thing, did you take a buccal swab?

9 A Yes.

10 Q That would have been in her mouth?

11 A Yes, you swab the inside of the cheeks to
12 get their DNA so it is not, you know, what is their's
13 and what's somebody else's.

14 Q Thank you.

15 MS. OWEN: I have no further questions for
16 this witness, Your Honor.

17 THE COURT: Do you have any questions for
18 this witness and do you want the graphic to be
19 up?

20 MR. HUNT: Yes, ma'am.

21 THE COURT: All right. Certainly.

22 CROSS-EXAMINATION

23 BY MR. HUNT:

24 Q Now, when you were doing this, I think I
25 heard you say that you had the -- the person goes

1 through and looks at what you're putting down as
2 you're doing it?

3 A Yes, sir.

4 Q Okay. Good. And I want to -- I want to
5 direct your attention to -- the first thing I want to
6 show, on Page 2 of this report, it says, has there
7 been -- the question was, consensual intercourse
8 within the past seven days?

9 A Yes, sir.

10 Q The answer was no?

11 A Yes, sir.

12 Q Then, up above, it said pertinent medical
13 history. I think LMP, last menstrual period ---

14 A Yes, sir.

15 Q --- was on 2/23 of 2016. It says she
16 skipped the last period.

17 A Yes, sir.

18 Q Could skipping the last period -- you,
19 apparently, have done this a lot, could that be
20 consistent with a lot of drug usage?

21 A I've not heard of that. Then, I'm not an
22 OB/GYN, but I have not heard of drug usage causing
23 that.

24 Q Okay. Then, it says, the next one down on
25 page number 2, ingestion of alcohol or drugs by the

1 patient. It said no.

2 A Yes, sir.

3 Q Then no voluntary use of alcohol in the
4 past 12 hours and voluntary use of drugs, it said no.
5 Voluntary use of alcohol and that sort of thing; is
6 that not right?

7 A Yes, sir.

8 Q Then you go on to page -- pertinent medical
9 history. You talked about you obtained a urine
10 specimen and that sort of thing?

11 A Yes, sir.

12 Q Then on the -- on the next page, you talked
13 about what you had said. Now, on page number 5,
14 methods employed in this assault. I'm going to -- if
15 you would, I'm going to use this -- this contraction
16 -- this thing, if I might. And if you would, can you
17 -- let's see.

18 MS. OWEN: Objection, Your Honor. I'm not
19 sure that it's proper. She has that in front of
20 her. I don't believe it's going into evidence.

21 THE COURT: Yeah, I don't know that I want
22 to publish that to the jury, unless you're
23 intending to enter it into evidence.

24 MR. HUNT: Well, Your Honor, they sure as
25 heck published the picture of the vaginal area.

1 **THE COURT:** Well, that was for
2 demonstrative purposes. This is her report. You
3 can ask her questions from it.

4 **MR. HUNT:** Okay.

5 **THE COURT:** But if you want to -- if you
6 are interested in introducing it, we can talk
7 about that, but I won't let you put it up until
8 we do.

9 **MR. HUNT:** All right. Thank you.

10 **BY MR. HUNT:**

11 **Q** Well, let's just talk about it then, ma'am.
12 Methods employed in this assault. First, the question
13 you asked was weapons. The first heading -- the first
14 subheading was weapons, and it ask where they
15 threatened. And you -- and it said -- what did it
16 say?

17 **A** No.

18 **Q** Injuries inflicted. What did it say?

19 **A** No. I'm sorry.

20 **Q** Types of weapons?

21 **A** No.

22 **Q** Physical blows?

23 **A** No.

24 **Q** Grabbing, holding, pinching?

25 **A** States was held down by bilateral forearms.

1 Q Physical restraints?

2 A No.

3 Q Strangulation?

4 A No.

5 Q Burns?

6 A No.

7 Q Verbal threats of harm?

8 A No.

9 Q Other methods?

10 A States because her baby was screaming in
11 the other room and he wouldn't stop, she just quit
12 fighting. States she was worried about her child
13 being hurt and his history of having guns.

14 Q Did she provide you any of that history?

15 A (No audible response.)

16 Q She did not, did she?

17 A This is what she told me.

18 Q Yes, ma'am.

19 A Now, you're talking about the history of
20 guns?

21 Q Yes, ma'am.

22 A No, no. She just told me that he had guns.

23 Q All right. So then on down the way, were
24 any injuries inflicted upon the assailant during the
25 assault?

1 A No.

2 Q Now, you also said on the next page on Page
3 6, oral copulation of genitals, patient, no?

4 A Right.

5 Q Then attempted of the assailant. You said,
6 states he tried to put his penis in her mouth at the
7 beginning, but refused to open her mouth and told him
8 no.

9 A Yes.

10 Q Non-genital acts, he kissed her?

11 A Yes, sir.

12 Q Also he put his fingers in her vagina?

13 A Yes, sir.

14 Q And there was -- she was unsure. Unsure
15 about the vagina, no on the anus, no on the body,
16 unsure about the clothes, the bedding or the other;
17 is that not right?

18 A Yes, sir.

19 Q Okay. Now, these -- she was, at the time,
20 living with a male, at the time, a grown man, was she
21 not, as far as you knew?

22 A The only history I got was that the
23 assailant was -- he was supposed to be moving on that
24 day.

25 Q Right.

1 A That's the only thing I got. I didn't know
2 if there was somebody else there. I didn't get any
3 history of that.

4 Q Okay. Would it interest you that the part
5 of the swab that you got showed up that there were
6 two -- they were the sperm of two different males?

7 A We don't get the results.

8 Q But you -- that would be consistent --

9 MS. OWEN: Objection, Your Honor. That
10 would be speculation. I don't think she has any
11 knowledge of what --

12 THE COURT: She's saying she doesn't have
13 any knowledge of it. Before you go any further
14 into that one, that's one of those topics I'd
15 like to talk about before we go any further with
16 it.

17 MR. HUNT: Okay. We want to --

18 THE COURT: Do you want to talk about it
19 now?

20 MR. HUNT: Yes, ma'am.

21 THE COURT: All right. Y'all approach.

22 (Bench Conference is held off the record.)

23 BY MR. HUNT:

24 Q What time did you -- I think I heard you
25 say that it was -- you started with this lady about

1 3:30, 3:45?

2 A Yes, sir.

3 Q She was able to give you that statement
4 then?

5 A Yeah, the part -- the part that she reads
6 over and I make sure is correct is just the history.
7 She does not read over the whole entire record, just
8 the history part that she verbally tells me about
9 what happened. That's the only part she reads over.

10 MR. HUNT: I have no further questions,
11 Your Honor.

12 THE COURT: All right.

13 MR. HUNT: Thank you.

14 THE COURT: Anything else for this
15 witness?

16 REDIRECT EXAMINATION

17 BY MS. OWEN:

18 Q Ma'am, you did a sexual assault exam, you
19 swabbed her vagina, and you sent those up to SLED?

20 A Yes.

21 MS. OWEN: No further questions.

22 THE COURT: Anything else?

23 MR. HUNT: Nothing, Your Honor.

24 THE COURT: All right. Thank you, ma'am.
25 You would like her released?

1 MS. OWEN: Yes.

2 THE COURT: All right. Any objection to
3 this witness being released?

4 MR. HUNT: None, Your Honor.

5 THE COURT: Thank you, ma'am, so much for
6 being here.

7 THE WITNESS: Thank you.

8 MS. OWEN: Your Honor, this will be the
9 final witness for the State today.

10 THE COURT: Oh, okay. All right. Very
11 well.

12 MS. OWEN: We will have a few more
13 tomorrow.

14 THE COURT: Okay. Sure.

15 MS. OWEN: The State would call Verona
16 Herrera.

17 VERONA HERRERA

18 having first been duly sworn, testifies as follows:

19 THE CLERK: Thank you ma'am, have a seat.
20 State your name for the record please.

21 THE WITNESS: My name is Verona Herrera.

22 DIRECT EXAMINATION

23 BY MS. OWEN:

24 Q How are you today, Verona?

25 A I am well. And you?

1 Q Fine, thank you. Tell the jury a little bit
2 about what you do and where you work.

3 A I work for the South Carolina Law
4 Enforcement Division, which we refer to as SLED. I am
5 a forensic serologist in their DNA department there.

6 Q I am not an expert. I don't know if anybody
7 on the jury is. But would you let us know what that
8 means?

9 A Forensic serology is just -- there's kind
10 of two separate sections to forensic serology. The
11 first section, we get large pieces of evidence, like
12 clothing, car parts, guns, such as that, and we look
13 for body fluids on those. We collect skin cells to
14 try to do -- to determine -- try to determine who either
15 touched the item or wore the item. Then, we can also
16 take that testing further, which is called the actual
17 body fluid identification, and try to determine
18 whether the body fluid actually is blood, semen,
19 saliva.

20 Q Can you tell us a little bit about that
21 process?

22 A Sure. For the evidence processing, we
23 would look at the item. Sometimes there is aids to
24 visualize the item, like, you probably seen on TV,
25 like, kind of blue lights or black lights to look at

1 an item to see if there is anything that fluoresces.
2 We would swab the area and do a quick color change
3 test. That means there's possibility that that
4 substance is that type of body fluid. Then, we would
5 take it further to another type of testing to confirm
6 that that body fluid actually is the one that we're
7 dealing with.

8 Q Okay. Could you tell the jury a little bit
9 about where you went to school and your
10 qualifications?

11 A I've been with SLED for about 10 years, 10
12 years next month. In this capacity, for most of it,
13 I did the larger item testing for about seven years.
14 For the last three, I added on the body fluid
15 identification. I have an associates degree, from
16 Tri-County Technical College, in science. I have an
17 associates degree in public service and a certificate
18 in forensics from Greenville Technical College. I
19 have a bachelor of science -- pardon me -- from
20 Liberty University in criminal sciences through
21 forensics.

22 Q What kind of training do you do to become
23 certified in doing serology exam?

24 A It's all in-house training at SLED. We work
25 on the court-qualified analyst. First, we shadow

1 them. Then, we slowly take over their
2 responsibilities as they watch us. Then, we are
3 slowly given independent responsibilities. Then we're
4 qualified through a series of tests to determine that
5 we can actually do the job ourselves.

6 Q Is all of your work peer-reviewed there?

7 A It is. It's actually reviewed twice.

8 There's one called a -- what we call a technical
9 review, which is someone who does our same job
10 reviews our work and make sure they agree with the
11 steps we took in our findings. Then there's also
12 what's called an administrative review to check for
13 punctuation and spelling and all the dots -- I mean
14 T's are crossed and I's are dotted.

15 MS. OWEN: Your Honor, I would like to
16 offer Ms. Herrera as an expert in forensic
17 serology.

18 THE COURT: All right. Any objection?

19 MR. HUNT: None, Your Honor.

20 THE COURT: Thank you. Ladies and
21 gentlemen, I explained an expert witness to you
22 just a moment ago. This witness is going to be
23 qualified in the area of forensic serology to
24 give her opinion. You may use that opinion in
25 any way that you see fit.

1 MS. OWEN: Thank you, Your Honor.

2 BY MS. OWEN:

3 Q Ms. Herrera, can you tell us a little bit
4 about the internal procedures at SLED once an item
5 comes in, how it's moved and transported and what
6 kind of condition it's in?

7 A Evidence is submitted to our laboratory
8 through what we call an Evidence Control Department.
9 The ladies in that department take the evidence from
10 the submitting officer in a sealed container, which
11 is initialed and dated by the person who is
12 submitting the evidence. The paperwork that we need
13 at that time is also submitted so that we know what
14 we're looking for and any background information we
15 may need. They store that evidence sealed and never
16 open it.

17 If, for some reason, the seal is messed up,
18 it's noted by them. Then they would hand it to the
19 person who needed to examine that evidence. If, for
20 some reason, the seal is messed up and it wasn't
21 caught with our Evidence Control Department, we would
22 make note of that in our case file. We would also
23 stop analysis and call the agency and notify our
24 supervisors on that.

25 Q Did you become involved in this case?

1 A Yes, ma'am.

2 Q Do you have your report in front of you?

3 A I do. Yes, ma'am.

4 Q Okay. I'm going to show you what is marked
5 as State's Exhibit 27. Do you know what that would
6 be?

7 A This is the box that our sexual assault
8 evidence collection kit is contained in. They're
9 distributed to hospitals and police agencies in this
10 box. Some agencies keep the box. Some agencies
11 dispose of it after we remove the contents at SLED.

12 Q Did you review items that came out of this
13 box?

14 A This box does not have our laboratory
15 markings and stuff on it. The name on the box does
16 match the victim that is listed as coming to our
17 agency, yes.

18 Q Did you review items in this case?

19 A I did, yes, ma'am.

20 Q Can you tell me what items you reviewed?

21 A The sexual assault evidence collection kit
22 from Prosecutrix [REDACTED] and the buccal swab from Matthew
23 Bryant.

24 Q Okay. And specifically, in the sexual
25 assault kit, what did you review?

1 **A** We inventoried the kit. When I opened what
2 was sent to us, I found a set of vaginal swabs,
3 fingernail scrapings, a miscellaneous collection swab
4 from the outer labia and the mons, victim buccal
5 swab, suspected saliva swabs from the upper arms,
6 suspected body fluid swabs from the mouth and nose, a
7 debris collection was also collected.

8 **Q** Okay. I have your report. I'm reviewing as
9 you are. Item 1.1 in your report is vaginal swab; is
10 that correct?

11 **A** That is correct.

12 **Q** Can you explain to the jury what you found?

13 **A** The examination for components of semen P30
14 was positive. No spermatozoa was identified and the
15 item was forwarded for further testing to the DNA
16 section.

17 **Q** Under 1.3, what items were those?

18 **A** 1.3 was a miscellaneous collection swabs
19 from the outer labia and the mons.

20 **Q** What did you find there?

21 **A** The components -- examinations for
22 components of semen P30 and spermatozoa were positive.
23 Semen was identified and the item was forwarded to
24 the DNA section.

25 **Q** Okay. Again, I'm not an expert in this.

1 Could you please explain to us what all of that
2 means?

3 A Sure. Semen has two parts. It has a liquid
4 part and it has a cellular part. P30 is one of the
5 components of the liquid part of semen and then
6 spermatozoa are the actual cellular part of semen. We
7 can sometimes find the cellular portion without one
8 of the components for the liquid portion. Sometimes
9 we just find one of the components for the liquid
10 portion. Sometimes we find both. If we find both, we
11 can call it semen identified because all the
12 components for semen are there.

13 Q Okay. So 1.1 again, you had a vaginal swab
14 and there was an examination for semen and that was
15 positive, which means the liquid part?

16 A Correct. P30 is found that the liquid
17 portion of seminal fluid.

18 Q But no cellular portion?

19 A I did not identify, no.

20 Q Okay. And then 1.3, the swabs from the
21 outer labia and the mons, those were components of
22 semen and spermatozoa?

23 A It was both the P30, which is in the liquid
24 portion, and the spermatozoa, which is the cellular
25 portion, yes, ma'am.

1 Q Okay. So you were able to identify semen
2 there?

3 A Yes.

4 Q And then the rest, you forwarded on to
5 another division of SLED; is that correct?

6 A Correct.

7 Q You do not do DNA analysis?

8 A I do not.

9 MS. OWEN: No further questions, Your
10 Honor.

11 THE COURT: Mr. Hunt?

12 MR. HUNT: Please the Court, Your Honor.

13 THE COURT: Yes, sir.

14 CROSS-EXAMINATION

15 BY MR. HUNT:

16 Q Now, I, too, am not an expert. So, if you
17 would, guide me. Do you have a copy of your report?

18 A I do, sir.

19 Q On Page 2 of 6, you've got --

20 A Sir --

21 MS. OWEN: I'm sorry. May I see what
22 you're referring to? I think you may have the
23 wrong report.

24 MR. HUNT: Which one? (Reviewing.)

25 Hold on a minute.

1 THE COURT: Sure.

2 MR. HUNT: Thank you, Your Honor.

3 THE COURT: Take your time.

4 BY MR. HUNT:

5 Q Just a couple. You have -- I think I heard
6 you say that it was pretty difficult for you to --
7 there was one part of pH -- you said pH?

8 A P30.

9 Q P30, and that is one part of the sperm,
10 male sperm, and you did not find the other part; is
11 that right?

12 A P30 is one of the chemicals in the liquid
13 part of seminal fluid ---

14 Q Right.

15 A --- and then the spermatozoa is the cellular
16 portion.

17 Q Right.

18 A So on item 1.1, the vaginal swabs, I did
19 not find the cellular portion, the spermatozoa.

20 Q Right.

21 A Yes, sir.

22 Q So tell me what that means?

23 A That means that the cellular portion may
24 not have been in that sample. There may have just
25 been the liquid portion, which can happen in pre-

Remarks

1 ejaculate or if the semen is not homogenous. There
2 can be areas that there's just fluid with no cells.
3 It could just be that the portion of the swab that I
4 sampled didn't actually have the cells on it but they
5 were present on the swab.

6 MR. HUNT: Okay. I don't think I have any
7 further questions, Your Honor.

8 Thank you.

9 THE COURT: Any other questions for this
10 witness?

11 MS. OWEN: Nothing, Your Honor.

12 THE COURT: Ma'am, you can step down.

13 THE WITNESS: Thank you.

14 MS. OWEN: May she be excused for the
15 duration of the trial, Your Honor?

16 MR. HUNT: Yes, ma'am.

17 THE COURT: All right then. Thank you for
18 being here.

19 MS. OWEN: Your Honor, that would conclude
20 our case for the day. We have a few witnesses
21 tomorrow.

22 THE COURT: Okay. Well, Mr. Hunt, you all
23 right with that?

24 MR. HUNT: Yes, ma'am.

25 THE COURT: All right. Well, Ladies and

1 gentlemen, I told you these guys were efficient.
2 They have really moved along today. So we're
3 going to have a little bit of an afternoon off
4 for a little while. This sometimes happens. I
5 always try to look at it as a good thing. I hope
6 you all have a good evening.

7 I don't -- we cannot say with any
8 certainty, at this point, when the trial will be
9 over. Potentially, tomorrow. But just be
10 prepared, just in case we were to go into Friday
11 for some reason or another.

12 But in any event, you know, I told you I'd
13 sound like a broken record. Don't discuss the
14 case with anyone or do any independent research.
15 Other than that, I hope you have a very good
16 afternoon and good evening. I will see you back
17 tomorrow morning. Let's plan about 9:30. All
18 right? Thank you.

19 Everybody remain seated.

20 Not you. You can stand up. You can stand up
21 all you want to.

22 (Jury exits at approximately 3:16 p.m.)

23 **THE COURT:** All right. Any matters we need
24 to take up that we kind of see on the horizon
25 for tomorrow? Anything from the State?

1 MS. OWEN: No, Your Honor.

2 THE COURT: Anything from the defense?

3 MR. HUNT: No, Your Honor.

4 THE COURT: All right. I can probably do
5 one thing.

6 Sir, I just wanted to talk to you for a
7 quick second about what may or may not happen
8 tomorrow. I have no idea what your conversations
9 have been with your attorney about whether or
10 not you intend to testify in the trial of this
11 case. I don't want to know at this point. All
12 right. I know that you and Mr. Hunt have been in
13 constant conversation about that. I would
14 assume that conversation will continue this
15 afternoon and maybe into this evening.

16 I wanted just tell you that I am going to
17 be at a point where I'm going to have some
18 questions for you. It sounds like it might be
19 maybe tomorrow morning. I might have some
20 questions for you as to whether or not you
21 intend to testify on the trial of this case.

22 MR. BRYANT: Yes, ma'am.

23 THE COURT: I just want to give you a
24 little food for thought.

25 Anything that the State would intend to use

1 against the defendant for impeachment purposes
2 if he were to take the stand so far as
3 convictions are concerned?

4 **MS. OWEN:** No prior convictions.

5 **THE COURT:** Okay. So no prior convictions.
6 I always want you to know about that. You
7 understand you've got an absolute right to
8 remain silent. I would instruct the jury that if
9 you didn't testify, they can't even talk about
10 that in the jury room. You've got an absolute
11 right to do that. But you also have a right to
12 tell your side of the story. You need to think
13 about what you want to do tomorrow.

14 There were some matters that I kept out due
15 to their coming to light late. I kept some
16 things out yesterday. You will want to talk to
17 your attorney about that, because there is a
18 possibility that you could, what we call, open
19 the door to talking about that matter. So you're
20 going to need to talk to your attorney about
21 that and be prepared, I would think, to try to
22 avoid that. Do you have any questions for me at
23 this point about your right to remain silent or
24 your right to testify?

25 **MR. BRYANT:** No, ma'am.

1 **THE COURT:** All right. Good. I just didn't
2 want it to be a surprise tomorrow.

3 **MR. BRYANT:** Yes, ma'am.

4 **THE COURT:** That's all I wanted to say.

5 **MR. BRYANT:** I understand.

6 **THE COURT:** All right. Very good. Please
7 have a seat. Make yourself comfortable.

8 All right. So you anticipate two more
9 witnesses. Do you think they will be very
10 lengthy witnesses?

11 **MS. OWEN:** No, Your Honor. I'd anticipate
12 three more witnesses.

13 **THE COURT:** Oh, three. I'm sorry.

14 **MS. OWEN:** That's okay. But I do believe
15 they will all be short.

16 **THE COURT:** All be short. And so, we will
17 probably turn to -- we'll probably turn to the
18 defense's case.

19 You don't have to tip your hand, Mr. Hunt,
20 at all. I'm not going to ask you how many
21 witnesses you're going to have. I'm not going to
22 ask you anything like that. But will you
23 anticipate this case will get to the jury
24 tomorrow?

25 **MR. HUNT:** Oh, absolutely.

1 **THE COURT:** Oh, okay. Okay. All right. All
2 right. All right. Then I guess I will use the
3 rest of the afternoon to begin working on the
4 jury charge. Let's talk about -- about anything
5 -- I mean, of course, there's been a statement
6 of the defendant. There's been expert witnesses.
7 Of course, a charge on CSC. Do you anticipate,
8 at any point, asking -- either side, asking for
9 a lesser included?

10 **MS. OWEN:** We would be asking for a CSC
11 second.

12 **THE COURT:** CSC second? I'm not saying --

13 **MR. HUNT:** I'm sorry. I'm having a hard
14 time hearing you.

15 **MS. OWEN:** That's okay. We're going to be
16 asking for a CSC second charge, as well.

17 **THE COURT:** The lesser included. Not
18 saying -- we're not at the point of even -- my
19 even knowing if that will be relevant at this
20 point. I'm just trying to gather a list of any
21 possible charges that anybody would ask for.
22 Anything else you think you might ask for?

23 **MS. OWEN:** It's possible we may ask for a
24 CSC third. I'm going to work on that this
25 afternoon, Your Honor. Also, I'm going to craft

1 a charge in regards to prior drug use, that kind
2 of thing, since that has been part of the
3 testimony.

4 **THE COURT:** I've not given any kind of
5 limiting instruction about it. I'm happy to give
6 the charge on that. Is there -- and again, we're
7 not saying that any of these are relevant or
8 that I will charge lesser included. But are
9 there any charges that you know of off the top
10 of your head, at this point, you know, that
11 could -- that you want me to be looking at?

12 **MR. HUNT:** Quite frankly, Your Honor, I'm
13 going to take -- I'm going to work on that
14 tonight. I was -- I would like -- there is a --

15 **THE COURT:** Sometimes we have to see how
16 it unfolds --

17 **MR. HUNT:** Yes, ma'am.

18 **THE COURT:** -- how the evidence unfolds
19 before we know what we want. I'm perfectly fine
20 with that. That will give me kind of a little
21 framework to get going. Then we'll go from
22 there. Timing-wise, you think will have the
23 lunch hour to maybe -- you don't think it will
24 go to the jury before lunch; do you?

25 **MR. HUNT:** I wouldn't think so. By the

1 time he testifies, if he does, in fact, and then
2 -- I don't know that that --

3 **THE COURT:** All right. All right. That
4 gives me some real guidance. I appreciate you
5 being willing to talk to me a little bit about
6 that. Okay.

7 **MR. HUNT:** All right.

8 **THE COURT:** All right. Anything else?

9 **MS. OWEN:** No, Your Honor. Just we have
10 one more witness from SLED. I appreciate
11 Mr. Hunt stipulating to the chain on that.
12 That's made things much easier.

13 **THE COURT:** Okay. Perfect. All right. Very
14 good then. Well, we'll be in recess until --
15 why don't we say we'll be in recess tomorrow
16 morning until 9:15. That might give us a minute
17 more if we all get to thinking tonight about
18 something we might want to include in the
19 charge.

20 I do have a hearing at 9 o'clock. Did you
21 know about that, Baker?

22 **MR. CLEVELAND:** Yes, Your Honor.

23 **THE COURT:** I do have a hearing tomorrow
24 morning at 9 o'clock, but it should be pretty
25 brief. So, all right. Very good.

1 MR. HUNT: Thank you, Your Honor.

2 MS. OWEN: Thank you, Your Honor

3 (Court goes off the record at approximately

4 3:23 p.m.)

5

6

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, Volume 2 of 3, of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens, South Carolina, on this 6th day of July, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B Johnson

Official Court Reporter

STATE OF SOUTH CAROLINA	)	COURT OF GENERAL SESSIONS
	)	
COUNTY OF PICKENS	)	Case No(s) : 2016GS3901551
	)	
State of South Carolina,	)	
	)	
Plaintiff,	)	
	)	
-VS-	)	TRANSCRIPT OF RECORD
	)	VOLUME 3 OF 3
Matthew Jamie Bryant,	)	
	)	
Defendant.	)	

April 17 - 19, 2018
Pickens, South Carolina

B E F O R E:

HONORABLE LETITIA H. VERDIN, Judge.

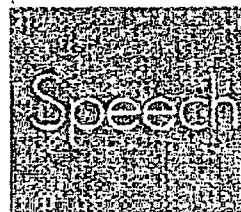
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P R O C E E D I N G S

(WHEREUPON, the proceedings begin on the 19th day of April, 2018 at approximately 9:30 a.m.)

THE COURT: Okay. First thing's first, I have just been informed that we have an alternate who realizes that -- an alternate that has realized through the course of the trial that she knows the defendant, the defendant's -- she knows the defendant's girlfriend and family of the defendant's. And so we'll probably need to bring her in, in just a minute, and talk to her.

Secondly, any thought about any jury charges during the evening? I will tell you that I took some time and read over CSC first degree, second degree and third degree. At least what's been presented so far, I feel like there's been evidence presented to support -- that could support a verdict, you know, on third degree and on second degree.

MS. OWEN: Your Honor, we will be asking for those three. We think they all fit into what we have -- I think we have argued enough for first, second and third degree.

THE COURT: Okay. All right. And I won't

1 -- I won't necessarily say -- I mean, he's
2 charged with first degree. We'll maybe talk
3 about that when -- there's probably at least
4 enough evidence been presented for first
5 degree, but I'm going to want to hear some
6 argument on that.

7 MS. OWEN: Okay.

8 THE COURT: Any additional charges that
9 you're thinking of or any objection to charging
10 lesser includeds?

11 MR. HUNT: Your Honor, I'm going to admit
12 to the Court that I left here last night
13 thinking I was going to look up ABHAN, as well,
14 under the omnibus crime.

15 THE COURT: Well, I'm not sure that I
16 think it fits on the new ABHAN. This would not
17 fall under the common law ABHAN because of the
18 date of the charge.

19 MS. OWEN: Correct.

20 THE COURT: Okay. I just wanted to get the
21 charge right. And then, what I'm thinking about
22 though -- in my mind, I'm tossing around
23 assault and battery second degree, but I don't
24 know that she -- I mean, if her testimony is to
25 be believed --

1 **MS. OWEN:** Your Honor, I don't think we
2 asked for that.

3 **THE COURT:** Let me think about that.

4 **MR. HUNT:** Thank you, Your Honor.

5 **THE COURT:** Let me think about that one.
6 Again, you know, I mean -- you know, I think --
7 I'm not sure that the evidence would support
8 that. I'm just -- let me take a look at it and
9 read it one more time.

10 **MS. OWEN:** Your Honor, can we take up one
11 thing?

12 **THE COURT:** Oh, yeah.

13 **MS. OWEN:** Thank you. I told Mr. Hunt
14 today that I realized after the conclusion of
15 the day yesterday that I had not given him
16 Franklin Lomax's NCIC. He has two PWID charges
17 and convictions, one of those being in May of
18 2016. I let Mr. Hunt know. We have discussed
19 that. I think we're going to stipulate that he
20 now knows about them, but we're not going to
21 present that evidence to the jury.

22 **THE COURT:** Okay.

23 **MR. HUNT:** I think, Your Honor, it just
24 would confuse the issue. He wasn't -- we didn't
25 cross-examine him very much.

1 **THE COURT:** I think that sounds like a
2 fair way to do it. I'm glad y'all have worked
3 that one out. That sounds good.

4 **MS. OWEN:** I apologize. I just called him
5 out of order. I did not have it in front of me.

6 **THE COURT:** I certainly do understand.
7 All right. Any other matters you think we need
8 to take up?

9 **MR. HUNT:** No, Your Honor.

10 **MS. OWEN:** Not at this time.

11 **THE COURT:** All right then. Let's bring
12 our alternate in. Thank you.

13 (Juror number 4, Ashley Anthony enters at
14 approximately 9:33 a.m.)

15 **THE COURT:** Good morning. Tell me your
16 juror number please.

17 **THE JUROR:** 4.

18 **THE COURT:** 4, Juror number 4. It's my
19 understanding that, after having heard the
20 evidence in the case and seen a few people,
21 that you realize that you are acquainted with
22 the defendant's girlfriend; is that correct?

23 **THE JUROR:** I know of her.

24 **THE COURT:** Okay.

25 **THE JUROR:** She went to school -- I went

1 to school with the previous ex-girlfriend ---

2 THE COURT: Okay.

3 THE JUROR: --- from several years ago. I
4 used to babysit her little boy.

5 THE COURT: Okay.

6 THE JUROR: Not the girlfriend's little
7 boy, the one that I went to school with.

8 THE COURT: I got you. I got you. Now,
9 let me -- you said you may even know some other
10 family members too?

11 THE JUROR: I just know the girlfriend.

12 THE COURT: Just the girlfriend. Tell me
13 this, knowing the nature of these allegations
14 and taking in consideration whether you will
15 see these folks again and that sort of thing --
16 this is really one of those times I'm just
17 going to ask you to be as upfront as you can
18 be. Do you think if you were called to serve in
19 this case you could be a fair and impartial
20 juror?

21 THE JUROR: Yeah, I could be fair. My only
22 concern was, when it is time to do
23 deliberation, I don't want the drama of them if
24 he was to be guilty. I don't want to be
25 harassed after this.

1 **THE COURT:** Understood. Understood. Let
2 me ask you this, now I can do some things about
3 that.

4 **THE JUROR:** Okay.

5 **THE COURT:** I can do some things about
6 that for sure. Let me ask you this, and I just
7 want you to -- again, there's no wrong answer
8 to this.

9 **THE JUROR:** Yes.

10 **THE COURT:** Do you think that would enter
11 your mind in deliberations. In other words, if
12 you were on the fence, do you think that would
13 enter your mind that you might be harassed
14 afterwards? There's no, Judge -- I'm not
15 judging you in any way.

16 **THE JUROR:** I think I possibly could be.
17 It doesn't change my thoughts as of today.

18 **THE COURT:** When you say you possibly
19 could be, you mean possibly could be harassed
20 or possibly could be influenced?

21 **THE JUROR:** No, I think I could be
22 harassed.

23 **THE COURT:** All right. Anything from the
24 State? I'm sorry.

25 (Pause.)

1 Anything from the State about this?

2 MS. OWEN: My only concern, at this point,
3 is that we don't have another alternate.

4 THE COURT: Yeah.

5 MS. OWEN: But --

6 MR. HUNT: Your Honor, I agree with the
7 solicitor that we don't have another alternate.

8 THE COURT: I tell you what, before we
9 talk about this anymore and hear argument, I'm
10 going to let you step outside for just one
11 second.

12 THE JUROR: I will tell you this.

13 THE COURT: Yes.

14 THE JUROR: As I told him, I didn't mind
15 being here for the rest of it. If there's just
16 any way that it could be known that I'm
17 dismissed before deliberation starts, so that
18 they realize I don't have any influence in the
19 -- you know, if I have to be here for that,
20 then that's fine, I'll be here as long as --
21 you know, I'm just trying to keep from my
22 personal home life not being harassed
23 afterwards ---

24 THE COURT: I -- I -- I understand
25 completely.

1 **THE JUROR:** --- if he were to get a
2 sentence.

3 **THE COURT:** Understood. I understood
4 completely. All right. Thank you. I appreciate
5 you being so upfront with us.

6 **THE JUROR:** You're welcome.

7 **THE COURT:** I really do appreciate it.

8 **MS. OWEN:** Are the rest of the jurors
9 here?

10 **THE COURT:** Uh-huh.

11 **MS. OWEN:** Okay.

12 **THE COURT:** Don't put her back in.

13 (Juror number 4 exits at approximately
14 9:38 a.m.)

15 **THE COURT:** She sounds very hesitant.

16 **MS. OWEN:** Yes, she does.

17 **THE COURT:** She sounds very hesitant and
18 seems to have, what I would consider to be,
19 some valid concerns. Not knowing any of those
20 folks, but she seems very, very hesitant. And
21 in light of all of those facts, I certainly
22 don't want anybody who is hesitant either way.
23 She said she would not be, but she's clearly
24 not wanting to be seated as a juror in the
25 case.

1 Are you asking that she be dismissed,
2 Mr. Hunt?

3 **MR. HUNT:** No, Your Honor. I understand
4 -- I understand your concern, but I have a
5 short and sweet word for people who interfere
6 with the judicial process, and that's, you're
7 going to jail ---

8 **THE COURT:** Uh-huh.

9 **MR. HUNT:** --- and I don't mean maybe.
10 This business of we cannot -- we cannot have
11 people to do that kind of stuff.

12 **THE COURT:** Oh, no.

13 **MR. HUNT:** I wouldn't want --

14 **THE COURT:** Well, I don't know that we --I
15 mean, we've gotten so far here that I don't
16 know that we're going to need her services. I
17 don't know that we're going to need her
18 services. Let me ask you this -- well, you're
19 not asking that she be excused, so never mind.

20 **MS. OWEN:** Your Honor, maybe she,
21 obviously, sit through the conclusion of the
22 trial and as long as we don't have any issues
23 with the jurors, excuse her at that conclusion?

24 **THE COURT:** I think that's a good
25 suggestion. However, these are extremely

1 serious charges. We think we will -- do you
2 think we will finish up this morning?

3 **MS. OWEN:** Yes, the State definitely well.

4 **MR. HUNT:** Yes, ma'am.

5 **THE COURT:** All right. Very reluctantly,
6 I'm going to excuse her. The reason being is,
7 I don't think she would -- I understand that
8 she is a lady of the highest caliber, and I
9 don't think she would discuss anything in the
10 jury deliberation room, but I don't want there
11 to be any question of anything being said, you
12 know, or anything like that.

13 Would you bring her back in?

14 **MS. OWEN:** Thank you.

15 (Juror number 4 enters at approximately
16 9:42 p.m.)

17 **THE COURT:** Let me ask you this just very
18 quickly, have you talked -- and you're not in
19 any trouble if you have -- but have you talked
20 to any of your fellow jurors about this?

21 **THE JUROR:** I did tell them that I found
22 out that I know of the girlfriend.

23 **THE COURT:** Did you tell them anything
24 about your concerns of being threatened ---

25 **THE JUROR:** No.

1 **THE COURT:** --- in any way or anything
2 like that?

3 **THE JUROR:** No.

4 **THE COURT:** Okay. So all you said was you
5 might know somebody involved?

6 **THE JUROR:** (Nods Head.)

7 **THE COURT:** Any further questions you want
8 me to pose to this juror?

9 **MS. OWEN:** Have you spoken to anyone else
10 about this case or anyone -- has anyone on that
11 side contacted you in any way?

12 **THE JUROR:** No, no. And I don't know
13 him ---

14 **THE COURT:** Oh, sure.

15 **THE JUROR:** --- at all.

16 **THE COURT:** We're more concerned -- we're
17 more concerned with the fact that you will have
18 future contact with these people, you think,
19 potentially.

20 So anything else, Mr. Hunt?

21 **MR. HUNT:** Your Honor, and I appreciate
22 the juror's setting forth that she has spoken
23 to -- I just wonder what that does to the
24 panel, especially with her being dismissed at
25 this point in time. I wonder if --

1 **THE COURT:** I can handle that. We'll
2 handle that in just a minute. We'll question
3 the panel. How about that? How about -- we'll
4 bring them in. I understand -- if I understand
5 that, we'll talk about that in just a minute.

6 But, ma'am, I'm going to excuse you as a
7 juror in this case. You've done nothing wrong
8 whatsoever, but I can -- I understand that --
9 and I understand that you are as honest a lady
10 as we're going to find. And I appreciate your
11 honesty with us here today and I just want to
12 relieve any concerns that you have.

13 **THE JUROR:** Well, I just kept sitting here
14 and I kept seeing her eyeing me. I kept looking
15 at her and thinking, I know her somehow.

16 **THE COURT:** You've done the right thing.
17 You've done the right thing. You've totally
18 done the right thing. Please don't discuss this
19 matter with anyone else as you gather your
20 things. Very good. All right. Thank you so
21 much.

22 **THE BAILIFF:** Any instruction for the rest
23 of the week?

24 **THE COURT:** You don't -- I think that's --

25 **THE BAILIFF:** She's done?

Motion

1 **THE COURT:** You're done. Thank you.

2 **THE JUROR:** I'm sorry.

3 **THE COURT:** Please don't apologize. Thank
4 you.

5 **THE CLERK:** May I speak to her in the back
6 hall?

7 **MR. HUNT:** I think I'm going to ask for a
8 mistrial.

9 **THE COURT:** I understand. I think there's
10 no evidence at this point that there's been any
11 attempt to influence the jury in any way. All
12 she mentioned was that she knew somebody
13 involved. I certainly can remedy that. I don't
14 think that there has been any prejudice to
15 anyone. If anything, I would think that a lady
16 as nice as she is saying that she knew the
17 defendant might actually help him, frankly. Is
18 your client around?

19 **MR. HUNT:** Yes, ma'am.

20 **THE COURT:** Okay. All right. Let's go
21 ahead and get him and we'll bring the jury in
22 and we'll question the jury. (Pause.)

23 Ladies and Gentlemen, just to kind of
24 update you on the proceedings -- and Mr.
25 Bryant, you would have been welcome to come in

Remarks

1 at any point. We certainly weren't excluding
2 you, but I figured you were out there with your
3 family. I learned that a -- that our other
4 alternate juror might be friends with,
5 acquaintances with someone who may be a
6 girlfriend of yours or someone who is related
7 to you in some way. Although she did say she
8 could be fair and impartial and she did not ask
9 to be removed, in an abundance of caution, I
10 removed her as an alternate juror. So, we are
11 to the 12.

12 I want to make sure that she did not say
13 anything to influence any of those jurors
14 whatsoever. I am going to bring them right now
15 and question them, under their oath, whether or
16 not they were influenced in any way. All right?
17 We'll bring them back in. My understanding is,
18 all she said is she might know somebody
19 involved in the case, but that was it.

20 As I said, she did not ask to be removed.
21 It was -- it was -- frankly, I don't think
22 anybody was asking her to be removed but, in an
23 abundance of caution, I did it. Knowing the
24 seriousness of these charges, I felt we should.
25 Okay.

1 (Jury enters at approximately 9:48 a.m.)

2 **THE COURT:** Good morning, Ladies and
3 Gentlemen. I'm sorry to have kept you waiting
4 in your jury deliberation room. That was solely
5 my fault. It certainly wasn't these attorneys'
6 fault. They've been here long before I was here
7 this morning. But we have been here speaking
8 with the alternate juror, and I need to ask
9 y'all a question or two.

10 And I will direct it first to you,
11 Mr. Foreperson. I removed the alternate in this
12 case, not because she did anything wrong in any
13 way, shape, or form, because she felt like she
14 might be acquainted with someone connected to
15 this case. Of course, we want everybody to
16 kind of come in with a blank slate, so to
17 speak.

18 She did mention, however, that she might
19 have said that she knew somebody involved in
20 the case. Mr. Foreperson, did you hear her say
21 anything beyond that?

22 **THE JUROR:** Who she said she may have
23 knew?

24 **THE COURT:** Right. Did she talk about how
25 she might know someone or talked about anything

1 about that person?

2 THE JUROR: No, she just said that she
3 realized that she might have knew someone. She
4 came -- spoke to someone.

5 THE COURT: And that's all you heard?
6 Anybody --
7 Thank you so much.

8 Anybody else on the jury hear her say
9 anything beyond that? Certainly, no one would
10 be in trouble for her saying that. I just want
11 to make sure that nobody is influenced in any
12 way by anything she said. She didn't have --
13 just to tell you, she had about that to say
14 when she was in here. But I just wanted to be
15 absolutely sure.

16 All right. That being said, we'll take up
17 any matters we need to later, but we're ready
18 to proceed?

19 MS. OWEN: Yes, Your Honor.

20 THE COURT: Okay.

21 MS. OWEN: Your Honor, the State would
22 call Alicia Breland.

23 THE CLERK: If you would, have a seat and
24 state your name for the record please.

25 THE WITNESS: Alicia Breland.

ALICIA BRELAND

having first been duly sworn, testifies as follows:

DIRECT EXAMINATION

BY MS. OWEN:

Q Thank you, Alicia. How are you?

A Good.

Q Good. Can you tell the jury a little bit about where you work and what you do?

A I am currently employed by the South Carolina Law Enforcement Division, commonly referred to as SLED, and I am a forensic scientist assigned to the DNA Casework Department.

Q What does that mean?

A Basically, that means that I generate DNA profiles from items of evidence in criminal cases across South Carolina. And then I compare those profiles to DNA profiles of known individuals.

Q Can you tell us a little bit about your experience and training and how you got to be there?

A Yes. Prior to working at SLED, I went to school and received my bachelor of science in biomedical science from Quinnipiac University in Connecticut. I then moved on and earned a master's of science in forensic science from Arcadia University near Philadelphia. Then I have been working at SLED

1 for three years.

2 Q How long -- what kind of training do you do
3 at SLED in order to be qualified?

4 A Before I could even do my own type of
5 casework, I was entered into an in-house training
6 program, where I shadowed a court-qualified DNA
7 analyst. This lasted for, approximately, one year and
8 two months. During that time, I got hands-on
9 experience in the lab with practice and training
10 samples, and I had to complete a series of tests,
11 prior to touching any casework of my own. Those tests
12 included oral exams, written exams, report writing
13 exams, a competency test, mock cases, and then a mock
14 trial.

15 Q Can you tell us a little bit about the peer
16 review system at SLED and how your work is
17 oversighted?

18 A Yes. Prior to any report going out of the
19 laboratory from my department, we require two reviews
20 to be done. The first review is a technical review
21 done by a fellow DNA analyst, where they just look
22 over my worksheets and results and make sure that all
23 of our SLED policies and procedures are followed
24 correctly. The second is an administrative review,
25 where it's a second look and just kind of double

1 check some of the -- cross the T's, dot the I's kind
2 of thing.

3 MS. OWEN: Thank you. Your Honor, at this
4 time, I'd like to qualify Ms. Breland as an
5 expert in DNA analysis.

6 THE COURT: Mr. Hunt, any objection or
7 further voir dire?

8 MR. HUNT: No, Your Honor.

9 THE COURT: Thank you.
10 Ladies and Gentlemen, I explained an expert
11 witness to you yesterday. Of course, the same
12 principles and ideas still apply here today.
13 This witness will be -- is qualified to give her
14 opinion in the area of forensic DNA analysis.
15 You may use that opinion in any way you see fit.

16 MS. OWEN: Thank you, Your Honor.

17 BY MS. OWEN:

18 Q Ms. Breland, did you do some testing in
19 this case?

20 A I did.

21 Q Okay. We've entered some items into
22 evidence that I'm going to approach you with.
23 (Pause.)

24 I'm going to show you what has been marked as
25 State's Exhibit 24. Are you able to identify that?

1 A I am.

2 Q Could you tell the jury what that is?

3 A Yes, item 4 is a buccal swab from the
4 victim's son, Minor Bryan [REDACTED]

5 Q Okay. And do you know that you tested this?

6 A I do. You can see here on the envelope, on
7 the inside of the heat-sealed pouch, I have my
8 initials and the date that I opened the evidence.

9 Q Okay. And then was reheat-sealed and you
10 initialed the outside package?

11 A That's correct.

12 Q Okay. I'm showing you what's been marked as
13 item 25.

14 A Okay. I also recognize this one.

15 Q What is that?

16 A This would be a buccal swab from suspect,
17 Matthew Jamie Bryant.

18 Q Okay. Does that have your initials on it,
19 as well?

20 A Yes, it does.

21 Q I'm going to show you what's been marked as
22 State's Exhibit 27?

23 A Okay.

24 Q Can you identify that?

25 A Yeah. Typically, in the lab, prior to

1 myself and another analyst getting a sexual assault
2 kit, it's broken down and we're only given the
3 contents inside. So this is the first time I've seen
4 the box, but I've seen everything inside of it.

5 Q Would you open the box?

6 A And again, similar to the buccal swabs I
7 just saw, this is how the evidence came to me, in the
8 heat-sealed pouch. And I can see on the inside that
9 my initials and the dates, again, are all in there
10 from when I opened the heat-sealed package.

11 Q Thank you. Now, Ms. Breland, you had an
12 opportunity to test all these items; is that correct?

13 A That's correct.

14 Q Did you end up having to generate two
15 reports?

16 A I did.

17 Q Okay. I have your first report. If you
18 will, take it out and we can review it.

19 A Okay.

20 Q The first report, I believe, is dated
21 July 6th of 2017; is that correct?

22 A That's correct.

23 Q Can you tell me what items you analyzed in
24 this case?

25 A So, in this case, initially, I tested item

1 1.4, which is buccal swabs from Prosecutrix [REDACTED] item
2 2, buccal swabs from Matthew Bryant; item 1.1,
3 vaginal swabs; item 1.3, miscellaneous collection
4 swabs labeled as outer labia; item 1.5, suspected
5 saliva swabs, upper arms; and item 1.6, suspected
6 body fluids swabs.

7 Q Okay. And can you tell us what your
8 findings were in this case?

9 A Yes. Do you just want me to read through
10 all of them, or one by one?

11 Q Let's go one by one, please.

12 A All right. The DNA profile developed from
13 the sperm fraction of 1.3 is consistent with being a
14 mixture of two individuals: the DNA profile foreign
15 to Prosecutrix [REDACTED] matches the DNA profile Matthew
16 Bryant. The probability of randomly selecting a
17 nonrelated individual having a DNA profile matching
18 the foreign contributor to this mixture is
19 approximately 1 in 6.4 octillion.

20 Q I'm going to stop you right there. You said
21 1.3; is that correct?

22 A Item 1.3, the sperm fraction, yes.

23 Q Okay. And that was the swab from the outer
24 labia?

25 A That is correct.

1 Q Okay. So what you just said is that there
2 are two DNA matches?

3 A Yes, I was able to identify DNA from the
4 victim and the suspect in this case.

5 Q Okay. Thank you. Let's go to 1.1.

6 A The DNA profile that was developed from
7 item 1.1 are consistent with the DNA profile of Kay-
8 Anna [REDACTED]

9 Q Okay. And what about 1.5?

10 A The DNA profile developed from 1.5 is a
11 mixture of at least three individuals: the partial
12 DNA profile, the major contributor to this mixture is
13 consistent with the DNA profile of Prosecutrix [REDACTED]
14 Due to the inability to calculate a statistic, no
15 further interpretation will be offered regarding the
16 minor contributors to this mixture.

17 Q Okay. And 1.5 is suspected saliva swabs
18 from the upper arms; is that correct?

19 A That's correct.

20 Q Okay. And then 1.6 is this suspected body
21 fluids of mouth and nose. What were you able to
22 determine from that?

23 A The DNA profile developed from item 1.6 is
24 a mixture of at least three individuals. The partial
25 DNA profile of the major contributor to this mixture

1 is consistent with the DNA profile of Prosecutrix [REDACTED]
2 Due to the inability to calculate a statistic, no
3 further interpretation will be offered regarding the
4 minor contributors to this mixture.

5 Q Okay. And then based off of 1.5, which,
6 again, was from the upper arms and 1.6 is the mouth
7 and nose, did you do another test?

8 A Yes.

9 Q What was that test?

10 A Just to kind of give some background on the
11 results I just gave, we have two kits that we can
12 test DNA with. The first kit is called GlobalFiler,
13 and it tests locations throughout your entire geno.
14 However, we also have a kit that's specific to the Y
15 chromosome, which is called Yfiler Plus. That kit
16 will only target regions of DNA on the Y chromosome.
17 Therefore, it's only going to amplify and detect male
18 DNA.

19 Q The Y chromosome is male DNA?

20 A Yes, only males have the Y chromosome.

21 Q Did you do that test on item 1.5 and 1.6?

22 A I did.

23 Q What were your results on that?

24 A The Y-STR DNA profile developed from item
25 1.5 is a mixture of at least two male individuals.

1 The partial Y-STR DNA profile of the major
2 contributor to this mixture is from an unidentified
3 male individual. The partial Y-STR DNA profile of the
4 minor contributor of this mixture is insignificant
5 for interpretation.

6 Q Okay. And 1.5 and 1.6, again, were saliva
7 swabs from upper arm and mouth and nose area?

8 A That's correct.

9 Q Okay. At this point, did you decide you
10 needed another sample to determine if there is DNA
11 from anyone else?

12 A I, at the end of this report, was finished
13 with my testing. However, there was a second set of
14 swabs -- buccal swab submitted after the Solicitor's
15 Office contacted me.

16 Q So the first report was generated, and then
17 you received buccal swabs from who?

18 A After my first report, I then was contacted
19 by the Solicitor's Office, and they wanted me to test
20 the buccal swabs from Minor [REDACTED]

21 Q Did you do that?

22 A I did.

23 Q Could you talk about the results you found
24 from those swabs?

25 A Yes. So if I go back to the Y-STR profile

1 for item 1.5, where it was a mixture of at least two
2 male individuals, the partial Y-STR DNA profile of
3 the major contributor to this mixture matches the Y-
4 STR DNA profile of [Minor]. The probability of
5 randomly selecting an unrelated male individual
6 having a Y-STR profile matching the major contributor
7 to this mixture is approximately 1 in 7,500. Paternal
8 male relatives of [Minor] may not be excluded as
9 the major contributor of this mixture.

10 Q What you're telling us is that [Minor]
11 is the contributor or someone related to him?

12 A Yes, any paternal male relatives since they
13 all share the same Y chromosome.

14 Q And item 1.5, again, what was that?

15 A The suspected saliva swabs from the upper
16 arms.

17 Q Okay. Did you find anything in the 1.6
18 mixture?

19 A Yes. The Y-STR DNA profile developed from
20 item 1.6 is a mixture of at least two male
21 individuals. The partial Y-STR DNA profile of the
22 major contributor to this mixture matches the Y-STR
23 DNA profile of Matthew Bryant. The probability of
24 randomly selecting an unrelated male individual
25 having a Y-STR DNA profile matching the major

1 contributor to this item is approximately 1 in 700.
2 Paternal male relatives of Matthew Bryant may not be
3 excluded as the major contributor of this mixture.
4 The partial Y-STR DNA profile of the minor
5 contributor to this mixture matches the Y-STR DNA
6 profile of [Minor] [REDACTED]. The probability of randomly
7 selecting an unrelated individual -- male individual
8 having a Y-STR DNA profile matching the minor
9 contributor to this mixture is approximately 1 in
10 4500. Paternal male relatives of [Minor] [REDACTED] may not
11 be excluded as the minor contributor to this mixture.

12 Q Okay. So just to break that down, 1.6 was
13 body fluids swabbed around the mouth and the nose?

14 A That's correct.

15 Q And those are now attributed to Matthew
16 Bryant and [Minor] [REDACTED].

17 A Yes, and any paternal male relatives.

18 Q Okay. And the only swab from 1.3, which
19 would've been the vaginal swab from the labia, the
20 two people from that profile are Matthew Bryant and
21 Prosecutrix [REDACTED].

22 A That is correct.

23 MS. OWEN: Thank you. I have no further
24 questions for this witness, Your Honor.

25 THE COURT: All right. Yes, sir?

1 **MR. HUNT:** I don't think we have any
2 questions, Your Honor.

3 **THE COURT:** All right.

4 **MR. HUNT:** Thank you.

5 **THE COURT:** Thank you, ma'am, for being
6 here.

7 **THE WITNESS:** Thank you.

8 **MS. OWEN:** Your Honor, the State will call
9 Larry Waters.

10 **THE COURT:** Do you want the last witness
11 to be excused?

12 **MS. OWEN:** Yes, Your Honor.

13 **LARRY WATERS**

14 having first been duly sworn, testifies as follows:

15 **THE CLERK:** Thank you, sir. If you would,
16 have a seat and state your name for the record
17 please.

18 **THE WITNESS:** Larry Waters.

19 **DIRECT EXAMINATION**

20 **BY MS. OWEN:**

21 **Q** How are you, Larry?

22 **A** Okay.

23 **Q** Good. Tell the jury a little bit about
24 yourself and where you work.

25 **A** I work for the City of Easley Police

1 Department. I've been employed there for 33 years,
2 almost 34 years.

3 Q What do you do there?

4 A I'm a dispatcher. Also, I make recordings
5 of copies for people when they need phone calls, take
6 911 calls.

7 Q How long have you been doing that?

8 A Taking 911 calls?

9 Q Yes.

10 A I believe Pickens County went to -- got 911
11 system in the late '80s. Ever since we got 911 in
12 Pickens County.

13 Q Okay. Can you tell about how the calls come
14 in and how they are generated?

15 A If someone dials 911, it comes into the
16 Easley Police Department. Phone calls are recorded on
17 an audio recording system. It's a J.E.I. audio
18 recording system. And, of course, they are there for
19 archive records for us to -- if we ever need to go
20 back and listen to them, we are able to do that.

21 Q How are they stored?

22 A They are stored on a computerized hard
23 drive.

24 Q Is anyone able to alter or amend those
25 calls?

1 **A** No, ma'am. There's no way to alter them.
2 They are password-protected.

3 **Q** And you are able to retrieve those calls at
4 a later date, if necessary?

5 **A** Yes, ma'am.

6 **Q** Do you occasionally receive calls out of
7 your jurisdiction?

8 **A** Yes, ma'am, we do.

9 **Q** Can you tell us about that process?

10 **A** A call comes in and then we just -- if we
11 determine that it's outside the city limits of
12 Easley, we transfer the calls to the appropriate
13 jurisdiction.

14 **Q** Can you explain to the jury what a CAD
15 sheet is?

16 **A** It is a record. Our CAD stands for
17 computer-aided dispatch. What it does is more or less
18 like a call log or a log of information we put into
19 the computer system. When we are creating the call,
20 it's a way for us to keep a record of the call.

21 **Q** Thank you. I'm going to show you a CAD
22 sheet. I'm going to ask to you to tell us about when
23 it was generated and who made the call.

24 **A** I printed this CAD sheet out for you on
25 April the 12th, 2018 at 9:11 a.m. The call came into

1 the Easley Police Department. This CAD call was
2 created on April the 16th -- correction, April the
3 5th of 2016 at 12:25 p.m. Jennifer Upchurch, one of
4 our dispatchers, is the one that took this call. It
5 was made by Prosecutrix [REDACTED]

6 Q What was the initial address given?

7 A The address on our CAD sheet was 110
8 Shangrila Drive, Easley.

9 Q Are 911 calls recorded in the regular
10 course of your business?

11 A Yes, ma'am.

12 Q I'm going to show you what's been marked as
13 State's Exhibit 21. Can you identify that?

14 A This is from Pickens County Sheriff's
15 Office.

16 Q Oh, I'm sorry. I gave you the wrong disk. I
17 apologize. This is State's Exhibit 22.

18 A This is a copy of the CAD call that I made
19 for the Solicitor's Office.

20 Q Okay. And that is the CAD call that --

21 A Where this call was initiated from, where
22 the lady called in, in reference to this call.

23 MS. OWEN: All right. Your Honor, I
24 request that this be put into evidence as
25 State's Exhibit 22.

1 **THE COURT:** Any objection to that?

2 **MR. HUNT:** None, Your Honor.

3 **THE COURT:** All right. It's so admitted.

4 (State Exhibit Number 22 is admitted into the
5 record.)

6 **MS. OWEN:** Your Honor, may I publish this
7 to the jury?

8 **THE COURT:** Certainly.

9 (State's Exhibit 22 is played.)

10 **BY MS. OWEN:**

11 **Q** Mr. Waters, does the 911 call cut off
12 because it was transferred to Pickens County and they
13 picked it up?

14 **A** Yes, ma'am. They -- once the call is
15 transferred, after we make sure that the person is
16 talking to the agency that it was transferred, we'll
17 listen just a little bit to make sure they are
18 getting everything they need. And then we will
19 disconnect because we have other calls that come in
20 that we have to answer.

21 **Q** This is a true and accurate recording of
22 what came in on April 5th, 2016?

23 **A** Yes, ma'am.

24 **MS. OWEN:** I have no further questions
25 for this witness, Your Honor.

1 **THE COURT:** All right. Any questions for
2 this witness?

3 **MR. HUNT:** None, Your Honor.

4 **THE COURT:** All right. Sir, so you can
5 step down.

6 **THE WITNESS:** Thank you.

7 **MS. OWEN:** Your Honor, may this witness be
8 excused for the duration of the day?

9 **THE COURT:** He certainly may.

10 **MS. OWEN:** The State would call Lisa
11 Castle.

12 **LISA CASTLE**
13 having first been duly sworn, testifies as follows:

14 **THE CLERK:** If you would, have a seat and
15 state your name for the record please.

16 **THE WITNESS:** Lisa Castle.

17 **DIRECT EXAMINATION**

18 **BY MS. OWEN:**

19 **Q** How are you, Lisa?

20 **A** Good. How are you?

21 **Q** Good. We just went through these with
22 Mr. Waters. We're going to go through it with you, as
23 well. Can you tell us where you work and what you do?

24 **A** I'm at the Pickens County Sheriff's Office.
25 I'm the communications coordinator.

1 Q What does that mean?

2 A Over the ones in the 911 center and the
3 records that they generate.

4 Q Okay. How long have you been there?

5 A 21 years.

6 Q Were you a dispatcher prior to becoming
7 director?

8 A Yes.

9 Q What was your day-to-day life like at work?

10 A It just varies.

11 Q Can you tell us about how calls come in and
12 how they are generated?

13 A When someone calls 911, if it's in our area
14 and it comes into our center, the calls are
15 automatically recorded on the back side when they
16 come in.

17 Q Okay. And are those calls saved?

18 A Yes, they are saved on the computer system
19 that's protected.

20 Q Is anyone able to alter or amend those in
21 any way?

22 A No.

23 Q Are you able to retrieve calls later?

24 A Yes.

25 Q Do you record these calls in the regular

1 course of business?

2 A Yes, all calls are recorded.

3 Q Okay. Can you tell the jury a little bit
4 about what that is or can you identify it?

5 A It's a CAD sheet generated by a 911 call
6 that came into our center.

7 Q Can you tell when that 911 call was
8 generated?

9 A It was generated on April the 5th, 2016 at
10 12:32.

11 Q That's when Pickens County received it?

12 A That's when we received it, yes.

13 Q Who was that call generated by?

14 A Lisa Ellison.

15 Q Who was the caller?

16 A The caller was Prosecutrix [REDACTED]

17 Q What was the address for that?

18 A 100 Hidden Acres Drive in Easley.

19 Q Okay. I'm going to show you what has been
20 marked as State's Exhibit 21. Do you recognize this?

21 A I do.

22 Q What is it?

23 A It's a copy of a 911 call affiliated with
24 this CAD sheet.

25 MS. OWEN: Okay. Your Honor, I would like

1 to move this into state's -- I'm sorry -- into
2 evidence as State's Exhibit 21.

3 THE COURT: All right. Any objection?

4 MR. HUNT: Without objection.

5 THE COURT: All right. It's so admitted.

6 (State Exhibit Number 21 is admitted into the
7 record.)

8 MS. OWEN: Thank you, Your Honor. May I
9 publish this to the jury?

10 THE COURT: Please.

11 (State's Exhibit 21 is played.)

12 BY MS. OWEN:

13 Q Ms. Castle, is that a true and accurate
14 copy of what call came in that day on April 5th,
15 2016, 100 Hidden Acres Drive?

16 A It is.

17 Q Thank you.

18 MS. OWEN: Your Honor, I have no further
19 questions for this witness.

20 THE COURT: Any questions for this
21 witness?

22 MR. HUNT: None, Your Honor.

23 THE COURT: All right. Ma'am, you can step
24 down.

25 MS. OWEN: May be excused -- she be

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1 excused?

2 **THE COURT:** Any objection?

3 **MR. HUNT:** None.

4 **THE COURT:** All right. She is excused.

5 Thank you.

6 **MS. OWEN:** Your Honor, the State rests.

7 **THE COURT:** All right. Ladies and
8 Gentlemen, at this time, I'm going to ask you to
9 step to your jury deliberation room. There are
10 some matters I need to take up with the
11 attorneys. We have come to the end of the
12 State's case, however, the case is not yet in
13 your hands, so please don't discuss the case
14 with one another. Thank you.

15 (Jury exits at approximately 10:33 a.m.)

16 **THE COURT:** All right. Are there any
17 matters we need to take up at this time?

18 **MR. HUNT:** Yes, Your Honor. Your Honor,
19 the defendant would move for directed verdict on
20 these charges. There's -- I know we have heard
21 lots and lots of testimony and that sort of
22 thing, but I'd call the Court's attention to
23 two, I think, very important cases in this:
24 State versus Green -- and I have got them here,
25 if I can hand them up -- and State versus

1 Lindsey, both of which are, I think, important.

2 State versus Lindsey, Your Honor,
3 Spartanburg County, the young woman was -- and
4 I'm sure Your Honor is familiar with it -- but
5 the young woman was a 17-year-old. She was going
6 to a friend's house. There was a detour and the
7 stepfather locked her in the car and held her
8 down and that sort of thing. She fought and she
9 fought him off. And that, I would suggest here
10 that that's the reason that that -- there was
11 evidence of the aggravation that the statute is
12 so adamant that, I think, this legislator was
13 adamant about, aggravated force.

14 The other thing here -- and I call the
15 Court's attention to the fact that I asked, on
16 many occasions yesterday, tell me about the
17 force. I remind the Court that I asked about,
18 you went down the hall. She said in her
19 statement, I was led down the hall. Then, of
20 course, I asked about, she said, he forced her
21 into that, and then I was there, I was on the
22 bed. That's where we get to State versus Green.
23 The Court of Appeals talked about in State
24 versus Green that there was -- holding down on
25 the arms in State versus Green -- I'm going to

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1 approach, Your Honor -- is the -- that doesn't
2 qualify for the aggravation that the statute
3 calls for in this particular instance, in
4 criminal sexual conduct in the first degree.

5 I know, Your Honor, the 911 tape sounds
6 bad. I understand that, but I also understand
7 that we have -- there's a level of aggravation
8 that has got to be present. I asked the nurse --
9 I asked the nurse. I asked her on about four,
10 five, six things, what was there. She -- her
11 answer to the various things -- and I apologize,
12 Your Honor, I'm going to need to find ---

13 **THE COURT:** That's fine.

14 **MR. HUNT:** --- what I was asking and what
15 my responses were. But, in effect, I asked her
16 -- this was told three hours after -- this was
17 told three hours after the alleged assault, and
18 it said, were you threatened. Answer, no.
19 Injuries inflicted? No. Held -- it says she was
20 held down by the upper bilateral forearms.
21 That's State versus Green. That is, apparently,
22 when they were engaged. Grabbing, holding,
23 pinching? No. Physical restraints? No.
24 Strangulation? No. Burns, chemical, thermal?
25 Answer, no. Verbal threats of harm? No.

1 She said -- states her baby was crying in
2 the other room and he wouldn't stop. She just
3 quit fighting. Well, we just heard on the tape
4 the baby was a good baby. So, I don't know about
5 that. Were there any other injuries inflicted
6 upon the assailant during the assault? Answer,
7 no.

8 Your Honor, based upon her statement, based
9 upon her testimony, based upon the statement she
10 gave to the nurse who was at the hospital, I
11 submit to this Court that the State has failed
12 to meet its burden of aggregate force. We'd ask
13 for a directed verdict.

14 **THE COURT:** Thank you.

15 **MR. HUNT:** Thank you.

16 **THE COURT:** All right. Yes, ma'am.

17 **MS. OWEN:** As you know, directed verdict
18 is in the light most favorable to the State. I
19 believe we've presented ample testimony. I will
20 be happy to go through that. Ms. [REDACTED] as you
21 saw and I think the jury is able to see, she is
22 small. She is maybe five foot tall and 100
23 pounds soaking wet.

24 **THE COURT:** And Green does say, though,
25 disparity in size is not -- is not an

1 aggravating -- is -- is -- although it may fall
2 under common law ABHAN, is not enough to rise to
3 the level of CSC first degree.

4 **MS. OWEN:** I understand, Your Honor. I
5 also understand from the victim's perspective,
6 she was 17. She had just turned 17.
7 Technically, under the law, she is almost still
8 a child. In regards to Mr. Bryant, she believed
9 he was in his 20s. He's actually 34 at the time
10 of the crime.

11 She says he grabbed her by the arm, lead
12 her down the hallway, put her on the bed. She
13 tried to get up. He pushes her back down. She is
14 telling him no. He then tries to force his penis
15 into her mouth. At which point, she clenches her
16 mouth shut and is trying to get away from him.
17 He holds her down, as she said in testimony,
18 with the palm of his hand and forced his fingers
19 and then his penis inside of her vagina.

20 Your Honor, I don't know if she could have
21 fought any harder than she did being her size. I
22 don't know that -- you know, I know Mr. Hunt
23 made a big deal about the fact that she was not
24 able to get anything or strike him with
25 anything. But in the pictures he referred to,

1 there are no knives close to her. He's talking
2 about a trash can. When someone is dragging you
3 down the hallway by your arm and -- the hallway
4 in question is really maybe like two feet --
5 puts her on the bed. As soon as they get in the
6 door, there's nothing for her to grab to get
7 ahold of him.

8 Your Honor, just because he didn't strangle
9 her doesn't mean that he didn't use physical
10 force of high and aggravated nature against her,
11 being that she could not get away from him. She
12 told him no, she tried to get up, he wouldn't
13 let her leave. She was confined to that room.
14 She's stuck under his size and power and he
15 forces himself inside of her, at which point,
16 she freezes because she can't do anything else.

17 **THE COURT:** So you're saying there is at
18 least some evidence to support the second part
19 of the statute under CSC first degree, the
20 victim submitted to sexual battery while the
21 victim was also a victim of forcible
22 confinement, kidnapping, robbery or a similar
23 act?

24 **MS. OWEN:** Yes, Your Honor. I don't
25 believe she believed she could leave that

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1 bedroom, even if she wanted to. She was telling
2 him no. He dragged her by the arm back to this
3 bedroom that was not hers. It was nothing in
4 between the bedroom and the kitchen that she
5 could have grabbed ahold of. I know Mr. Hunt
6 tried to point out a lamp and a candy dish and
7 these other things, but none of those was in her
8 reach from where she describes him putting her
9 on the bed as soon as they walked in the door.

10 She says no. She tries to get up. She
11 can't. He pushes her back down and then pulls
12 his penis out and tries to put it in her mouth.
13 At which point, she says -- clutches her mouth
14 shut and says no. Puts her on the bed and then
15 forces himself on her. I don't think she had
16 any -- she is tiny. You got to see her. You got
17 to hear her. She can try to fight, but I don't
18 think it was going to help any at any point
19 because he wasn't letting her out of that room.

20 **THE COURT:** Okay. All right.

21 Mr. Hunt, anything in response?

22 **MR. HUNT:** Your Honor, her statement, you
23 know -- her statement, there is not one iota of
24 being drug down that hall, not one.

25 **THE COURT:** Okay.

1 **MR. HUNT:** She walked down that hall.

2 **THE COURT:** What about the idea -- I agree
3 with you on that. I don't mean to cut you off
4 ungraciously, but what about the idea that she
5 was forcibly confined -- that there was at least
6 some evidence presented that she was forcibly
7 confined to the room?

8 **MR. HUNT:** Your Honor, when -- you know,
9 in State versus Lindsey -- and I go that. I read
10 that. I read it 100 times. There was evidence
11 of fighting off. Here -- here we said, there is
12 not one iota of fighting off. And then -- but
13 remember, the day before she was quite -- by the
14 way, I wanted to address one thing.

15 **THE COURT:** Sure.

16 **MR. HUNT:** Once -- once someone in this
17 state has a child, they are deemed to be an
18 adult. That's where we are. She had had a child.
19 Also, Your Honor, the day before, she had --
20 when Dirk was there, she had -- she -- there was
21 talk of a conversation.

22 Then she had -- she had expressed to Dirk
23 that she had -- that there was something made
24 about this, that, and the other. It just seems
25 to me that that led part just does not -- it

1 does not -- it doesn't fit. She wasn't dragged.
2 She wasn't pulled. She wasn't forced. None of
3 those verbs were used.

4 We submit, Your Honor, you walk in that
5 bedroom and there was a lamp right on the
6 left-hand side. Again, as I said to the Court,
7 and I asked her, on direct -- I mean on
8 cross-examination, where were your hands and
9 feet when you were being -- you know, cause two
10 people took their clothes off. She testified two
11 people took their clothes off.

12 MS. OWEN: I don't believe that's in the
13 record.

14 MR. HUNT: Your Honor, I think that she
15 took her -- she said he took her pants off. She
16 said he took his pants off. She did. So, Your
17 Honor, there just is very little evidence, very
18 little evidence under State/Lindsay,
19 State/Green, a whole host of cases, that there
20 is aggravated force present in this case. So, I
21 would again --

22 THE COURT: I don't think aggravated force
23 is the only -- is the only portion of this
24 statute. I'm just going to read the statute in
25 its entirety. There's a part that is not

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1 applicable, and that is where somebody drug
2 somebody, obviously.

3 MR. HUNT: Yes, ma'am.

4 THE COURT: I'm just going to read this.
5 A person is guilty of criminal sexual conduct in
6 the first degree if the actor engages in sexual
7 battery of the victim and if any one or more of
8 the following circumstances are proven: A, the
9 actor uses aggravated force to accomplish the
10 sexual battery; or B, the victim submits to
11 sexual battery by the actor under circumstances
12 where the victim is also the victim of forcible
13 confinement, kidnapping, trafficking persons,
14 you know, and on and on and on.

15 I think, based on what I heard in the
16 State's case and the standard being so extremely
17 low for me to submit it to a jury, I do find
18 that there has been some evidence -- at least
19 some evidence presented, how ever small amount
20 of evidence presented, that there is a forcible
21 confinement. Therefore, at this point, I'll
22 respectfully deny your motion for directed
23 verdict.

24 I also do not -- I know that you are about
25 to bring up to me that you had a motion for a

1 mistrial earlier. We brought the jury back in. I
2 questioned them. I know you want to renew that
3 motion at this time.

4 **MR. HUNT:** Yes, ma'am. Based upon what was
5 said and based upon the questions to the jury, I
6 again renew my motion for a mistrial based upon
7 that -- the juror being in there.

8 **THE COURT:** I do feel it was evident from
9 all the jurors that they were not influenced by
10 her in any way, in fact, didn't know who she
11 thought she knew involved in the case and,
12 therefore, respectfully deny that motion, as
13 well.

14 Are we now at the point of -- do you need a
15 few more minutes to talk your client about
16 whether or not he intends to testify or anything
17 else?

18 **MR. HUNT:** Yes, ma'am.

19 **THE COURT:** All right. Very well. We're
20 going to be in recess for 10 minutes.

21 **MS. OWEN:** Thank you, Your Honor.

22 **THE COURT:** I'm sorry. Anything else
23 anyone wants to bring up before we break?

24 **MS. OWEN:** Nothing from the State.

25 **MR. HUNT:** Nothing. Nothing, Your Honor.

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1 **THE COURT:** Okay. Thank you.

2 (The Court goes off the record at approximately
3 10:48 a.m.)

4 (The Court goes on the record at approximately
5 11:08 a.m)

6 **THE COURT:** Have you had an opportunity
7 to discuss with your client whether or not he
8 intends to testify?

9 **MR. HUNT:** Yes, ma'am, Your Honor.

10 **THE COURT:** All right. Sir, will you
11 stand please?

12 (The defendant is first duly sworn.)

13 **THE COURT:** Okay. You can put your hand
14 down but remain standing, if you don't mind.
15 Have you had enough time to talk to your lawyer
16 about whether or not you intend to testify in
17 the trial of this case?

18 **MR. BRYANT:** Yes, ma'am.

19 **THE COURT:** You feel like you've
20 understood those conversations?

21 **MR. BRYANT:** Yes, ma'am.

22 **THE COURT:** Have you asked him all the
23 questions you want to ask him about it?

24 **MR. BRYANT:** Yes, ma'am.

25 **THE COURT:** You understand that you have

1 an absolute right to remain silent? You know
2 that?

3 MR. BRYANT: Yes, ma'am.

4 THE COURT: All right. I will instruct
5 the jury that they cannot discuss in the jury
6 deliberation room, they cannot take into any
7 consideration whatsoever, the fact that you did
8 not testify in the trial of this case. You know
9 that?

10 MR. BRYANT: Yes, ma'am.

11 THE COURT: It is an improper thing for
12 them to consider and I will tell them, under
13 their juror oath, they may not consider it. You
14 understand that?

15 MR. BRYANT: Yes, ma'am.

16 THE COURT: By the same token, this is
17 your day in court, so to speak, and your
18 opportunity to tell your side of the story. You
19 understand that as well?

20 MR. BRYANT: Yes, ma'am.

21 THE COURT: You understand this has to be
22 your decision and your decision alone?

23 MR. BRYANT: Yes, ma'am.

24 THE COURT: I know that you've taken the
25 wise counsel of your attorney. I know you've

1 probably talked to family and friends about this
2 decision but, ultimately, it has to be yours and
3 yours alone. You understand that?

4 **MR. BRYANT:** Yes, ma'am.

5 **THE COURT:** I have to ask this, sir. Are
6 you under the influence of drugs or alcohol here
7 today?

8 **MR. BRYANT:** No, ma'am.

9 **THE COURT:** Has anybody forced you in any
10 way or promised you anything to get you to
11 testify or not to testify?

12 **MR. BRYANT:** No, ma'am.

13 **THE COURT:** And is this, in fact, your
14 decision?

15 **MR. BRYANT:** Yes, ma'am.

16 **THE COURT:** And what is your decision?

17 **MR. BRYANT:** To testify.

18 **THE COURT:** To testify?

19 **MR. BRYANT:** Yes, ma'am.

20 **THE COURT:** And you understand that the
21 State does not intend to use anything for
22 impeachment purposes, so far as any criminal
23 convictions; is that correct?

24 **MS. OWEN:** Yes, Your Honor.

25 **THE COURT:** All right. All right. Very

1 well then.

2 And you agree with this decision, Mr. Hunt?

3 **MR. HUNT:** Yes, ma'am, Your Honor.

4 **THE COURT:** And you feel comfortable with
5 what he's -- that he's understood everything
6 y'all have talked about?

7 **MR. HUNT:** Yes, ma'am.

8 **THE COURT:** All right. Thank you.

9 One other matter I need to take up at this
10 time. Mr. Hunt, when we discussed -- and we
11 discussed whether or not you all would waive the
12 Jackson v. Denno hearing. I didn't go a step
13 further and ask you this, but I'm asking you
14 this now, understanding that we may have to
15 reopen the State's case, if that becomes
16 necessary. Are you all waiving any
17 consideration by the jury of whether or not his
18 statement was voluntary?

19 **MR. HUNT:** No, ma'am, not at all.

20 **THE COURT:** You're -- so you're waiving
21 that?

22 **MR. HUNT:** Yes, ma'am.

23 **THE COURT:** Okay. And so you're not
24 asking me to include that in the jury charge for
25 them to consider voluntary?

1 MR. HUNT: No, ma'am.

2 THE COURT: Okay. All right. Very well
3 then. I just wanted to make sure that we covered
4 that ground.

5 Yes, ma'am.

6 MS. OWEN: I just have one matter I want
7 to address. I know that Mr. Hunt has used some
8 illustrations for the jury and if he intends to
9 use any for this portion, I would ask that we go
10 ahead and go through those to make sure that
11 everything is proper before it is placed in
12 front of the jury.

13 THE COURT: Oh, sure. Yeah. Absolutely.
14 All right. If you don't mind, that'd be great.

15 MR. HUNT: I have two.

16 MS. OWEN: (Reviewing.)

17 Sorry. What do you purport these to be?

18 MR. HUNT: Contact, Prosecutrix to my client.

19 MS. OWEN: I would have an objection to
20 this, Your Honor. Very clearly, this has one
21 person's name on it. It doesn't say who it is
22 to. It doesn't have a year. It doesn't say from
23 the number or the phone. It -- literally, this
24 could have been created by anyone on the
25 Internet.

1 **MR. HUNT:** And Your Honor --

2 **MS. OWEN:** I have no idea that -- I don't
3 think there's any records or anyone out there
4 that's going to come in here and say this was my
5 victim's number. I don't think we have anything
6 to purport that or that she created this.

7 **MR. HUNT:** It was a --

8 **THE COURT:** What was the incident date?

9 **MS. OWEN:** April 4th, Your Honor -- or
10 April 5th, Your Honor.

11 **MR. HUNT:** And she called on July 29th at
12 11:53 a.m.

13 **MS. OWEN:** There's no year. We have no
14 idea when this was or who created this.

15 **MR. HUNT:** We have -- Your Honor, I have
16 in -- I have his phone. We will be glad to put
17 it into evidence today that she did, in fact --
18 and it goes, Your Honor, to the state of mind.
19 That's -- that's very pivotal here in this
20 particular case.

21 **MS. OWEN:** Your Honor, I'm sorry. I just
22 -- I would wholeheartedly object to this. We
23 have no idea who created this. I mean, there are
24 all kinds of spoof apps out there where people
25 can create fake numbers, fake accounts, anybody

1 could use her information and recreate an
2 account and pretend to be her. I don't think
3 this is proper at all. There's no way to
4 authenticate this.

5 MR. HUNT: Your Honor, his phone is here.
6 He can -- I have it. He has saved it. He
7 certainly did not talk to her because he was put
8 -- he was under bond not to talk to her. He
9 contacted me subsequent to this contact and,
10 should I? I said absolutely not. So that was --
11 that was the end of that. But he did, in fact,
12 save it.

13 This was a -- technically, what it was,
14 Your Honor, and he will testify to this -- I'm
15 sorry. I'm not as savvy with technical things.
16 But what happened was, he has a Facebook that he
17 can testify to. On Facebook, you can go on
18 Facebook and, apparently, there's some thing
19 called Messenger that you can, in fact, use the
20 Messenger to call someone on the Facebook and
21 you can contact someone. That's what happened.

22 So, it was a multi-step process,
23 apparently. He had his Facebook. He has one.
24 She has, apparently, two of them. One of which
25 she did, in fact, contact him. It was a missed

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1 contact, and that's all. He had no conversation
2 with her. Because again, I had told -- when he
3 contacted me, he asked me, he should --

4 **THE COURT:** Let me ask you what this --
5 this one is right here. Of course, it's a little
6 strange with them being -- let him take a look
7 at this.

8 **MR. HUNT:** That is commensurate with her
9 Facebook account, Your Honor.

10 **THE COURT:** Okay. Well, this -- and I
11 think, if I'm understanding, this thing here --
12 this is probably what you wanted this for, it
13 says, I do it all. She's talking about being a
14 stay-at-home mom.

15 **MR. HUNT:** That's fine. I don't -- as far
16 as that's concerned, I don't know that I -- all
17 I want to -- all I want -- Your Honor, here's
18 another -- you missed a call from **Prosecutrix**

19 **THE COURT:** And it looks like -- it looks
20 like that's the same date and time.

21 **MR. HUNT:** Yes, ma'am. That's all it is.

22 **MS. OWEN:** Your Honor, I -- okay. I'm
23 sorry. I'm just going to flat out say this is
24 absurd. Mr. Hunt filed a Rule 5, as he said, on
25

1 Friday. Yeah, Monday, Tuesday, Wednesday. And
2 he said that I was not complying with Rule 5.
3 This would be a clear violation of our
4 reciprocal discovery if he intended to use
5 anything in his case in chief.

6 I closed my case. I've had no opportunity
7 to ask my victim about this on the witness stand
8 or let her have any say in this matter. We have
9 no way to know who created this account. It may
10 not be her. Someone -- it's very easy to steal
11 pictures and create fake accounts. People do it
12 all the time. We have spoof apps where you can
13 use anybody's number and create -- you can call
14 a number that's not yours and pretend to be
15 somebody.

16 **THE COURT:** Here's what I'm going to do --
17 here's what I'm going to do, in light of
18 everything, number one, of course, she is
19 available for any reply testimony. I'm not going
20 to allow you to enter these screenshots, because
21 we just -- we don't have any way to know they
22 are from her. But I will allow him to testify
23 that he -- that he believes he received a call
24 from someone named Prosecutrix [REDACTED] through a
25 Facebook thing at -- you know, on July 29th ---

1 **MS. OWEN:** But we don't know what year
2 that is.

3 **THE COURT:** --- and that's it. Of course,
4 I have no doubts that you will vigorously
5 cross-examine him. But I think that is a
6 balancing act between his right to produce any
7 and all evidence in his defense and also to
8 protect the jury from being confused because we
9 just -- we're unable to authenticate any of
10 that.

11 **MR. HUNT:** Thank you, Your Honor.

12 **MS. OWEN:** Thank you.

13 **THE COURT:** I do know -- and I am -- I
14 don't know how this Messenger works, but if it's
15 anything like me using my telephone, I call the
16 wrong person a whole bunch. But we'll -- I'm
17 not saying that's what happened here. All right.

18 **MS. OWEN:** Are there any other
19 demonstratives?

20 **THE COURT:** Anything else?

21 **MR. HUNT:** Nothing, Your Honor.

22 **THE COURT:** All right then.

23 **MS. OWEN:** Thank you.

24 **THE COURT:** All right. Bring the jury back
25 in.

1 (Jury enters at approximately 11:18 a.m.)

2 **THE COURT:** All right. Ladies and
3 Gentlemen, we're ready to proceed.

4 Mr. Hunt?

5 **MR. HUNT:** Please the Court. We'd call
6 Jamie Bryant to the stand.

7 **MATTHEW BRYANT**

8 having first been duly sworn, testifies as follows:

9 **THE CLERK:** If you would, have a seat and
10 state your name for the record.

11 **THE WITNESS:** Matthew Jamie Bryant.

12 **DIRECT EXAMINATION**

13 **BY MS. OWEN:**

14 **Q** Jamie, how old are you?

15 **A** I am 37 years old.

16 **Q** All right, sir. What is your birth date?

17 **A** 10/12/1981.

18 **Q** Yes, sir. Where do you live?

19 **A** I live at 404 Henry Street, Easley, South
20 Carolina.

21 **Q** All right. How long have you been there?

22 **A** Been there a little over two years now.

23 **Q** Okay. Where did you live before you moved
24 in -- before you lived on Henry Street?

25 **A** I lived at 100 Hidden Hills Acres in

1 Easley.

2 Q And who lived there with you?

3 A At first, it was me and Dirk Van Holland.

4 Then, maybe a month after, he informed me that

5 Ms. Prosecutrix [REDACTED] and her boyfriend, Billy Reynolds,
6 and their little baby was moving in.

7 Q All right. And how long a period were you
8 there between the time they moved in and they moved
9 out?

10 A It was very short. Maybe a month, I started
11 the process of moving out.

12 Q Yes, sir. All right. Was there any reason
13 for you moving out?

14 A Yes, sir. I discovered that late at night,
15 I would be waking up in the middle of the night by
16 them being up and, you know, all throughout the
17 house. Seem like they were using drugs, you know. I
18 went to my bathroom and seen a little baggie with a
19 light residue in it that -- she shared the bathroom
20 with us, her and her boyfriend. At that time, I felt,
21 you know, it was unsafe and I needed to get out.

22 Q Did you have anything to do with Prosecutrix
23 prior to your moving out?

24 A I tried not to. But there was a few times
25 in the middle of the night that I would get up and

1 she would, you know, confront me in the hallway and
2 say, hey, sexy. One night, she broke me. She told me,
3 I want -- she said, I want this, I want you, a couple
4 of times on a different occasions.

5 Q When was the last time you saw her before
6 the incident in question?

7 A I seen her the night before.

8 Q All right, sir. Tell me what the
9 circumstances were concerning that.

10 A Me and my fiancé, Brandy, had pulled up at
11 our house, and Dirk Van Holland and Franklin Lomax
12 were there. We were giving Dirk a ride home. When we
13 arrived, Billy Reynolds and Prosecutrix was on the front
14 porch. I got out of the car. Dirk started getting
15 out.

16 I went inside to get some of my stuff, you
17 know, to check on it and make sure everything was
18 still, you know, not taken or stolen. I went in. Kay-
19 Anna kind of followed me. I went in my bedroom,
20 looked in there. I think I might have grabbed a
21 couple of shirts or something, maybe.

22 I come back out in the hallway. As I was
23 coming out of the hallway, she came down and she put
24 her hands down my pants and says, I want this
25 tomorrow. I said, I can't tomorrow. I've got to

1 babysit. She said, well, I'll be home alone all day,
2 if you want to come over. I told her I couldn't, kind
3 of brushed her off and proceeded to go out the door.
4 Me and Dirk crossed paths. I got in the car and left.

5 Q Who's "Dirty"?

6 A Dirk, my -- sorry, my roommate.

7 Q All right. What happened the next day?
8 Were you working or not working?

9 A The day before, I had hit a power line. It
10 is protocol that if you hit power and knock power off
11 you automatically -- I think it's two-day -- not
12 suspension, but they evaluate and, you know, you have
13 to be off work just to let things recover. So I was
14 babysitting.

15 At lunchtime, Franklin and Dirk come to the
16 house to eat. I asked Franklin if he would, you know,
17 watch my granddaughter while I ran to my mom's.
18 That's what I told him, because that was my
19 brother-in-law. I didn't want him telling Brandy
20 where I was going, you know.

21 So I went over to Prosecutrix house. I
22 pulled up. I went up. The screen door was shut. I
23 knocked on it. I didn't want to just bust in there
24 and startle her because I know she was there home
25 alone with the baby. Went inside. Stood in the living

1 room for a minute. She was in the kitchen, I think,
2 washing a bottle or maybe making a bottle for the
3 baby. She told me to come in the kitchen. So I --
4 you know, I walked over there.

5 We started kissing and making out. She
6 grabbed me by my hand and we went back to the living
7 room. We kind of made out there for a minute. She
8 took her shorts off, got on the bed. I took my shorts
9 off and got on the bed and got on top of her. We
10 started having sex. About halfway through, she told
11 me she wanted to get on top. We kind of rolled, you
12 know, and she got on top. Right when I was about to
13 finish, I said I'm about to finish, you know, get up,
14 she -- I had to kind of pick her up off of me to
15 finish. So I did.

16 Then she got up. I got up. I looked around.
17 I said where can I clean myself up at. She said look
18 right -- look in the closet, you know. So I looked in
19 the closet, got a towel and wiped myself off.

20 Came back out. She put her shorts on
21 because the baby had started crying right towards the
22 end. I don't know if he ran out of formula in the
23 bottle or what. I think she only made half a bottle.
24 So, I put my shorts on, went out there, asked her
25 what was going on, you know, why the baby was crying.

1 She told me she was out of formula. She asked if I
2 could take her to get formula. I said no. I have to
3 get back, you know, because Franklin and Dirk's
4 babysitting.

5 She asked, what'd you tell them? Where'd
6 you tell them you were going? I told him I was going
7 to my mom's. She said, well, good. She continued to
8 ask me, you know, I need -- I got to have formula for
9 my baby. He doesn't have any. I told her I couldn't.
10 She kind of got upset. I told her I had to go, I had
11 to get back. I got up and left. She -- you know, she
12 seemed mad or pissed off. So, I went back to my house
13 until Franklin and them, you know, went back to work.

14 Q All right. So how were you dressed that
15 day, Jamie?

16 A I had on a pair of basketball shorts and
17 flip-flops. I have the actual basketball shorts here
18 with me.

19 Q Yes, sir. And did you -- did you -- during
20 this period of time, you were in -- you've seen the
21 photographs that we -- that are in evidence; have you
22 not?

23 A Yes, sir.

24 Q You met -- you helped me with making these
25 photographs; have you not?

1 A Yes, sir.

2 Q All right. Let me ask you this, I'm going
3 to show you what's been marked as -- if I can find it
4 -- this is State's Number 2. Is that the house -- is
5 that a picture of the house, Jamie?

6 A Yes, sir. This is the living room facing
7 the kitchen.

8 Q All right, sir. In that room, where --
9 where -- where did you come in the door on that one?
10 It might be better if you see this one.

11 A The picture is kind of taken from where the
12 door is.

13 Q Yes, sir. Can you point out on this one a
14 little bit better?

15 A Like, if you were standing there taking a
16 picture of the door, it's kind of behind you. The
17 door would be back here, the front door.

18 Q Where was she standing? You say you came
19 in the living room, right?

20 A She come to door and let me in. I guess the
21 screen door was locked. I came into the living room
22 and she proceeded to the kitchen.

23 Q Yes, sir. And then you all -- you say y'all
24 were making out and that sort of thing?

25 A The kitchen, yes, sir.

1 Q Then what did y'all do?

2 A She grabbed me by my hand and said, let's
3 go. We went this way and went back to the bedroom.

4 Q All right, sir. And who was the first to
5 take off the clothes?

6 A She took her shorts off and got on the bed.

7 Q She did?

8 A Yes, sir.

9 Q All right. And did you push her down? Did
10 you throw her down?

11 A No, sir. Not at all.

12 Q Were y'all still making out in the --

13 A When she got on the bed?

14 Q Yes, sir.

15 A When we started having sex, she was on the
16 bed and, yeah, we made out a little bit, but not
17 much.

18 Q All right, sir. Now, did you hold her down?

19 A No, sir.

20 Q Did you not? You didn't?

21 A No, sir.

22 Q All right. I'm going to show you a picture,
23 a big blow-up of the bedroom. Where were you all when
24 you were doing all of this?

25 A Right here. You can actually see the

1 imprint.

2 Q Of what? Is this -- whose -- whose is
3 that, your backside, her backside? What?

4 A That should be hers. It may be mine. We
5 kind of rolled in the same place where we was.

6 Q Yes, sir.

7 A It's one of ours.

8 Q Yes, sir. And so then you -- is that what
9 you're talking about?

10 A Yes, sir.

11 Q That's basically --

12 A That's in between --

13 Q Right. So you all -- you started in the
14 sex act. You started kissing. You started in the sex
15 act and you say you then -- how did it change that
16 she was to get on top? She wanted to be --

17 A She said kind of halfway through, let me on
18 top. You know, I want to be on top. So we kind of
19 rolled at the same time.

20 Q Yes, sir.

21 A I don't know if I stayed inside of her or
22 not. I'm not sure. I think I may have ---

23 Q Yes, sir.

24 A --- when we rolled.

25 Q Yes, sir. Now, did you hold her down then?

1 Were you holding her?

2 A No, sir.

3 Q Did you hold her down at all?

4 A No, sir.

5 Q Did you force her at any time?

6 A No, sir. It was consensual.

7 Q Yes, sir. Now, you -- when you were getting
8 ready to leave, Jamie, what did -- you were chatting
9 with her about what she was -- what was going on?

10 A Yeah, the baby -- she didn't have any
11 formula left. She -- she was, you know, adamant
12 about needing formula, needing me to take her to get
13 formula. But I couldn't. I had to get back and finish
14 babysitting because Franklin had to go back to work,
15 him and Dirk.

16 Q Yes, sir. Now, you heard the tape?

17 A Yes, sir.

18 Q You were sitting here and you heard it when
19 it was played. She sounded upset?

20 A Yeah, somewhat.

21 Q But what -- what -- was there a question
22 about talking to boyfriends or formula or any of that
23 kind of stuff?

24 A Yeah. Well, she -- I think she asked what I
25 told Franklin and them, because she wanted to know if

1 I had told him if I was going over there, due to the
2 fact that they know her boyfriend and she might have
3 been scared or worried that her boyfriend would find
4 out. About the formula and me not being able to take
5 her, she got mad about it.

6 Q From there is when it went on; is that not
7 right?

8 A Yes, sir. I left after that. Next thing I
9 know, detectives are calling me.

10 Q Yes, sir. Now, the detectives came to where
11 you were on Henry Street; did they not?

12 A Yes, sir.

13 Q And you talked to them?

14 A Yes, sir.

15 Q You waived any Miranda rights?

16 A Yes, sir.

17 Q You talked to them freely; did you not?

18 A Yes, sir.

19 Q But now, you didn't quite -- you didn't
20 quite tell them everything; did you?

21 A No, sir. My daughter-in-law was there --
22 right there when she started questioning me. They
23 went inside, but my window was open. She was five
24 foot away. I was scared that she would tell Brandy,
25 my fiancé. I didn't want her to know, cause I made a

1 mistake.

2 Q How do you mean you made a mistake?

3 A By cheating on my fiancé.

4 Q What happened after that?

5 A A week later, I was arrested. I sat in jail
6 for a month. I lost my job. I lost everything. My
7 name was ruined. It's a bad situation. I've learned
8 never to put myself in any kind of situation like
9 that again, because it can ruin you. You look on the
10 news nowadays and you see certain people, you can
11 have a different perspective in how you look at
12 things.

13 MR. HUNT: Your Honor, I would move to --
14 I need probably to take something up out of the
15 presence of the jury.

16 THE COURT: All right. Ladies and
17 Gentlemen, if you will, you step to the jury
18 deliberation room for just one moment.

19 (Jury exits at approximately 11:32 a.m.)

20 THE COURT: Yes, sir.

21 MR. HUNT: Your Honor was quite specific
22 about this business of opening the door. And
23 reading what I've read, educating myself, I
24 think that I need to make a motion to strike
25 that answer from the record, so as to not open

1 the door. The word "never" came in. That's what
2 I'm trying to avoid with everything in me. So I
3 would make the motion to strike that answer, "I
4 would never."

5 MS. OWEN: Obviously, Your Honor, I would
6 have an objection to that.

7 THE COURT: Sure.

8 MS. OWEN: I feel that you were very
9 clear about where we could go.

10 THE COURT: What was the exact quote of
11 what he just said?

12 MS. OWEN: I would never put myself in
13 that position.

14 MR. HUNT: Again, he said.

15 MS. OWEN: Again. So we are on the second
16 time, that I'm aware of, that there has been an
17 allegation.

18 MR. HUNT: He was speaking, specifically,
19 about this allegation with this young woman.

20 THE COURT: I'm not going to strike it
21 from the record, but I'm going to find that he
22 did not open the door.

23 MR. HUNT: Thank you, Your Honor.

24 THE COURT: All right.

25 MR. HUNT: Thank you.

1 **THE COURT:** Close the door real fast.

2 Let me be clear with you, Mr. Bryant, one
3 more -- one more thing like that, and that's it.
4 I'm warning you. All right.

5 **MR. BRYANT:** Yes --

6 **THE COURT:** Do you understand?

7 **MR. BRYANT:** Yes, ma'am.

8 **THE COURT:** I think I was pretty clear. I
9 think I was pretty clear, and your attorney here
10 is trying to clean up your mess. All right.

11 **MR. BRYANT:** Yes, ma'am.

12 **THE COURT:** Do not mislead this jury. You
13 understand?

14 **MR. BRYANT:** Yes, ma'am.

15 **THE COURT:** All right. Very well.

16 **MR. BRYANT:** I apologize.

17 **THE COURT:** One of our jurors is in the
18 restroom.

19 **MR. HUNT:** I didn't hear Your Honor's
20 conversation.

21 **THE COURT:** I told -- I just told him just
22 now that I did not want him to mislead this
23 jury. I don't think what he just said is enough
24 to open the door this time.

25 **MR. HUNT:** Yes, ma'am.

1 **THE COURT:** But I was warning him not
2 again. Not again.

3 **MR. HUNT:** Thank you.

4 **THE COURT:** Whenever they're ready.
5 (Jury enters at approximately 11:36 a.m.)

6 **THE COURT:** All right. Yes, sir.

7 **MR. HUNT:** May it please the Court, Your
8 Honor. Thank you.

9 **BY MR. HUNT:**

10 **Q** After you were -- a week later or so, you
11 were arrested; is that not right, sir?

12 **A** Yes, sir.

13 **Q** And then you were -- you were permitted out
14 -- you were bailed out -- bonded out, is that not
15 right?

16 **A** Yes, sir.

17 **Q** All right. Have you had any conversation
18 with Ms. [REDACTED] since that time?

19 **A** No, sir. I have not had conversation, but
20 she did try to contact me.

21 **Q** When was that?

22 **A** I believe late June, maybe early July.

23 **Q** All right, sir. You did not chat with her?

24 **A** No, sir.

25 **Q** You have not?

1 A No, sir.

2 MR. HUNT: All right. I have no further
3 questions.

4 THE COURT: All right.

5 CROSS-EXAMINATION

6 BY MS. OWEN:

7 Q Jamie, the best story you can come up with
8 is that she's mad at you for not buying her formula;
9 is that right?

10 A Yes, ma'am.

11 Q Really?

12 A Yes, ma'am.

13 Q That's what you're trying to tell this
14 jury? She was mad at you for not taking her to get
15 formula?

16 A Yes, ma'am.

17 Q All right. How big are you?

18 A I'm 6'3.

19 Q How wide are you?

20 A Not too wide. I'm skinny.

21 Q How much do you weigh?

22 A 190 pounds.

23 Q 6'3, 190 pounds. Prosecutrix [REDACTED] is a little
24 thing compared to you; isn't she?

25 A I don't know her exact height.

1 Q She's little; wouldn't you say?

2 A I don't know her exact height.

3 Q You're usually attracted to younger girls?

4 A No, ma'am.

5 Q How old were you two years ago?

6 A 35.

7 Q She was 17. She's got a live-in boyfriend,
8 right?

9 A Yes, ma'am.

10 Q You supposedly had this fiancé?

11 A Yes, ma'am.

12 Q You step out on her often?

13 A No, ma'am.

14 Q The police came and talked to you, right?

15 A Yes, ma'am.

16 Q You denied being there?

17 A Yes, ma'am.

18 Q Even when you got arrested, you didn't say,
19 hey, I actually was there?

20 A No, ma'am.

21 Q Conveniently, two years later, this is what
22 you have to tell us?

23 A Yes, ma'am.

24 Q You say your sex was consensual?

25 A Yes, ma'am.

1 Q You said the night before, she grabbed your
2 penis?

3 A Yes, ma'am.

4 Q Conveniently though, your friend, Dirk --
5 you heard him, right?

6 A Yes, ma'am.

7 Q You were in here for his testimony?

8 A Yes, ma'am.

9 Q He saw you grabbing Prosecutrix

10 A Yes, ma'am.

11 Q But he did not see her grab you?

12 A If he did, he didn't testify to it.

13 Q Okay. And you heard him say she didn't want
14 you coming back over there; didn't you?

15 A Yes, ma'am.

16 Q But yet, you did?

17 A Yes, ma'am.

18 Q You knew she had no car, no phone, and she
19 would be home by herself; didn't you?

20 A Yes, ma'am.

21 Q Then you say, in this picture, she just
22 walked you down the hallway and sits herself on that
23 bed?

24 A Yes, ma'am.

25 Q Okay. You say she gets on top of you and

1 then you say, I'm going to go, so you move her off?

2 A Yes, ma'am.

3 Q Really, you didn't ejaculate inside of her
4 because you didn't think you would get caught, right?

5 A (No audible response.)

6 Q You didn't think there would be any semen
7 there. You thought it would be her word against your
8 word; didn't you?

9 A No, ma'am.

10 Q Where is this towel you wiped off with?

11 A Must still be in the closet.

12 Q Funny. The police searched. There was no
13 towel. Convenient; isn't it?

14 A No, ma'am.

15 Q Jamie, you planned this; didn't you?

16 A No, ma'am.

17 Q You didn't think anybody would believe her?

18 A No, ma'am, I didn't plan it.

19 Q You didn't think anybody would believe her.

20 A (No audible response.)

21 Q You didn't think you left any DNA; did you?

22 A I never took that into consideration.

23 Q Really? Cause Rita Burgess testified she
24 asked you for a buccal swab and you told her no;
25 didn't you?

1 **A** Yes, ma'am.

2 **Q** Yet, your DNA was in the victim's vagina;
3 wasn't it?

4 **A** Yes, ma'am.

5 **Q** Jamie, how many sexual partners have you
6 had in your life?

7 **MR. HUNT:** Your Honor --

8 **MS. OWEN:** I've got somewhere to go with
9 this, Your Honor.

10 **THE COURT:** All right. Let's approach.

11 (Bench conference is held off the record.)

12 **MS. OWEN:** May we reapproach?

13 **THE COURT:** Sure.

14 (Bench conference is held off the record.)

15 **BY MS. OWEN:**

16 **Q** Let me rephrase where I was going with
17 that. How many people called 911 after you had sex
18 with them?

19 **A** None.

20 **Q** Right, because it wasn't consensual; was
21 it?

22 **A** It was.

23 **Q** Jamie, you threw her down on that bed and
24 you held her down; didn't you?

25 **A** No, ma'am.

1 Q Then you pulled out because you didn't
2 think the cops would find anything; didn't you?

3 A No, ma'am.

4 Q Now, you're sad because you got caught;
5 aren't you?

6 A No, ma'am.

7 Q Conveniently, this is your story two years
8 later; isn't it?

9 A Yes, ma'am.

10 Q She's mad because you wouldn't take her to
11 get formula?

12 A I -- yes, ma'am.

13 MS. OWEN: No further questions, Your
14 Honor.

15 THE COURT: All right. Any redirect?

16 MR. HUNT: Just a few, Your Honor.

17 **REDIRECT EXAMINATION**

18 **BY MR. HUNT:**

19 Q Jamie, you have no idea how many people
20 called 911; do you?

21 A No, ma'am -- no, sir.

22 Q Okay. And you -- you didn't give a buccal
23 swab to start, but you gave a buccal swab; did you
24 not?

25 A Yes, sir.

1 Q You were -- when you were asked a second
2 time, you went straight on; did you not?

3 A Yes, sir.

4 Q All right. And -- now, it also might be --
5 a consideration for not ejaculating inside might be
6 the fact that...

7 A Pregnancy.

8 Q Thank you. Jamie, where'd you throw that
9 towel?

10 A Back on the closet floor.

11 MR. HUNT: I have no further questions.

12 THE COURT: Anything else?

13 **RE CROSS EXAMINATION**

14 **BY MS. OWEN:**

15 Q Mr. Bryant, they didn't find a towel; did
16 they?

17 A I don't know.

18 Q You were in here for testimony. Did they
19 find a towel?

20 A Not to my knowledge.

21 Q Thank you.

22 THE COURT: Anything else?

23 MR. HUNT: Nothing, Your Honor.

24 THE COURT: All right, sir. You can step
25 down.

1 Mr. Hunt?

2 MR. HUNT: Your Honor, please the Court,
3 we -- that's it for us.

4 THE COURT: All right. All right. Very
5 well.

6 Anything else from the State?

7 MS. OWEN: No, Your Honor.

8 THE COURT: All right then. Ladies and
9 Gentlemen, I need to take up a matter or two.
10 The case -- even though we finished all the
11 testimony and evidence, the case is not yet in
12 your hands. If you will, step to your jury
13 deliberation room for just a moment. And I'll
14 tell you what, I will -- I don't know exactly
15 how long closing arguments will be in this case
16 -- I don't anticipate very lengthy -- and I
17 know my charge on the law will take probably
18 about 20 to 25 minutes.

19 Mr. Foreperson, if you will, please discuss
20 with the jury whether or not you all would like
21 to take a lunch break before that or do you want
22 to keep going and then we'll bring in some lunch
23 -- okay -- while you deliberate. That's up to
24 you. Okay. Thank you. If you'll just step --
25 step to your jury deliberation room.

1 I'll ask everybody to remain seated.

2 (Jury exits at approximately 11:45 a.m.)

3 **THE COURT:** All right. I know you're going
4 to need to renew both of your motions for
5 directed verdict and also your motion for a
6 mistrial.

7 **MR. HUNT:** Yes. Yes, Your Honor. I do.

8 **THE COURT:** All right. Well, in light -- I
9 see that nothing has changed. I believe the
10 State has produced at least some evidence upon
11 which a verdict could be rendered by the jury.
12 Therefore, I will deny your motion for that. And
13 the mistrial, I still believe -- continue to
14 believe there was no prejudice done in any way
15 with regard to the juror.

16 All right. And the State is asking to
17 charge on first, second and third degree.

18 **MS. OWEN:** Yes, Your Honor.

19 **THE COURT:** All right. All right. Yes,
20 sir.

21 **MR. HUNT:** Please the Court, Your Honor.
22 If we -- if the State -- I would object to
23 those, but I would ask that the State -- that we
24 charge assault and battery third and/or assault
25 and battery second degree.

1 **THE COURT:** All right. I -- after
2 listening to the defendant's testimony and
3 after, of course, hearing the victim's
4 testimony, it is clear that sexual contact
5 occurred in some form.

6 **MR. HUNT:** Yes, ma'am.

7 **THE COURT:** And thus, if not consensual,
8 and I'm certainly not commenting on anything at
9 all, but I'm just saying legally, if not
10 consensual, would constitute a sexual battery,
11 is my understanding, because there was
12 penetration. And thus, after looking at
13 everything, I do not believe CSC third or CSC
14 second -- I mean, not CSC third -- assault and
15 battery third degree or second degree is
16 appropriate to charge in this case. However,
17 certainly, that is preserved for the record.
18 Once I've charged the jury, then I will allow
19 the jury to step out while you object to that,
20 after my charge, to preserve it. All right.
21 Anything else we need to take up at this time?

22 Anything from the State?

23 **MS. OWEN:** Nothing from the State, Your
24 Honor.

25 **THE COURT:** Anything from the defense?

1 **MR. HUNT:** No, Your Honor.

2 **THE COURT:** My reading of State v. Beatty
3 is this -- and I understand that it's on
4 rehearing, but my understanding is, the State
5 will close in full and the defense will close in
6 full, and then the State will have an
7 opportunity to reply to only that which the
8 defense has brought in its closing statement. Is
9 that everybody else's --

10 **MS. OWEN:** That's my understanding, as
11 well.

12 **THE COURT:** Okay. All right then. Then
13 that's how we'll do it. Do you anticipate your
14 closing argument to be lengthy?

15 **MS. OWEN:** I'm not sure, Your Honor. I
16 would like to have a few minutes to gather my
17 thoughts. I've got some things I would like to
18 put on a piece of paper.

19 **THE COURT:** Understood. Understood.
20 Understood.

21 **MS. OWEN:** I think it will be somewhere
22 between 10 and 20 minutes.

23 **THE COURT:** Okay. That's sort of what I
24 anticipated. And about --

25 **MR. HUNT:** Yes, Your Honor, about the same

1 for me, as well.

2 **THE COURT:** Well, like I said, I'm letting
3 the jury sort of decide that. Let's take a break
4 until noon. I think we'll end up about
5 1 o'clock.

6 Do you want to just let the jury know that
7 we think that we would end up with closing
8 statements and my charge on the law -- don't
9 hold me to it -- but right about 1 o'clock, if
10 that helps them in their decision.

11 All right. Let's be in recess for 10
12 minutes.

13 (The Court goes off the record at approximately
14 11:51 a.m.)

15 (The Court goes on the record at approximately
16 12:11 p.m.)

17 **THE COURT:** We are not ready to proceed
18 yet, but I want to take a minute -- the
19 prosecutor asked for a moment more. I told her
20 that would be fine. But I do want to take just a
21 minute and say that, on the whole, I have
22 appreciated the way everybody's acted in the
23 gallery. Thank you. I know that when we turn to
24 argument, that's when things really -- sometimes
25 tensions get heated on both sides, and it's

1 understandable. This is an emotional case.

2 I want to give you the opportunity -- if
3 you think you cannot handle what's being said
4 without reaction, I certainly understand that,
5 but I'm going to give you the opportunity to
6 excuse yourself now, because I lock the door
7 during closing arguments, and I say that to both
8 sides. I lock the door during closing arguments.

9 Again, I just want to say, just remember
10 the facial expressions, the nodding, anything
11 like that is the same as testifying to the jury.
12 I just cannot allow that. Anyone who wants to
13 excuse themselves, I think we have a couple of
14 minutes more, you're free to do that. All right?
15 Thank you. (Pause.)

16 Mr. Cleveland, have you talked to Ms. Owen
17 about -- have you had any discussions about
18 possibly having the charge in the jury
19 deliberation room?

20 **MR. CLEVELAND:** Your Honor, for the
21 record, I did indicate to her that you usually
22 send the charge back. She didn't express that
23 she had any problem with that whatsoever.

24 **THE COURT:** Okay. I only do it if both
25 sides consent. I will tell you this, I've had

1 great luck with the juries, in terms of their
2 understanding things and cutting down on
3 questions, by sending a written copy of my
4 charge back. I will tell you a couple of things
5 about it. First, I read my charge verbatim. So
6 while it may be a shade tedious to sit here and
7 listen to, I do it because I do mark it as a
8 Court's Exhibit and I do send it back. Second, I
9 give an instruction -- and I included it, not
10 because I am assuming that I will send the
11 charge back, but because I didn't want to
12 exclude it -- I will give you a copy of these
13 instructions in written form. During your
14 deliberations, you may refer to my instructions
15 to guide your decision-making. You must consider
16 the instructions as a whole and may not follow
17 some and ignore others. Please return a copy of
18 the instructions to the Court at the time your
19 verdict is rendered.

20 Mr. Hunt, I am coming up with this at the
21 11th hour, so if you want to have a few minutes
22 to talk to your client about whether or not you
23 consent to that.

24 **MR. HUNT:** Your Honor, I don't have a
25 problem with that at all.

1 **THE COURT:** Juries -- the last time I did
2 not do it -- and I think Baker can attest to
3 this -- the last time I didn't do it, the first
4 question from the jury was, can we have a
5 written copy of your instructions. All right
6 then. Very well, I will. I will send it back.
7 (Pause.)

8 **MS. OWEN:** Thank you. I'm sorry.

9 **THE COURT:** No. Absolutely. While you were
10 out, I asked Mr. Cleveland to speak on your
11 behalf, and he did. He said you did not have an
12 objection to the written copy of the charge
13 going back.

14 **MS. OWEN:** No, Your Honor.

15 **THE COURT:** Just to tell you, I charge
16 both firmly convinced and hesitate to act.
17 Sometimes, I have -- defense attorneys asked for
18 one over the other, and I just do both and so --
19 on reasonable doubt. But Mr. Hunt consented, on
20 behalf of his client, to have the jury charge go
21 back. I give a little instruction about that.

22 The verdict form I've set up just says, we,
23 the jury, unanimously find the defendant not
24 guilty -- I just always put that first -- or
25 guilty of first-degree criminal sexual conduct

1 or guilty of second-degree sexual -- criminal
2 sexual conduct or guilty of third-degree
3 criminal sexual conduct. I think that's pretty
4 clear that my instructions say you can consider
5 this and if you -- it just flows like that, but
6 I did a verdict form on this one as well. All
7 right.

8 MR. HUNT: I would ask Your Honor -- and
9 I'm not as familiar with Your Honor's charges.

10 THE COURT: That's fine.

11 MR. HUNT: But on the business about
12 aggravated force, how does, Your Honor --

13 THE COURT: Exactly from the statute. I'm
14 happy to read it. Here it is. The defendant is
15 charged with criminal sexual conduct in the
16 first degree. The first element which the State
17 must prove beyond a reasonable doubt is that the
18 defendant engaged in a sexual battery on the
19 victim. I did take the liberty of taking some
20 things -- there are some other things involved.
21 But I just had a sexual battery is sexual
22 intercourse, fellatio or any intrusion, however
23 slight, of any part of a person's body or of any
24 object into the genital opening of another
25 person's body.

1 If you find that the State has not shown
2 beyond a reasonable doubt that a sexual battery
3 occurred, you will stop deliberating and your
4 verdict would have to be not guilty. If you find
5 that a sexual battery did occur, you must then
6 decide whether the State has proven beyond a
7 reasonable doubt that, one, the defendant used
8 aggravated force to accomplish the sexual
9 battery.

10 Aggravated force means the use of physical
11 force or physical violence of a high and
12 aggravated nature to overcome the victim. This
13 includes the threat of using a deadly weapon or,
14 two, that victim submitted to the sexual battery
15 while the victim was also the victim of forcible
16 confinement, kidnapping, robbery, extortion,
17 burglary, housebreaking or any similar -- other
18 similar act or offense.

19 **MR. HUNT:** Thank you. Thank you, Your
20 Honor.

21 **THE COURT:** Everybody all right with that?
22 Then I track exactly the statute on second and
23 third. But I did, once again, take the liberty
24 of taking out the ones that say, you know,
25 drugging somebody and that sort of thing.

1 **MS. OWEN:** Thank you.

2 **MR. HUNT:** Your Honor, I think I noted,
3 for the record, my objection to the inclusion on
4 two and three.

5 **THE COURT:** Absolutely. Absolutely. It's
6 noted and ---

7 **MR. HUNT:** Thank you.

8 **THE COURT:** --- respectfully denied. All
9 right.

10 **MR. HUNT:** Thank you. (Pause.)
11 (Jury enters at approximately 12:24 p.m.)

12 **THE COURT:** Ladies and Gentlemen, we are
13 now ready to turn to closing arguments. Just to
14 kind of let you know what's ahead, we've got --
15 your Clerk of Court has ordered pizza for you
16 for lunch. So just about the time we finish up
17 with this, that should be here, and you'll be
18 able to have some lunch and deliberate while
19 that's going on. All right.

20 Yes, ma'am.

21 **MS. OWEN:** Thank you, Your Honor.

22 Ladies and Gentlemen, thank you so much for
23 being attentive and being a part of this
24 process, because this is not always an ideal
25 place to be, but we need you. I told you when

1 this first started -- I don't know if this is
2 going to work for me today. I hope it does --
3 that this case is going to be about four words:
4 Prosecutrix [REDACTED] was raped. I told you that I will
5 prove to you beyond a reasonable doubt that this
6 young girl was raped.

7 Ladies and Gentlemen, we all come from
8 different backgrounds. We all know different
9 people. We've all watch TV shows. We all have
10 different interests, likes, and dislikes.

11 Prosecutrix [REDACTED] is now 19. Two years ago,
12 she was 17. Three years ago, she was 16. At
13 16, she had to drop out of high school. She got
14 pregnant. She moved in with her boyfriend. She
15 was living like an adult, but she wasn't an
16 adult. Her mom had her other siblings to raise
17 on one income. You heard from her. She had four
18 or five siblings living in her mom's house, two
19 bedrooms, one bathroom.

20 When she moved in with her boyfriend, she
21 moved into another situation. It's not ideal.
22 She was moving in with a friend of her boyfriend
23 and then a random stranger, Jamie. That is what
24 she was doing to help herself at that time to
25 take care of her son and try to have a family.

1 She dropped out of high school, so she
2 could take care of him. She's got separation
3 anxiety. They wouldn't let her take the baby to
4 school. She was breast feeding. She had the baby
5 at home with her. She didn't have a car. She
6 didn't have a phone. She was dependent on her
7 boyfriend to take care of her. That's what they
8 were doing, the best they could.

9 In this case, the law applies equally to
10 everybody, everyone. Mr. Bryant may be over
11 there in a suit and tie and a pocket square, but
12 the law applies to him, just like it applies to
13 her.

14 Ladies and Gentlemen, she was barely 17 on
15 April 5th, 2016. She was raped. In a minute,
16 we're going to go through the evidence that we
17 talked about. I want to talk to you a little bit
18 about the definitions in the law. If I get it
19 wrong, I know Judge Verdin will definitely
20 correct me.

21 You are going to hear charges read to you
22 for criminal sexual conduct in the third degree.
23 In the third degree, that means there is a
24 sexual battery and force or coercion without an
25 aggravating circumstance. I will submit to you

1 that we definitely met that burden, but we also
2 met a higher burden. You're going to hear about
3 criminal sexual conduct in the second degree,
4 which is sexual battery and aggravated coercion.
5 For aggravated coercion, you have to have
6 threatened to use, coerce, if the victim
7 reasonably believes they can carry out the
8 threat or threatens to retaliate in the future
9 against the victim or another person. I will
10 submit to you, we definitely met this burden.
11 I'm going to go through those reasons in a
12 minute.

13 But at the end of the day, I'm going to ask
14 you to come back with a guilty verdict of
15 criminal sexual conduct in the first degree. I'm
16 getting ready to tell you why. Jamie, let's talk
17 about what you heard from Jamie. Jamie suddenly
18 tells you, two years after this incident, that
19 he believes Prosecutrix [REDACTED] is mad at him because
20 he wouldn't take her to buy formula for her
21 baby. He also tells you that, the day before,
22 she was grabbing his genital area, but no one
23 saw that. Dirk Van Holland testified and
24 Prosecutrix [REDACTED] testified. Both were there. Billy
25 was not there. Dirk Van Holland says that, and

1 excuse me my language, but that Jamie was
2 playing grab ass with Prosecutrix [REDACTED] as she was
3 trying to get back to her room. After Jamie
4 left, she made it clear that she didn't want him
5 to come back.

6 When he gets interviewed, the same day that
7 she calls 911 and reports this rape, he lies to
8 the police. He said, I was not there. I was
9 there the night before, not there today. No, I'm
10 not giving you a DNA sample.

11 Conveniently, today he says that he wiped
12 off with a towel and it was consensual. Yet, law
13 enforcement testified about what they took and
14 what they found. They found the comforter. They
15 did not find any towels. Ladies and Gentlemen,
16 his DNA was located in her vaginal area. You
17 heard that from SLED. Two years after he is
18 arrested, he decides that this is what he's
19 going to tell you.

20 Let's talk about what Prosecutrix [REDACTED] told you
21 and all of the things that she has told from the
22 start to the finish. Prosecutrix got up here and
23 said that when this happened, she was 17. I had
24 to do some abbreviations -- I'm sorry -- SLED,
25 Torrance Jackson, Rita Burgess, Dirk Van

1 Holland, Michael Hendricks, Franklin Lomax,
2 Pamela Belkevitz, and 911.

3 She gets up here and says, two years ago,
4 she was 17 when this happened. Torrance knew
5 that, Rita knew that and Dirk Van Holland calls
6 her a little girl on the witness stand. He
7 doesn't say how old she is. Pamela Belkevitz
8 puts her age down and she tells 911, I am 17.
9 She also tells, the same day, I'm -- I have a
10 four-month-old child. She told you that
11 yesterday, she told Torrance then, Rita, Dirk
12 Van Holland knew that, Pamela Belkevitz, and
13 911.

14 All of these same people know she is a
15 stay-at-home mom, that she doesn't have a car.
16 She has to tell 911 that because she can't leave
17 and she thinks he's coming back. She has no
18 phone. She tells the 911 operator, this does not
19 have any service. She's lucky it called 911.

20 She only knows him as Jamie. That's what
21 she tells Torrance the day this happens, that's
22 what she tells Rita Burgess. That's why they had
23 to get a search warrant on the home because they
24 don't know who he is. All they know is his name
25 is Jamie. She also tells the 911 lady that.

1 Jamie. I don't really even know him. His name is
2 Jamie.

3 She says he came there at lunch. You heard
4 from Franklin Lomax and Dirk Van Holland that
5 they go over to his house for lunch. He leaves
6 about 12:10; is that right? She tells the 911
7 operator, I think he's on his lunch break.

8 She tells Rita and Pamela, the day before,
9 he had touched me. To Pamela, she thought there
10 was a comment made, but she thought he was
11 kidding. She blew it off. Dirk Van Holland talks
12 about the day before and him grabbing her.

13 Everybody, I say everybody, as in **Prosecutrix**
14 and Jamie, both say on April 5th, she was in the
15 kitchen when he comes in that house. She told
16 you today, just like she told Torrance and law
17 enforcement that day, that he grabbed her by the
18 arm -- it was in her written statement -- he
19 takes her back to a room. Mr. Hunt wants to
20 make a big deal about it being so long, this
21 hallway and there's all these items, when you
22 take the pictures back there, you're going to
23 see it is not. It is a very short hallway.

24 She said she's standing in front of the
25 microwave. The butcher block is on the other

1 side of the kitchen. He gets her in a room and
2 puts her on the bed. The lamp is not close to
3 the bed. The candy dish is not close to the bed.

4 She tells you this happens in seconds, not
5 minutes, not hours, seconds. He is 6'3, 190
6 pounds. Comes up behind her, grabs her by the
7 back of her arm and drags her and puts her on a
8 bed. She says that to Torrance, Rita and Pamela
9 Belkevitz.

10 She then says, he tries to kiss me. She
11 tells that to Torrance, Rita and to Pam
12 Belkevitz. She then says he tries to put his
13 penis in my mouth. She is saying no. She tries
14 to leave. He won't let her. He puts her down,
15 hold her down, takes her shorts off, and then he
16 digitally penetrates her. She tells that to law
17 enforcement and Pam Belkevitz. 911, she uses a
18 coverall, he raped me. She doesn't have to go
19 into detail. At this point, she is just a wreck.
20 You can tell on the call.

21 She says she clinches her mouth shut. He's
22 holding her down. She tells you that yesterday.
23 She tells law enforcement that two years ago.
24 Her story has not changed, Ladies and Gentlemen.

25 After he puts his fingers inside of her, he

1 then forces his penis inside of her. She told
2 you that yesterday. She told 911 that that day.
3 Then when law enforcement gets there, she tells
4 them that again. She gives a written statement
5 about it and she tells Pamela Belkevitz at the
6 hospital.

7 She says her baby is screaming while he's
8 doing this to her. She told you that yesterday.
9 She tells the 911 operator that he was crying
10 during the entire thing. She tells law
11 enforcement that. She even tells Pam Belkevitz
12 that. You heard her talk about it. That hasn't
13 changed.

14 She's saying no. Then she freezes because
15 she decides that she just needs to let him
16 finish so she can get to her screaming baby and
17 just waits for it to be over. She told you that
18 yesterday. She told law enforcement that. She
19 told Pam Belkevitz that. Her story hasn't
20 changed.

21 Then he throws himself off of her when he's
22 done. She tells law enforcement that. It's in
23 her written statement. She tells Pam Belkevitz
24 that. She told you that yesterday.

25 Then she puts on her shorts and finally

1 runs to get her child. Then he comes out
2 smiling. He smiles at her after he has just
3 violated her innermost person and tells her
4 he'll be back in 20 minutes, knowing she has no
5 car and no phone and no one's coming home. She
6 tells law enforcement that. She tells 911 that.
7 She tells Pam Belkevitz that. And she told you
8 that.

9 Ladies and Gentlemen, she calls 911 at
10 12:28 p.m. That's when that call comes in to
11 Easley dispatch. He has left his place of
12 residence about 12:10, 12:15. Takes him five
13 minutes, maybe, to get to his house. In that
14 short amount of time, he has drug her in a room,
15 raped her and is leaving. Like she said, it was
16 seconds. That's all it takes. It doesn't take
17 minutes or hours. It was a very short period of
18 time.

19 **Minor** who was only four months old, is on
20 the call. You can hear him. She's holding him.
21 She's finally gotten her baby and she's gotten
22 to a phone and she's trying to calm him down.
23 Hopefully, she's fed him a bottle at the same
24 time she was on the phone, because that's what
25 she was going to do when she was forcibly raped.

1 She tells you that yesterday. She told law
2 enforcement back then. You can hear it for
3 yourself on the 911 call. SLED tells you that
4 because the swabs of her arms and around her
5 mouth, little baby Minor [REDACTED] DNA is on her. She
6 had to get to her child.

7 Ladies and Gentlemen, Prosecutrix [REDACTED] was
8 raped. It's black and white. Jamie Bryant
9 intended to go to her house. The day before, he
10 was grabbing on her backside. He knew she was
11 home alone without a phone and no car. He
12 thought about it. He planned it. His buddies
13 came home at just the right time. Perfect
14 timing. They can watch the grandbaby while he
15 runs over here and rapes this girl and comes
16 home and no one's ever going to know, because
17 how is she going to tell anybody? Who's going
18 to believe her?

19 He thinks he doesn't ejaculate at her. He
20 thinks there's no DNA. He wants to pinpoint her
21 as somebody who does drugs, somebody who lives
22 with her boyfriend, and somebody who's just not
23 somebody he associates with on a regular basis.
24 He has to leave the house because he is afraid
25 that he might get in trouble because he sees

1 some drug somewhere, maybe. Yet, he voluntarily
2 goes over there and has sex with her? I don't
3 think so.

4 Ladies and Gentlemen, she is a tiny person.
5 She was 17, and barely 17, and a new mother. She
6 was trying to make a life for herself and her
7 child and keep a family. Jamie Bryant violated
8 her in the most egregious way. She will never
9 feel safe in her own skin again. She has
10 nightmares. She doesn't eat well. She doesn't
11 like to be around strangers. He took any safety
12 in herself that she ever had.

13 Ladies and Gentlemen, Jamie Bryant has been
14 charged with criminal sexual conduct in the
15 first degree, and that means a sexual battery
16 and aggravated force or forcible confinement. I
17 submit to you that Jamie Bryant is much bigger
18 than Prosecutrix [REDACTED] She was 17. He was 34. He's
19 6'3 and 190 pounds. She's barely five foot,
20 maybe 100 pounds soaking wet.

21 I submit to you that she was in the kitchen
22 making a bottle. He grabs her by the arm. He
23 takes her into Dirk's bedroom where he puts her
24 down on his bed, tries to kiss her. She's
25 telling him no. She's trying to get up. He puts

1 her back down on the bed, at which point, tries
2 to put his penis in her mouth. She's saying, no,
3 no, no, no. She's not going anywhere because she
4 can't.

5 Her baby is screaming in the living room,
6 screaming in his bouncy seat in front of the TV.
7 She's saying no. He's pulling off his shorts and
8 putting his fingers inside of her and then
9 putting his penis inside of her, at which point,
10 she just freezes, because she can't go anywhere.
11 There is nowhere for her to go. She decides if I
12 just let this happen, the faster it's over, the
13 faster I get to my child. That's what she does.
14 She did what she needed to do for it to get over
15 and to get to her baby. He smiles at her as he
16 leaves and says, I will be back in 20 minutes.

17 Thankfully, the police come. She calls 911
18 right away. She goes for a rape kit. Pam
19 Belkevitz told you there was physical findings.
20 She had bruising in her vaginal area. She had a
21 tear. It was red, appeared to be swollen. She
22 told you that because those are physical
23 injuries from a nonconsensual sex act. She
24 explained to you that if it had been consensual,
25 her pelvis would have turned, there would be no

1 bruising, there would be no tears. But that is
2 not what happened because Jamie Bryant forced
3 himself inside of Prosecutrix [REDACTED]. Then she had
4 to go through the humiliation of taking swabs
5 from her arms, her mouth, and then her vaginal
6 area. Then she had to go back home and live in
7 that same place four months by herself with her
8 child. Meanwhile, these swabs are at SLED and
9 they come back with DNA matching Jamie Bryant.

10 Ladies and Gentlemen, her story hasn't
11 changed. She is not in the best situation, but
12 she did not deserve to be raped. I ask you to
13 find Jamie Bryant, Matthew Bryant, guilty beyond
14 a reasonable doubt, which means you are firmly
15 convinced that this happened, of criminal sexual
16 conduct in the first degree because Prosecutrix
17 [REDACTED] was raped by Jamie Bryant. Thank you.

18 THE COURT: Thank you.

19 Mr. Hunt.

20 MR. HUNT: Please the Court, Your Honor.

21 THE COURT: Yes.

22 MR. HUNT: Ladies and Gentlemen, we've
23 been here a couple of days. We got to spend some
24 inside time when it's so beautiful outside. I
25 appreciate it. This is one of those wonderful

1 days the Good Lord's given us, but we have a
2 duty to do. Again, we talk about the rule of
3 law, and I'm going to talk about that a little
4 bit more, but it's very important that we come
5 here today and we remember that rule of law and
6 we remember the law when we're thinking about
7 what happened today.

8 Her Honor's going to charge the law -- her
9 Honor's going to charge the law for criminal
10 sexual conduct. The first one we've talked
11 about, criminal sexual conduct in the first
12 degree, talks about aggravated force. What is
13 aggravated force? Her Honor is going to tell you
14 what our law says about aggravated force. Please
15 listen carefully. Please listen carefully.

16 She's going to also charge you as to
17 criminal sexual conduct in the second degree,
18 criminal sexual conduct in the third degree. We
19 submit to you that it did not happen, that there
20 was criminal sexual conduct whatsoever. But just
21 remember one thing, it has to be proven -- all
22 the elements of whichever one has to be proven
23 beyond a reasonable doubt.

24 Legal scholars and lawyers, for centuries,
25 have talked about what is reasonable doubt, what

1 it is, what it is not. Reasonable doubt is not
2 something we talk about every day. It's serious
3 stuff. In other words, if we're going to make --
4 if we are going to make an order from the
5 Walmart overnight or Amazon overnight and maybe
6 we will, maybe we won't, that's not a reasonable
7 doubt. That's not where reasonable doubt comes
8 from. We are talking about serious things. We're
9 talking about very serious things.

10 In other words, if a member of a family
11 during -- had an issue, was involved in an
12 accident or something like that and he or she
13 was unconscious and the doctor had to make a
14 choice, you all, all of us would take the most
15 -- the information that we have to try to make a
16 choice and make a decision about. That's why --
17 that's when we start talking about reasonable
18 doubt.

19 Also, you'll probably hear the word
20 "certainty." It's the plainest word in this
21 definition. It basically means you remove from
22 your mind there's a question about whether there
23 is a reasonable doubt. If you have a question as
24 to whether there's a reasonable doubt, then a
25 reasonable doubt exists, and the standard is

1 beyond a reasonable doubt.

2 I want to talk a little bit about the
3 evidence. First off, I want to comment on
4 something. You saw the statement. You saw the
5 statement. I can't put my hand on it right now,
6 but I'm going to get it because it's in
7 evidence. The Solicitor characterizes she was
8 dragged down the hall. Not one word about drag
9 down the hall in her statement. I was led down
10 the hall.

11 You talked about -- we talked about, oh,
12 it's a -- it wasn't -- it's a short place. It
13 was short enough, as I showed you all, for them
14 to come out of the kitchen, turn around, take a
15 left, take a left -- right -- go down that hall
16 to that room. She was not dragged, I submit to
17 you. She was not confined.

18 Then, you go back and you start thinking
19 about the day before. There was Jamie. There was
20 Dirk. Jamie's girlfriend was in the car.

21 Prosecutrix and her boyfriend were there. Dirk, as
22 I recall it, testified he saw them standing
23 there talking. He was at his place. He saw --
24 she said, oh, I went to my room and I locked
25 myself in my room. I don't know. Dirk didn't see

1 it.

2 Jamie says, she groped me. Jamie said, she
3 had groped me during the night and other times
4 when I might wake up and there would be drug
5 activity going on in this particular house. So,
6 you know -- and then how did Jamie know -- how
7 did Jamie know to come over there at lunch time?
8 How did he know to come over there at lunch
9 time? He says the door was locked and she
10 opened the door. He says he went in the front
11 room. She said come over.

12 They did. They started kissing. They walked
13 back -- she led me back to the bedroom. That's
14 where the bed was. Then we get into the bed. We
15 talked long and hard about the bed. Ladies and
16 Gentlemen, you saw the imprint there on the bed.
17 You saw it. It's going to be in your evidence. I
18 think it is 4 or 5. Where -- where -- where --
19 where's the struggle? Where's the struggle? I
20 submit to you it wasn't one.

21 You also said, oh, he tried to put his
22 penis in my mouth. Well, guess what? It's not
23 on that original statement. She was there with
24 law enforcement officers right at the time when
25 it started. She went in the hospital, oh, he

1 tried to put his penis in my mouth.

2 You remember what the -- you remember what
3 the nurse said? I got my -- I got my questions
4 I asked the nurse and I asked, specifically --
5 specifically, I said, was there -- were you
6 threatened? No. Injuries inflicted? No. Stated
7 held down by the bilateral forearms. Grabbing,
8 holding, pinching? No. Physical restraints? No.
9 Strangulation? No. Burns, chemical, thermal? No.
10 Verbal threats of harm? No.

11 Her baby was crying in the other room and
12 he wouldn't stop, so she just quit fighting. I
13 don't know about that. Then, of course, she had
14 some bruising, this, that. I submit to you she's
15 a young woman and I don't know why she had
16 bruising, but there might have been some that
17 could have come from a number of things. There
18 was no -- that's for you all. But I submit to
19 you that there's more than one interpretation of
20 that.

21 Yes, Jamie did give a DNA swab. He told you
22 -- oh, we're going to make a great deal out of
23 the fact that he didn't ejaculate inside of her.
24 Well, he didn't want to have a child with her.

25 Ladies and Gentlemen, it's -- it is sad.

1 This young woman does find herself -- did find
2 herself in a tough situation. I submit to you
3 she had come through some of those tough
4 situations. She had had a child. She had -- see
5 she had indicated she had lived away from her
6 mom when she was young.

7 She told the police -- she told the 911
8 person, oh, there are knives all over -- there
9 are knives in the house. Guess what? We looked
10 on this thing and, sure enough, there is that
11 butcher knife right there. She didn't grab it.
12 There is a can. There is a FryDaddy. All of
13 which were in there. All of which she could've
14 used. All of which she could have used.

15 Common sense and human nature -- common
16 sense and human nature says, I submit to you,
17 that if you're in that kind of situation, you're
18 going to take advantage of whatever you've got
19 to do to protect herself. That butcher knife and
20 that butcher block was a great equalizer. That
21 FryDaddy was a great equalizer.

22 The truth of the matter is also -- don't
23 forget. Don't forget that when you look at that
24 place, there's no evidence of anything being
25 disrupted. No trash -- the trash can wasn't

1 dumped over. The rug wasn't out of place. There
2 was nothing. There was nothing.

3 The bed looked about like it did just about
4 like when beds are made that are not made so
5 very well. The bed looked like it was at my
6 house, if you will. The bed was not -- was not
7 disheveled. So I submit to you it is very --
8 there is no evidence of that.

9 I saw -- I love animal things. I was
10 watching one of those YouTube things about a
11 bear and a tiger. There was a -- in India, they
12 have, apparently, in national -- in the national
13 parks, they have both bears and tigers. This
14 mama bear was taking her cubs to the watering
15 hole. There was a big four -- four-year-old --
16 four-to-five-year-old tiger there. He was trying
17 to get after a cub. This mama bear was pretty
18 small.

19 I am telling you I watched that thing that,
20 tiger got the best of her, on and on. But you
21 know what? She fought it off. She fought it off
22 because she wasn't about -- the last thing --
23 the last flick off the YouTube -- on the YouTube
24 thing was she was chasing -- the bear was
25 chasing the tiger away. That's human nature.

1 That's common sense. If you think somebody is
2 going to -- if you think somebody's going to
3 come in your house and hurt you, you're going to
4 take your part. I submit to you it didn't happen
5 that day.

6 I'm going to close with something. I hope I
7 get it right. I talked about the rule of law and
8 I'm going to talk about the rule of law again.
9 On the oldest courthouse in England, there are
10 words that say, in this hallowed place of
11 justice, the crown never loses because when the
12 liberty of the Englishman is reserved against
13 false witnesses, the crown wins. I submit to
14 you, the liberty of this young man should be
15 upheld against false witnesses. Thank you for
16 your time.

17 **THE COURT:** Thank you, Mr. Hunt.

18 Anything in reply?

19 **MS. OWEN:** Briefly, Your Honor.

20 **THE COURT:** All right.

21 **MS. OWEN:** Detective Hendricks didn't
22 know I was going to do this, but would you stand
23 up? Walk over here. How tall are you? 6'2,
24 Detective Hendricks is. If I take my shoes off
25 I'm 5'4. If I stand like this and he grabbed me

1 from my arm and he starts to pull me, I don't
2 know that I'm going anywhere.

3 Thank you.

4 Ladies and Gentlemen, the defense testified
5 that he knew **Prosecutrix** would be home. He knew she
6 didn't have a car. She's a stay-at-home mom.
7 He knew Frank Lomax and Dirk Van Holland were at
8 his house. So there would be no one
9 approaching. And Billy's at work. He knew she
10 would be home by herself.

11 I submit to you that if this was consensual
12 sex, they would have had consensual sex and she
13 would've never had to call 911. There would be
14 no physical evidence in her vaginal area. She
15 was home all day, everyday by herself. If she
16 wanted to have sex with him, she could have and
17 we wouldn't be here. But that's not what
18 happened.

19 You never know what you're gonna do when
20 you're in that situation. She said, fight,
21 flight, or freeze. She'd never been in that
22 situation. She didn't know what she was going to
23 do when a grown man, 34 years old, comes up
24 behind her, grabs the back of her arm and takes
25 her into a bedroom.

1 She's telling him no. She tries to push him
2 off. He puts her back down on the bed. She
3 didn't know what she would do in that situation,
4 but she wasn't going anywhere. She was confined
5 to that room and that bed under Jamie. She did
6 not want to have sex with Jamie Bryant. She was
7 not allowed to leave that room until he
8 finished.

9 Ladies and Gentlemen, I know there's been a
10 lot of talk about discussions of a room or where
11 things are. She has got pocket knives in her
12 bedroom. In the picture he's shown you, the
13 butcher block is across the kitchen. She says he
14 comes up behind her. She's not going anywhere.

15 As she told Mr. Hunt, you can pick apart my
16 statement, but that is what happened. He can
17 pick apart the fact that she put led, not
18 grabbed, or she's not saying I smacked him or
19 kicked him or whatever, but she did not
20 willingly have sex with him. She's not leaving
21 that room. He is 34, 6'3, 190 pounds. She was
22 17, maybe 5 foot, maybe 100 pounds. You know
23 what she's thinking the entire time he's doing
24 that? My baby, my baby, my baby. Thank you.

25 **THE COURT:** All right. Ladies and

1 Gentlemen, we are now to my final charge on the
2 law to you. I anticipate it will take about 20
3 minutes. Are you all okay to do that or would
4 you prefer to break for lunch now? Go ahead and
5 hear my charge? All right. All right. If
6 there's anybody who has a problem with that,
7 please let me know. I am certainly aware of
8 anybody who might have a need to eat, you know,
9 a physical -- any kind of physical problem or
10 anything like that. I will defer to you all.

11 A couple of quick things. I just wanted to
12 explain to you, this lady I've been talking to
13 beside me throughout the trial, I just wanted to
14 explain to you, she is my law clerk. She is a
15 law school graduate. Her name is Grace Beringer.
16 She is here, helping me on the charge on the
17 law. She would rather be talking about Duke
18 basketball, I assure you, but, instead, that's
19 what we've been talking about is the law, and I
20 wanted to assure you about that and not think
21 that we were being disrespectful during any of
22 these closing arguments, which were outstanding.

23 Next, I want to tell you that I read my
24 charge on the law verbatim to you. You may
25 wonder why I do that. It's a couple of reasons.

Jury Charge

1 First of all, I want to get it right. I don't
2 want to forget anything. But, most importantly,
3 these attorneys have graciously agreed that I
4 can send a written copy of my charge back to
5 you. I want to make sure of what I charge you in
6 here today is what you would be able to refer to
7 back in your jury deliberation room. All right.

8 Mr. Foreperson, Ladies and Gentlemen of the
9 jury, you have seen and heard the evidence
10 presented, as well as the arguments of counsel.
11 It now becomes my duty and obligation to
12 instruct you on the law applicable in this case.
13 It will then be your duty and obligation to
14 begin your deliberations, through which process
15 you will decide the facts, apply the law as
16 instructed by the Court, and determine whether
17 or not the State has met its burden of proof.

18 It is your exclusive duty to determine the
19 facts in this case. You do that based on your
20 own common sense examination and evaluation of
21 the testimony and other evidence received during
22 the trial of this case. You 12 jurors alone will
23 decide what weight, value and effect is to be
24 given to any particular testimony or other
25 evidence received. Your ultimate goal is to

Jury Charge

1 determine whether the State has met its burden
2 of proof in the case and, in doing so, you will
3 have fulfilled your obligation as jurors, and
4 that is to give both the State and the defendant
5 a fair and impartial trial based upon the
6 evidence presented and the law applicable to
7 this case.

8 In this case, the state of South Carolina,
9 through the circuit solicitor, has charged the
10 defendant for the criminal offense known as
11 first degree criminal sexual conduct. The
12 allegations charging the defendant with this
13 crime is set forth in the indictment that has
14 been previously explained to you. The indictment
15 is not evidence in this case and may not be
16 considered by you as evidence against the
17 defendant.

18 As to the charge set forth in the
19 indictment, the defendant has entered a plea of
20 not guilty. That plea of not guilty has,
21 therefore, placed upon the State the burden of
22 proving the allegations that are set forth in
23 the indictment, the burden of proving each of
24 the essential elements of the crime charged and,
25 therefore, the burden of proving the guilt of

Jury Charge

1 the defendant to the satisfaction of you 12
2 jurors beyond a reasonable doubt before a
3 verdict of guilty could be returned as to any
4 indictment.

5 The burden of proof is never upon a
6 defendant to prove that he is not guilty or to
7 prove that he is innocent because, in some
8 cases, that might not be possible. The burden is
9 always upon the State, because they have made
10 the allegations, to prove the defendant guilty
11 beyond a reasonable doubt.

12 You are further instructed that it is a
13 vital, important and cardinal rule of law that
14 every defendant in a criminal trial, no matter
15 how serious the offense might be for which he
16 stands charged, shall always be presumed
17 innocent of that charge, and that presumption of
18 innocence shall be with the defendant from the
19 moment of his arrest, and throughout the course
20 of the criminal process, and even throughout the
21 course of the actual trial. The presumption of
22 innocence shall be with the defendant, even as
23 you go into the jury room to begin your
24 deliberations, and that presumption of innocence
25 shall be with him there and be with him forever

Jury Charge

1 until you 12 jurors determine that he is no
2 longer entitled to that presumption of
3 innocence. It is only if, unless, and until you
4 are satisfied of the defendant's guilt beyond a
5 reasonable doubt that he would no longer be
6 entitled to the presumption of innocence.

7 I remind you that, during this trial, you
8 and I have certain duties to perform. As the
9 trial judge, it is my responsibility to preside
10 over the trial of this case, and I also have the
11 duty to rule over the admissibility of evidence
12 offered during this trial. You are to consider
13 only the competent evidence before you. If
14 there's any testimony ordered stricken from the
15 record in this case, you must disregard that
16 testimony. You are to consider only the
17 testimony that has been presented from this
18 witness stand, any exhibits which have been made
19 a part of the record in this case, and any
20 stipulations of counsel.

21 I have the additional duty to charge you
22 the law applicable to this case. As the
23 presiding judge, I am the sole judge of the law
24 of this case. It is your duty, as jurors, to
25 accept and apply the law as I now state it to

Jury Charge

1 you. If you already have any idea as to what the
2 law is or what the law ought to be and it does
3 not agree with what I now tell you the law is,
4 you must abandon that idea because you are sworn
5 to accept the law and apply the law exactly as I
6 state it to you.

7 In every case tried in this court before a
8 jury, the jury becomes the sole and exclusive
9 judge of the facts in a case. A trial judge
10 cannot intimate, state, comment on or make any
11 statement to a trial jury about the facts in a
12 case. Since you, the jury, are the sole judge of
13 the facts in this case, you are not to infer
14 from what I've said during the trial of this
15 case in ruling the admissibility of evidence, or
16 otherwise, or anything that I say during the
17 course of this instruction to you, that I have
18 any opinion about the facts in this case. I do
19 not. The law does not allow me to have an
20 opinion about the facts in this case. This is a
21 matter solely for you, the jury, to determine.
22 As jurors, it is your duty to determine the
23 effect, value, weight and truth of the evidence
24 presented at trial.

25 The State has the burden of proving the

Jury Charge

1 defendant guilty beyond a reasonable doubt. Some
2 of you may have served as jurors in civil cases
3 where you were told it was only necessary to
4 prove that a fact is more likely true than not
5 true, such as by the greater weight or
6 preponderance of the evidence. In criminal
7 cases, the State's proof must be more powerful
8 than that. It must be beyond a reasonable doubt.
9 Reasonable doubt is the kind of doubt that would
10 make a reasonable person hesitate to act.

11 Proof beyond a reasonable doubt is proof
12 that leaves you firmly convinced of the
13 defendant's guilt. They're very few things in
14 this world that you have with absolute
15 certainty, and in criminal cases, the law does
16 not require proof that overcomes every possible
17 doubt. If, based on your consideration of the
18 evidence, you are firmly convinced that the
19 defendant is guilty of the crime charged, you
20 must find the defendant guilty. If, on the other
21 hand, you think there is a real possibility the
22 defendant is not guilty, you must give the
23 defendant the benefit of the doubt and find him
24 not guilty.

25 Facts and circumstances that merely place

Jury Charge

1 upon the defendant a grave suspicion of the
2 crime charged or that merely raises conjecture
3 of the defendant's guilt are not sufficient to
4 authorize a conviction of the accused.

5 There are two types of evidence which are
6 generally presented during a trial: direct
7 evidence and circumstantial evidence. Direct
8 evidence is the testimony of a person who claims
9 to have actual knowledge of a fact, such as an
10 eyewitness. It is evidence which immediately
11 establishes the main fact to be proved.

12 Circumstantial evidence is proof of a chain
13 facts and circumstances indicating the existence
14 of a fact. It is evidence which immediately
15 establishes collateral facts from which the main
16 fact may be inferred. Circumstantial evidence is
17 based on inference and not on personal knowledge
18 or observation.

19 The law makes absolutely no distinction
20 between the weight or value to be given to
21 either direct or circumstantial evidence. Nor is
22 a greater degree of certainty required of
23 circumstantial evidence than direct evidence.
24 You should weigh all the evidence in this case.
25 After weighing all the evidence, if you are not

1 convinced of the guilt of the defendant beyond a
2 reasonable doubt, you must find the defendant
3 not guilty.

4 Necessarily, you must determine the
5 credibility of witnesses who have testified in
6 this case. Credibility simply means
7 believability. It becomes your duty, as jurors,
8 to analyze and evaluate the evidence and
9 determine if the State has met its burden of
10 proof in this case.

11 In determining the believability of
12 witnesses who have testified in this case, you
13 may believe one witness over several witnesses
14 or several witnesses over one witness. You may
15 believe a part of the testimony of a witness and
16 reject the remaining part of the testimony of
17 that same witness. You may believe the testimony
18 of a witness in its entirety or reject the
19 testimony of a witness in its entirety. You may
20 consider whether any witness has exhibited to
21 you any interest, bias, prejudice, or other
22 motive in this case. You may also consider the
23 appearance and manner of a witness while on the
24 witness stand.

25 The rules of evidence ordinarily do not

1 permit witnesses to testify to opinions or
2 conclusions. An exception to this rule exists
3 for witnesses we call expert witnesses. A
4 witness who, by education and experience, has
5 become an expert in some art, science,
6 profession, or calling may state an opinion as
7 to relevant and material matter, in which the
8 witness claims to be an expert, and may also
9 state the reasons for the opinion.

10 You should consider any expert opinion
11 received in evidence in this case and, like any
12 other evidence, give it the weight you think it
13 deserves. If you decide that the opinion of an
14 expert witness is not based on sufficient
15 education and experience, or if you conclude
16 that the reasons given in support of the opinion
17 are not sound, or that the opinion is outweighed
18 by other evidence, you may disregard the opinion
19 entirely.

20 An expert witness' testimony is to be given
21 no greater weight than that of other witnesses
22 simply because the witness is an expert.
23 Further, you are not required to accept an
24 expert's opinion, even though it is not
25 contradicted.

1 In order to establish criminal liability,
2 the State must also prove criminal intent. For a
3 particular crime, the mental state required
4 might be purpose, intent, knowledge,
5 recklessness, or criminal negligence. Criminal
6 intent -- excuse me -- the State must prove
7 criminal intent beyond a reasonable doubt.

8 Criminal intent is a matter that must be
9 determined by the jury from the facts of the
10 case. There is no way to prove criminal intent
11 to a mathematical certainty, so the law says
12 that criminal intent may be inferred from the
13 circumstances shown to have existed. This is how
14 you determine whether or not the element
15 requiring intent was present. It is not
16 necessary to establish intent by direct
17 evidence. Intent may be established by
18 circumstantial evidence or by taking into
19 consideration the acts of the parties and all
20 the facts and circumstances of the case.

21 Criminal intent is a mental state of
22 conscious wrongdoing. It is up to you to
23 determine what the defendant intended to do
24 based on the circumstances shown to have existed
25 in this case.

1 The defendant is charged for criminal
2 sexual conduct in the first degree. The first
3 element which the State must prove beyond a
4 reasonable doubt is that the defendant engaged
5 in a sexual battery with victim. A sexual
6 battery is sexual intercourse, fellatio, or any
7 intrusion, however slight, of any part of a
8 person's body, or any object into the genital
9 openings of another person's body.

10 If you find that the State has not shown
11 beyond a reasonable doubt that a sexual battery
12 occurred, you will stop deliberating and your
13 verdict would have to be not guilty.

14 If you find that a sexual battery did
15 occur, you must then decide whether the State
16 has proven beyond a reasonable doubt that, 1,
17 the defendant used aggravated force to
18 accomplish the sex -- the sexual battery.
19 Aggravated force means the use of physical force
20 or physical violence of a high and aggravated
21 nature to overcome the victim. This includes the
22 threat of using a deadly weapon; or, 2, the
23 victim submitted to sexual battery while the
24 victim was also the victim of forcible
25 confinement, kidnapping, robbery, extortion,

1 burglary, housebreaking, or any similar -- other
2 similar act or offense.

3 Second degree criminal sexual conduct. If
4 you find that the State has failed to prove
5 beyond a reasonable doubt that the defendant is
6 guilty of first degree criminal sexual conduct,
7 you may consider whether the State has proven
8 that the defendant is guilty of sexual second
9 degree sexual conduct. Second degree criminal
10 sexual conduct contains all the elements of
11 first degree criminal sexual conduct, except the
12 circumstances of aggravation. Instead, the State
13 must prove beyond a reasonable doubt that the
14 defendant used aggravated coercion to accomplish
15 the sexual battery.

16 In order to prove second degree criminal
17 sexual conduct, the State must first prove
18 beyond a reasonable doubt that the defendant
19 engaged in a sexual battery with the victim. If
20 you find that a sexual battery did occur, you
21 must then decide whether the State has proven
22 beyond a reasonable doubt that the defendant
23 used aggravated coercion to accomplish the
24 sexual battery.

25 Aggravated coercion means that the

Jury Charge

1 defendant threatened to use force or violence of
2 a high and aggravated nature to overcome the
3 victim or another person, if the victim
4 reasonably -- reasonably -- reasonably believed
5 the defendant had the present ability to carry
6 out the threat. Aggravated coercion --
7 coercion may also exist if the defendant
8 threatened to retaliate in the future by the
9 infliction of physical harm, kidnapping, or
10 extortion, or under circumstances of
11 aggravation, against the victim or any other
12 person.

13 If you find that the State has failed to
14 prove beyond a reasonable doubt the defendant is
15 guilty of second degree criminal sexual conduct,
16 you may then consider whether the State has
17 proven beyond a reasonable doubt that the
18 defendant is guilty of third degree criminal
19 sexual conduct. Third degree criminal sexual
20 conduct includes all the elements of second
21 degree criminal sexual conduct, except that
22 instead of proving aggravated coercion, the
23 State must prove beyond a reasonable doubt the
24 defendant used force or coercion without
25 aggravating circumstances.

1 In order to prove third degree criminal
2 sexual conduct, the State must prove beyond a
3 reasonable doubt that the defendant engaged in a
4 sexual battery with the victim. If you find that
5 a sexual battery did occur, you must then decide
6 whether the State has proven beyond a reasonable
7 doubt that the defendant used force or coercion
8 without any aggravating circumstances to
9 accomplish the sexual battery. Using force or
10 coercion means to make the victim follow a
11 prescribed and dictated course; to inflict or
12 impose; or to force one's will on someone.

13 I will give you a copy of these
14 instructions in written form during your -- to
15 guide you during your deliberations. You may
16 refer to my instructions during your decision-
17 making. You must consider the instructions as a
18 whole and may not follow some and ignore others.
19 I'm going to stop for a moment and show you the
20 verdict form.

21 Mr. Foreperson, this will be the verdict
22 form that you will mark the jury's verdict,
23 unanimous verdict, and sign and date it at the
24 bottom. You will see that the verdict form,
25 which has been approved by both sides, says we,

1 the jury, unanimously find the defendant not
2 guilty or guilty of first degree criminal sexual
3 conduct or guilty of second degree criminal
4 sexual conduct or guilty of third degree
5 criminal sexual conduct. You may not mark more
6 than one of these, all right, just to be clear.

7 All right. Ladies and Gentlemen, your
8 verdict must be a unanimous one.

9 Mr. Foreperson, when the jury agrees on a
10 verdict, you will write the verdict on the
11 verdict form and sign your name as the
12 foreperson. Then knock on the door of your jury
13 deliberation room to signal the bailiff that
14 you've reached a verdict. At that time, we will
15 receive you back into the courtroom.

16 Now, before you go, please don't begin your
17 deliberations until I've told you to do so. I've
18 got a couple of matters that I need to discuss
19 with the attorneys. Second, your first order of
20 business is, obviously, going to be to eat some
21 lunch. I know that's going to be my first order
22 of business as soon as we break.

23 Some of you might feel comfortable
24 deliberating while eating lunch. That is
25 certainly fine. But all of you must agree on

1 that. In other words, some can't take a break
2 and not deliberate. You all have to decide to
3 eat and deliberate at the same time. Otherwise,
4 then eat and deliberate after that.

5 I want to take a minute, on behalf of these
6 attorneys, to say how much we appreciate your
7 service in this case. We know the sacrifice you
8 are making to be here and we certainly
9 appreciate it very much. I will tell you that
10 the folks at the courthouse tell me that you
11 have been a delightful jury to deal with and,
12 believe me, they don't always say that. So I
13 thank you so much for your service. I'll ask
14 you now to step to your jury deliberation room,
15 but wait just a moment before you begin
16 deliberating.

17 (Jury exits at approximately 1:22 p.m.)

18 **THE COURT:** Any objection to my charge on
19 the law from the State?

20 **MS. OWEN:** None from the State, Your
21 Honor.

22 **THE COURT:** All right. Any from the
23 defense?

24 **MR. HUNT:** None, Your Honor.

25 **THE COURT:** Other than, certainly, your

1 objection to my including second degree, third
2 degree. Of course, those are noted and preserved
3 for the record.

4 MR. HUNT: And also, I'd ask that he --
5 that second degree assault and battery be --
6 that assault and battery be included.

7 THE COURT: Oh, yes, yes, yes. That is --
8 that -- that motion is noted for the record and
9 certainly, respectfully, denied.

10 MR. HUNT: Thank you, Your Honor.

11 MS. OWEN: Thank you, Your Honor.

12 THE COURT: Yes, ma'am.

13 MS. OWEN: I have not told Mr. Hunt this,
14 but, I think, in light of the nature of these
15 charges, the timing, and the emotional extremes
16 that have gone on, I would ask that Mr. Bryant
17 be held in custody until we get the verdict.

18 THE COURT: I think -- I appreciate what
19 you're saying. I have set a trial bond in this
20 matter. I appreciate where you are coming from.
21 I would make the same motion, if I were in your
22 shoes.

23 Mr. Bryant, you're still on the ankle
24 monitor. I don't know what's going to happen
25 next. I have no idea. But I'm going to let you

Remarks

1 stay out for purposes of lunch. I need you to
2 understand that if you were not to show back up
3 for the verdict or if you were to cause any
4 problems during the deliberations whatsoever or
5 any member of your support crew that is here
6 today, if you were to do that, I need to tell
7 you these deputies you would -- finding you and
8 bringing you into custody would be priority
9 number one for them.

10 MR. BRYANT: Yes, Your Honor.

11 THE COURT: All right. As long as we are
12 clear on that and there would be no contact in
13 any way, then we will be in recess pending a
14 verdict. Will you all take a look at all the
15 exhibits? Make sure they're there.

16 MS. OWEN: Yes, Your Honor.

17 THE COURT: And we will send all of this
18 back. I am not inclined to send back the
19 indictment, unless either side request it.

20 MS. OWEN: No, Your Honor.

21 THE COURT: All right then. Very well.

22 (The Court goes off the record at approximately
23 1:24 p.m.)

24 (Jury deliberation is held from approximately
25 1:26 p.m. to 4:07 p.m.)

1 (The Court goes on the record at approximately
2 4:07 p.m.)

3 **THE COURT:** I understand the jury has
4 reached a verdict. They got required to be up
5 here. They don't deserve any kind of ridicule,
6 outburst, anything. There are a number of
7 deputies in the courtroom, as you can see. They
8 are here because they know that if anybody has
9 any sort of an outburst -- although I understand
10 that this is a very emotional day on both sides,
11 if there is any sort of an outburst, I'm going
12 to have to ask them to take you into custody. I
13 would hate to do that. I would hate to do it.

14 All that being said, y'all ready to bring
15 the jury back in?

16 **MS. OWEN:** Yes, Your Honor.

17 **MR. HUNT:** Yes, ma'am.

18 **THE COURT:** Okay.

19 (Jury enters at approximately 4:09 p.m.)

20 **THE COURT:** Mr. Foreperson, it's my
21 understanding that the jury has reached a
22 verdict; is that correct?

23 **THE JUROR:** Yes, ma'am.

24 **THE COURT:** Would you please hand the
25 verdict form to the bailiff?

1 (The verdict form is passed to the Court.)

2 **THE COURT:** All right. The verdict form
3 appears to be in order. I'll ask you to publish
4 it please.

5 **THE CLERK:** This is indictment number
6 2016-GS-39-1551, the State of South Carolina
7 versus Matthew Jamie Bryant. We, the jury,
8 unanimously find the defendant guilty of second
9 degree criminal sexual conduct.

10 Is this your verdict and still your
11 verdict, so say you all by raising your right
12 hand?

13 (Each juror responds.)

14 **THE CLERK:** Thank you very much.

15 **THE COURT:** All right. Are there any
16 matters we need to take up before releasing the
17 jury, from the State?

18 **MS. OWEN:** None from the State.

19 **THE COURT:** Any from the defense?

20 **MR. HUNT:** None from -- no, Your Honor.

21 **THE COURT:** All right. Ladies and
22 Gentlemen, I speak for these attorneys and every
23 one involved, I appreciate your service in this
24 case so much. I know that the hour is getting a
25 little late, so I'm not going to hold you up any

Verdict

1 longer. If you will, just step to your jury
2 deliberation room, I just want to say goodbye to
3 you before you leave. But other than that, of
4 course, this concludes your service this week.
5 Okay? Thank you, again.

6 I'll ask everybody to remain seated while
7 the jury leaves.

8 (Jury exits at approximately 4:10 p.m.)

9 **THE COURT:** If y'all excuse me for a
10 moment, I'm going to speak to the jury, release
11 them, and then we'll come back.

12 (The Court goes off the record at approximately
13 4:11 p.m.)

14 (The Court goes on the record at approximately
15 4:16 p.m.)

16 **THE COURT:** Well, I will tell you this
17 much -- of course, I didn't discuss the facts of
18 the case or anything with the jury at all -- but
19 I will tell you this much, they were definitely
20 -- took their job seriously. I think that they
21 were very impressed with the court process on
22 all sides. But they took their job very, very
23 seriously. I can say that much. All right. Are
24 we ready to move to sentencing, from the State
25 and the defense?

1 MS. OWEN: Yes, Your Honor.

2 THE COURT: All right.

3 MR. HUNT: Yes, Your Honor. I have a -- I
4 furnished a report and I've given it maybe a
5 couple of weeks ago. I have another that I would
6 like to pass up.

7 THE COURT: Absolutely. (Pause.)

8 All right. I've had an opportunity to
9 review Dr. Price's psychosexual evaluation. I
10 will say for the record, I certainly -- I've
11 qualified Dr. Price on a number of occasions, as
12 I know many judges have, as an expert witness in
13 this courtroom. I certainly think a lot of his
14 opinion. I certainly take that very much into
15 account. I commend you, Mr. Hunt, for getting
16 that for your client and arranging that.

17 All right. Y'all want to -- how do you -- I
18 don't think I need to hear too much more about
19 the facts.

20 MS. OWEN: Your Honor, we're not going to
21 put anything in facts. The victim would like to
22 speak. I've got something I would like to say,
23 personally, on behalf of Rita Burgess. You want
24 to hear from the defense first or the State
25 first?

Sentencing of the Court

1 **THE COURT:** I'll hear from the State first
2 please.

3 **MS. OWEN:** I'm going to let **Prosecutrix** speak
4 first, since she is the victim.

5 **THE COURT:** Yes, ma'am.

6 **MS. [REDACTED]** I just request that he get the
7 max.

8 **THE COURT:** I understand. I understand,
9 and I appreciate you being here. Thank you.

10 **MS. OWEN:** Your Honor, from Rita Burgess,
11 she said, Your Honor, I'm sad that I could not
12 be in attendance today. However, I would like
13 to express to the Court my thoughts on the
14 sentencing of Matthew Jamie Bryant.

15 On April 5th, 2016, Jamie Bryant
16 single-handedly shattered the life of **Prosecutrix**
17 **[REDACTED]** into a million pieces. **Prosecutrix** lives in
18 a prison within herself every day, struggling
19 with how to move past the events that occurred
20 on that dreadful day. She was violated in the
21 worst possible way for any woman. She was
22 stripped of her confidence, her sense of safety
23 and her self-worth. **Prosecutrix** deserves to have
24 justice, and I'm asking the Court to sentence
25 Jamie to the max time allowed. **Prosecutrix** is

1 serving a life sentence herself.

2 Your Honor, just from the State's position,
3 Mr. Bryant put this victim through what no
4 victim should have to go through on April 5th.
5 We have retried -- we have tried this case here
6 today. He has taken no responsibility. I don't
7 think he has accepted any responsibility yet. I
8 do think he deserves the full 20, and I don't
9 think he deserves any credit for his GPS.

10 **THE COURT:** All right. Mr. Hunt?

11 **MR. HUNT:** Please the Court, Your Honor.
12 The Court, I sat here, and everybody else sat
13 here through the business about the criminal
14 sexual in the first degree and then it was
15 charged with the second degree. That is what the
16 jury found. I think there's a reason the jury
17 found that. They might very well have sensed
18 some -- some culpability, if you will, on both
19 sides. It was tough. It was certainly tough
20 viewing both of the main people in this matter.

21 I will submit to the Court that Mr. --
22 Dr. Price has, in fact, worked with Jamie. There
23 was a question of whether or not he had been
24 informed of the incident in Spartanburg County.
25 He had, in fact. He sent an email to me. I

1 forwarded it on.

2 Your Honor, Jamie is the only remaining son
3 of his parents now. His older brother was
4 killed in traffic accident just last year. It's
5 been -- obviously, all of this has been very
6 tough on the family. Jamie has, in fact -- as
7 the Court asked earlier, has, in fact, shown up
8 for all of his times. He has not been a problem.
9 He has worked. He has done what has done. He has
10 tried to be as good a citizen.

11 Your Honor, it's just a really sad and
12 unfortunate thing. None of us were there. I
13 think the lack -- again, I go back to the
14 State/Lindsay factors and the State/Green
15 factors. Those things are not present. I
16 understand Ms. [REDACTED] feels how she feels, and I
17 understand. Your Honor heard all of those facts
18 and you heard everything that transpired.

19 I would just ask that the Court give him --
20 I know the Court will be merciful. I understand
21 that, and I appreciate and I know the Court will
22 be -- will do -- will render the justice the
23 Court feels appropriate. In all due respect, I
24 say that. We would ask for as lenient a sentence
25 as possible for Jamie. Because, again, there is

1 a whole lot of stuff here. We would just ask --
2 I would ask for as lenient a sentence as the
3 Court can give.

4 **THE COURT:** I want to say couple of things
5 about your performance here this week on behalf
6 of your client, if I could just take just a
7 moment. I want to say, you know, I commended
8 you for getting this report, the psychosexual
9 evaluation. I also commend you -- I hope the
10 State don't mind my saying this -- but
11 definitely doing what you did on his behalf to
12 keep out the Lyle evidence or 404(b) evidence,
13 keeping that out of this trial. That certainly
14 is, of course, very damning evidence, and so I
15 commend you for doing that and for arguing
16 against the aggravating factors for CSC first
17 degree. Of course, that's just an absolute
18 killer. It carries up to 30 years. I commend you
19 on all of those things that you did on his
20 behalf, as well as taking all of the witnesses
21 to task in this trial that testified against
22 him.

23 Is there anything you think your client
24 would like to say? (Pause.)

25 You don't have to. You definitely don't

1 have to, but if there is anything you would like
2 to say --

3 MR. BRYANT: I just want my parents to
4 know that I love them and my fiancé to know that
5 I love her.

6 THE COURT: All right.

7 MR. HUNT: Your Honor, I'll just say, I
8 undertook this task for Jamie. I am not a
9 frequent flyer in Your Honor's court or the
10 criminal courts, but I've taken it very, very,
11 very seriously.

12 THE COURT: Absolutely.

13 MR. HUNT: I have tried to do everything
14 I've known for him. I would do it again because
15 I care for him. I've known his family ever since
16 I came to Easley. That's the reason I did it,
17 because I knew what I would do to try to help
18 him out because I think he is deserving of that
19 help. That's the reason I recommend to you that
20 he is deserving of any consideration Your Honor
21 might give him.

22 THE COURT: Well, I take into account a
23 number of things when I sentence someone. First
24 of all, I sentence somebody taking into account
25 the seriousness of the crime for which they are

1 convicted. This is a violent and -- is that
2 most serious or serious? Serious?

3 MS. OWEN: Yes.

4 THE COURT: -- is a violent and serious
5 offense, meaning that changes the way the
6 sentence is calculated at the Department of
7 Corrections. I take into account the seriousness
8 of what he did and, of course, it's one of the
9 most serious crimes someone could commit -- in
10 his position could commit. I take into account
11 the harm to the victim and that is, you know, I
12 think, immeasurable. I don't know how --

13 I want to take a minute to say that the
14 victim I thought you were awfully brave for
15 being here. I thought you were awfully brave for
16 taking the stand and knowing what you were going
17 to face. I think that you were brave on that
18 day in making the call right when you did. I
19 commend you for all of those things.

20 If you are not in some form of counseling,
21 I want you to get in some form of counseling
22 because you are so young. You have got your
23 whole life ahead of you. The one thing -- the
24 one mistake I think you could do here is to let
25 him take away the life you've got ahead of you.

1 Don't do that. Today ought be -- and, of
2 course, I understand, you know, that this is
3 just horribly traumatic -- but today ought be an
4 opportunity for you to at least close one small
5 chapter of this. I wish you and your son the
6 best of luck.

7 Mr. Bryant, I will inform you -- although
8 you are not pleading to this, I'll inform you
9 that this does also carries a lifetime sex
10 offender registry as a result.

11 How long has he spent in home
12 incarceration?

13 MR. HUNT: Two years, Your Honor.
14 Actually, he got -- Your Honor set bail for him
15 in June, I think it was, of 2016. I think that's
16 accurate.

17 THE COURT: How long did he spend active
18 time in jail? Do you know, Ms. Owen?

19 MR. HUNT: From the time -- he was
20 arrested about a week after and he spent the
21 entire time until Your Honor gave him the home
22 incarceration.

23 THE COURT: I will just ask y'all to look
24 into that please. Okay. All right.

25 Mr. Bryant, if you will, stand for me

1 please. I understand certainly this is a --

2 **MS. OWEN:** Your Honor --

3 **THE COURT:** I'm sorry.

4 **MS. OWEN:** -- I'm sorry -- just to be
5 clear, 26 days. Before you sentence him, I want
6 to make sure that I'm telling you the right
7 thing. I think it may be a most serious offense.

8 **THE COURT:** Okay. Well, in any event, he's
9 -- in any event, since he's not pleading to it,
10 I don't know that I'm required to apprise him of
11 it.

12 **MS. OWEN:** I understand. I just want to
13 have it correct on the sentencing sheet when we
14 get it to the Department of Corrections.

15 **THE COURT:** And I noted it.

16 **MS. OWEN:** Yes, Your Honor. It is most
17 serious.

18 **THE COURT:** It's listed as a most serious
19 offense. All right. I'm going to take the
20 liberty of marking that on the sentencing sheet.

21 **MS. OWEN:** Thank you, Your Honor.

22 **THE COURT:** You said 29 days active?

23 **MS. OWEN:** 26.

24 **THE COURT:** 26 days active. I'm sorry. And
25 then home incarceration time, I will just ask

1 that somebody get in touch with Eagle Eye or
2 something and get an accurate count. The
3 sentence of the Court is -- I also -- I stopped
4 -- I'm sorry -- midway through. I lost my train
5 of thought when I was talking to the victim.

6 **MS. OWEN:** I'm sorry.

7 **THE COURT:** -- but I also take into
8 account the fact that Mr. Bryant has no record.
9 I take into account that he -- I do take into
10 account that you've shown up for court every
11 time that you were supposed to. As far as I
12 know, I don't have any reason to believe that
13 you have violated your home incarceration.
14 Nobody's brought that up at all. So I given
15 discretion under the statute to give you that
16 time, in the Court's discretion, and I'm going
17 to award you every day that you spent on home
18 incarceration.

19 But I have to -- I take into account
20 Dr. Price's report which I thought was an
21 outstanding report. I appreciate your honesty
22 and candor with him. I take all of that into
23 consideration.

24 The sentence of the Court is 15 years,
25 credit for 26 days of your active time and all

1 the time on home incarceration. Thank you. Good
2 luck to you.

3 MS. OWEN: Thank you, Your Honor.

4 THE COURT: Thank you.

5 Of course, Mr. Hunt, you've got 10 days for
6 any post-trial motions.

7 (The Court goes off the record at approximately
8 4:32 p.m.)

9 (The Court goes on the record at approximately
10 4:34 p.m.)

11 THE COURT: I want to just put on the
12 record, although the defense attorney has left,
13 I previously talked to him about this, that we
14 had a question, a jury question, that they
15 marked on the jury instructions. I answered the
16 question on the jury instruction and returned
17 it. It's a portion of Court's Exhibit Number 1.
18 I did that with -- Court's Exhibit 2 -- sorry.
19 Thank you -- Court's Exhibit Number 2 -- and I
20 did that with the permission of all of the
21 attorneys involved. Thank you.

22 (Court Exhibit 2 is marked for identification.)

23 (Proceedings are concluded at approximately
24 4:35 p.m.)
25

STATE OF SOUTH CAROLINA)
)
COUNTY OF PICKENS)

I, the undersigned, Teresa B. Johnson, Official Court Reporter for the Thirteenth Judicial Circuit of the State of South Carolina, do hereby certify that the foregoing is a true, accurate and complete Transcript of Record, Volume 3 of 3, of all the proceedings had and evidence introduced in the trial of the captioned case, relative to appeal, in the Court of General Sessions for Pickens, South Carolina, on this 6th day of July, 2018.

I do further certify that I am neither of kin, counsel nor interest to any party hereto.

Teresa B Johnson

Official Court Reporter

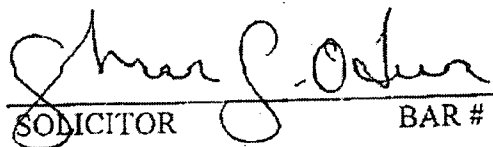
STATE OF SOUTH CAROLINA)
COUNTY OF PICKENS)

INDICTMENT FOR
CRIMINAL SEXUAL CONDUCT FIRST DEGREE

At a Court of General Sessions, convened on JUL 19 2016 the Grand Jurors of Pickens
County present upon their oath:

That MATTHEW JAMIE BRYANT did in Pickens County, on or about the 5th day of April, 2016, engage in sexual battery, with K.R.C., and used aggravated force to accomplish this sexual battery. This is in violation of South Carolina Code of Laws Section 16-3-652 of the South Carolina Code of Laws (1976) as amended.

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


SOLICITOR BAR # 71891

WITNESSES

Rita Burgess

Pickens County Sheriff's Office

4/9/2016

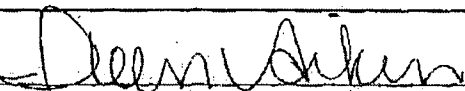
ARREST WARRANT NUMBER

2016A3910100337

ACTION OF GRAND JURY

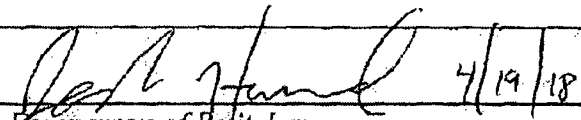
~~TRUE BILL~~~~State~~

JUL 19 2016


 Foreperson of Grand Jury

VERDICT

Guilty 2nd Deg.


 Foreperson of Petit Jury
 Date: 4/19/18
DOCKET NO. 2016-GS-39-1551
SSO

The State of South Carolina

County of Pickens

COURT OF GENERAL SESSIONS

JUL 19 2016

TERM 2016

THE STATE

vs.

MATTHEW JAMIE BRYANT

Indictment for

0160

CRIMINAL SEXUAL CONDUCT FIRST DEGREE

VIOLATION § 16-03-0652

COUNTY OF Pickens
 STATE VS.
Matthew Jamie Bryant

AKA:

Race: WHITE Sex: M Age: 21

DOB: [REDACTED]City, State, Zip: Easley, SC 29640DL#: Redacted

☐ Yes ☐ No ☐ CMV Yes ☐ No ☐ Hazmat Yes ☐ No

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

TO: Crim Sex Cond, Second Degree (0-20 years)

in violation of § 16-03-0653

of the S.C. Code of Laws, bearing CDR Code # 0161

☐ NON-VIOLENT ☒ VIOLENT ☐ SERIOUS ☒ MOST SERIOUS ☐ Mandatory GPS(CSC w/minor 1st or Lewd Act) ☐ §17-25-45

The charge is: ☐ As Indicted, ☒ Lesser Included Offense, ☐ Defendant Waives Presentment to Grand Jury (defendant's initials)

The plea is: ☐ Without Negotiations or Recommendation, ☐ Negotiated Sentence, ☐ Recommendation by the State.

ATTEST:

Owen, Megan Moricle100822
SC Bar#DefendantHUNT, DANIEL02821
SC Bar#

WHEREFORE, the Defendant is committed to the ☐ State Department of Corrections, ☐ County Detention Center,

for a determinate term of 15 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 the Central Registry of Child Abuse and Neglect pursuant to S.C. Code §17-25-135.

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

SPECIAL CONDITIONS:

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

Total: \$ plus 20% fee: \$

Payment Terms:

☐ Set by SCDPPPS

Recipient:

*Fine:	\$	
§ 14-1-206 (Assessments 107.5 %)	\$	
§ 14-1-211(A)(1) (Conv. Surcharge)	\$100	\$ <u>100.00</u>
§ 14-1-211(A)(2) (DUI Surcharge)	\$100	\$
§ 56-5-2995 (DUI Assessment)	\$12	\$
§ 56-1-286 (DUI Breath Test)	\$25	\$
Proviso 61.6 (Public Def/Probation)	\$500	\$
§ 14-1-212 (Law Enforce. Funding)	\$25	\$ <u>25.00</u>
§ 14-1-213 (Drug Court Surcharge)	\$150	\$
§ 50-21-114(BUI Breath Test Fee)	\$50	\$
§ 56-5-2942(D) (Vehicle Assessment)	\$40/ea	\$
3% to County (if paid in installments)	\$	\$ <u>3.75</u>

TOTAL \$ 128.75

Clerk of Court/ Deputy Clerk:

Court Reporter:

SCCA/217 (07/2016)

INDICTMENT/CASE#: 2016GS3901551A/W#: 2016A3910100337Date of Offense: 4/5/2016S.C. Code § : 16-03-0652CDR Code #: 0160

SENTENCE SHEET

☒ CONVICTED OF or ☐ PLEADS

PTUP days/hours Public Service Employment

Obtain GED ☐Attend Voc. Rehab. or Job Corp. May serve W/E beginning Substance Abuse Counseling ☐Random Drug/Alcohol testing ☐

Fine may be pd. in equal, consecutive weekly/monthly pmts. of \$ beginning

\$ paid to Public Defender Fund

Other:

☐ Appointed PD or appointed other counsel, Proviso 61.6 requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge

Judge Code:

Sentence Date: 4/19/18

1. Have you or anyone in your family been a victim of sexual assault?

2. If you were put in the position of a being assaulted, would you "give up" and allow the assault to occur?

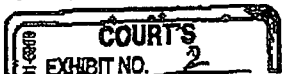


STATE OF SOUTH CAROLINA V. MATTHEW JAMIE BRYANT

MISTER FOREPERSON, LADIES AND GENTLEMEN OF THE JURY, YOU HAVE SEEN AND HEARD THE EVIDENCE PRESENTED AS WELL AS THE ARGUMENTS OF COUNSEL. IT NOW BECOMES MY DUTY AND OBLIGATION TO INSTRUCT YOU ON THE APPLICABLE LAW IN THIS CASE. IT WILL THEN BE YOUR DUTY AND OBLIGATION TO BEGIN YOUR DELIBERATIONS, THROUGH WHICH PROCESS YOU WILL DECIDE THE FACTS, APPLY THE LAW AS INSTRUCTED BY THE COURT, AND DETERMINE WHETHER THE STATE MET ITS BURDEN OF PROOF.

IT IS YOUR EXCLUSIVE DUTY TO DETERMINE THE FACTS IN THIS CASE. YOU DO THAT BASED UPON YOUR OWN COMMON SENSE EXAMINATION AND EVALUATION OF THE TESTIMONY AND OTHER EVIDENCE RECEIVED DURING THE TRIAL OF THE CASE.

YOU TWELVE JURORS ALONE WILL DECIDE WHAT WEIGHT, VALUE, AND EFFECT THAT IS TO BE GIVEN TO ANY PARTICULAR TESTIMONY OR OTHER EVIDENCE RECEIVED. YOUR ULTIMATE GOAL IS TO DETERMINE WHETHER THE STATE HAS MET ITS BURDEN OF PROOF IN THIS CASE AND IN SO DOING YOU



WILL HAVE FULFILLED YOUR OBLIGATIONS AS JURORS AND THAT IS TO GIVE BOTH THE STATE AND THE DEFENDANT A FAIR AND IMPARTIAL TRIAL BASED UPON THE EVIDENCE PRESENTED AND THE LAW APPLICABLE TO THIS CASE.

IN THIS CASE THE STATE OF SOUTH CAROLINA, THROUGH THE CIRCUIT SOLICITOR, HAS CHARGED THE DEFENDANT WITH THE CRIMINAL OFFENSES KNOWN AS:

FIRST DEGREE CRIMINAL SEXUAL CONDUCT

THE ALLEGATIONS CHARGING THE DEFENDANT WITH THIS CRIME IS SET FORTH IN THE INDICTMENT THAT HAS BEEN PREVIOUSLY EXPLAINED TO YOU. THE INDICTMENT IS NOT EVIDENCE IN THIS CASE AND MAY NOT BE CONSIDERED BY YOU AS EVIDENCE AGAINST THE DEFENDANT.

AS TO THE CHARGE SET FORTH IN THE INDICTMENT THE DEFENDANT HAS ENTERED A PLEA OF NOT GUILTY. THAT PLEA OF NOT GUILTY HAS THEREFORE PLACED UPON THE STATE THE BURDEN OF PROVING THE ALLEGATIONS THAT ARE SET FORTH IN THE INDICTMENT; THE BURDEN OF PROVING EACH OF THE ESSENTIAL ELEMENTS OF THE CRIME CHARGED; AND



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THEREFORE THE BURDEN OF PROVING THE GUILT OF THE DEFENDANT TO THE SATISFACTION OF YOU TWELVE JURORS BEYOND A REASONABLE DOUBT BEFORE A VERDICT OF GUILTY COULD BE RETURNED AS TO ANY INDICTMENT.

THE BURDEN IS NEVER UPON A DEFENDANT TO PROVE THAT HE IS NOT GUILTY OR TO PROVE THAT HE IS INNOCENT BECAUSE IN SOME CASES THAT MIGHT NOT BE POSSIBLE. THE BURDEN IS ALWAYS UPON THE STATE, BECAUSE THEY HAVE MADE THE ALLEGATIONS, TO PROVE THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT.

YOU ARE FURTHER INSTRUCTED THAT IT IS A VITAL, IMPORTANT, AND CARDINAL RULE OF LAW THAT EVERY DEFENDANT IN A CRIMINAL TRIAL, NO MATTER HOW SERIOUS THE OFFENSE MIGHT BE FOR WHICH HE STANDS CHARGED, SHALL ALWAYS BE PRESUMED INNOCENT OF THAT CHARGE, AND THAT PRESUMPTION OF INNOCENCE SHALL BE WITH THE DEFENDANT FROM THE MOMENT OF HIS ARREST, AND THROUGHOUT THE COURSE OF THE CRIMINAL PROCESS, AND EVEN THROUGHOUT THE COURSE OF THE ACTUAL TRIAL. THE PRESUMPTION OF INNOCENCE SHALL BE WITH THE DEFENDANT



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EVEN AS YOU GO INTO THE JURY ROOM TO BEGIN YOUR DELIBERATIONS, AND THAT PRESUMPTION OF INNOCENCE SHALL BE WITH HIM THERE AND BE WITH HIM FOREVER, UNLESS YOU TWELVE JURORS DETERMINE THAT HE IS NO LONGER ENTITLED TO THAT PRESUMPTION OF INNOCENCE. IT IS ONLY IF, UNLESS, AND UNTIL YOU ARE SATISFIED OF THE DEFENDANT'S GUILT BEYOND A REASONABLE DOUBT, THAT HE WOULD NO LONGER BE ENTITLED TO THE PRESUMPTION OF INNOCENCE.

DUTIES OF JURY AND TRIAL JUDGE

I REMIND YOU THAT, DURING THIS TRIAL, YOU AND I HAVE CERTAIN DUTIES TO PERFORM. AS THE TRIAL JUDGE, IT IS MY RESPONSIBILITY TO PRESIDE OVER THE TRIAL OF THIS CASE, AND I ALSO HAVE THE DUTY TO RULE ON THE ADMISSIBILITY OF THE EVIDENCE OFFERED DURING THIS TRIAL. YOU ARE TO CONSIDER ONLY THE COMPETENT EVIDENCE BEFORE YOU. IF THERE WAS ANY TESTIMONY ORDERED STRICKEN FROM THE RECORD IN THIS CASE, YOU MUST DISREGARD THAT TESTIMONY. YOU ARE TO CONSIDER ONLY THE TESTIMONY WHICH HAS BEEN PRESENTED FROM THIS WITNESS STAND, ANY EXHIBITS

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WHICH HAVE BEEN MADE A PART OF THE RECORD IN THIS CASE, AND ANY STIPULATIONS OF COUNSEL.

I HAVE THE ADDITIONAL DUTY TO CHARGE YOU THE LAW APPLICABLE TO THIS CASE. AS THE PRESIDING JUDGE, I AM THE SOLE JUDGE OF THE LAW OF THIS CASE, AND IT IS YOUR DUTY AS JURORS TO ACCEPT AND APPLY THE LAW AS I NOW STATE IT TO YOU. IF YOU ALREADY HAVE ANY IDEA AS TO WHAT THE LAW IS OR WHAT THE LAW OUGHT TO BE AND IT DOES NOT AGREE WITH WHAT I NOW TELL YOU THE LAW IS, YOU MUST ABANDON THIS IDEA BECAUSE YOU ARE SWORN TO ACCEPT THE LAW AND APPLY THE LAW EXACTLY AS I STATE IT TO YOU.

IN EVERY CASE TRIED IN THIS COURT BEFORE A JURY, THE JURY BECOMES THE SOLE AND EXCLUSIVE JUDGE OF THE FACTS IN A CASE. A TRIAL JUDGE CANNOT INTIMATE, STATE, COMMENT ON, OR MAKE ANY STATEMENT TO A TRIAL JURY ABOUT THE FACTS IN A CASE. SINCE YOU, THE JURY, ARE THE SOLE JUDGE OF THE FACTS IN THIS CASE, YOU ARE NOT TO INFER FROM WHAT I HAVE SAID DURING THE PROGRESS OF THIS TRIAL IN RULING UPON THE



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ADMISSIBILITY OF EVIDENCE, OR OTHERWISE, OR ANYTHING THAT I SAY NOW DURING THE COURSE OF THIS INSTRUCTION TO YOU, THAT I HAVE ANY OPINION ABOUT THE FACTS IN THIS CASE. I DO NOT. THE LAW DOES NOT ALLOW ME TO HAVE AN OPINION ABOUT THE FACTS IN THIS CASE. THIS IS A MATTER SOLELY FOR YOU, THE JURY, TO DETERMINE. AS JURORS, IT IS YOUR DUTY TO DETERMINE THE EFFECT, VALUE, WEIGHT, AND TRUTH OF THE EVIDENCE PRESENTED DURING THIS TRIAL.

REASONABLE DOUBT

THE STATE HAS THE BURDEN OF PROVING THE DEFENDANT GUILTY BEYOND A REASONABLE DOUBT. SOME OF YOU MAY HAVE SERVED AS JURORS IN CIVIL CASES, WHERE YOU WERE TOLD THAT IT IS ONLY NECESSARY TO PROVE THAT A FACT IS MORE LIKELY TRUE THAN NOT TRUE, SUCH AS BY THE GREATER WEIGHT OR PREPONDERANCE OF THE EVIDENCE. IN CRIMINAL CASES, THE STATE'S PROOF MUST BE MORE POWERFUL THAN THAT. IT MUST BE BEYOND A REASONABLE DOUBT. REASONABLE DOUBT IS THE KIND OF DOUBT THAT WOULD MAKE A REASONABLE PERSON HESITATE TO ACT.



PROOF BEYOND A REASONABLE DOUBT IS PROOF THAT LEAVES YOU FIRMLY CONVINCED OF THE DEFENDANT'S GUILT. THERE ARE VERY FEW THINGS IN THIS WORLD THAT WE KNOW WITH ABSOLUTE CERTAINTY, AND IN CRIMINAL CASES THE LAW DOES NOT REQUIRE PROOF THAT OVERCOMES EVERY POSSIBLE DOUBT. IF, BASED ON YOUR CONSIDERATION OF THE EVIDENCE, YOU ARE FIRMLY CONVINCED THAT THE DEFENDANT IS GUILTY OF THE CRIME CHARGED, YOU MUST FIND THE DEFENDANT GUILTY. IF ON THE OTHER HAND, YOU THINK THERE IS A REAL POSSIBILITY THAT THE DEFENDANT IS NOT GUILTY, YOU MUST GIVE THE DEFENDANT THE BENEFIT OF THE DOUBT AND FIND HIM NOT GUILTY. FACTS AND CIRCUMSTANCES THAT MERELY PLACE UPON THE DEFENDANT A GRAVE SUSPICION OF THE CRIME CHARGED OR THAT MERELY RAISE A SPECULATION OR CONJECTURE OF THE DEFENDANT'S GUILT ARE NOT SUFFICIENT TO AUTHORIZE A CONVICTION OF THE ACCUSED.

DIRECT AND CIRCUMSTANTIAL EVIDENCE



THERE ARE TWO TYPES OF EVIDENCE WHICH ARE GENERALLY PRESENTED DURING A TRIAL - DIRECT EVIDENCE AND CIRCUMSTANTIAL EVIDENCE.

DIRECT EVIDENCE IS THE TESTIMONY OF A PERSON WHO CLAIMS TO HAVE ACTUAL KNOWLEDGE OF A FACT, SUCH AS AN EYEWITNESS. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES THE MAIN FACT TO BE PROVED.

CIRCUMSTANTIAL EVIDENCE IS PROOF OF A CHAIN OF FACTS AND CIRCUMSTANCES INDICATING THE EXISTENCE OF A FACT. IT IS EVIDENCE WHICH IMMEDIATELY ESTABLISHES COLLATERAL FACTS FROM WHICH THE MAIN FACT MAY BE INFERRED. CIRCUMSTANTIAL EVIDENCE IS BASED ON INFERENCE AND NOT ON PERSONAL KNOWLEDGE OR OBSERVATION.

THE LAW MAKES ABSOLUTELY NO DISTINCTION BETWEEN THE WEIGHT OR VALUE TO BE GIVEN TO EITHER DIRECT OR CIRCUMSTANTIAL EVIDENCE. NOR IS A GREATER DEGREE OF CERTAINTY REQUIRED OF CIRCUMSTANTIAL EVIDENCE THAN OF DIRECT EVIDENCE. YOU SHOULD WEIGH ALL OF THE EVIDENCE IN THE CASE. AFTER WEIGHING ALL THE EVIDENCE, IF YOU ARE NOT

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CONVINCED OF THE GUILT OF THE DEFENDANT BEYOND A REASONABLE DOUBT, YOU MUST FIND THE DEFENDANT NOT GUILTY.

CREDIBILITY OF WITNESSES

NECESSARILY, YOU MUST DETERMINE THE CREDIBILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE. CREDIBILITY SIMPLY MEANS BELIEVABILITY. IT BECOMES YOUR DUTY AS JURORS TO ANALYZE AND TO EVALUATE THE EVIDENCE AND DETERMINE IF THE STATE HAS MET ITS BURDEN OF PROOF IN THIS CASE.

IN DETERMINING THE BELIEVABILITY OF WITNESSES WHO HAVE TESTIFIED IN THIS CASE, YOU MAY BELIEVE ONE WITNESS OVER SEVERAL WITNESSES OR SEVERAL WITNESSES OVER ONE WITNESS. YOU MAY BELIEVE A PART OF THE TESTIMONY OF A WITNESS AND REJECT THE REMAINING PART OF THE TESTIMONY OF THAT SAME WITNESS. YOU MAY BELIEVE THE TESTIMONY OF A WITNESS IN ITS ENTIRETY OR REJECT THE TESTIMONY OF A WITNESS IN ITS ENTIRETY. YOU MAY CONSIDER WHETHER ANY WITNESS HAS EXHIBITED TO YOU ANY INTEREST, BIAS, PREJUDICE, OR OTHER MOTIVE IN THIS CASE. YOU

MAY ALSO CONSIDER THE APPEARANCE AND MANNER OF A WITNESS WHILE ON THE WITNESS STAND.

EXPERT WITNESSES

THE RULES OF EVIDENCE ORDINARILY DO NOT PERMIT WITNESSES TO TESTIFY TO OPINIONS OR CONCLUSIONS. AN EXCEPTION TO THIS RULE EXISTS FOR WITNESSES WE CALL "EXPERT WITNESSES". A WITNESS WHO, BY EDUCATION AND EXPERIENCE, HAS BECOME EXPERT IN SOME ART, SCIENCE, PROFESSION, OR CALLING MAY STATE AN OPINION AS TO RELEVANT AND MATERIAL MATTER, IN WHICH THE WITNESS CLAIMS TO BE AN EXPERT, AND MAY ALSO STATE THE REASONS FOR THE OPINION.

YOU SHOULD CONSIDER ANY EXPERT OPINION RECEIVED IN EVIDENCE IN THIS CASE AND, LIKE ANY OTHER EVIDENCE, GIVE IT THE WEIGHT YOU THINK IT DESERVES. IF YOU DECIDE THAT THE OPINION OF AN EXPERT WITNESS IS NOT BASED ON SUFFICIENT EDUCATION AND EXPERIENCE, OR IF YOU CONCLUDE THAT THE REASONS GIVEN IN SUPPORT OF THE OPINION ARE NOT

SOUND, OR THAT THE OPINION IS OUTWEIGHED BY OTHER EVIDENCE, YOU MAY DISREGARD THE OPINION ENTIRELY.

AN EXPERT WITNESS' TESTIMONY IS TO BE GIVEN NO GREATER WEIGHT THAN THAT OF OTHER WITNESSES SIMPLY BECAUSE THE WITNESS IS AN EXPERT. FURTHER, YOU ARE NOT REQUIRED TO ACCEPT AN EXPERT'S OPINION, EVEN THOUGH IT IS NOT CONTRADICTED.

CRIMINAL INTENT

IN ORDER TO ESTABLISH CRIMINAL LIABILITY, THE STATE MUST ALSO PROVE CRIMINAL INTENT. FOR A PARTICULAR CRIME, THE MENTAL STATE REQUIRED MIGHT BE PURPOSE, INTENT, KNOWLEDGE, RECKLESSNESS, OR CRIMINAL NEGLIGENCE. THE STATE MUST PROVE CRIMINAL INTENT BEYOND A REASONABLE DOUBT. CRIMINAL INTENT IS A MATTER THAT MUST BE DETERMINED BY THE JURY FROM THE FACTS OF THE CASE. THERE IS NO WAY TO PROVE CRIMINAL INTENT TO A MATHEMATICAL CERTAINTY, SO THE LAW SAYS THAT CRIMINAL INTENT MAY BE INFERRED FROM THE CIRCUMSTANCES SHOWN TO HAVE EXISTED. THIS IS HOW YOU DETERMINE WHETHER OR NOT



THE ELEMENT REQUIRING INTENT WAS PRESENT. IT IS NOT NECESSARY TO ESTABLISH INTENT BY DIRECT EVIDENCE. INTENT MAY BE ESTABLISHED BY CIRCUMSTANTIAL EVIDENCE OR BY TAKING INTO CONSIDERATION THE ACTS OF THE PARTIES AND ALL THE FACTS AND CIRCUMSTANCES OF THE CASE.

CRIMINAL INTENT IS A MENTAL STATE OF CONSCIOUS WRONGDOING. IT IS UP TO YOU TO DETERMINE WHAT THE DEFENDANT INTENDED TO DO BASED ON THE CIRCUMSTANCES SHOWN TO HAVE EXISTED IN THIS CASE.

FIRST DEGREE CRIMINAL SEXUAL CONDUCT

THE DEFENDANT IS CHARGED WITH CRIMINAL SEXUAL CONDUCT IN THE FIRST DEGREE.

THE FIRST ELEMENT WHICH THE STATE MUST PROVE BEYOND A REASONABLE DOUBT IS THAT THE DEFENDANT ENGAGED IN A SEXUAL BATTERY WITH THE VICTIM. A SEXUAL BATTERY IS SEXUAL INTERCOURSE, FELLATIO, OR ANY INTRUSION, HOWEVER SLIGHT, OF ANY PART OF A PERSON'S BODY OR OF ANY OBJECT INTO THE GENITAL OPENINGS OF ANOTHER PERSON'S BODY.

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Did the Judge Add this "or"

IF YOU FIND THAT THE STATE HAS NOT SHOWN BEYOND A REASONABLE DOUBT THAT A SEXUAL BATTERY OCCURRED, YOU WOULD STOP DELIBERATING AND YOUR VERDICT WOULD HAVE TO BE NOT GUILTY.

IF YOU FIND THAT A SEXUAL BATTERY DID OCCUR, YOU MUST THEN DECIDE WHETHER THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT:

(1) THE DEFENDANT USED AGGRAVATED FORCE TO ACCOMPLISH THE SEXUAL BATTERY.

1st
AGGRAVATED FORCE MEANS THE USE OF PHYSICAL FORCE OR PHYSICAL VIOLENCE OF A HIGH AND AGGRAVATED NATURE TO OVERCOME THE VICTIM.
~~THIS INCLUDES THE THREAT OF USING A DEADLY WEAPON.~~

OR

(2) THE VICTIM SUBMITTED TO SEXUAL BATTERY WHILE THE VICTIM WAS ALSO THE VICTIM OF FORCIBLE CONFINEMENT, ~~KIDNAPPING, ROBBERY, EXTORTION, BURGLARY, HOUSEBREAKING~~, OR ANY OTHER SIMILAR ACT OR OFFENSE.

SECOND DEGREE CRIMINAL SEXUAL CONDUCT

I did write this.

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF FIRST DEGREE CRIMINAL SEXUAL CONDUCT, YOU MAY CONSIDER WHETHER THE STATE HAS PROVEN THAT THE DEFENDANT IS GUILTY OF SECOND DEGREE CRIMINAL SEXUAL CONDUCT. SECOND DEGREE CRIMINAL SEXUAL CONDUCT CONTAINS ALL OF THE ELEMENTS OF FIRST DEGREE CRIMINAL SEXUAL CONDUCT EXCEPT THE CIRCUMSTANCES OF AGGRAVATION. INSTEAD, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT USED AGGRAVATED COERCION TO ACCOMPLISH THE SEXUAL BATTERY.

IN ORDER TO PROVE SECOND DEGREE CRIMINAL SEXUAL CONDUCT, THE STATE MUST FIRST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ENGAGED IN A SEXUAL BATTERY WITH THE VICTIM.

IF YOU FIND THAT A SEXUAL BATTERY DID OCCUR, YOU MUST THEN DECIDE WHETHER THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT THE DEFENDANT USED AGGRAVATED COERCION TO ACCOMPLISH THE SEXUAL BATTERY.



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AGGRAVATED COERCION MEANS THAT THE DEFENDANT THREATENED TO
USE FORCE OR VIOLENCE OF A HIGH AND AGGRAVATED NATURE TO
OVERCOME THE VICTIM OR ANOTHER PERSON, IF THE VICTIM REASONABLY
BELIEVED THE DEFENDANT HAD THE PRESENT ABILITY TO CARRY OUT THE
THREAT. AGGRAVATED COERCION MAY ALSO EXIST IF THE DEFENDANT
THREATENED TO RETALIATE IN THE FUTURE BY THE INFLECTION OF PHYSICAL
HARM, KIDNAPPING, OR EXTORTION, UNDER CIRCUMSTANCES OF
AGGRAVATION, AGAINST THE VICTIM OR ANY OTHER PERSON.

THIRD DEGREE CRIMINAL SEXUAL CONDUCT

IF YOU FIND THAT THE STATE HAS FAILED TO PROVE BEYOND A
REASONABLE DOUBT THAT THE DEFENDANT IS GUILTY OF SECOND DEGREE
CRIMINAL SEXUAL CONDUCT, YOU MAY THEN CONSIDER WHETHER THE STATE
HAS PROVEN BEYOND A REASONABLE DOUBT THAT THE DEFENDANT IS
GUILTY OF THIRD DEGREE CRIMINAL SEXUAL CONDUCT. THIRD DEGREE
CRIMINAL SEXUAL CONDUCT INCLUDES ALL OF THE ELEMENTS OF SECOND
DEGREE CRIMINAL SEXUAL CONDUCT EXCEPT THAT, INSTEAD OF PROVING

Q

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AGGRAVATED COERCION, THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT USED FORCE OR COERCION WITHOUT AGGRAVATING CIRCUMSTANCES.

IN ORDER TO PROVE THIRD DEGREE CRIMINAL SEXUAL CONDUCT THE STATE MUST PROVE BEYOND A REASONABLE DOUBT THAT THE DEFENDANT ENGAGED IN A SEXUAL BATTERY WITH THE VICTIM.

IF YOU FIND THAT A SEXUAL BATTERY DID OCCUR, YOU MUST THEN DECIDE WHETHER THE STATE HAS PROVEN BEYOND A REASONABLE DOUBT THAT THE DEFENDANT USED FORCE OR COERCION, WITHOUT ANY AGGRAVATING CIRCUMSTANCES, TO ACCOMPLISH THE SEXUAL BATTERY. USING FORCE OR COERCION MEANS TO MAKE THE VICTIM FOLLOW A PRESCRIBED AND DICTATED COURSE; TO INFLICT OR IMPOSE; OR TO FORCE ONE'S WILL ON SOMEONE.

COPY OF CHARGE

I WILL GIVE YOU A COPY OF THESE INSTRUCTIONS IN WRITTEN FORM. DURING YOUR DELIBERATIONS, YOU MAY REFER TO MY INSTRUCTIONS TO GUIDE



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YOUR DECISION-MAKING. YOU MUST CONSIDER THE INSTRUCTIONS AS A WHOLE AND MAY NOT FOLLOW SOME AND IGNORE OTHERS. PLEASE RETURN THE COPY OF THE INSTRUCTIONS TO THE COURT AT THE TIME YOUR VERDICT IS RENDERED.

JURY VERDICT

LADIES AND GENTLEMEN, YOUR VERDICT MUST BE A UNANIMOUS ONE. MISTER FOREPERSON, WHEN THE JURY AGREES ON THE VERDICT, YOU WILL WRITE THE VERDICT ON THE VERDICT FORM AND SIGN YOUR NAME AS FOREPERSON. THEN KNOCK ON THE DOOR OF YOUR JURY DELIBERATION ROOM TO SIGNAL THE BAILIFF THAT YOU HAVE REACHED A VERDICT. AT THAT TIME, WE WILL RECEIVE YOU BACK INTO THE COURTROOM.

I ASK THAT YOU NOW RETURN TO YOUR JURY ROOM BUT DO NOT BEGIN DELIBERATIONS UNTIL YOU ARE TOLD BY THE BAILIFF TO DO SO. THERE ARE SOME MATTERS WHICH MUST BE DISCUSSED WITH THE ATTORNEYS BEFORE YOU BEGIN YOUR DELIBERATIONS.



THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM PICKENS COUNTY
GENERAL SESSIONS
Letitia H. Verdin, Judge

Case No: 2016A3910100337

RECEIVED

APR 30 2018

SC Court of Appeals

State of South Carolina

Respondent.

Vs.

Matthew Jamie Bryant..... Appellant.

NOTICE OF APPEAL

Mathew Jamie Bryant appeals the jury conviction and sentencing handed down by the Honorable Letitia H. Verdin on April 19, 2018.

April 27 2018

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STATE OF SOUTH CAROLINA

COUNTY OF PICKENS

The State of South Carolina,

Plaintiff,

vs.

Matthew Jamie Bryant,

Defendant.

IN THE COURT OF GENERAL SESSIONS
THIRTEENTH JUDICIAL CIRCUIT

C.A. No.: 2016A3910100337

CERTIFICATE OF HAND DELIVERY

This is to certify that the undersigned did cause a copy of the **Notice of Appeal** in this matter to be served upon the below listed by placing a copy of the same in an envelope addressed as shown below and sending the same **HAND DELIVERY** thereto on the 27THth day of April, 2086.

Addressees:

Hand Delivery

Megan Moricle Owens
Pickens County Solicitors Office
214 E Main Street, Suite B-220
Pickens, SC 29671

Hand Delivery

Pickens County General Sessions
Clerk of Court
214 E Main Street
Pickens, SC 29671

RECEIVED

APR 30 2018

SC Court of Appeals



Lisa G. Ellis | Paralegal
Law Offices of Daniel E. Hunt

Sworn to and subscribed before me this
27th day of April, 2018.



Notary Public for South Carolina
LaShonda D. McCoig Cooper
My Commission expires: 5-16-2022