

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

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APPEAL FROM SPARTANBURG COUNTY

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General Sessions Court
Honorable Grace Knie, Circuit Court Judge

SC Court of Appeals

Appellant Case No 2021-000599
Lower Case Nos. 2020GS4200001, 00002, 00003, 2019GS4201035

The State Respondent,

vs.

Mark Anthony Gilbert Appellant

RECORD ON APPEAL
VOLUME II

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1 case are gone. So, no. I don't have any
2 physical evidence to present to you.

3 But what I do have and what you heard was
4 the testimony of an unbelievably courageous
5 young lady who exposed herself to having to
6 talk in front of strangers about the worst
7 thing a parent could do to a child, with the
8 exception of murder. What could be more
9 violative than having a father that should
10 protect you, use you for his deviant sexual
11 desires? Nothing.

12 Remember when y'all came to the
13 auditorium, and you were told that you had to
14 stand up and say what your name is and what
15 your spouse does for work and what you do for
16 work and that -- how long it took you to drive
17 here? If any of y'all were being honest,
18 almost every one of you got a knot in the pit
19 of your stomach when you realized you were
20 going to have to stand up in front of people
21 and say those minor things, right? So the
22 alphabet gets closer to you, and that knot
23 gets bigger.

24 Imagine if what the clerk of court had
25 said to you, instead of, "Tell me your name.

1 Tell me where your spouse works. Tell me
2 where you work," she said, "Tell me about the
3 worst sexual experience you have ever had."
4 Think how traumatic that would have been for
5 you. And, yet, that's what she had to do, get
6 on this stand and tell you that.

7 And she -- I'm sorry. I almost lost it
8 when I said, "I hear you call him Mark. What
9 did you use to call him?" "Dad." And she
10 lost it, too. That is either the most
11 brilliant acting, or that is evidence of what
12 has happened to her, how traumatic and
13 horrible this has been.

14 Then she had to go through cross-
15 examination, as she should, and she was
16 completely honest and forthright. And things
17 she didn't remember, she said, "I don't
18 remember." And not surprising, because it's
19 been at least three years. Twenty-eighteen,
20 when he got kicked out, and here we are in
21 2021. She told you everything she could
22 remember. She was honest with you, and she
23 was vulnerable.

24 People lie. So let me back up for a
25 second. So there's one of two things: Child!

1 is a liar; he's telling the truth; he's a
2 liar; she's telling the truth. In general,
3 people lie for two reasons: They either lie
4 to get a benefit, or they lie to get out of
5 trouble. So you know the lie to get out of
6 trouble is my mom says, "Stay out of the
7 cookie jar." And she comes in there and I've
8 got cookie crumbs all over my face and she
9 says, "Have you been in the cookie jar?" And
10 I say, "No. What?" I'm lying to keep myself
11 from getting in trouble, and we do that
12 relatively frequently, unfortunately,
13 especially kids.

14 Or you might tell a lie to get a benefit.
15 So I want to go get a job, and I beef up my
16 resume and I lie that I have these great
17 computer skills, which all my colleagues can
18 tell you I absolutely do not possess; but I'm
19 lying about that because I want to get a
20 benefit.

21 Child! | was not in any trouble. Her own
22 father admitted that she's a lovely young
23 lady. You can surmise for yourselves that
24 she's a lovely young lady, because you watched
25 her testify. So she wasn't trying to get out

1 of any trouble. What benefit does Child I get
2 from making a lie up like this? Well, she
3 knows that there are 14 strangers who heard
4 this. And she doesn't know if one of you has
5 a kid that goes to Dorman, has another
6 relative that goes to Dorman who's going to go
7 home and say, "Hey, y'all aren't going to
8 believe the case that I served on." And y'all
9 can talk about it after it's over with.

10 She doesn't know. She knows that friends
11 at her school know about this. She has put
12 herself in a position -- if she has made up a
13 lie, she has put herself in the position of
14 having this stigma follow her for the rest of
15 her life. Why in the world would she do that?
16 He -- he doesn't know. She -- he couldn't say
17 that there was something that -- that she
18 would have -- that she would have a reason to
19 have done that. What benefit did she get from
20 this?

21 She had to go and get a gynecological
22 exam. You men cannot appreciate how lovely
23 those are, but the women can. They are no
24 fun. She had to go through that. She's had
25 to talk to people about this. She had to be

1 interviewed at the Child Advocacy Center about
2 this. This has been zero fun for her. And if
3 she hated her dad and wanted to get rid of
4 him, she could have come up with a dozen other
5 ways that did not expose her to a lifetime of
6 people looking at her and going, "Psst.
7 That's the girl who had sex with her dad."
8 But that's what she's facing.

9 So who did have a reason to lie? Mark
10 Gilbert. Of course he has a reason to stand
11 up here and tell you that he didn't do this.
12 She has no reason to lie, and he has every
13 reason to lie.

14 Nicholas got up here and testified also
15 and told the same -- told about how Sage
16 talked to him. He says, "I don't remember
17 what happened with the pink vibrator." If
18 those two had decided to lie together,
19 colluded to come up with this story, you can
20 bet your life that they would have had every
21 fact in lock step. "Okay. This is what we're
22 going to say: Dad went to the mall with you.
23 He bought a pink vibrator, and then he brought
24 it back, and he gave it to me." And then
25 Nicholas would have said, "Oh, yeah. I saw

1 him give the vibrator to her." But that's not
2 what happened.

3 Memories are different. One thing might
4 be important to one person, and something else
5 important to another, and that's how your
6 memory really works. So when you should be
7 concerned is if people come in and tell the
8 exact same thing in the exact same order.
9 Then that tells you that there -- they have
10 gotten together to make up a lie and to make
11 sure that they're all saying the same thing.

12 Now, I sit around with my sisters and --
13 and my brother. We like to talk, usually,
14 about my little sister and all the dumb things
15 she did when she was little. But I will
16 remember one thing about an incident. My
17 brother will remember one thing about an
18 incident, and my sister will remember
19 something else. We don't all remember the
20 same things. Does that mean I'm lying? No.
21 That means that my memory captured one aspect
22 of this, Ben's memory captured another, and
23 Holly's captured another. We're not lying. I
24 just don't remember the same things Holly did.

25 That what -- that is what was going on

1 here with Nicholas and **Child 1**. And he said, "I
2 don't remember if Mark gave her the vibrator
3 in front of me. I just don't." If they had
4 cooked this up, you can bet your life they
5 would have said the same thing.

6 Dr. McMillan -- I couldn't think of her
7 name. Dr. McMillan talked to you some about
8 how memories work and how there are things
9 that will trigger memories that we have in the
10 back of our head that we -- we retain in our
11 body. It might cause us stress and -- but
12 something will trigger it and we'll be able to
13 remember it.

14 So we had Dr. Henderson who came and
15 spoke to you. And she told you there was no
16 physical evidence. And you might be
17 wondering, "Well, if there was no physical
18 evidence, then why did you bring her in?" And
19 the reason is because like a lot of you,
20 probably, before I started doing these kinds
21 of cases, I believed that every girl has a
22 hymen, that it completely covers the vaginal
23 area, and that if there is penetration by a
24 finger or a tampon or a penis, that, that
25 hymen ruptures and that you will be able to

1 have clear and visible evidence of that; and
2 that is not the case. If we don't have them
3 examined and don't bring them in here, then
4 y'all might be thinking in the back of your
5 mind, "Well, they could have taken that step
6 and they didn't." But we do take that step.
7 And Dr. Henderson told you, "I have had
8 teenage girls who are very sexually active,
9 but there's no evidence of it." So the fact
10 that there was not an abnormal exam, doesn't
11 mean anything. As she told you, it's normal
12 to be normal.

13 So, yes. Do I wish that she had been
14 taken to the hospital immediately after the
15 first time she had a penetration by this
16 defendant? Of course I do. But that's not
17 how child sex abuse cases usually play out,
18 and it's not how this one did.

19 So the defendant wants you to believe
20 that this couldn't have happened because he
21 has erectile dysfunction. He also wants you
22 to believe that he has a friend who is medical
23 doctor that he could have talked to about
24 this, and he opted not to talk to his friend
25 because that was too embarrassing. But with

1 his other friend, who is not a medical doctor,
2 who could not help him with this problem, he
3 was apparently sitting around chilling with a
4 couple of cold ones and says, "Hey, bud. By
5 the way, I can't get my penis hard." That is
6 ridiculous. I -- a thousand dollars for
7 things that never happened.

8 That is not something that a man says to
9 another friend. Maybe to your friend who's a
10 doctor, you might say, "Got this little
11 problem here." But to your friend who can't
12 help you with it at all, who comes over and
13 hangs out at your house with your wife, you're
14 going to tell him that you're not capable of
15 satisfying your wife? No. That never
16 happened. And conveniently enough, the -- one
17 of the first things that came out of his mouth
18 was, "My friend told me he has erectile
19 dysfunction." Well, I don't believe him.
20 Sorry. And, furthermore, even if you can't
21 get it completely -- I'm sorry. My mother is
22 spinning in her grave right now. But we're
23 just going to talk about this. Even if you
24 can't the penis completely hard, you can still
25 get the penis into things most of the time.

1 That's just a fact.

2 She's a kid. She doesn't have any idea
3 what that was supposed to feel like or what
4 was actually going on there. So even if he
5 does have some kind of a problem getting hard,
6 he can still get that penis inside her. He
7 also put other things inside her, as well:
8 the dildo -- dildos, vibrator, fingers. He
9 also made her perform oral sex on him.

10 When Child 1 told this story, when she told
11 what happened to her, she was very honest.
12 She was interviewed at the Child Advocacy
13 Center, and you've heard some talk about the
14 video; and you might be wondering why you
15 haven't seen that video. So the reason is
16 because the video is hearsay, and so it is not
17 admissible, except under the circumstance if
18 the child is under the age of 12 at the time
19 she's interviewed and if it meets certain
20 statutory requirements. So the State could
21 not play that video for you, but I -- I know
22 y'all heard it mentioned. And I didn't want
23 you to think, "Ooh, they've got evidence that
24 they're hiding." That's not the case.

25 But when she disclosed this, she talked

1 about the possibility that Hunter saw
2 something. She said, "We were in the bed and
3 -- and Mark covered us up really fast." And
4 she also said he used dildos, and he used
5 vibrators. So if I'm going to make up a
6 story, here's what I am not going to do. I'm
7 not going to add people who could possibly
8 contradict me to my story, and I am not going
9 to add things that could be used to
10 corroborate it.

11 For example, I like Gary Sinise. Y'all
12 might know him as Lieutenant Dan. Sorry. I'm
13 horrible with names. Lieutenant Dan. I'm not
14 a huge celebrity fan, but I like him because
15 he's super involved in Wounded Warriors and
16 does a lot for our troops, so I really like
17 him. I would walk across the street to meet
18 him, right?

19 If I come to work next week and I tell my
20 co-workers, "Y'all are not going to believe
21 this. I was at the airport. Gary Sinise
22 walked up to me and said, 'You are the most
23 beautiful woman in the world. I would like to
24 hug -- give you a warm and passionate embrace,
25 kiss you.' And I say, 'Sure. Do it, Gary

1 Sinise.'" And then I say -- and then I tell
2 you, "And by the way, he autographed that
3 white jacket that I wear a lot, and my friend
4 Katie was there and saw this all happen." So
5 what are y'all going to do? They're --
6 they're going to call Katie up and say,
7 "Katie, did Gary Sinise kiss Wendy?" And
8 Katie is going to say, "No. That's a lie."
9 So I'm not going to add Katie to that mix.
10 And they're also going to say, "Wendy, let us
11 see that white jacket that Gary Sinise
12 autographed." I don't have it, so I'm going
13 to have to say, "Ooh, I lost it."

14 So those are things that you would be
15 able to use to verify. If I'm going to lie,
16 I'm going to say, "I saw -- I was driving down
17 the road. I saw a car broken down. It was
18 Gary Sinise. He kissed me, told me I'm the
19 most beautiful woman in the world and then I
20 drove off and" -- okay, well, y'all can't try
21 to verify that. And I didn't add somebody in
22 there that you could go back and question.

23 But Child 1 did. She said, "Hunter may have
24 seen something," and she said, "Nicholas and I
25 talked about this." If she's going to make

1 stuff -- and she talked about Nicholas and the
2 dildo. If she's going to make up lies, she's
3 not going to bring in people who can be talked
4 to, to contradict it. She's also not going to
5 bring in things that you can say, "Hey, show
6 me the dildos." She had those details in
7 there because they happened. Do I wish I had
8 the dildos to show you? Yeah. I do, but I
9 don't because a search warrant was executed
10 months afterwards. And that's the fault of no
11 one, because the -- this didn't come out.

12 The bottom line to this case is Child 1 has
13 zero reason -- zero -- to have said all of
14 this unless it was true. Y'all have to judge.
15 Y'all have to judge whether you found her
16 credible. There was no upside for her at all
17 to say that her father did these things to
18 her. None. There's been an incredible
19 downside for her.

20 She stood in front -- sat in front of you
21 and told you what happened to her, because it
22 happened. Mark Gilbert did all of this, and
23 the State is asking you to hold him
24 responsible for the crimes he's committed
25 against the child that he should have

1 protected, and he did not. He is guilty. He
2 is guilty of sexual intercourse with his
3 daughter. He is guilty of forcing his
4 daughter to perform oral sex on him. He is
5 guilty of putting his fingers inside his
6 daughter. He is guilty of using sex toys on
7 his daughter for his sexual pleasure. Find
8 him guilty because he is. Thank you.

9 THE COURT: Mr. Shealy.

10 MR. SHEALY: Thank you, Your Honor. May it
11 please the Court.

12 DEFENDANT CLOSING ARGUMENT

13 MR. SHEALY: Okay. I wasn't going to start
14 here, but Ms. Hallford is insistent that there
15 was no upside. There was only downside, and
16 that the downside is she has to come in here
17 and she has to testify in front of you. She
18 has to testify in front of everybody here, and
19 that this information may get out to Dorman
20 and -- and all these things.

21 The problem with that is that's not what
22 happened here. This didn't come out to the
23 police. This didn't come out to DJJ. There
24 was, at the time that this came out, only
25 upside, because they got rid of the guy who

1 kept on bothering them. The guy that made
2 them clean the house. The guy that made them
3 do the chores. The guy that made them do
4 things. They didn't want that anymore, and so
5 they told him, "You -- we know what you're
6 doing with Child! You need to get out," and he
7 left. They knew that that accusation would
8 cause him to leave. And yet they would get to
9 keep that money.

10 They got to keep that money for several
11 months. And we know that he's the one that
12 made them clean up the house, because not
13 three months passed before DJ -- or DSS shows
14 up and takes them into protective custody and
15 says, "This house is so filthy. You people
16 can't live here."

17 We know he's the one who's doing it
18 because he's the only -- because that's the
19 only factor that changes is that he ain't
20 there anymore. So they got to live the way
21 they wanted to. They got to -- to collect his
22 check, they get to spend his check, and they
23 didn't have to do any of the chores anymore.
24 That was the upside here.

25 And, you know, we've heard about the --

1 and that you wouldn't bring in other folks.
2 Well, you would bring them in if they were
3 your two brothers who want him out, too. And
4 what I -- so I'd submit to you that at the
5 beginning, this was all upside. There was no
6 downside.

7 Now, when -- and then when that money
8 gets cut off, somebody reports to their aunt,
9 who's a mandated reporter. They all know
10 she's a mandated reporter. They knew what was
11 going to happen. They knew that DJJ was going
12 to come to them. And that's when they
13 disclosed. They knew that was going to
14 happen. They punished him for cutting off the
15 money. There is no other inference you can
16 draw because, otherwise, they -- for months,
17 they were living fine. For months, nobody
18 felt the need to tell the aunt.

19 And so what was she to do at that point?
20 I understand that this is hard what happened.
21 I mean, that she did have to testify. And I
22 have no doubt that there's a great deal of
23 regret here. But that regret is because they
24 reported it, and at that point, they couldn't
25 change the story. They couldn't change it.

1 They can't say now, "Oh, well, I mean, you
2 know, we lied about it back in March." They
3 can't -- they're stuck.

4 And we know that they're stuck because on
5 direct, if you'll remember, for Ms. Gilbert,
6 she wasn't going into any kind of detail. She
7 gave you no details as to what was happening.
8 I had to get into those details.

9 She testified on direct that there was
10 some kind of sex, four to seven times a week.
11 That's a 115 -- during a period, in the
12 indictment, of 115 weeks. That's the period
13 of the indictment. Now, I cut a couple of
14 days off, because they said they ejected him
15 on March the 17th. He says he left on March
16 the 17th. The indictment goes to March the
17 30th. So I cut a few days off. But that
18 means that there were at least 460 different
19 sex acts alleged in this case. 460 sex acts
20 alleged in this case, at least, because she
21 said four to seven times a week.

22 He had a heart attack in 2015. He has
23 serious Type 2 diabetes. He had a second
24 heart attack in there somewhere. Ladies and
25 gentlemen, look. I'm a guy. My wife and I

1 were trying to have a baby. We had to have a
2 lot of sex. Five times a week is a whole lot
3 of sex, and it's not sustainable. And I'm a
4 healthy person. I'm 30 -- what -- at the
5 time, I was 34, and I'd never had a heart
6 attack. I've never had diabetes. I've never
7 had any of those things. 460 times.

8 Now, the details that we did get into,
9 quite frankly, were -- were strange. We only
10 got into a couple of actual allegations, but
11 on direct, Ms. Hallford made a big deal about,
12 "Well, were you ever alone with Child 1? Were
13 you ever alone with Child 1? Were you ever alone
14 with Child 1? And he said, "Yeah. A couple of
15 times." But, oddly enough, according to Ms.
16 Gilbert, the sex didn't happen when they were
17 alone. The sex happened with people in the
18 house that -- when Hunter came in, for
19 instance, and he may have seen it. My client
20 was in bed with her, allegedly, and then he
21 moved really quickly and covered up; and maybe
22 he saw something; maybe he didn't see
23 something.

24 Now, the problem there is the testimony
25 was that he would get her up early, earlier

1 than her brothers were waking up, and do these
2 acts on her. But the testimony was also that
3 the kids -- the brothers -- would try to beat
4 the other one to the computer, which is in the
5 room, and they would have had to pass either
6 the couch -- where the allegations are the sex
7 occurred -- or they had to go into the --
8 their bedroom. And this happened frequently
9 was the testimony. I believe I -- that
10 Nicholas testified, "Yeah. It was kind of a
11 competition who could get up earlier." So
12 ladies and gentlemen, that would have been
13 repeatable, but Hunter only almost caught them
14 once, allegedly. It doesn't make sense. It
15 just doesn't make sense.

16 This time in the bathroom, and -- you
17 know, I -- I don't -- I don't know what -- the
18 -- the allegation is completely different.
19 She claims that he slapped her in the face.
20 They were screaming at each other. Nicholas
21 tells him to stop -- tells her to stop or him
22 to stop, and that's essentially the end of it.
23 Nicholas says that he tells him to stop. My
24 client pulls a gun on him, points it at him,
25 mother scooches him out, and then there's a

1 whole he goes and sleeps with his friend.

2 I mean, whether or not -- and I think
3 that they claim that Child 1 was maybe in the
4 bathroom. Whether she was in the bathroom or
5 not, surely, she would hear the commotion over
6 a gun. People don't just pull guns on folks.
7 You don't just -- you see somebody pull a gun
8 on somebody else, you react to it. The mother
9 would have reacted to it, who is apparently
10 there. Nicholas would have reacted to it, who
11 was apparently there. There would have been
12 more than just -- I don't know -- them not --
13 or her not hearing it. That's impossible.
14 But those stories are just diametrically
15 opposite.

16 And I understand that Ms. Hallford's
17 saying, "Well, you know, sometimes people --
18 if they were colluding, then they would give
19 the exact same testimony." But in point of
20 fact, that's one of the reasons we sequester
21 witnesses. We keep them apart. We keep them
22 apart to make sure that they can't just parrot
23 what they hear up here. And so he couldn't
24 hear what she testified to, and that's why
25 this thing fell apart.

1 You heard that my client would take
2 privileges, but then you also heard that she
3 was playing soccer. You heard that she was in
4 band camp. You heard that she was in band.
5 She -- her friend -- her best friend was there
6 all the time. The people were there all the
7 time. What privileges was he taking? He
8 would make her stay up all night and clean the
9 house, and, yet, there's also testimony that
10 the house was always dirty.

11 And this was the last -- oh. And then
12 there's this discussion about him showering
13 with her. Again, who would let that happen
14 with their sister or their daughter? That
15 just -- it's just not a thing that -- it's
16 just not credible that they did not say, "No.
17 That's probably not a thing that should
18 happen."

19 And for her to be having sex with him in
20 the shower, which is a small shower, or a -- a
21 regular sized bathtub and a shower up there,
22 he's kind of a big guy. They don't fit in the
23 dagnab (as spoken) tub. It wouldn't work. It
24 just doesn't work. She would be drenched if
25 she were performing oral sex on him while he

1 was in the shower, and, yet, nobody testifies
2 to, "Well, we had to get her a towel, as
3 well." There are any number of problems with
4 that.

5 And, again, if -- these are teenagers.
6 They don't understand sex. They've seen porn.
7 So they made some stuff up from porn. And a
8 lot of this stuff, that's what it sounds like.
9 It sounds like it's from some kind of
10 pornography. If you've ever tried to have sex
11 in the shower, it ain't easy. It's just not a
12 thing that -- that you just do. Particularly
13 if you can't move one of your arms. If you
14 have to have -- you can't -- if you can't
15 move, how are you going to keep your balance?

16 Now, we talked about -- there was also
17 this business about the vibrator. Nicholas
18 says he doesn't remember the vibrator. Well,
19 how do you not remember your father giving
20 your daughter -- or your sister a vibrator?
21 That this is -- is -- you would either
22 remember that that happened, or you didn't.
23 He does remember that they went and purchased
24 it at the mall. I didn't know you could buy
25 vibrators at the mall, but that's their

1 position.

2 And then we also heard from Ms. Gilbert
3 that she put it on the shelf, and that she
4 left it on the shelf. And we heard that she
5 was interviewed on August the 2nd and said it
6 was still there. And then after lunch, when
7 she could think about it, she decided, no, no.
8 She wasn't talking about the vibrator under
9 those circumstances. She was talking about
10 the shelf. So I asked -- well, y'all have
11 been talking about this vibrator or the --
12 these sex acts for 36 minutes. Thirty-six
13 minutes to discuss these sex acts. Y'all are
14 talking about a vibrator, and then all of a
15 sudden, you're going to talk about how a shelf
16 wasn't -- is still there. It doesn't make
17 sense. She said it was still there -- that
18 the vibrator was still there August the 2nd.

19 The police searched the house August the
20 10th. There was no vibrator. There were no
21 dildos. There was nothing. There was just
22 nothing. And my client couldn't have cleaned
23 it out, because he hadn't been back to that
24 house since March the 17th.

25 Now, they have told you that -- excuse

1 me.

2 Well, in any event. So after all of
3 that, you heard from what I call the "cottage
4 industry of child sexual abuse dynamics." As
5 you probably noticed, each and every one of
6 those people work for a children's advocacy
7 center or several of them. I would submit to
8 you that all of these peer-review journals
9 that they talked about, all these textbooks
10 that they talked about, probably don't publish
11 journal articles with -- with titles such as
12 "Deception in Child Sex Abuse Cases." I don't
13 think they're going to be publishing anything
14 like that. They're paid by the State.

15 Dr. Henderson's paid by Prisma, and we
16 all know Prisma will bill you for anything;
17 and that's where their bread is buttered.
18 They're not going to testify about -- well,
19 they're just not going to testify that
20 children lie or that children tell stories.
21 They're not going to testify to anything like
22 that.

23 Although, we did, surprisingly, get Dr.
24 Henderson, at least, to testify that, in fact,
25 you don't have -- that, basically, she would

1 never make an opinion that rules out sexual
2 abuse. That when she gets up on the stand,
3 she's never going to say that there wasn't
4 sexual abuse. She might say that there is.
5 In fact, I'd submit to you that she generally
6 says that there is, but she ain't ever going
7 to say there wasn't. Because a normal exam,
8 no matter how many times, 460 for instance,
9 would cause any kind of issue.

10 Nicholas made a lot out of why he didn't
11 report, because it would be damaging to his
12 family. It would break up his family, and he
13 didn't want to do that. His father has
14 already gone, and I can understand the curfew.
15 But his brother is in DJJ at that point. So
16 his family has already been broken up. There
17 are already -- there -- they've already been
18 broken up.

19 We've talked about the issues with
20 respect to embarrassment. But when I talk
21 about embarrassment here, I don't just mean
22 what happened after today or after the report
23 to law enforcement. I mean, it was
24 embarrassing to live in that house. Not just
25 him making -- or trying to get you to clean it

1 up. It was embarrassing to just live in it,
2 because it's gross. It doesn't have any walls
3 in it. And you can say that that's my
4 client's fault, and I think he'll take some
5 responsibility there. But it's also everybody
6 else's fault. It was the -- the wife's fault,
7 who we didn't hear from, and the children's
8 fault. But that's another reason for them to
9 want him out of the house, because they don't
10 want to deal with him anymore. And maybe they
11 can get their mother to take them to some
12 other place.

13 "Now, there are much easier ways to get
14 him out of the house," she keeps saying. And,
15 again, that's not true. There aren't. Well,
16 had she reported it to the police, maybe that
17 would be true, but that's not what she did.
18 She made a direct allegation to my client.
19 And the direct allegation to my client or at
20 my client through people who were -- other
21 people who were in the house is what made him
22 leave. It was not -- so a simple, "He's
23 beating me" would not have sufficed. It may
24 have worked had they talked to DJJ -- or
25 DSS -- excuse me -- but that's not what they

1 did. They knew they had to accuse him of
2 something so heinous it would cause him to
3 leave either of his own volition or by some
4 kind of threatening.

5 Now, we've also heard so much about being
6 terrified of him. Great deal about being --
7 how scary Mr. Gilbert is at 45 and diabetic
8 and apparently overweight and many heart
9 attacks and things like that. I mean, you
10 heard from Mr. Angrisano. He said that it
11 didn't appear to be that way when he was
12 there. That there were people coming in and
13 out of that house. That there were people
14 going in and out all the time, and that they
15 had no problem telling him essentially to
16 "eff off." They weren't going to do whatever
17 it is that he wanted them to do, and that
18 their mother didn't really make him do what
19 his mother told them to do.

20 Now, lastly, I kind of want to deal with
21 this as with respect to the -- the evidence
22 that you've heard. Again, Ms. Hallford keeps
23 talking about this massive clean-out that
24 happened. There was a massive clean-out by
25 DJJ -- by DSS. DSS made them clean up the

1 place. Kept making them clean up the place.
2 Nicholas testified that they didn't clean up
3 the place. That that's why they condemned it.
4 That from June to August, they -- they didn't
5 clean it up, and that's why it got condemned.
6 And yet these dildos are still not there.
7 These vibrators are still not there. And I
8 understand that Ms. Gilbert testified that
9 there was this massive clean-out, but, again,
10 we know that that's not entirely true, because
11 it was condemned, because it was deemed unfit
12 for human habitation.

13 Now, I've already discussed the issues
14 with respect to the search warrant, the issues
15 with respect to there being absolutely no
16 physical evidence here. There were plenty of
17 opportunities to have physical evidence.
18 Plenty of opportunities for them to provide
19 something to the police, but they didn't do
20 that. They could have done it in July when
21 they made the first report, but they didn't do
22 that. They could have -- I don't know why
23 they had -- they required a search warrant
24 August the 10th. All they had to do was take
25 them down there, but they didn't do that.

1 I talked to you about corroboration,
2 because corroboration's important when
3 deciding what people -- whether people are
4 telling the truth or not. And there's no
5 corroboration of any of this. They told two
6 friends, but those two friends never reported
7 it. She told Sara Bell three days or four
8 days -- or two days -- excuse me -- after they
9 asked Mr. Gilbert to leave, and he left. She
10 didn't report it. She didn't say, "Hey, maybe
11 you should preserve some of this evidence."
12 She didn't do much of anything.

13 And then the foster sister, I suppose is
14 what you would call her. My client was fine
15 with my -- with Child 1 living with -- I believe
16 it's Sergeant Duclos -- I believe is what her
17 title is -- who's a jailer at the jail.
18 Despite all of the various possibilities for
19 her to tell all kinds of terrible things to
20 this jailer, he did it willingly because he
21 had nothing to hide. That's what he testified
22 to.

23 He had nothing to hide, and he got up and
24 he testified. And the prosecutor screamed at
25 him that he did it. He did it. He did it.

1 "You did it. You did it. You did it." And
2 he sat there, and he said, "No. I didn't.
3 No. I didn't."

4 I wish that he had told the doctor back
5 then. I do, but men are stupid. We just are.
6 He didn't want to have sex. Probably really
7 couldn't have a whole lot of sex. His heart
8 was busted. His hernia -- it was herniated.
9 I've never had a hernia, but it sounds
10 terrible. He's got a foot problem. He's got
11 a shoulder surgery. He's got another heart
12 attack. I mean, I don't know. I'd be happy
13 if I could get out of -- off of the couch at
14 that point. So, no. I'm not looking for E.D.
15 pills. I'm just not looking for those at that
16 point.

17 And, you know, Ms. Hallford's talked a
18 lot about Ms. Gilbert getting up here and
19 testifying and how hard that was. Mr. Gilbert
20 gotten (as spoken) up here and testified,
21 essentially, he didn't have control over his
22 house. That his house was disgusting. That
23 he -- he had completely lost all control of
24 that place. He's testified that his penis
25 didn't work. He's testified his body is

1 falling apart. He's testified, essentially,
2 that he has no dignity. And if you don't
3 think that takes some bravery, then I can't
4 tell you. He didn't have to get up there, but
5 he did, to tell you what happened, which is
6 nothing because nothing happened.

7 And, quite frankly, ladies and gentlemen,
8 I understand it's hard to believe that people
9 make this stuff up. I understand it's hard to
10 believe that this could have not happened, but
11 they've testified to 460 sex acts. It didn't
12 happen. And if you have a reasonable doubt --
13 even if you just have a reasonable doubt about
14 that, you are required by your oath to find my
15 client not guilty.

16 And reasonable doubt -- I know that Ms.
17 Hallford didn't care for my analogy, but I'll
18 repeat it. When you go to the store, and you
19 find a piece of meat and you look at it, sure,
20 you deliberate about it. But when you
21 hesitate as to whether you're going to buy it
22 or not, that is reasonable doubt. You might
23 ultimately buy it; you may not. But that is
24 reasonable doubt. It's the doubt that would
25 make a reasonable person hesitate. And I

1 believe that we have shown you plenty of that
2 today.

3 Thank you, ladies and gentlemen.

4 MS. HALLFORD: Nothing else.

5 THE COURT: Okay. Thank you, Mr. Shealy.
6 Thank you, Ms. Hallford.

7 (To The Jury) All right. Before I
8 instruct you on the law, why don't you all
9 just stand up for just a moment. You've been
10 seated for a long while this afternoon. Just
11 stand up and stretch. We're not going to
12 leave the room, but just stand up and move
13 around a little bit if you feel like you need
14 to, okay?

15 Okay. All right. Y'all can sit back
16 down. All right.

17 CHARGE ON THE LAW

18 THE COURT: So, ladies and gentlemen,
19 you have now heard and seen all of the
20 evidence in this case. You also have heard
21 the final summations of the lawyers. And it
22 is now my obligation to instruct you on the
23 applicable law in the case. After I instruct
24 you on the law, you all will go into your room
25 -- your jury room and begin your

1 deliberations, okay?

2 So, Mr. Foreman and members of the jury,
3 The State of South Carolina charges the
4 defendant, Mr. Mark Gilbert, with the crimes
5 of criminal sexual conduct with a minor in the
6 second degree. There are four counts of that
7 charge. You will, of course, bear in mind as
8 I told you at the beginning of this trial that
9 he has pled not guilty to those charges.

10 The defendant comes into this court
11 clothed in a presumption of innocence. And
12 this presumption of innocence continues
13 throughout the case and entitles the defendant
14 to a verdict of not guilty unless and until it
15 is dispelled by evidence satisfying you, the
16 jury, beyond a reasonable doubt that the
17 defendant is guilty of the offenses charged;
18 and the State has proved each and every
19 element of the alleged crimes beyond a
20 reasonable doubt.

21 Now, the same constitution and law which
22 makes you, the jury, the finders of facts, and
23 the evidence that I have discussed with you,
24 makes me the judge, the sole and only
25 instructor on the law. You must accept as

1 correct the law which I instruct and apply it
2 to the evidence as you find it and reach a
3 verdict.

4 If I should make an error in the law as I
5 instruct it to you, there is another time and
6 place where that error can be considered and,
7 if necessary, corrected. But for the purpose
8 of this case today, you must accept the law as
9 I instruct it. And in that regard, I -- I
10 tell you that neither you nor I, for that
11 matter, should be concerned about what we
12 believe or think the law ought to be, but only
13 concern yourselves with what I instruct you
14 the law to be.

15 Burden of proof: In a criminal
16 prosecution, the State has the burden of
17 proof. The Defense has no burden, as the
18 defendant is presumed to be innocent. In this
19 state, according to our constitution, the
20 prosecution must prove their case to the
21 standard of proof beyond a reasonable doubt
22 before a finding of guilt may occur. If the
23 State fails to meet this high burden, the
24 defendant is entitled to a verdict of not
25 guilty.

1 Now, you've heard me say at the beginning
2 that you all are the judges of the facts and
3 the credibility of the witnesses, and you all
4 have seen witnesses -- several witnesses in
5 this case. Under the Constitution and Laws of
6 South Carolina, you are the sole finders of
7 the facts in this case. I am not allowed to
8 suggest in any way what I may think about the
9 guilt or innocence of the defendant.

10 You are also the judges of the
11 credibility and believability of the witnesses
12 who have testified from this witness stand in
13 this case, and passing upon their credibility,
14 you may take into consideration many things;
15 such as, what is the -- what was the manner
16 and appearance of the witness who testified?
17 Was he or she straightforward, or was he or
18 she hesitant to answer? How did the witness
19 come to know the facts that he or she
20 testified to? Or what was his or ability to
21 know those facts? Is there some reason a
22 witness would not want to give testimony which
23 would help or hurt one side or the other? In
24 other words, was the witness biased or
25 prejudiced? And was the testimony of a

1 witness strengthened or weakened by other
2 testimony or evidence?

3 You, the jury, may believe as much or as
4 little of each witnesses' testimony as you
5 think is proper. You may believe the
6 testimony of a single witness against that of
7 many witnesses or just the opposite. You may
8 believe part of a witness's testimony and
9 disbelieve the rest. The fact that testimony
10 is not controverted, does not mean you must
11 accept it as true and undisputed. You still
12 must gauge the credibility of the witness to
13 determine the believability or truth of the
14 facts offered through the testimony.

15 Now, in this case, you also heard from
16 expert witnesses. And you remember I gave you
17 a charge before you heard their testimony.
18 The rules of evidence ordinarily do not permit
19 witnesses to testify to opinions or conclusion
20 -- conclusions. An exception to this rule
21 exists for witnesses we call "expert
22 witnesses." A witness who by education and
23 experience has become expert in some art,
24 science, profession, or calling may state an
25 opinion as to relevant and material matter in

1 which the witness claims to be an expert and
2 may also state the reasons for the opinion.

3 You should consider any expert opinion
4 received in evidence in this case and, like
5 any other evidence, give it the weight you
6 think it deserves. If you decide that the
7 opinion of an expert witness is not based on
8 sufficient education and experience or if you
9 conclude that the reasons given in support of
10 the opinion are not sound or that the opinion
11 is outweighed by other evidence, you may
12 disregard that opinion entirely. An expert
13 witness's testimony is to be given no greater
14 weight than that of other witnesses simply
15 because the witness is an expert. Further,
16 you are not required to accept an expert's
17 opinion, even though it is not contradicted.

18 Now, as the sole fact finders, you should
19 have listened closely to the evidence
20 presented. Weighing the evidence is entirely
21 a mental process. You must weigh the evidence
22 using your good judgment and common sense.
23 Weighing the evidence is entirely a mental
24 process. Evidence weighs with you that which
25 convinces you of its truth, regardless of from

1 where it came, whether from the defendant or
2 the State. Your objective is to find the
3 truth.

4 Now, there are two types of evidence
5 which are generally presented during a trial:
6 direct and circumstantial evidence. Direct
7 evidence is the testimony of a person who
8 asserts or claims to have actual knowledge of
9 a fact, such as an eyewitness. Circumstantial
10 evidence is proof of a chain of facts and
11 circumstances indicating the existence of a
12 fact. The law makes absolutely no distinction
13 between the weight or value to be given to
14 either direct or circumstantial evidence, nor
15 is a greater degree of certainty required of
16 circumstantial evidence than of direct
17 evidence. You should weigh all the evidence
18 in the case.

19 However, to the extent the State relies
20 on circumstantial evidence, all of the
21 circumstances must be consistent with each
22 other and when taken together, point
23 conclusively to the guilt of the accused
24 beyond a reasonable doubt. It -- if these
25 circumstances merely portray the defendant's

1 behavior as suspicious, the proof has failed.

2 After weighing all the evidence, if you
3 are not convinced of the guilt of the
4 defendant beyond a reasonable doubt, you must
5 find the defendant not guilty.

6 Now, what is a reasonable doubt? It is
7 simply this: A reasonable doubt is the kind
8 of doubt that would cause a reasonable person
9 to hesitate to act. Reasonable doubt may
10 arise from evidence which is in the case or
11 from the lack or absence of evidence in the
12 case. Proof beyond a reasonable doubt is
13 proof that leaves you firmly convinced of the
14 defendant's guilt. It is a doubt to which one
15 can assign a reason, if the assignment can be
16 done reasonably and firmly.

17 I further charge you that a defendant is
18 entitled to every reasonable doubt that may
19 arise in the case. What that means is simply
20 this: If any of you have had a reasonable
21 doubt about anything during this trial, you
22 would be required to resolve that doubt in
23 favor of the defendant. The very fact,
24 however, that the jury engages in a full and
25 free discussion of the issue of guilt or

1 non-guilt in this case does not automatically
2 mean that reasonable doubt exists in this
3 case. You, the jury, must make the
4 determination of whether or not reasonable
5 doubt exists as to the guilt of the defendant.

6 Criminal intent is a necessary element of
7 each crime that must be proved by the State
8 beyond a reasonable doubt. Criminal intent is
9 always a matter that must be determined by the
10 jury from the circumstances surrounding the
11 situation. There is no way to prove intent to
12 a mathematical certainty. There is no way
13 medical science can dissect a person's brain
14 and determine what he or she had in mind. So
15 the law states criminal intent may be inferred
16 from the circumstances shown to have existed
17 both before and after the fact. This is how
18 you, the jury, make a determination of whether
19 or not the element requiring an intent was
20 present.

21 Criminal intent is a state of mind that
22 operates jointly with an act or omission in
23 the commission of a crime. Criminal intent is
24 a mental state of conscious wrongdoing, so it
25 is up to you, the jury, to determine what the

1 defendant intended to do based on the
2 circumstances shown to have existed.

3 I tell you that the State must prove
4 criminal intent beyond a reasonable doubt,
5 just as the State must prove every element
6 beyond a reasonable doubt as I have previously
7 explained to you.

8 Now, you all have already heard that in
9 this case, the defendant is charged with the
10 offense of criminal sexual conduct with a
11 minor in the second degree. The State must
12 prove beyond a reasonable doubt that the
13 defendant engaged in sexual battery with the
14 victim. A sexual battery is sexual
15 intercourse, cunnilingus, fellatio, anal
16 intercourse, or any intrusion, however slight,
17 of any part of a person's body or any object
18 into the genital or anal openings of another
19 person's body, except when the intrusion is
20 accompanied for medical -- medically
21 recognized treatment or diagnostic purposes.

22 The State must then prove beyond a
23 reasonable doubt that the victim was at least
24 11 years old, but not more than 14 years old
25 at the time of the sexual battery.

1 Consent, willingness, indifference, or
2 ignorance on the part of the minor, if any, as
3 to what was taking place, does not in any way
4 affect the charge of criminal sexual conduct
5 with a minor in the second degree, because an
6 unmarried woman, under the age of 14, cannot
7 legally consent to sexual intercourse.

8 Now, in this case, you also have heard
9 the term "indictment," okay? And the
10 indictments charge the defendant with criminal
11 sexual conduct with a minor in the second
12 degree. I remind you that the fact that the
13 defendant was arrested, charged, and indicted
14 in this case is not evidence in this case and
15 cannot be considered by you as evidence of
16 guilt in the case, nor does it create any
17 presumption or inference of guilt. The
18 indictment is simply the formal written
19 instrument which contains the charges made
20 against the defendant. It is the formal
21 document by which the case is brought into the
22 court.

23 Now, let's talk about the verdict form.
24 As I told Mr. Foreman and you all at the
25 beginning of the trial that there will be --

1 there is a verdict form that I drafted, and
2 this is it, all right? And I'm not going to
3 hand it to you yet, but you will be given this
4 verdict form after you retire to your jury
5 room. A bailiff is going to bring it to you,
6 all right? And that's when you will start
7 your deliberations.

8 And the verdict in this case will be
9 based on the evidence and the law that you've
10 already received. If you find that the
11 defendant is not guilty, you will circle,
12 okay, "not guilty." And, likewise, on the
13 other hand, if you find that he is guilty,
14 then you circle "guilty," all right?

15 And then our foreperson -- his name is
16 here -- he will sign this, okay, and date it
17 today. Today is the 27th, all right? And
18 then you would knock on the door, and let the
19 bailiff know that you all have reached your
20 unanimous decision. And, again, the verdict
21 is either guilty or not guilty, and it must be
22 unanimous.

23 The law requires that a jury verdict be
24 unanimous, which means that all of you must
25 agree. There are only two forms of the

1 verdict, and that would be guilty or not
2 guilty. And, again, once you all reach your
3 verdict, you will sign it to signify that you
4 have completed the form and then you will
5 notify us by knocking on the door.

6 I will -- I will point out to you that as
7 I told you there were four indictments. Their
8 numbers are here, and then there are four
9 questions. And each question is as to the
10 specific act that is -- that the defendant is
11 alleged to have committed, all right?

12 Now, also, do not conclude anything by
13 the way that it says guilty and not guilty,
14 okay? One word had to come first, and one
15 word had to come separate (verbatim) as far as
16 your choices, okay? And so that -- don't --
17 don't read anything into the order that they
18 appear on the verdict form.

19 So what I want you all to do is I'm going
20 to now let our bailiff lead you all into your
21 jury room, and in just a moment, you will
22 receive your verdict form, all right?

23 If everyone will please rise. Thank you.

24 Oh, and one more thing. One more thing.
25 One more thing. Okay. Now, I told you all

1 that, during the week, we were certainly going
2 to try to end each day by five o'clock. You
3 all need to take the time that you need on
4 this case, all right? And if it means staying
5 after five to do that, I want you to feel at
6 ease about doing that, and I'm going to get
7 some feedback later if it gets to that point
8 from the foreman. I'll ask one of the
9 bailiffs to inquire.

10 And, again, I just don't want you to feel
11 any pressure. You all need to take all the
12 time that you need. If that means that you
13 all would return tomorrow to continue your
14 deliberations -- again, I will take that up.
15 If -- if we think that that needs to happen, I
16 don't want anyone to feel rushed or pressured,
17 okay? Thank you, again.

18 Now, if you will follow the bailiffs, and
19 I need to take up some things with the lawyers
20 real quick, okay?

21 MR. FOREMAN: That's fine.

22 THE BAILIFF: You going to give them the form
23 later?

24 THE COURT: Yes, sir.

25 And my alternates, y'all get to stay with

1 -- well, where are your things? Do you have
2 things in the jury room?

3 ALTERNATE JUROR AUSTIN: No, ma'am.

4 ALTERNATE JUROR SMITH: Yes. I do. I have a
5 sweater.

6 THE COURT: Okay. At -- right now, why don't
7 y'all go on into the jury room, and then I'm
8 going to have the bailiff -- when -- when he
9 brings in the verdict form, he'll -- he will
10 tell you all to come out, okay, and y'all can
11 come back in.

12 ALTERNATE JUROR AUSTIN: Okay. Yes, ma'am.

13 THE COURT: Thank you.

14 (WHEREUPON, the jury was excused at 4:01
15 p.m.)

16 THE COURT: Okay.

17 THE BAILIFF: Be seated.

18 THE COURT: Okay. Before I had closing
19 arguments from counsel, I did state on the
20 record that we had -- that counsel had
21 reviewed with me during the lunch break the
22 proposed charge. And, actually, we had
23 discussed it some yesterday evening; and then
24 I gave them the index for the charge, a copy
25 of it; and then we reviewed the charge in

1 chambers. And then I asked them before
2 closing here at -- here up at the bench if
3 they had any objections or additions to the
4 charge, and they told me no.

5 Now that they've heard me recite it, I
6 just want to confirm that again. Are there
7 any objections or additions to the charge by
8 the State?

9 MS. HALLFORD: Nothing from the State.

10 THE COURT: Thank you.

11 Mr. Shealy?

12 MR. SHEALY: Nothing from the Defense, Your
13 Honor.

14 THE COURT: Okay. And, also, as to the
15 verdict form. Any -- any objections to my
16 verdict form?

17 MS. HALLFORD: Nothing from the State.

18 MR. SHEALY: No, Your Honor.

19 THE COURT: Okay. And so I am now -- unless
20 there's anything else, I will instruct the
21 bailiff to take the verdict form into the jury
22 room, get the alternates to come out, and tell
23 them to commence their deliberations, okay?

24 (To The Bailiff) So you've got to do
25 three things: Make sure they have a pen --

1 four things: Make sure they have a pen, give
2 that to the foreman, get the alternates to
3 come out, and tell them to commence their
4 deliberations -

5 THE BAILIFF: Do you --

6 THE COURT: -- okay?

7 THE BAILIFF: Do you need to see the
8 alternates?

9 THE COURT: Yes. I want the alternates to
10 come back in here.

11 And, again, counsel, there is no evidence
12 that needs to go back, correct?

13 MR. SHEALY: That is correct, Your Honor.

14 MS. HALLFORD: Yes, ma'am. None.

15 THE COURT: All right. Thank you.

16 Okay. We will be at ease. And I -- I'm
17 going to tell y'all. The alternates are going
18 to come in, and I'll just tell them they're
19 welcome to stay or leave, and I'm going to
20 thank them for their service.

21 At this time, I do also want to thank
22 counsel for their professionalism and
23 efficiency in handling this matter. I will
24 tell you that I've had trials where when I
25 hear there are going to be seven or eight

1 witnesses and the lawyers are always very
2 optimistic that they will get the trial
3 conducted in the number of days that -- that
4 they think they will. In this case, they
5 absolutely did, and I want to commend both --
6 all three -- excuse me -- all three lawyers on
7 their efforts.

8 And, also, this has been a difficult case
9 for everyone, and I want to commend everyone
10 on their professionalism. Thank you.

11 MR. SHEALY: Thank you, Your Honor.

12 THE COURT: Okay. All right. So we -- the
13 alternates will come back in, and then we'll
14 be at ease, okay?

15 (To The Bailiff) Thank you.

16 (To The Alternate Jurors) Okay. So this
17 is Mr. Raymond Smith.

18 ALTERNATE JUROR SMITH: Yes, ma'am.

19 THE COURT: And Mr. James Austin.

20 ALTERNATE JUROR AUSTIN: Yes, ma'am.

21 THE COURT: Thank you. Y'all be seated.

22 Thank you so much for your service.
23 It -- it means so much that you all came, and
24 you stayed, and you were alternates and you
25 knew that, and you paid close attention. It's

1 very important to our judicial system. So we
2 all thank you very much for your service. And
3 you all can stay. You can sit out here and
4 wait or -- or you can leave. And -- and we
5 won't be offended either way, all right?

6 ALTERNATE JUROR AUSTIN: All right.

7 THE COURT: But you need to turn in your --
8 your badges at this time, all right? And
9 thank you, again.

10 Okay. So y'all are welcome to stay. You
11 can sit anywhere in the gallery.

12 Okay, ladies and gentlemen, we will be at
13 ease. Make sure -- I think Ashley has your
14 cell phone numbers. She probably has
15 memorized your cell phone numbers, but Wendy,
16 Candace, Matt, just don't go far.

17 MR. SHEALY: Yes, ma'am.

18 THE COURT: Okay? All right.

19 (Off the record from 4:09 p.m. to 4:49
20 p.m.)

21 THE BAILIFF: All rise. Come to order.

22 THE COURT: Okay. Thank you. Please be
23 seated.

24 Okay. I have received a question from
25 the jury foreperson, and what I would like to

1 do is have our court reporter mark this as
2 Court's Exhibit Number -- is it 4, Amber?

3 THE COURT REPORTER: Yes, ma'am.

4 (WHEREUPON, the jury question is marked
5 for identification as Court's Exhibit No.
6 4.)

7 THE COURT: Okay. Thank you. And the note
8 was brought to me by two bailiffs, all right?
9 And so I did not speak with the foreman
10 directly. And the question is, "May we
11 request a transcript of the trial, including
12 the dialogue of the trial?" Signed William M.
13 Fowler, Jury Foreman. Printed, then signed,
14 then dated.

15 Okay. I'm happy for counsel to review
16 this exhibit if -- if you wish to.

17 MR. SHEALY: No, ma'am. Thank you, though.

18 MS. HALLFORD: No. I don't need to, Judge.

19 THE COURT: Okay. All right. Now, I -- so,
20 of course, there's -- there's not a transcript
21 for -- for them to review yet, and there --
22 that would not be possible. All right. I --
23 and so give me your thoughts.

24 MR. SHEALY: Judge, the way that I have had
25 this handled in the past is basically, Your

1 Honor would instruct them that we can't
2 provide you with a transcript. We can't
3 replay the entire case, but we can -- if you
4 have specific things you want to rehear, we
5 can replay those. I believe that, that is
6 within the court reporter's ability if I'm not
7 -- I don't want to speak for her, but I think
8 that's the way that I have normally seen that
9 handled.

10 THE COURT: Ms. Hallford?

11 MS. HALLFORD: That was what I was going to
12 say, so . . .

13 THE COURT: Okay. All right. And -- and that
14 was my thinking, as well. And so what I would
15 like to do is bring in our foreperson, and I
16 will talk with him. After I hear from him, I
17 will send him right back outside the door and
18 talk with you all again, call him back in, and
19 just tell -- see if there's anything else that
20 we need to discuss before he goes back to
21 discuss that with the jury panel, okay?

22 MR. SHEALY: Yes, ma'am.

23 THE COURT: Okay. And so if you all will
24 bring our foreperson, Mr. Fowler.

25 THE BAILIFF: Yes, Your Honor.

1 (WHEREUPON, the jury foreperson came into
2 open court at 4:54 p.m.)

3 THE COURT: Yes, sir.

4 You can be seated. Thank you. Be
5 seated.

6 Okay, Mr. Foreman, sir, we did -- I did
7 receive your question, and it has now been
8 marked as Court's Exhibit Number 4; and I have
9 also published the question for the -- for the
10 legal counsel and the defendant here.

11 Sir, unfortunately, no. We can't provide
12 you a transcript of -- of the trial -- of the
13 testimony. And so I don't know if there is
14 another way to -- to get the information that
15 -- that you might seek. Can you be a little
16 more specific?

17 THE JURY FOREPERSON: That was just the main
18 thing that we were looking for was a just a
19 concrete word-for-word, so we can perfectly --

20 THE COURT: Okay. Is -- is there -- of the
21 entire trial?

22 THE JURY FOREPERSON: Yes, ma'am. That would
23 be preferable.

24 THE COURT: Okay. Is there testimony that you
25 all are focused on of -- of a certain witness,

1 or . . .

2 THE JURY FOREPERSON: Not -- I couldn't say.

3 It's more so just the eclectic trial that

4 we'd --

5 THE COURT: Okay.

6 THE JURY FOREPERSON: -- like to just examine.

7 THE COURT: Okay. I tell you what, sir. Step

8 -- just step on the other side of the door for

9 just one moment, and let me ask the attorneys

10 a question, all right?

11 THE JURY FOREPERSON: Yes, ma'am.

12 (WHEREUPON, the jury foreperson is

13 excused at 4:56 p.m.)

14 THE COURT: Okay. Is there anything else from
15 the State that you would like for me to add?

16 MS. HALLFORD: I don't know what else you can
17 add. You can't identify any particular

18 witness, so there's no way to narrow it down.

19 MR. SHEALY: The only thing I would suggest,

20 Your Honor, would be that -- to tell if -- if

21 he can -- if they do identify a particular

22 witness, we do have the ability to replay that

23 witness's testimony. Just to -- so that he

24 knows that if he goes back there and they ask

25 him, he can tell them, at least, that we do

1 have the ability to replay it if, you know,
2 they give us some -- or if they give the court
3 reporter some person.

4 THE COURT: Okay. All right. Let's have him
5 come back in, please. Thank you.

6 MS. HALLFORD: And I just responded with a
7 nod, instead of saying, "Yes, ma'am. Yes.
8 That's good."

9 (WHEREUPON, the jury foreperson came into
10 open court at 4:58 p.m.)

11 THE COURT: Okay. And so, sir, I -- I want to
12 be as efficient as possible, and -- this --
13 we're not trying to confuse you, but -- but
14 we're also trying to do things so that we are
15 continuing to create a record, all right, and
16 protect everyone's rights.

17 Sir, if you inquire of your fellow jury
18 panel, and there is -- if they can pick out
19 either one witness or a portion of the
20 testimony -- and when I say "a portion," it
21 might be that if it was a longer witness,
22 maybe the direct examination or the cross-
23 examination of a witness, then we -- we can
24 listen to that, okay, if that would be their
25 wish. But, again, I can't give you a written

1 transcript of it.

2 THE JURY FOREPERSON: Okay.

3 THE COURT: All right?

4 THE JURY FOREPERSON: Yes, ma'am. That's
5 fine.

6 THE COURT: Okay. And so, sir, you go back
7 and relay that information, and if you need to
8 come back and talk -- you come back and talk
9 to me further with counsel present, then we
10 will do that on the record, again, okay?

11 THE JURY FOREPERSON: Okay. Yes, ma'am.

12 THE COURT: All right. Thank you, sir.

13 THE JURY FOREPERSON: Thank you.

14 (WHEREUPON, the jury foreperson is
15 excused at 4:59 p.m.)

16 THE COURT: Okay. And I will have the court
17 reporter hold the question. Again, if you all
18 want to look at it, you're welcome to review
19 it, okay?

20 MS. HALLFORD: May we approach?

21 THE COURT: Sure. We're off the record, okay?

22 (Off the record from 4:59 p.m. to 5:14
23 p.m.)

24 THE COURT: Okay. I have received a second
25 note from the jury, and I would like to have

1 this marked as Court's Exhibit Number 5.

2 (WHEREUPON, jury question is marked for
3 identification as Court's Exhibit No. 5.)

4 THE COURT: Thank you.

5 Okay. This note states, "The jury
6 requests the audio of the direct and
7 cross-examinations of Child 1 and Mark
8 Gilbert." Signed William Fowler, dated May
9 27th, 20 21.

10 Counsel, would you all -- either of you
11 like to review this note?

12 MR. SHEALY: No, Your Honor.

13 MS. HALLFORD: No, ma'am.

14 THE COURT: Okay. What I would propose to do
15 is have Mr. Fowler, the foreman, as well as
16 the rest of the jury come in. My recollection
17 is that -- give me just one second. I think I
18 can tell you the length of -- of that
19 testimony, okay?

20 Okay. And I may need to refer to the
21 court reporter.

22 (To The Court Reporter) Is
23 Child 1's testimony about two hours? We broke
24 for lunch in the middle of it.

25 THE COURT REPORTER: One moment. Let me see.

1 The jury left at 12:47 p.m. yesterday,
2 like, to go to lunch, and her examination was
3 right before that. So we went on the record
4 yesterday -- well, the jury entered at 11:29
5 a.m., and then you had your jury charge,
6 Judge, and so it was less than two hours. I
7 don't have the exact --

8 THE COURT: I have that Wendy began examining
9 her at 11:38. I'm not sure if that's exactly
10 right.

11 THE COURT REPORTER: Okay.

12 THE COURT: Okay? And then was Ms. Bell the
13 second witness?

14 MR. SHEALY: Yes, ma'am.

15 THE COURT REPORTER: Yes, ma'am.

16 THE COURT: Okay. All right. And so I --
17 from what I remember and from my notes, it's a
18 couple of hours with Ms. Gilbert's testimony,
19 and then with Mark Gilbert --

20 THE COURT REPORTER: Mark Gilbert's --

21 THE COURT: 12:13 --

22 THE COURT REPORTER: Excuse me.

23 THE COURT: Go ahead.

24 THE COURT REPORTER: Mark Gilbert's testimony
25 began -- let's see. The jury entered today at

1 12:12 p.m. So it was shortly after that --

2 THE COURT: Okay.

3 THE COURT REPORTER: -- when we began.

4 THE COURT: So 12 -- around 12:13 to . . .

5 THE COURT REPORTER: And then we went off the
6 -- well, the jury left at 1:05 p.m. today.

7 So --

8 THE COURT: So it's about three hours of --

9 THE COURT REPORTER: Uh-huh.

10 THE COURT: -- testimony. Okay. What I --
11 and I'm -- I'm going to, of course, ask for
12 y'all's opinions, but what I would be inclined
13 to do is ask them to return in the morning to
14 listen because it -- it's going to be three
15 hours.

16 Ms. Hallford?

17 MS. HALLFORD: I don't have any objection.

18 MR. SHEALY: I -- I have no objection, Your
19 Honor.

20 THE COURT: And, of course, I will inform them
21 that they are not to discuss anything with
22 anyone, okay, about the case.

23 And so now I will ask the bailiff to
24 bring in our foreman and the members of the
25 jury, all right? Thank you.

1 THE COURT REPORTER: Judge, may I approach?

2 THE COURT: Yes, ma'am.

3 (WHEREUPON, a bench conference was held.)

4 THE BAILIFF: All rise.

5 (WHEREUPON, the jury came into open court
6 at 5:24 p.m.)

7 THE BAILIFF: Be seated.

8 THE COURT: Okay. We are back on the record
9 with regard to the matter of the "The State
10 versus Mark Gilbert," and I have received the
11 two notes from your foreperson acting on
12 y'all's behalf. And the second note, marked
13 as Court's Exhibit Number 5, stated that you
14 all are requesting to listen to the audio
15 testimony of the direct and cross-examinations
16 of Child 1 and Mark Gilbert.

17 Now, we have -- before you all came back,
18 and I did confer with Ms. Payne, who is our
19 court reporter, and my notes, as well as
20 conferred with counsel, and we estimate that
21 that would take about three hours, okay? And
22 so this is not a marathon. It's not an
23 endurance test. You know, we -- we want y'all
24 to be comfortable and have -- and be rested,
25 so what I propose is that you all return

1 tomorrow at 9:30, and we will all be listening
2 to the testimony again together here in the
3 courtroom, and it will be played by the court
4 reporter, okay?

5 And so, with that, I am going to instruct
6 you again that you all cannot discuss this
7 with anyone, all right? To do so would be
8 unfair to everyone involved in the case. And,
9 again, no independent research about this.
10 And you all go get some rest, and I will see
11 you all here at 9:30 in the morning, all
12 right?

13 Thank you, Mr. Foreman and members of the
14 jury. Thank you so much for your service.

15 (WHEREUPON, the jury was excused at 5:27
16 p.m.)

17 THE BAILIFF: Be seated.

18 THE COURT: All right. And so, counsel, is
19 there anything else that we need to put on the
20 record this evening?

21 MS. HALLFORD: Nothing from the State.

22 MR. SHEALY: Nothing from the Defense, Your
23 Honor.

24 THE COURT: Okay. Thank you. And so we will
25 reconvene in the morning, then, at 9:30, and I

1 need to talk to our docket clerk about my
2 docket for tomorrow, okay?

3 MS. HALLFORD: Thank you.

4 MR. SHEALY: Thank you, Your Honor.

5 END OF DAY 3

6 START OF DAY 4

7 (On the record at 9:39 a.m.)

8 THE COURT: Okay. Good morning, everyone.
9 We're back on the record with regard to the
10 matter of "The State versus Mark Gilbert."
11 The defendant is now in the room, and the
12 counsel is present. Our deputy clerk is here
13 from the clerk's office. Our court reporter
14 is Amber Payne. And the jury -- I'm informed
15 that all of the members of the jury are here.

16 And so yesterday we had a question -- the
17 second question from the jury regarding the
18 replaying of certain testimony. That
19 testimony is from -- or the request was from
20 or for the testimony of Miss Child 1 , and
21 also of the defendant Mr. Mark Gilbert.

22 I have already explained to counsel that
23 we will play the testimony in its entirety,
24 and we will take the testimony in the order
25 that it was taken in the courtroom with Ms.

1 Child 1 first, and then Mr. Mark
2 Gilbert's.

3 And so I have also confirmed with our
4 court reporter that she has the -- the audio
5 ready to begin. And so is there anything else
6 from counsel before we bring in the jury?

7 MS. HALLFORD: Nothing from the State.

8 MR. SHEALY: Nothing from the Defense, Your
9 Honor.

10 THE COURT: All right. And so I will instruct
11 Mr. James --

12 THE BAILIFF: Uh-huh.

13 THE COURT: -- Mr. Brian, if you all --

14 THE BAILIFF: That's correct, Your Honor.

15 THE COURT: -- will go get the jury.

16 (Off the record from 9:40 a.m. until
17 9:43 a.m.)

18 THE BAILIFF: All rise.

19 (WHEREUPON, the jury came into open court
20 at 9:43 a.m.)

21 THE COURT: Everyone be seated. Okay. Good
22 morning. Good morning, everyone. Thank you
23 all again for being -- all right.

24 (To The Bailiff) Thank you, Mr. James.

25 All right. Good morning, everyone. We

1 are ready to go forward. I want to thank you
2 all for being here again today and being so
3 prompt.

4 Mr. Foreman, are we ready to go?

5 THE JURY FOREPERSON: Yes, Your Honor.

6 THE COURT: All right. Now, we are on the
7 record, again, in the case of "The State
8 versus Mark Gilbert." And yesterday, I
9 received a request, after five, for a review
10 of testimony of two of the witnesses: Miss
11 Gilbert and Mr. Mark Gilbert. And so we will
12 -- first, I want you all to understand, we
13 will hear the testimony in its entirety, not
14 pieces of it. And we will take a brief break
15 in between the witnesses, so you all can use
16 the restroom, get some water. And then you
17 will hear the second bit of -- of testimony.
18 And you'll hear Ms. Child first because
19 that's the order that it happened in the
20 courtroom. That's the only reason, okay?
21 You'll hear her first: direct examination,
22 cross-examination, and then any redirect, her
23 testimony in its entirety, and then the same
24 for Mr. Mark Gilbert, all right?

25 We aren't allowed to talk. Not allowed

1 to add anything to it. Not allowed to ask
2 questions about it. You all are going to hear
3 it exactly as it happened, and -- and our
4 wonderful court reporter worked hard to make
5 sure that we could cue it up this morning and
6 do so efficiently.

7 And so just to make sure. Counsel,
8 anything before we get started? From the
9 State?

10 MS. HALLFORD: Nothing from the State.

11 MR. SHEALY: No, Your Honor. Nothing from the
12 Defense.

13 THE COURT: All right. Madam Court Reporter.

14 And the one thing that I will do is make
15 sure you all can all hear, all right? But
16 when she starts it.

17 (Testimony of Child 1 played for the
18 jury.)

19 THE COURT: (To The Jury) She's going to find
20 the next file. Why don't y'all just stand up
21 for a minute and stretch, okay?

22 (Testimony of Child 1 continued to
23 play for the jury.)

24 THE COURT REPORTER: That was the end.

25 THE COURT: Okay. All right. So why don't we

1 take 10 minutes right now, and you all can get
2 some water, or maybe 15 minutes. How about
3 that? So y'all can get some water, go to the
4 restroom, get some coffee. And then we'll
5 come back in and hear the next witness's
6 testimony.

7 If you all will follow Ms. Rita and Mr.
8 James.

9 (WHEREUPON, the jury was excused at 11:13
10 a.m.)

11 THE COURT: Okay. Thank you all. You can be
12 at ease.

13 (Off the record from 11:14 a.m.
14 until 11:35 a.m.)

15 THE BAILIFF: Remain seated and come to order.

16 THE COURT: Okay. All right. Counsel, are we
17 ready?

18 MS. HALLFORD: State's ready.

19 MR. SHEALY: Defense is ready, Your Honor.

20 THE COURT: Madam Court Reporter?

21 THE COURT REPORTER: I'm ready.

22 THE COURT: Okay. All right. Thank you.

23 Mr. Alford, Mr. James, if we could get
24 the jury.

25 THE BAILIFF: Yes, ma'am.

1 All rise, please.

2 (WHEREUPON, the jury came into open court
3 at 11:38 a.m.)

4 THE COURT: Okay. Please be seated.

5 THE BAILIFF: Be seated, please.

6 THE COURT: Okay. Mr. Foreman and members of
7 the jury, are we ready?

8 THE JURY FOREPERSON: Yes, Your Honor.

9 THE COURT: Okay. Thank you. Madam Court
10 Reporter, if we will now replay the testimony
11 in full from the defendant, Mr. Mark Gilbert.

12 (Testimony of Mark Gilbert played for the
13 jury.)

14 THE COURT: All right. Ladies and gentlemen
15 of the jury, you all have heard the testimony
16 of the victim and the -- the defendant in this
17 case. And so I'm going to ask that you all
18 now return to your jury room. I do have your
19 verdict form, again, and I'll ask Mr. James if
20 he can hand that to you. And I believe that
21 your lunch is here, as well, all right?

22 And so why don't y'all -- in just a
23 moment, you will follow Mr. James and Ms. Rita
24 back to your -- your jury room. Take a few
25 minutes to eat and relax, and then continue on

1 with your deliberations. Thank you.

2 (WHEREUPON, the jury was excused at 12:29
3 p.m.)

4 THE BAILIFF: Be seated, please.

5 THE COURT: Okay. Counsel, unless there's
6 anything from you all, we will be at ease.
7 Don't go far, okay?

8 MR. SHEALY: Thank you, Your Honor.

9 (Off the record from 12:29 p.m.
10 until 1:16 p.m.)

11 THE BAILIFF: Be seated, please.

12 THE COURT: Okay. So, just making sure, did
13 we get everybody back in?

14 MS. HALLFORD: Yes, ma'am.

15 THE COURT: All right.

16 (WHEREUPON, a bench conference was held.)

17 THE COURT: Okay. Thank you. Bring in the
18 jury.

19 THE BAILIFF: Yes, ma'am.

20 THE BAILIFF: All rise.

21 (WHEREUPON, the jury came into open court
22 at 1:16 p.m.)

23 THE COURT: Be seated.

24 THE BAILIFF: Be seated, please.

25 THE COURT: Okay. Mr. Foreman, sir, have you

1 all reached your verdict?

2 THE JURY FOREPERSON: Yes, Your Honor.

3 THE COURT: Is it unanimous?

4 THE JURY FOREPERSON: Yes, Your Honor.

5 THE COURT: Okay. I will ask, sir, if you
6 will please provide your verdict to the
7 bailiff. Thank you.

8 And sir, you have signed this verdict?

9 THE JURY FOREPERSON: Yes, Your Honor.

10 THE COURT: Okay. And dated it today.

11 I will now ask our clerk to publish the
12 verdict. If the defendant will please stand.

13 VERDICT

14 THE CLERK: In the State of South Carolina,
15 the County of Spartanburg, the "State of South
16 Carolina versus Mark Gilbert," the defendant.
17 Indictment numbers 2020-GS-42-0001,
18 2020-GS-42-0002, 2020-GS-42-0003, 2019-GS-42-
19 1035. As to the indictment alleging criminal
20 sexual conduct with a minor in the second
21 degree, digital penetration of the vagina, we,
22 the jury, unanimously find the defendant,
23 guilty.

24 As to the indictment alleging criminal
25 sexual conduct with a minor, second degree,

1 penetration of the vagina with an object, we,
2 the jury, unanimously find the defendant,
3 guilty.

4 As to indictment -- as to the indictment
5 alleging criminal sexual conduct with a minor,
6 second degree, fellatio, we, the jury,
7 unanimously find the defendant, guilty.

8 As to the indictment alleging criminal
9 sexual conduct with a minor, second degree,
10 sexual intercourse, we, the jury, unanimously
11 find the defendant, guilty.

12 Signed by the foreperson, this 28th day
13 of May 2021.

14 Ladies and gentlemen of the jury, is this
15 your verdict and still your verdict? If so,
16 please raise your right hand?

17 (The jury complies.)

18 THE CLERK: So say you all.

19 THE COURT: Thank you. And, at this time, I
20 will explain that the verdict form will be
21 recorded in the case file.

22 Now, Mr. Shealy, sir, is there anything
23 else for the jury?

24 MR. SHEALY: Judge, we would ask to poll the
25 jury at this time.

1 THE COURT: To poll the jury?

2 MR. SHEALY: Yes, ma'am.

3 THE COURT: I will ask the deputy clerk to
4 please poll the jury.

5 THE CLERK: Ladies and gentlemen of the jury,
6 at this time, I will pose a question to you.
7 My question being: Is this your verdict and
8 still your verdict? When I call your jury
9 name and number, please stand, and respond to
10 the question.

11 Juror Number 57, William Fowler, is this
12 your verdict and still your verdict?

13 JUROR NUMBER 57: Yes, ma'am.

14 THE CLERK: Thank you. You can be seated.

15 Juror Number 90, Brian Kelly, is this
16 your verdict and still your verdict?

17 JUROR NUMBER 90: Yes, ma'am.

18 THE CLERK: Thank you.

19 Juror Number 81, Elizabeth Higgins, is
20 this your verdict and still your verdict?

21 JUROR NUMBER 81: Yes, ma'am.

22 THE CLERK: Thank you.

23 Juror Number 94, Richard Kitterman, is
24 this your verdict and still your verdict?

25 JUROR NUMBER 94: Yes, ma'am.

1 THE CLERK: Thank you.

2 Juror Number 96, Angelina Kozub, is this
3 your verdict and still your verdict?

4 JUROR NUMBER 96: Yes, ma'am.

5 THE CLERK: Thank you.

6 Juror Number 77, Myranda Henderson, is
7 this your verdict and still your verdict?

8 JUROR NUMBER 77: Yes, ma'am.

9 THE CLERK: Juror Number 105, Lisa Lytle, is
10 this your verdict and still your verdict?

11 JUROR NUMBER 105: Yes, ma'am.

12 THE CLERK: Thank you.

13 Juror Number 4, Breanna Alston, is this
14 your verdict and still your verdict?

15 JUROR NUMBER 4: Yes, ma'am.

16 THE CLERK: Thank you.

17 Juror Number 74, Kimberly Wanser, is this
18 your verdict and still your verdict?

19 JUROR NUMBER 74: Yes, ma'am.

20 THE CLERK: Thank you.

21 Juror Number 35, Kendal Conley, is this
22 your verdict and still your verdict?

23 JUROR NUMBER 35: Yes, ma'am.

24 THE CLERK: Thank you.

25 Juror Number 140, Gregory Redlin, is this

1 your verdict and still your verdict?

2 JUROR NUMBER 140: It is.

3 THE CLERK: Thank you.

4 Juror Number 102, Deonte Long, is this
5 your verdict and still your verdict?

6 JUROR NUMBER 102: Yes, ma'am.

7 THE CLERK: Thank you.

8 (To The Court) The jury has been polled,
9 Your Honor.

10 THE COURT: Thank you, ma'am.

11 Anything else of the jury before I
12 release the jury, Mr. Shealy?

13 MR. SHEALY: No, ma'am.

14 THE COURT: From the State?

15 MS. HALLFORD: Nothing from the State.

16 (WHEREUPON, a bench conference was held.)

17 THE COURT: Okay. All right.

18 Okay, Mr. Foreman, Mr. Fowler, sir, I am
19 going to need for you to sign each indictment
20 and write guilty as the verdict under each
21 one, okay? Under the word "verdict." And I
22 can give you a blue pen, all right? Okay?
23 Thank you. And, sir, if you can date it as
24 well. Thank you. Thank you. All right.

25 And so, now, I am going to release you

1 all in just a moment, and I want to sincerely
2 thank you all for your service. Without your
3 service, our judicial system would come to a
4 screeching halt, and I sincerely thank you. I
5 thank you for your hard work this week. You
6 all spent a lot of time in this courtroom, and
7 at all times, you all were alert and giving
8 everyone your undivided attention. Thank you,
9 again, for your service, and we appreciate it.

10 You are now released, and I think Mr.
11 James and Ms. Rita may want to take your
12 badges, and then they'll escort you -- or Ms.
13 Joan, are they going back down to the jury
14 room?

15 THE BAILIFF: Yes, Your Honor. To the --

16 THE COURT: To the courtroom. To the
17 courtroom. Okay. Thank you. That will
18 conclude your service.

19 If everyone will please rise.

20 (WHEREUPON, the jury was excused at 1:24
21 p.m.)

22 THE COURT: Okay. Okay. We are still on the
23 record, and I will ask if there is anything
24 additional from the State?

25 MS. HALLFORD: Nothing from the State.

1 THE COURT: Mr. Shealy, from the Defense?

2 MR. SHEALY: Thank you, Your Honor. We would
3 make a motion for a new trial based on our
4 prior objections. In particular, our
5 objection to the jury. We objected -- or we
6 had asked to strike for cause, Juror Number
7 112, because his wife had been molested. 112
8 was subsequently called. I was forced to,
9 obviously, use one of my peremptory challenges
10 on Juror Number 112. Subsequently, Juror
11 Number 140 was called, who I would have used
12 that strike, had I not been required to
13 present the person I believe should have been
14 struck for cause, and I believe he was the
15 fellow who was very emphatic --

16 THE COURT: Sir, do you know that he was the
17 fellow, or are you speculating?

18 MR. SHEALY: Well, that's speculation.

19 THE COURT: Okay. Thank you. What else do
20 you have?

21 MR. SHEALY: So that would be my motion, Your
22 Honor. Again, based on the other various
23 motions that I have made and objections that
24 I've made in this case.

25 THE COURT: Yes, sir. Duly noted.

1 Anything from the State?

2 MS. HALLFORD: Nothing from the State, Your
3 Honor.

4 THE COURT: Okay. Normally, Mr. Shealy, I
5 would give you a period of ten days to file
6 anything that you feel necessary. Do you
7 still need the ten days?

8 MR. SHEALY: Your Honor, we're just making
9 that general motion. We would like to
10 continue to have that ten days, should some
11 other --

12 THE COURT: Yes, sir.

13 MR. SHEALY: -- more specific issue come up
14 that we aren't aware of.

15 THE COURT: Okay. Thank you. Sir, the --
16 your motion is respectfully denied, and I have
17 ruled on the motions made previously; and I
18 know that you have timely renewed them
19 throughout the trial.

20 All right. With regard to sentencing.
21 Why don't we take -- Mr. Shealy, how much time
22 do you need, sir?

23 MR. SHEALY: Just not very much. Five minutes
24 should be enough. I've already done most of
25 the legwork that I need to do.

1 THE COURT: Okay. Why don't -- why don't we
2 adjourn for ten minutes, and we will -- then I
3 will hear from you all regarding sentencing,
4 all right?

5 MR. SHEALY: Yes, ma'am.

6 THE COURT: Thank you.

7 (Off the record from 1:27 p.m. until
8 1:39 p.m.)

9 SENTENCING

10 THE COURT: Okay. We are back on the record
11 with regard to the matter of "The State versus
12 Mark Gilbert." And the purpose of this part
13 of the hearing will be as to sentencing.

14 The -- Madam Solicitor, do you need the
15 sentencing sheets before they are handed to
16 me?

17 MS. HALLFORD: No, ma'am. I've signed them.

18 THE COURT: Okay. Okay. I just wanted to
19 make sure that you didn't need to refer to
20 something or -- okay.

21 All right. At this time then I will ask
22 if --

23 MS. HALLFORD: Indictment numbers. You're
24 right, so --

25 THE COURT: Okay.

1 MS. HALLFORD: -- just very -- just one of
2 them.

3 THE COURT: Okay. I'll ask the deputy clerk
4 to hand me those sentence charge sheets.
5 Thank you.

6 Okay. Thank you, all. And, now,
7 counsel, is there anything else before we
8 begin the sentencing?

9 MR. SHEALY: Your Honor, I do have a motion
10 with respect to each of these indictments.
11 Your Honor, as related to separate from my
12 earlier argument that Your Honor has found to
13 be preserved with respect to the
14 multiplicitous indictments, our argument there
15 -- our argument there, obviously, is that each
16 of these indictments, essentially, allege the
17 same crime because of all the -- because the
18 elements are the same in each indictment. So
19 it would be our position that each of these
20 indictments as a matter of law should be
21 subject to concurrent sentencing amongst and
22 betwixt the four of them. Again, because it
23 would be our position that they all do allege
24 the same crime. Thank you.

25 THE COURT: Ms. Hallford?

1 MS. HALLFORD: Your Honor, the State's
2 position is that each one is a different type
3 of sexual battery. Each one is a separate
4 crime, and he should be subject to consecutive
5 -- at least the possibility of consecutive
6 sentencing.

7 THE COURT: Okay. Mr. Shealy, sir, I agree
8 with the State that -- that the defendant is
9 subject to consecutive sentencing, okay?

10 MR. SHEALY: Yes, ma'am.

11 THE COURT: All right. Now, with regard to
12 sentencing, is there anything from the State?

13 MS. HALLFORD: Your Honor, you've heard the
14 facts of the case. Very egregious crimes.
15 The victim has suffered a lot, and the State
16 would ask for more than just twenty years,
17 because she's going to have to live with this
18 for the rest of her life. And this defendant
19 doesn't deserve to get by with just twenty,
20 when he committed these egregious acts against
21 her many, many, many times over the course of
22 two years.

23 THE COURT: Okay. Thank you. And,
24 specifically, as to the offenses and the
25 penalties, each charge -- each indictment, 20-

1 0001, 2, 3, and 19-1035, are all for, of
2 course, the same offense as -- as we -- as for
3 sentencing, criminal sexual conduct with a
4 minor in the second degree; and this is
5 classified as being violent and most serious
6 in nature. And upon reading the statute,
7 there is also a requirement for the defendant
8 to be placed on the Central Registry of Child
9 Abuse and Neglect. Is that your
10 understanding?

11 MR. SHEALY: Yes, ma'am.

12 MS. HALLFORD: I --

13 THE COURT: Can you come up?

14 (WHEREUPON, a bench conference was held.)

15 THE COURT: Okay. And, again, each indictment
16 -- each charge is classified as violent and
17 most serious, and there is a requirement that
18 the defendant be placed on the Central
19 Registry of Child Abuse and Neglect, pursuant
20 to South Carolina Code Section 17-25-135.

21 Now, Mr. Shealy -- and let me just ask
22 Ms. Hallford. Is there anything else from the
23 State regarding sentencing? Anyone else on
24 behalf of the State before I turn it over to
25 Mr. Shealy, and then, ultimately, to Mr.

1 Gilbert?

2 MS. HALLFORD: Nothing, Your Honor.

3 THE COURT: All right.

4 Mr. Shealy?

5 MR. SHEALY: Thank you, Your Honor. Judge,
6 this is Mark Gilbert. He's 50 years old as
7 you've heard. He's been living with Sharon
8 Blanton, his girlfriend, at 85 Bramlett Road,
9 and that's in --

10 THE COURT REPORTER: Excuse me.

11 MR. SHEALY: -- Taylors, South Carolina.

12 THE COURT REPORTER: Can you repeat her name
13 again, please?

14 MR. SHEALY: Sharon Blanton.

15 THE COURT REPORTER: Okay.

16 MR. SHEALY: In Taylors, Your Honor. As
17 you've heard, he served in the Marine Corp
18 from 1990 to 1993 as a machine gunnery. He
19 saw combat there, and as a result of that, he
20 has a 70 percent service-connected disability
21 with respect to PTSD.

22 Your Honor, he's been in jail. We -- we
23 have it about 385 days because he spent some
24 time in Florida jail before he was brought
25 here. He spent a month down there, as well as

1 21 days on the violation of home detention
2 that came along with the alleged escape
3 charge, that's ultimately, I believe, being
4 dismissed here.

5 Your Honor, he is, at this point,
6 disabled. He was working as a -- I think he
7 has told Your Honor, at some point in the
8 past. He was working delivering meat, kind of
9 around Greenville County, but he has -- he had
10 a fourth heart attack, and that ultimately put
11 paid to that particular work.

12 As you've heard, he has a very severe
13 case of diabetes. He takes insulin four times
14 a day. He also takes pills for that diabetes.
15 He's got a number of pins, plates, bone
16 fusions in his foot, such that it makes it
17 difficult for him to walk. As you've heard,
18 he's in very ill health.

19 Obviously, he continues to deny these
20 particular allegations, and so that would be
21 our showing. I would ask that Ms. Blanton be
22 allowed to address the Court briefly.

23 THE COURT: Yes, sir. Before that, let me
24 ask: Ms. Hallford, is there any objection to
25 the number of days that has been -- that have

1 been requested?

2 MS. HALLFORD: No, ma'am.

3 THE COURT: Okay. And so those were in-jail
4 days? In-detention days? 385?

5 MS. HALLFORD: Yes, ma'am.

6 THE COURT: Okay.

7 (To Mr. Shealy) Okay. Yes, sir.

8 (To Ms. Blanton) Yes, ma'am, and if you
9 would please come forward. And I'll ask you
10 to, again, state your full name for the
11 record.

12 MS. BLANTON: Sharon Lee Blanton.

13 THE COURT: Yes, ma'am. I'm happy to hear
14 from you.

15 MS. BLANTON: I met Mark shortly after he was
16 released from Spartanburg County in September
17 of 2019. And he and I -- I originally was
18 posting an ad for help because I am divorced.
19 I have no other family but my mother that
20 lives beside me. And Mark answered the ad.
21 We met. We talked. He started coming up,
22 help me fix my lawn mower, fixed my house,
23 mowed the grass, doing little things to help
24 me out and my mother.

25 We became really good friends at that

1 time, and I knew he, you know, had been having
2 a hard life. And we talked about his past,
3 and his young life growing up, and what that
4 was like, and being in group homes and foster
5 homes and just various different problems that
6 he had dealt with.

7 And at that time, I was just getting over
8 the death of my son, my only child, who Mark
9 has helped me greatly to get through that.
10 And I, personally, have never met a man that's
11 so kind, that will listen, not judge, and not
12 just to me, but to everybody that I've seen
13 him interact with. He's always been the most
14 courteous, respective person that I've ever
15 met, including my ex-husband.

16 Mark means a lot to -- to me and to my
17 mother and to our little dwelling that we
18 have. Not a lot, but we've began to, you
19 know, prepare for future events; such as, this
20 pandemic that's been going on. He's helped
21 greatly with all that. We've began to raise
22 our own little farm: chickens, eggs, ducks.
23 Just a normal, country-living life is what
24 we've been living.

25 He's never, ever been disrespectful to me

1 or anyone that I know. I love him very much.
2 I want to be a part of his life and him a part
3 of mine. And I stand before you today and ask
4 you to please take all that into
5 consideration.

6 I understand some of what I've heard here
7 today; some, I don't. But I believe Mark
8 truthfully did not do this, and we've talked
9 great -- greatly about this since we became
10 friends, and not only all of his issues, but
11 all of mine.

12 I have no one else to be honest and open
13 and with that I know is not going to judge me.
14 Mark never has judged me. I've never judged
15 Mark. And I ask the Court to please take all
16 that into consideration. I'm begging you,
17 essentially, to be easy, you know, with this
18 sentence, because I need Mark in my life.
19 Thank you.

20 THE COURT: Thank you, ma'am. Thank you for
21 being here.

22 MR. SHEALY: Your Honor, I don't know that my
23 client wishes to speak, but we will --
24 obviously, we will join in Ms. Blanton's
25 request for leniency in -- in this sentence.

1 Thank you.

2 THE COURT: Okay. Anything else before I hear
3 from Mr. Gilbert, Mr. Shealy?

4 MR. SHEALY: No, Your Honor.

5 THE COURT: Okay. Mr. Gilbert, sir, if you
6 would please rise.

7 Yes, sir. I'm happy to hear from you.

8 THE DEFENDANT: I just wanted to say I feel
9 the same.

10 THE COURT: I'm sorry.

11 THE DEFENDANT: I'm sorry.

12 THE COURT: She can't hear you.

13 THE DEFENDANT: I'm sorry. I still maintain
14 my innocence. I didn't do what I'm accused
15 of. I thank the Court for their time and
16 effort in this. And, again, I ask because of
17 my health issues, because of Sharon, for
18 leniency. I don't have anything else to say,
19 Your Honor, except to say thank you for your
20 time.

21 THE COURT: Sir, do you agree with the
22 statements of your lawyer? Do you agree with
23 Matt's statements -- Mr. Shealy's statements?

24 MR. SHEALY: Everything that I just said.

25 THE DEFENDANT: Oh, yes. Yes, Your Honor.

1 THE COURT: Okay. Is there anything else
2 you'd like to tell me?

3 THE DEFENDANT: No, ma'am.

4 THE COURT: All right. Okay. If you all will
5 give me just a few minutes, please, all right?

6 MR. SHEALY: Yes, ma'am.

7 (Off the record from 1:55 p.m. until
8 2:03 p.m.)

9 THE BAILIFF: All rise and come to order.

10 Be seated, please.

11 THE COURT: All right. If Mr. Gilbert will
12 please rise, sir.

13 On Indictments 2020-GS-42-0001, 0002,
14 0003, and 19-1035, these are all indictments
15 for the offenses of criminal sexual conduct
16 with a minor victim, age 11 to 14 years; and
17 this would be criminal sexual conduct with a
18 minor in the second degree.

19 Mr. Gilbert has been found guilty by a
20 jury of these offenses. And the sentence of
21 the Court, sir, is that as to Indictments
22 20-GS-42-1, 2, and 3, Mr. Gilbert shall be
23 committed to the State Department of
24 Corrections for a period of 20 years. Those
25 are concurrent sentences. He will receive

1 credit for 385 days that he has spent at a
2 detention facility. He is to be placed on the
3 Central Registry of Child Abuse and Neglect,
4 and there will no contact with the victim.

5 As to Indictment 19-GS-42-1035, for the
6 same offense of criminal sexual conduct with a
7 minor in the second degree, age 11 to 14
8 years, it is further the order of the Court
9 that the defendant will be committed to the
10 State Department of Corrections for a term of
11 five years. This is a consecutive sentence to
12 Indictments 20-GS-42-0001, 2, and 3. He will
13 get the same credit for time served, and there
14 will be the same condition that there will be
15 no contact with the victim.

16 Now, sir, Mr. Gilbert, you have a right
17 to appeal the verdict --

18 THE DEFENDANT: Yes, ma'am.

19 THE COURT: -- of the jury and the sentence of
20 the Court. You have to file your notice of
21 intent -- intention to appeal within ten days
22 of today's date.

23 Sir, I wish you the very best in the
24 future. I also wish the victim and the
25 victim's family members the very best, as

1 well.

2 Thank you, and that will conclude the
3 hearing.

4 MR. SHEALY: Thank you, Your Honor.

5 MS. HALLFORD: Thank you, Your Honor.

6 (Off the record at 2:07 p.m.)

7 (CONCLUSION OF TRIAL -- DAY 4)

8 (Whereupon the within hearing was
9 concluded at 2:07 p.m. on May 28,
10 2021)

11 (*This transcript may contain quoted material.
12 Such material is reproduced as read or quoted
13 by the speaker.)

WITNESSES

SCSO

Jimmy W. Powers

ARREST WARRANT NUMBER
2018A4210102630

ACTION OF GRAND JURY

True Bill

Foreperson of Grand Jury
Date: *[Signature]*

VERDICT

Foreperson of Petit Jury
Date:

FEB 22 2019

DOCKET NO. - 19-GS-42-1035

The State of South Carolina
County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

FEB 25 2019

TERM

THE STATE
vs.

Mark Gilbert

Indictment for
CRIMINAL SEXUAL CONDUCT
WITH A MINOR, SECOND DEGREE

SC Code: 16-03-655 (B) (2)
CDR Code: 0396
Class FEL/C

SPARTANBURG COUNTY
2019 FEB 26 PM 2:40

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on FEB 22 2019 the
Grand Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That the Defendant, Mark Gilbert, did in Spartanburg County, on or between January 1, 2016 and January 4, 2018 commit the crime of Criminal Sexual Conduct with a minor in the Second Degree in that the Defendant did commit a sexual battery upon the minor, *child* who was fourteen (14) years of age or less, but who was at least eleven (11) years of age at the time of the incident. Said incident occurred in Spartanburg County, South Carolina, in violation of Section 16-03-655 (B), *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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

Hillary C. Wellborn

ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

Jimmy G. Powers

ARREST WARRANT NUMBER

2018A4210102630 (AMENDED)

ACTION OF GRAND JURY

THIS FILE

[Signature] Foreperson of Grand Jury
Date: JAN 08 2020

VERDICT

Guilty

Foreperson of Petit Jury
Date: 5-28-21

DOCKET NO. 19-GS-42-1035

The State of South Carolina
County of Spartanburg
Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JAN 13 2020 TERM

THE STATE
vs.
MARK GILBERT

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code: 16-3-0655 (B)(1)
CDR Code: 0396
Class FEL/C

RECEIVED
JUN 04 2021
SC Court of Appeals

FILED
2020 JAN 13 PM 3:40
CLERK OF COURT
SPARTANBURG COUNTY
AMY VI. COX

A CERTIFIED COPY
Amy W Cox
CLERK OF COURT
SPARTANBURG COUNTY
BY: *[Signature]* D.C.
DATED 6-2-2021

WITNESSES
Spartanburg County Sheriff's Office
<i>[Signature]</i>
ARREST WARRANT NUMBER
DIRECT
ACTION OF GRAND JURY
<i>[Signature]</i> JAN 08 2020
Foreperson of Grand Jury Date:
VERDICT
<i>Guilty</i>
Foreperson of Petit Jury Date: 5-28-21

DOCKET NO. 20-GS-42-0001

The State of South Carolina
County of Spartanburg
Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JAN-13 2020 TERM

THE STATE
vs.

MARK GILBERT

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code:16-3-0655 (B)(1)
CDR Code: 0396
Class FEL/C

FILED
2020 JAN 13 PM 3:41
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX
RECEIVED
JUN 04 2021
SC Court of Appeals

A CERTIFIED COPY
Amy W. Cox
CLERK OF COURT
SPARTANBURG COUNTY
BY: *J. Camp* D.C.
DATED 6-2-21

STATE OF SOUTH CAROLINA)
COUNTY OF SPARTANBURG)

INDICTMENT

JAN 0 8 2020

At a Court of General Sessions, convened on _____ the
Grand Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That the Defendant Mark Gilbert, did in Spartanburg County, on or between the dates of January 5, 2016 to March 30, 2018, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree in that the Defendant did engage in sexual battery, to wit: digital penetration of the vagina, with a minor [REDACTED] who was fourteen (14) years of age or less but who was at least eleven (11) years of age at the time of said incident. Said incident occurred in Spartanburg County, South Carolina, in violation of §16-3-655(B), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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

Wendy Hillborn
ASSISTANT SOLICITOR

RECEIVED
JAN 10 2020
CLERK OF COURT

CLERK OF COURT
JAN 10 2020

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

[Signature] **JAN 08 2020**

Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date: *5-28-21*

DOCKET NO. **20-GS-42-0002**

The State of South Carolina
County of Spartanburg
Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JAN 13 2020 TERM

THE STATE
vs.

MARK GILBERT

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code: 16-3-0655 (B)(1)
CDR Code: 0396
Class FELC

RECEIVED
JUN 04 2021
SC Court of Appeals

FILED
2020 JAN 13 PM 3:51
CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

A CERTIFIED COPY
Amy W. Cox
CLERK OF COURT
SPARTANBURG COUNTY
BY: *[Signature]* D.C.
DATED *6.2.21*

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

At a Court of General Sessions, convened on JAN 08 2020 the

Grand Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That the Defendant Mark Gilbert, did in Spartanburg County, on or between the dates of January 5, 2016 to March 30, 2018, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree in that the Defendant did engage in sexual battery, to wit: penetration of the vagina with an object, with a minor, who was fourteen (14) years of age or less but who was at least eleven (11) years of age at the time of said incident. Said incident occurred in Spartanburg County, South Carolina, in violation of §16-3-655(B), *THE CODE OF LAWS OF SOUTH CAROLINA*, (1976), as amended.

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


ASSISTANT SOLICITOR

WITNESSES

Spartanburg County Sheriff's Office

[Signature]

ARREST WARRANT NUMBER

DIRECT

ACTION OF GRAND JURY

[Signature] JAN 08 2020
Foreperson of Grand Jury
Date:

VERDICT

Guilty

Foreperson of Petit Jury
Date: 5-28-21

DOCKET NO. 20-GS-42-0003

The State of South Carolina
County of Spartanburg

Barry J. Barnette, Solicitor

COURT OF GENERAL SESSIONS

JAN 13 2020 TERM

THE STATE
vs.

MARK GILBERT

Indictment for
CRIMINAL SEXUAL CONDUCT WITH A
MINOR, SECOND DEGREE

SC Code: 16-3-0655 (B)(1)
CDR Code: 0396
Class FEL/C

FILED

2020 JAN 13 PM 3:41 RECEIVED

JUN 04 2021

SC Court of Appeals

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

A CERTIFIED COPY

Amy W Cox
CLERK OF COURT
SPARTANBURG COUNTY

BY: *T.S.* D.C.

DATED 6-2-21

STATE OF SOUTH CAROLINA)
)
COUNTY OF SPARTANBURG)

INDICTMENT

JAN 08 2020

At a Court of General Sessions, convened on _____, the
Grand Jurors of Spartanburg County present upon their oath:

CRIMINAL SEXUAL CONDUCT WITH A MINOR, SECOND DEGREE

That the Defendant Mark Gilbert, did in Spartanburg County, on or between the dates of January 5, 2016 to March 30, 2018, commit the crime of Criminal Sexual Conduct with a Minor in the Second Degree in that the Defendant did engage in sexual battery, to wit: fellatio, with a minor, _____, who was fourteen (14) years of age or less but who was at least eleven (11) years of age at the time of said incident. Said incident occurred in Spartanburg County, South Carolina, in violation of §16-3-655(B), *THE CODE OF LAWS OF SOUTH CAROLINA, (1976)*, as amended.

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


ASSISTANT SOLICITOR

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS. Mark Gilbert
AKA:
Race: WHITE Sex: M Age:
DOB: SS#:
Address:
City, State, Zip: Tybels, SC
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg.

in violation of § 16-03-0655(B)(1); 16-03-0 of the S.C. Code of Laws, bearing CDR Code # 0396

NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury, Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

Attorney: Wendy Halford, SCB66304, SC Bar#
Defendant: Mark Gilbert
Attorney for Defendant: Shealy, Matthew, SCB77724, SC Bar#

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Pardon and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 20-GS-42-0001, 0002, 0003

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC 385 day;

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 PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Set by SCDPPPS

Recipient:

Table with 2 columns: Description and Amount. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211(A)(1) (Conv. Surcharge) \$100, §14-1-211(A)(2) (DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$150, §50-21-114 (BUI Breath Test Fee) \$50, §56-5-2942(J) (Vehicle Assessment) \$40/ea, 3% to County (if paid in installments).

TOTAL \$ 1287.5

Clerk of Court/ Deputy Clerk: T. Camp
Court Reporter: Amber Payne

SCCA/217 (04/2018)

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2019GS4201035
A/W#: 2018A4210102630
Date of Offense: 1/1/2016
S.C. Code §: 16-03-0655(B)(1); 16-03-0
CDR Code #: 0396

SENTENCE SHEET

CONVICTED OF or PLEADS

Mandatory GPS(CSC w/minor 1st or Lewd Act) §17-25-45

Attorney for Defendant: Shealy, Matthew, SCB77724, SC Bar#

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: NO CONTACT WITH VICTIM

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge Judge Code: 2700 Sentence Date: 5/28/21

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS. Mark Gilbert

INDICTMENT/CASE#: 2019GS/201035
A/W#: 2019A4210102630
Date of Offense: 1/1/2016
S.C. Code § 16-03-0655(B)(1); 16-03-0
CDR Code #: 0396

RECEIVED
MAY 04 2021
SC Court of Appeals

AKA:
Race: WHITE Sex: M Age:
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

SENTENCE SHEET

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was CONVICTED OF or PLEADS
TO: Sex / Criminal sexual conduct with minor, or Attempt - victim 11 to 14 yrs of age inclusive - Second deg.

in violation of § 16-03-0655(B)(1); 16-03-0 of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS Mandatory GPS(CSC) §17-25-45
w/minor 1st or Lewd Act

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

Wendy D. Hallford SCB66304 Defendant
Shealy, Matthew SCB77724 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center,
for a determinate term of 5 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on: 20-GS-42-0001, 0002, 0003
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC 385 day

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 PTUP

Total: \$ plus 20% fee: \$ days/hours Public Service Employment

Payment Terms: Obtain GED A CERTIFIED COPY
Attend Voc. Rehab. or Job

Set by SCDPPPS May serve W/E beginning CLERK OF COURT

Recipient: Substance Abuse Counseling SPARTANBURG COUNTY

*Fine: \$
§14-1-206 (Assessments 107.5 %) \$
§14-1-211(A)(1) (Conv. Surcharge) \$100 \$
§14-1-211(A)(2) (DUI Surcharge) \$100 \$
§56-5-2995 (DUI Assessment) \$12 \$
§56-1-286 (DUI Breath Test) \$25 \$
Proviso (Public Def/Probation) \$500 \$
§14-1-212 (Law Enforce. Funding) \$25 \$
§14-1-213 (Drug Court Surcharge) \$150 \$
§50-21-114(BUI Breath Test Fee) \$50 \$
§56-5-2942(J) (Vehicle Assessment) \$40/ea \$
3% to County (if paid in installments) \$

\$ paid to Public Defender Fund

Other: NO CONTACT WITH VICTIM

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL \$
Clerk of Court/ Deputy Clerk T. Camp
Court Reporter: Amber Payne
Presiding Judge
Judge Code: 27160
Sentence Date: 5/28/21

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS. Mark Gilbert

INDICTMENT/CASE#: 2020GS4200001
A/W#: 2020GS4200001
Date of Offense: 1/5/2016
S.C. Code § : 16-03-0655(B)(1); 16-03-0655(B)(2)
CDR Code #: 0396

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AKA:
Race: WHITE Sex: M Age: 50
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:
*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive

CONVICTED OF or PLEADS

in violation of § 16-03-0655(B)(1); 16-03-0 of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

ATTEST: HALLFORD, WENDY D. SCB66304 SC Bar# Defendant Shealy, Matthew SCB77724 SC Bar# Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDOC. 385 day:
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 PTUP
Total: \$ plus 20% fee: \$
Payment Terms:
Set by SCDPPS

Recipient:
*Fine:
§14-1-206 (Assessments 107.5 %)
§14-1-211(A)(1) (Conv. Surcharge) \$100
§14-1-211(A)(2) (DUI Surcharge) \$100
§56-5-2995 (DUI Assessment) \$12
§56-1-286 (DUI Breath Test) \$25
Proviso (Public Def/Probation) \$500
§14-1-212 (Law Enforce. Funding) \$25
§14-1-213 (Drug Court Surcharge) \$150
§50-21-114(BUI Breath Test Fee) \$50
§56-5-2942(J) (Vehicle Assessment) \$40/ea
3% to County (if paid in installments) \$

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: NO CONTACT WITH VICTIM

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

TOTAL \$ 12875
Clerk of Court/ Deputy Clerk T. Camp
Court Reporter: Amber Payne
Presiding Judge Judge Code: 2760 Sentence Date: 5/28/21

STATE OF SOUTH CAROLINA

IN THE COURT OF GENERAL SESSIONS

COUNTY OF SPARTANBURG
STATE VS. Mark Gilbert
AKA:
Race: WHITE Sex: M Age: 50
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

INDICTMENT/CASE#: 2020GS4200002
A/W#: 2020GS4200002
Date of Offense: 1/5/2016
S.C. Code § : 16-03-0655(B)(1); 16-03-0
CDR Code #: 0396

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SENTENCE SHEET

SC Court of Appeals

*CDL Yes No CMV Yes No Hazmat Yes No
In disposition of the said indictment comes now the Defendant who was
TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive

CONVICTED OF or PLEADS

in violation of § 16-03-0655(B)(1); 16-03-0 of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

WITNESS: HALLFORD, WENDY D. SCB66304 SC Bar#
Defendant
Shealy, Matthew SCB77724 SC Bar#
Attorney for Defendant

WHEREFORE, the Defendant is committed to State Department of Corrections, County Detention Center,
for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years
and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment
of \$; plus costs and assessments as applicable*; the balance is suspended with probation for
months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation,
which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:
The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SDOC. 385 day.
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 PTUP

Total: \$ plus 20% fee: \$

Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5 %), §14-1-211(A)(1) (Conv. Surcharge), §14-1-211(A)(2) (DUI Surcharge), §56-5-2995 (DUI Assessment), §56-1-286 (DUI Breath Test), Proviso (Public Def/Probation), §14-1-212 (Law Enforce. Funding), §14-1-213 (Drug Court Surcharge), §50-21-114(BUI Breath Test Fee), §56-5-2942(J) (Vehicle Assessment), 3% to County (if paid in installments).

TOTAL \$

Clerk of Court/ Deputy Clerk T. Camp
Court Reporter: Amber Payne

SCCA/217 (04/2018)

A CERTIFIED COPY
Amy W Cox
CLERK OF COURT
SPARTANBURG COUNTY
BY: S. Camp D.C.
DATED 6.2.21
Obtain GED
Attend Voc. Rehab. or Job Training
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: NO CONTACT WITH VICTIM

Appointed PD or appointed other counsel,
Proviso requires \$500 be paid to Clerk
during probation and shall be collected before
any other fees.

Presiding Judge
Judge Code: 2760
Sentence Date: 5/28/21

STATE OF SOUTH CAROLINA

COUNTY OF SPARTANBURG
STATE VS. Mark Gilbert

AKA:
Race: WHITE Sex: M Age: 50
DOB: SS#:
Address:
City, State, Zip:
DL#: SID#:

*CDL Yes No CMV Yes No Hazmat Yes No

In disposition of the said indictment comes now the Defendant who was TO: Sex / Criminal sexual conduct with minor - victim 11 to 14 yrs of age inclusive

IN THE COURT OF GENERAL SESSIONS

INDICTMENT/CASE#: 2020GS4200003
A/W#: 2020GS4200003
Date of Offense: 1/5/2016
S.C. Code § : 16-03-0655(B)(1); 16-03-0
CDR Code #: 0396

SENTENCE SHEET

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CONVICTED OF or PLEADS

in violation of § 16-03-0655(B)(1); 16-03-0 of the S.C. Code of Laws, bearing CDR Code # 0396
NON-VIOLENT VIOLENT SERIOUS MOST SERIOUS
Mandatory GPS(CSC §17-25-45 w/minor 1st or Lewd Act)

The charge is: As Indicted, Lesser Included Offense, Defendant Waives Presentment to Grand Jury.
The plea is: Without Negotiations or Recommendation, Negotiated Sentence, Recommendation by the State.

WENDY D. HALLFORD SCB66304 Defendant
Shealy, Matthew SCB77724 Attorney for Defendant

WHEREFORE, the Defendant is committed to the State Department of Corrections, County Detention Center, for a determinate term of 20 days/months/years or under the Youthful Offender Act not to exceed years and/or to pay a fine of \$; provided that upon the service of days/months/years and/or payment of \$; plus costs and assessments as applicable*; the balance is suspended with probation for months/years and subject to South Carolina Department of Probation, Parole and Pardon Services standard conditions of probation, which are incorporated by reference.

CONCURRENT or CONSECUTIVE to sentence on:

The Defendant is to be given credit for time served pursuant to S.C. Code §24-13-40 to be calculated and applied by SCDoc. 385 days

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 PTUP
Total: \$ plus 20% fee: \$

Payment Terms:
Set by SCDPPPS

Recipient:

Table with 3 columns: Description, Amount, Total. Includes items like §14-1-206 (Assessments 107.5%), §14-1-211(A)(1) (Conv. Surcharge) \$100, §14-1-211(A)(2) (DUI Surcharge) \$100, §56-5-2995 (DUI Assessment) \$12, §56-1-286 (DUI Breath Test) \$25, Proviso (Public Def/Probation) \$500, §14-1-212 (Law Enforce. Funding) \$25, §14-1-213 (Drug Court Surcharge) \$150, §50-21-114(BUI Breath Test Fee) \$50, §56-5-2942(J) (Vehicle Assessment) \$40/ca, 3% to County (if paid in installments) \$

TOTAL \$

Clerk of Court/ Deputy Clerk T. Camp
Court Reporter: Amber Payne

A CERTIFIED COPY

Amy W Cox
days/hours Public Service/employment

Obtain GED SPARTANBURG COUNTY
Attend Voc. Rehab. or By Corp Camp D.C.

May serve W/E beginning DATED 6-2-21
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: NO CONTACT WITH VICTIM

Appointed PD or appointed other counsel, Proviso requires \$500 be paid to Clerk during probation and shall be collected before any other fees.

Presiding Judge
Judge Code: 2760
Sentence Date: 5/28/21

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

FILED
2021 JUN -2 PM 12:36

CLERK OF COURT
SPARTANBURG COUNTY
AMY W. COX

APPEAL FROM SPARTANBURG COUNTY
Court of General Sessions

The Honorable Grace Knie, Circuit Court Judge

Case Nos. 2020-GS-42-00001; 2020-GS-42-00002; 2020-GS-42-00003;
2019-GS-42-01035

The State,.....Respondent

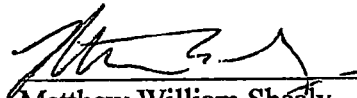
v.

Mark Anthony Gilbert,.....Appellant

NOTICE OF INTENT TO APPEAL

Mark Anthony Gilbert appeals his convictions and sentences in this case. The sentence was imposed by the Honorable Grace Knie on May 28, 2021. Appellant received notice of the same on that date.

June 2, 2021


Matthew William Shealy
184 North Daniel Morgan Avenue
SPARTANBURG, SC 29306
(864) 707-2601
matthew@theshealylawfirm.com
ATTORNEY FOR APPELLANT

Other Counsel of record:

Wendy Hallford
Assistant Solicitor
Seventh Circuit Solicitor's Office
Spartanburg County Courthouse
180 Magnolia Street
Spartanburg SC 29306

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JUN 04 2021

SC Court of Appeals

STATE OF SOUTH CAROLINA
IN THE COURT OF APPEALS

APPEAL FROM SPARTANBURG COUNTY

General Sessions Court
Honorable Grace Knie, Circuit Court Judge

Appellant Case No 2021-000599
Lower Case Nos. 2020GS4200001, 00002, 00003, 2019GS4201035

State of South Carolina Respondent,

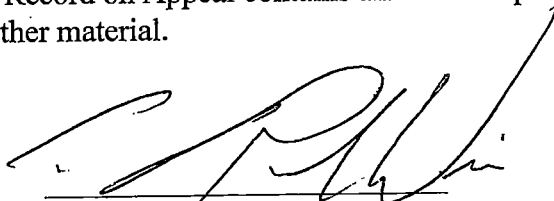
vs.

Mark Anthony Gilbert Appellant

CERTIFICATE OF COUNSEL

The undersigned hereby certifies that this Record on Appeal contains all material proposed to be included by any of the parties and not any other material.

May 31st, 2022



C. RAUCH WISE
Attorney at Law
305 Main Street
Greenwood, SC 29646
(864) 229-5010
S.C. Bar No. 00188

Attorney for Appellant

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JUN 22 2022

SC Court of Appeals