

APPENDIX A
(cover)

6 Pages

VIRGINIA:

In the Court of Appeals of Virginia on Thursday the 19th day of September, 2024.

Christopher Pullen, Appellant,

against Record No. 0257-23-2
 Circuit Court Nos. CR20-1255 and CR20-1257

Commonwealth of Virginia, Appellee.

From the Circuit Court of Spotsylvania County

Before Senior Judges Clements, Petty and Humphreys

Counsel for Christopher Pullen filed a brief on his behalf accompanied by a motion for leave to withdraw in accordance with *Anders v. California*, 386 U.S. 738 (1967). A copy of that brief has been furnished to Pullen with sufficient time for him to raise any matter that he chooses. Pullen has filed a *pro se* supplemental brief.

We have reviewed the parties' pleadings, fully examined the proceedings, and determined the case to be wholly frivolous as set forth below. Thus, the panel unanimously holds that oral argument is unnecessary because the appeal is wholly without merit. *See* Code § 17.1-403(ii)(a); Rule 5A:27(a).

Appendix A pg. 1

BACKGROUND¹

In September 2019, Pullen and S.R.² connected on Tinder, a dating app. The pair began to exchange messages, including sexually explicit texts and pictures. Towards the end of September, S.R. agreed to travel from Alexandria to Spotsylvania to meet Pullen.

After arriving at Pullen's camper, S.R. and Pullen talked, drank alcohol, and began to have consensual oral and vaginal intercourse. Although S.R. asked Pullen to "choke" her, he became too rough, and S.R. asked him to stop. Pullen then placed his penis "in the back of [S.R.'s] throat," to the point that she "couldn't breathe" and "threw up." S.R., crying, asked Pullen to stop and said that she wanted to go home. Pullen told S.R.: "I can put it up your butt or down your throat, whichever you want. But those are the only two options." S.R. "tried to fight" and "tried to get up and just leave out the door," but Pullen "pushed [her] down and hit [her] in [her] face." At this point, Pullen grabbed a taser that resembled a flashlight, and told S.R. that he could shock her with it. He spoke again about her "two options." S.R. "gave in," and Pullen anally penetrated her before demanding more fellatio and anilingus. Eventually, S.R. ran—naked—out of the camper before Pullen came outside and said "that he didn't mean to do anything." S.R. retrieved her phone, clothing, and car keys and left.

S.R. returned to Alexandria and, after confiding to a coworker about what happened with Pullen, went to Inova Hospital for a sexual assault examination. She was accompanied by her mother and told her the "full story" of the assault. Although S.R. initially spoke with Fairfax County police, the offense occurred in Spotsylvania County. Accordingly, Spotsylvania County sheriff's deputies contacted S.R., and continued

¹ "Consistent with the standard of review when a criminal appellant challenges the sufficiency of the evidence, we recite the evidence below 'in the "light most favorable" to the Commonwealth, the prevailing party in the trial court.'" *Hammer v. Commonwealth*, 74 Va. App. 225, 231 (2022) (quoting *Commonwealth v. Cady*, 300 Va. 325, 329 (2021)). This standard "requires us to 'discard the evidence of the accused in conflict with that of the Commonwealth, and regard as true all the credible evidence favorable to the Commonwealth and all fair inferences to be drawn therefrom.'" *Cady*, 300 Va. at 329 (quoting *Commonwealth v. Perkins*, 295 Va. 323, 324 (2018)).

² We use the victim's initials to protect her privacy.

their investigation by speaking with Pullen. Initially, Pullen spoke with the lead detective on the phone before ultimately coming in for an interview. Although Pullen denied that he possessed any sort of taser or cattle prod, he later stated that he previously had a taser that looked like a flashlight but had given it to his girlfriend "for her protection" and "didn't know where it was."³ Pullen discussed the encounter with S.R., whom he stated had "teared up," but he could not recall whether he had anal sex with her. He admitted that she had pushed him off, "freaked out," and fled. Pullen acknowledged that he had sent S.R. text messages apologizing.

At trial, the Commonwealth proved that DNA consistent with Pullen was found in S.R.'s anus. Further, the forensic nurse examiner testified that S.R. had a small laceration on her perineum caused by blunt force trauma. The jury also heard from S.R.'s mother, who recounted her conversations with her daughter following the assault.

During closing arguments, the Commonwealth stated: "When [S.R.] was raped and talked to the police and talked to her family, she not only described that it was the [t]aser, the weapon—" before Pullen objected. Pullen argued that S.R.'s mother was called as a witness to confirm the existence of the complaint, but that its contents were inadmissible. Thus, he contended, the Commonwealth had argued facts not in evidence, and therefore Pullen requested a mistrial. The trial court denied this request.

The jury convicted Pullen of one count of forcible sodomy alleging anal intercourse, and of abduction with the intent to defile. Pullen was acquitted of the count of forcible sodomy alleging fellatio. Following unsuccessful motions to set aside, the trial court sentenced Pullen to a total of 45 years' incarceration, with all but 20 years suspended. Pullen appeals, contending that the trial court erred in finding that his detention of S.R. exceeded the detention inherent in forcible sodomy and in denying his request for a mistrial.

³ His girlfriend denied ever receiving a taser from Pullen. Moreover, although Pullen claimed that he "only had one" taser in his entire life, he also admitted that S.R. could have seen a taser in his camper, but that "[h]e didn't take it out and show it to her."

ANALYSIS

I. Incidental Detention

Pullen contends that the trial court erred in not dismissing the abduction charge because any detention involved was incidental to the strangulation and sexual assault offenses. He claims that “[t]here was no asportation and [S.R.’s] movement came from the threat of being stunned which immediately preceded the sodomy.” Thus, he contends, “because the conduct alleged was so inextricably connected and flowed from the same course of action, the [trial c]ourt erred in finding that there was an [a]bduction separate and apart from the completed sodomy.” We disagree.

A person is guilty of abduction if he, “by force, intimidation or deception, and without legal justification or excuse, seizes, takes, transports, detains or secretes another person with the intent to deprive such other person of his personal liberty.” Code § 18.2-47(A). The Virginia Supreme Court has held that one may detain a victim by requiring her to “remain in a certain location, or even in a certain position,” through use of force, intimidation, or deception. *Burton v. Commonwealth*, 281 Va. 622, 628 (2011).

For restraint to be punishable as a separate abduction offense, the detention must be “separate and apart from, and not merely incidental to, the restraint employed in the commission of the other crime[s].” *Vay v. Commonwealth*, 67 Va. App. 236, 250 (2017) (quoting *Brown v. Commonwealth*, 230 Va. 310, 314 (1985)). Stated otherwise, if the abduction is “intrinsic” to a defendant’s commission of another crime involving restraint, the defendant cannot be convicted of both crimes. See *Scott v. Commonwealth*, 228 Va. 519, 526 (1984) (recognizing that “in rape, robbery, and assault cases there is usually some [intrinsic] detention . . . of the victim”).

“The only issue when abduction is charged alongside an offense for which detention is an intrinsic element is whether any detention exceeded the minimum necessary to complete the required elements of the other offense.” *Lawlor v. Commonwealth*, 285 Va. 187, 225 (2013). The focus is “not on whether the restraint was merely useful to perpetrating a detention-plus crime[] but whether the restraint was ‘intrinsic’ to or ‘inherent’ in” the other crime. *Pryor v. Commonwealth*, 48 Va. App. 1, 6 (2006) (first quoting *Cardwell v.*

Commonwealth, 248 Va. 501, 511 (1994); and then quoting *Bell v. Commonwealth*, 22 Va. App. 93, 97 (1996); and *Coram v. Commonwealth*, 3 Va. App. 623, 625-26 (1987)). The question is whether “there is sufficient evidence to support the finding . . . that [Pullen] used greater restraint than was necessary to commit” the forcible sodomy. *Powell v. Commonwealth*, 261 Va. 512, 541 (2001). “We therefore need only consider whether the evidence in this case proves detention separate and apart from [the forcible sodomy].” *Lawlor*, 285 Va. at 225-26.

Here, the record shows that S.R. told Pullen she wanted to go home well before the anal sodomy. S.R. testified that she then “tried to get up and just leave out the door,” before Pullen “pushed [her] down and hit [her] in [her] face.” Moreover, following the anal sodomy, Pullen forced S.R. to engage in fellatio and anilingus. These actions resulted in additional restraint greater than the detention necessary to commit forcible anal sodomy. Therefore, the evidence supported the conclusion reached by the trial court, and thus the trial court correctly held that the abduction was not inherent in the other crimes.

II. Request for a Mistrial

Pullen also asserts that the Commonwealth “tainted” the “whole trial” when it stated in closing arguments that S.R. had described the weapon to her family. But in a closing argument, a “Commonwealth’s Attorney has the right to argue the evidence and all reasonable inferences from the evidence.” *Duncan v. Commonwealth*, 2 Va. App. 717, 730 (1986). Although S.R.’s mother did not testify specifically that S.R. had told her about the taser, she *did* state that S.R. “gave [her mother] some details before the nurse took her to the back. And then when she returned, S.R. continued, and [her mother] found out the entire story.” She reiterated this fact on cross-examination, stating that she “knew what happened, but the details as far as the full story” came later. It would be reasonable to infer that S.R. told her mother about the taser when she shared the “full story.” Therefore, the trial court did not err in allowing the Commonwealth to make this argument, and in denying Pullen’s request for a mistrial.⁴

⁴ Given this disposition, we deny Pullen’s motions for new counsel.

CONCLUSION

Accordingly, we affirm the trial court's judgment and grant the motion for leave to withdraw. *See Anders*, 386 U.S. at 744. This Court's records shall reflect that Christopher Pullen is now proceeding without the assistance of counsel in this matter and is representing himself on any further proceedings or appeal.

Pullen must pay to the Commonwealth of Virginia \$150 damages.

The trial court shall allow Alexander Raymond, Esquire, the fee set forth below and also counsel's necessary direct out-of-pocket expenses. The Commonwealth shall recover of the appellant the costs in this Court and in the trial court.

Costs due the Commonwealth by appellant in
Court of Appeals of Virginia:

Attorney fee \$1,800.00 plus costs and expenses

A Copy,

Teste:

A. John Vollino, Clerk

By:

Kristen M. McKenzie

Deputy Clerk

APPENDIX B
(cover)

3 Pages

VIRGINIA:

IN THE CIRCUIT COURT OF SPOTSYLVANIA COUNTY

HEARING DATE: January 30, 2023

JUDGE: THE HONORABLE RICARDO RIGUAL

COMMONWEALTH OF VIRGINIA

v.

Case No.(s): CR20-1255 & CR20-1257

CHRISTOPHER PULLEN

DOB: 10/11/1981 SSN: 225-35-1025

SEX: MALE RACE: WHITE

CONVICTED OF:

Offense Tracking Number	Virginia Crime Code (For Administrative Use Only)	Code Section	Case Number
177CR2000125500	KID-1004-F2	18.2-48	CR20001255-00
Offense Date: 09/25/2019	Description: ABDUCTION W/INT TO DEFILE		
177CR2000125700	RAP-1132-F9	18.2-67.1	CR20001257-00
Offense Date: 09/25/2019	Description: FORCIBLE SODOMY		

PRESENT:

Commonwealth Attorney: Jeff Adams, Chief Deputy

Defense Attorney: Alexander Raymond, Appointed

Defendant: Christopher Pullen

Conviction Date: December 1, 2021

SENTENCING ORDER

The Defendant previously filed a Motion to Vacate and Motion to Set Aside Verdict, as filed by the Defense.

Whereupon, the Court heard evidence and argument as presented by counsel. Upon consideration of the motion and argument of counsel, the Court hereby denies the motions for the reasons stated on the record.

The Probation Officer of this Court, to whom this case has been previously referred for investigation, filed the pre-sentence report with the Court and both counsel prior to

VSP
Raymond
RTP
RRT
DCC
2/8/23
m

Appendix page 3 CTP

today's hearing, in accordance with 19.2-299 of the Code of Virginia. The report of the Probation Officer is hereby filed as part of the record in this case and both parties waived appearance of the probation officer.

Pursuant to the provisions of Code §19.2-298.01, the Court has considered and reviewed the applicable discretionary sentencing guidelines and the guidelines worksheets. The sentencing guidelines worksheets and the written explanation of any departure from the guidelines are ordered filed as a part of the record in this case.

Whereupon the Court taking into consideration all the evidence in the case, the report of the Probation Officer, and such additional facts as were presented by the Defendant, and the Court inquired if the defendant desired to make a statement, and it being demanded of the Defendant if anything he had or knew to say why judgment should not be pronounced against him according to law, and nothing being offered or alleged in delay of judgment, and the Court having heretofore found the Defendant guilty of One (1) Count of Abduction with Intent to Defile and One (1) Count of Forcible Sodomy, it is the judgment of this Court that the Defendant is hereby sentenced to confinement in the Virginia Department of Corrections for a period as follows:

CR20-1255: 20 years with 15 years suspended.

CR20-1257: 25 years with 10 years suspended.

These sentences will run consecutively to each other and to any other sentences imposed in any other proceeding or Jurisdiction unless expressly set forth above.

The suspension of the sentence is conditioned upon the following:

Good behavior. The Defendant must be of good behavior for life.

Supervised probation. Upon release from confinement, the Defendant is placed on supervised probation for a time period not to exceed Five (5) years. The Defendant must comply with all the rules and requirements set by the Probation Officer.

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Sex Offender Registry. The Defendant must register on the Virginia Sex Offender Registry. The Defendant must have a sex offender evaluation completed and follow all recommendations of treatment.

Costs. The Defendant must pay the costs of these proceedings within one-hundred and eighty (180) days, including any court appointed attorney fees, unless a payment plan is submitted and accepted by the Clerk.

Credit for time served. The Defendant will be given credit for time spent in confinement while awaiting trial pursuant to Virginia Code §53.1-187.

The Defendant must provide a blood, saliva or tissue sample for DNA analysis pursuant to Virginia Code Section 19.2-310.2 et seq. at or under the auspices of the Rappahannock Regional Jail within a reasonable time after incarceration in the manner prescribed by law, unless a sample was previously taken. The Defendant is ordered to cooperate fully and promptly in providing information and permitting sampling of blood, saliva or tissue, as required by this order.

The Court certifies that at all times during the trial of this case, the Defendant was personally present and his attorney was likewise personally present and capably represented the Defendant.

The Defendant is remanded to the custody of the Sheriff.

SENTENCING SUMMARY:

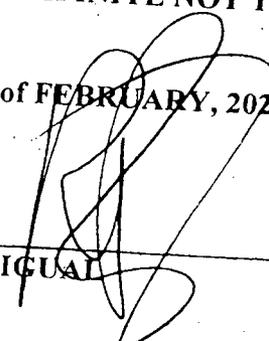
TOTAL SENTENCE IMPOSED: 45 YEARS

TOTAL SENTENCE SUSPENDED: 25 YEARS

TOTAL ACTIVE TIME: 20 YEARS

TOTAL SUPERVISED PROBATION TERM: INDEFINITE NOT TO EXCEED 5 YEARS

Entered THIS 6 day of FEBRUARY, 2023


_____, JUDGE

RICARDO RIGUAL

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APPENDIX C
(cover)

1 Page

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Tuesday, the 2nd day of September, 2025.*

CHRISTOPHER PULLEN,

APPELLANT,

against

Record No. 241072
Court of Appeals No. 0257-23-2

COMMONWEALTH OF VIRGINIA,

APPELLEE.

FROM THE COURT OF APPEALS OF VIRGINIA

Upon review of the record in this case and consideration of the arguments submitted in support of the granting of an appeal, the Court refuses the petition for appeal.

Upon consideration whereof, the Court denies the motions for oral argument, to grant petition for appeal, and to expedite the granting of petition for appeal.

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By:

Ervin Fajalic

Deputy Clerk

APPENDIX D
(cover)

1 Page

VIRGINIA:

*In the Supreme Court of Virginia held at the Supreme Court Building in the
City of Richmond on Wednesday, the 15th day of October, 2025.*

CHRISTOPHER PULLEN,

APPELLANT,

against

Record No. 241072
Court of Appeals No. 0257-23-2

COMMONWEALTH OF VIRGINIA,

APPELLEE.

UPON A PETITION FOR REHEARING

On consideration of the petition of the appellant to set aside the judgment rendered herein
on September 2, 2025, and grant a rehearing thereof, the prayer of the said petition is denied.

A Copy,

Teste:

Muriel-Theresa Pitney, Clerk

By:

Erinca Fajalic

Deputy Clerk

APPENDIX E
(cover)

22 Pages

1 without legal justification or excuse.

2 If you find from the evidence
3 that the Commonwealth has proved beyond a
4 reasonable doubt each of the above elements of
5 the crime charged, then you shall find the
6 defendant guilty.

7 If you find that the
8 Commonwealth has failed to prove beyond a
9 reasonable doubt, any one or more of the
10 elements of the crime, then you shall find the
11 defendant not guilty.

12 All right. We'll move on now
13 to closing. Commonwealth.

14 MR. ADAMS: Thank you, Your
15 Honor. Ladies and gentlemen, thank you for your
16 time and attention so far. It's 5:40 right now.
17 We started the day multiple hours ago. I am not
18 going to be up here long, because I think this
19 case comes down to one thing and one thing
20 alone. If he had a Taser, he's guilty of all of
21 these charges. This is a very simple

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1 THE COURT: Do you want to
2 approach?

3 NOTE: Counsel now approach
4 the bench, which conference is reported as
5 follows:

6 BENCH CONFERENCE

7 MR. CORNICK: The Commonwealth
8 correctly during their case-in-chief called Ms.
9 Hyman to the stand to report there was a fresh
10 complaint. And it's improper to go into what
11 that fresh complaint is. Mr. Adams has just
12 argued facts not in evidence that when she
13 talked to her family she described a Taser.
14 That's a bell that I think can't be unrung.
15 It's improper, and I'd ask for a mistrial.

16 MR. ADAMS: She said full story.
17 The mother testified that she told her the full
18 story afterwards.

19 MR. CORNICK: And we don't know
20 what that full story was, because Ms. Hyman
21 can't testify to what she heard. This is a

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1 comment on a recent complaint in detail in
2 closing argument that is improper, and I ask for
3 a mistrial.

4 MR. ADAMS: Your Honor, it is not
5 proper. She said full story she told her
6 mother. The Commonwealth said loved ones. Did
7 not even specify who the loved ones were. She
8 testified herself about talking to a manager,
9 might be deemed the loved one. And she talked
10 to somebody else.

11 MR. CORNICK: And none of the --

12 THE COURT: Hold on. Hold on.

13 MR. CORNICK: Sorry.

14 THE COURT: It's fair argument.

15 MR. CORNICK: Your Honor, none of
16 the content of those conversations are
17 admissible under Virginia law. The fact that
18 those recent complaints were made is, and that's
19 what they got into. But with regard to what she
20 told them, that is not proper, and it's not
21 before the jury. It's highly prejudicial and I

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1 ask for a mistrial.

2 THE COURT: Overruled.

3 END BENCH CONFERENCE

4 MR. ADAMS: Once again, if you
5 find he had a Taser, he is guilty. Very simple.
6 Going through it again, once again, Taser. Of
7 all the weapons that a person could describe, of
8 all the weapons that a person could tell the
9 police officer that was used, you could think of
10 a multitude of weapons. Most common weapons
11 being a knife, a gun. We're talking about rural
12 Spotsylvania County. There's probably a lot of
13 guns on that property. If she would have said
14 that, no one would have thought anything of it.
15 She could have said anything even obscure. But
16 the one item that she said was a Taser.

17 And then after the full
18 follow-up, after meeting with the detective, it
19 was a Taser that looked like a flashlight. A
20 Taser of a certain length, a flashlight.

21 The defendant then did his

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1 best to distance himself from that Taser. If
2 you recall during the first interview, the first
3 interview on the phone. After even telling the
4 deputy -- or the detective, it wasn't even
5 ringing a bell, a Shakira from Alexandria,
6 Tinder. That wasn't even ringing a bell with
7 him. Remember, that's how the conversation got
8 started when he said, "She mentioned you had a
9 Taser, long slender and it had electrodes on it.
10 She described it, but can't tell me exactly what
11 it is."

12 What do we have there? We
13 have the detective using the word Taser and
14 describing it partly. What is the defendant's
15 first response upon hearing the word Taser?
16 Once again, you all heard this from this twelve
17 minute conversation. "I don't have anything
18 like that." This is not, "I don't have a
19 flashlight Taser. I don't have a cattle prod.
20 I don't have anything like that. I don't have
21 anything like that." This is the first example

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1 of him distancing himself from the Taser.

2 And then as the detective
3 gathered more information, you heard during the
4 second interview on the phone call, he asked him
5 about a flashlight Taser. And once again,
6 "Flashlight Taser, oh, I gave that to Kristina.
7 I gave that to my girlfriend." Remember, that's
8 what the defendant said. Once again, to
9 distance himself from this Taser, this very
10 specific flashlight Taser, it was the defendant
11 who told the detective that he gave it to
12 Kristina.

13 And then the detective, once
14 again, in no rush in going through the
15 investigation, going through all of these
16 witnesses and all the little branches, including
17 now the defendant's girlfriend at the time.

18 "No, he never gave me a Taser, especially not a
19 flashlight Taser. He showed me a Taser once."

20 Yes, he may have kept it in the car, but he only
21 showed it to her once. And she definitely is

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1 not his Taser alibi. She definitely is not here
2 to say, "Oh, yeah, he gave me the Taser." A
3 person who runs a daycare with multiple kids,
4 including young kids of her own. She does not
5 have a Taser in her house.

6 There would be no other reason
7 once again for the defendant to distance himself
8 from that Taser unless he knew that is the key
9 to this case.

10 And then finally during the
11 third interview, the interview where the
12 detective met with the defendant, he asked again
13 multiple times in multiple ways about the Taser.
14 And the defendant, multiple times and multiple
15 ways said no, he did not have the Taser. And
16 once again, he even described how he gave it to
17 Kristina and he gave it to Kristina for
18 protection.

19 At no point in time did he
20 acknowledge that he had the Taser there. Even
21 when the detective was trying to throw him a

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1 lifeline, like just give me some plausible
2 explanation about how she would be describing
3 not only that you had a Taser, but it was a
4 flashlight Taser, he comes up with something
5 about, "Oh, maybe she saw it somewhere in
6 there."

7 So on the same point he is
8 saying he doesn't have it, he gave it to
9 Kristina. And the detective is like, just give
10 me something. How could she have seen it? How
11 could she know that you very specifically have a
12 flashlight Taser? The defendant is like well
13 maybe she saw it on the night stand or something
14 like that.

15 It is his distancing himself
16 from this Taser that is key to this case.
17 Everything else is smokescreen. Everything else
18 is misdirection. This is the only thing that
19 you need to focus on. Is there forensic science
20 supporting this? Yes, there is forensic science
21 supporting this. You heard the testimony. You

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1 received or will receive some documents about
2 the DNA and where it was found on her body.

3 You also heard from the
4 examination done by the SANE nurse. You heard
5 about her findings and the laceration and the
6 lengthy discussion about that.

7 Then you also heard from at
8 least one other witness. And the Commonwealth
9 will describe this, especially for the parents
10 in here, a very powerful witness, in that she
11 was describing her daughter the following day.
12 You heard her mother's testimony, very powerful
13 about lifeless and how she looked and her
14 demeanor. And this corroborates once again
15 Shakira, what she has told you today under oath.
16 She came here under oath and told you what
17 happened. Just like she did the detective, just
18 like she did the SANE nurse. This is not a
19 comfortable thing. This is not something
20 someone wants to be here doing, especially two
21 years later reliving one of the worst days of

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1 your life. But she came here, a very brave act,
2 came here under oath and told you the truth.
3 She told you the truth corroborated by forensic
4 evidence, corroborated by medical evidence, and
5 most importantly, a lot of it is even
6 corroborated by the defendant's own statements.

7 The defendant's own statements
8 has her in tears. The defendant's own
9 statements has her pushing him off. The
10 defendant's own statements has him saying that
11 she freaked out, fled outside, and that she was
12 basically naked. And the defendant's own
13 statement, once again, having him apologize for
14 what just happened. These are all actions --
15 his statements all corroborate what she told you
16 all happened.

17 So once again, I said I would
18 not be very long. It's been ten minutes. If he
19 had a Taser, he's guilty of all charges. And I
20 ask that you find him guilty as such. Thank
21 you.

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charges, absolutely positively not guilty of these charges. I ask you to find him not guilty. Thank you for being here today. Thank you for paying attention, as I know you all have. It's strange to say after however long this has been, his future is in your hands, and not mine. Please take care of it. Please remember that this is the Commonwealth of Virginia versus him. The Commonwealth has a burden of proof. It is not Shakira Richards versus Chris Pullen. Their job is to prove this beyond a reasonable doubt, and they have failed. Thank you.

MR. ADAMS: It is the Commonwealth of Virginia, ladies and gentlemen. It's not just Shakira Richards. It's Lokia Hyman. It's Kristina. It's Detective Handy. It's forensic science, and it's also the nurse examiner. It does take numerous people to deal with these types of serious cases.

The Commonwealth started off

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1 by saying this is all about the Taser and I
2 would say defense counsel would throw a bunch of
3 smokescreens, a bunch of things for you to think
4 about, other than the fact he had a Taser. The
5 Taser is the key to this case.

6 So what is the first
7 smokescreen to avoid? Avoid the focus on the
8 Taser. The first smokescreen is about the text
9 messages. Just imagine this situation. A young
10 lady, very young, a lot younger than the
11 defendant, if you heard their old man young lady
12 or whatever the term was. Just had this violent
13 encounter with this older man with a Taser in
14 the middle of nowhere in Spotsylvania County in
15 the dark running away naked, and she's supposed
16 to text in detail. Somehow she is supposed to
17 text in detail, as she is driving on Catharpin
18 on Courthouse Road to Route 1, everything the
19 defendant just did, because some day a defense
20 attorney is going to point out, well, you just
21 said choking. You didn't say you forcibly

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1 sodomized me and that you forcibly had anal sex
 2 with me and then oh, you had a Taser. Does
 3 anyone really expect a victim fleeing in this
 4 situation feeling for almost her life in this
 5 situation to text the person that just attacked
 6 her, a laundry list of everything bad they just
 7 did? That's the first smokescreen to avoid
 8 talking about the Taser.

9 And then it is almost surreal,
 10 and I thank the deputy for partaking in the
 11 little stunt. Does anyone here really think
 12 Shakira was like hum, I've got to think about
 13 gun records and about their ability to trace gun
 14 records, so I better not claim that when he
 15 raped and sodomized me he had a gun. So this is
 16 smokescreen number two that somehow the victim
 17 in this case was thinking about what weapon to
 18 say the defendant had and ruled out using a gun
 19 for all of those reasons. A smokescreen.

20 And the third thing. Instead
 21 of about the Taser, the third smokescreen

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1 defense counsel wants you to somehow
2 realistically consider is that once again, this
3 victim, as she is driving back to Alexandria, is
4 thinking about, oh, I can't say he did a knife.
5 She can't say he tried to cut me or presented a
6 knife because there might have been a struggle
7 and there might be knife cuts or something like
8 that, so I can't say a knife. So that is the
9 third smokescreen defense counsel would like you
10 to look at.

11 The fourth smokescreen,
12 something about wanting to say it was rape, like
13 after the fact wanting to say it was rape. I
14 turn your attention to the testimony from the
15 victim in this case, Shakira. And just put
16 yourself in the manager's shoes as you see her
17 coming through the door and her talking and
18 basically describing how she is coming to work
19 and basically collapsing, just all of the
20 emotional and physical toll this has taken on
21 her, just collapsing.

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1 The defense attorney in his
2 argument wants you to think about every other
3 factor other than the big factor. Did he give
4 her the Taser; no. He wants you to think about
5 the glove box, and about how many times it was
6 in the glove box, and things like that. But the
7 number one factor when it comes to Kristina, did
8 the defendant give it to her, and the answer is
9 no. Why? Why would he tell the detective he
10 gave it to her? We all know the answer why.
11 Taser, he's guilty. Taser is he is guilty. So
12 this is going through his head when he is
13 talking to the detective.

14 The sixth smokescreen is
15 concerning the SANE examination. And this was
16 the lengthier part of the case, and defense
17 counsel took a lot of time going over every
18 single question on there.

19 What you heard from the SANE
20 expert in this case was sometimes there is
21 damage, sometimes you have findings of certain

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1 things and sometimes you don't. And she even
2 made some sort of statement about sometimes I do
3 and sometimes I don't; or something to that
4 effect. There is not always great or
5 significant, I think the term was used damage,
6 in these types of cases. But there was. There
7 was injuries and you heard about the laceration.
8 It might be minimized by defense counsel. It
9 might be minimized in argument. But you even
10 heard and saw -- or will see, the pain
11 threshold. Even 24 plus hours later, after the
12 ordeal, after everything that happened with this
13 defendant, she was still at an eight out of ten
14 threshold.

15 The examination itself, once
16 again, this is not something anybody wants to
17 do. This is not something anybody wants to go
18 through, spend multiple hours with medical
19 personnel examining you like that.

20 Smokescreen number seven
21 concerns the text messages. Once again, one

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1 person in this case wanted to keep evidence,
2 wanted to bring evidence to the law enforcement.
3 Wanted the courts, wanted the scientists, wanted
4 the medical professional to have evidence.
5 There's one person in this case who did that.
6 That is Shakira. Shakira is the one who is
7 voluntarily showing the phone, showing all of
8 the messages, all of the messages, clothing,
9 clothing that she puked on, showing that. She's
10 the one who is presenting all of this evidence
11 to law enforcement.

12 And you heard defense counsel
13 talk about deleted evidence. That's similar to
14 ~~Taser~~. Just getting rid of stuff, not bringing
15 that evidence to law enforcement when they are
16 asking about it and investigating it.

17 The eighth smokescreen towards
18 the end, and this was the eighth smokescreen
19 that the Commonwealth identified. You might
20 have heard more. It was the handcuffs. Talking
21 about how the defendant could have used the

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1 handcuffs during this encounter.

2 The search warrant was
3 executed over a month later, October 29th.
4 Let's put that in perspective, October 29th,
5 over a month later, the handcuffs were found
6 when the search warrant was executed.

7 The defendant didn't need the
8 handcuffs. He accomplished everything he wanted
9 to with the ~~Taser~~. When he flipped it out, you
10 heard him say, "Either throat or ass." Once
11 again, I apologize for being graphic, but that's
12 one of the things he said. He got everything
13 that he wanted from the ~~Taser~~. He didn't need
14 the handcuffs.

15 Also, given that this was only
16 found a month later, the defendant himself in
17 one of his comments to the detective, and this
18 is going to be one of the big comments about
19 anal intercourse, did you have anal intercourse?
20 "I don't believe so." He's going to talk about
21 how much sex he has, you know. He's just.

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1 getting action all of the time. He can't even
2 remember. He can't even remember what sex he
3 had with this woman less than five weeks
4 earlier. He's just that oversexed that he can't
5 remember this encounter.

6 Which going back to his
7 original statement, is not only significant, but
8 scary. In his first statement with the
9 detective on the phone, he described the sexual
10 encounter nothing out of the ordinary, if you
11 recall that. The Commonwealth mentioned it in
12 its opening. You heard it on the thing. But he
13 described this encounter with a woman crying and
14 running away naked and everything else,
15 apologizing to her by text messaging afterwards
16 as nothing out of the ordinary.

17 So he didn't need to use the
18 handcuffs. The Taser was sufficient to
19 accomplish what he needed to accomplish. And
20 the search warrant was not until October 29th,
21 four weeks later. And according to him, there

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1 was so much action presumably that was the place
2 that he took people, that that is where the
3 action occurred.

4 These once again are all of
5 the smokescreens. The focus of the case is the
6 Taser. Did the defendant have the Taser? If
7 you answer in the affirmative that the defendant
8 had the Taser, which you have to. There is no
9 plausible reason, no plausible reason given why
10 this victim driving down from Alexandria would
11 have any knowledge that this defendant had a
12 Taser that looked like a flashlight. There
13 would be no other explanation for it. The only
14 time they met.

15 If you find that he had that
16 Taser, then you have to find him guilty of these
17 three charges, and I'd ask you to do so. Thank
18 you.

19 THE COURT: All right. Ladies and
20 gentlemen, this is an important case obviously
21 to both the defendant and the Commonwealth. So

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APPENDIX F

(cover)

1 Page

direct - Hyman

1 Q And did she confide in you any reports
2 that she had been recently sexually assaulted?

3 A Yes.

4 Q If you could just describe her demeanor
5 as she was telling you about that.

6 A She was lifeless.

7 Q What do you mean by that?

8 A She wasn't normal. You know your
9 children after raising them, you know when something is
10 wrong. Her words weren't clear like you and I are
11 talking now. She was embarrassed. You could tell she
12 was embarrassed. She didn't want to really tell me what
13 was wrong.

14 And then she gave me some
15 details before the nurse took her to the back. And then
16 when she returned, she continued, and I found out the
17 entire story.

18 Q After you found out the entire story,
19 were you involved in contacting law enforcement?

20 A Yes, sir. Because we were in Fairfax
21 County and it happened here, we had to go through Fairfax

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APPENDIX G

(cover)

3 Pages

direct - Richards

1 hospital.

2 MR. CORNICK: Object to hearsay.

3 THE COURT: Sustained.

4 A And that I needed to call my mother.

5 MR. CORNICK: May I ask the Court
6 to instruct the witness not to speak when an
7 objection is made.

8 THE COURT: The question is, did
9 you go to the hospital?

10 A Yes.

11 Q Which hospital was that?

12 A Inova Fairfax.

13 Q And did any members of your family meet
14 you or join you at that hospital?

15 A Yes. My mother and her boyfriend.

16 Q At some point are we into the nighttime
17 of September 26th?

18 A About 6:00 or 7:00 later on in the day.
19 It was already dark.

20 Q And at some point in time now after you
21 are at the hospital, at some point later that night going

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direct - Richards

1 into the next morning, did you tell your mother what
2 happened?

3 A I told her a little bit of the story,
4 just the beginning. I didn't tell her who or where. I
5 just told her that certain things had happened.

6 Q You told her the what, but not the who
7 or the where?

8 A No.

9 Q When you were at the hospital, what
10 medical services did you receive?

11 A They gave me a PERK kit. I believe
12 it's called a PERK kit. It's their rape kit where they
13 take pictures of your body. They swab different parts of
14 your body also. And they just get a generalized
15 statement of what happened. They also try to make sure
16 that you are mentally okay and physically okay.

17 Q How long all together were you there
18 receiving this evaluation?

19 A A couple of hours, maybe two or three.
20 It took some time, because they had to figure out which
21 jurisdiction it was in, because it didn't happen in

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direct - Richards

1 Q At some point in time after dealing
2 with the hospital medical nurse, did you tell your mother
3 in detail what happened?

4 A Not full out details. I told her some
5 details of what had happened. Things like direct
6 questions that she was asking me I told her.

7 MR. ADAMS: Would you please
8 answer any additional questions defense counsel
9 may have.

10 THE WITNESS: Okay.

11 CROSS-EXAMINATION

12 BY MR. CORNICK:

13 Q Good morning, ma'am. Ms. Richards, my
14 name is Andy Cornick. Am I correct that you and I have
15 never seen each other before?

16 A Yes, sir.

17 Q And you and I have never at any time or
18 day, in this case, in a courtroom, outside, we have never
19 spoken, is that right?

20 A Yes, sir.

21 Q Tinder, you described it as a dating

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